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Friday
August 18, 1995

Briefings on How To Use the Federal Register
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WHEN: September 12 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)

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Atlanta, GA

RESERVATIONS: 404–639–3528 (Atlanta area)
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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Notice of Practice and Procedure; Realignment of Regional Offices; Correction

AGENCY: Merit Systems Protection Board.

ACTION: Final rule; correction.

SUMMARY: The document on Practice and Procedure; Realignment of Regional Offices which was published on August 10, 1995 (60 FR 40744), contained an error in the address and facsimile number for the Denver Field Office. This document contains the correct address and facsimile number.

EFFECTIVE DATE: August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Darrell L. Netherton, Senior Executive for Regional Administration, (202) 653–7980.

In FR Doc. 95–19729, on page 40744, Column 3, in Appendix II to part 1201, item 5 is corrected to read as follows:

5. Denver Field Office
12567 West Cedar Drive, Suite 100
Lakewood, Colorado 80228–2009
Facsimile No.: (303) 969–5109
(Arizona, Colorado, Kansas—except Kansas City, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah, and Wyoming)

Dated: August 14, 1995.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 95–20507 Filed 8–17–95; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1413 and 1421

RIN 0560–AD38

1995 Rice Acreage Reduction Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations to establish the acreage reduction percentage for the 1995 crop of rice at 5 percent and to establish the price support rate for the 1995 crop of rice. The price support rate is established by statutory formula. These actions are required by section 101B of the Agricultural Act of 1949, as amended, (the 1949 Act). Public comment regarding the 1995 Rice Program provisions was requested in the **Federal Register** on September 13, 1994, (59 FR 46937).

EFFECTIVE DATE: August 17, 1995.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, Consolidated Farm Service Agency, United States Department of Agriculture, room 3758–S, P.O. Box 2415, Washington, DC 20013–2415 or call 202–720–6734.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be economically significant and was reviewed by OMB under Executive Order 12866.

Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of the implementation of the selected option is available on request from the above-named individual.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation is not required to request comments with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies, are as follows: Rice Production Stabilization—10.065.

Executive Order 12372

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

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of the final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Paperwork Reduction Act

The amendments to 7 CFR parts 1413 and 1421 set forth in this final rule do not contain new information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. 35.

Background

This final rule amends 7 CFR part 1413 to set forth the acreage reduction requirement under the 1995 Rice Program.

A proposed rule was published in the **Federal Register** on September 13, 1994, at 59 FR 46937 to amend the regulations at 7 CFR part 1413 with respect to the 1995 Rice Acreage Reduction Program (ARP) requirements.

During the period for public comment that ended October 24, 1994, eight comments were received regarding the acreage reduction requirement for the 1995 crop of rice. One comment favored no ARP, two favored an ARP set at the statutory minimum level, two favored setting the ARP at the statutory maximum level, and three favored an ARP of 7 percent or higher.

After reviewing the comments, it has been decided that the 1995-crop acreage reduction requirement shall be 5 percent. Of all options considered to achieve the stocks-to-use goal of section 101B of the 1949 Act, this level is selected because it is estimated to achieve both the highest farm income and the lowest Government program outlays. Public comments regarding the level of the national average price support rate for the 1995 crop were not requested because such rate is established by statutory formula.

List of Subjects

7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

7 CFR Part 1421

Grains, Loan programs—agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

Accordingly, 7 CFR parts 1413 and 1421 are amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. In § 1413.54, paragraph (a)(4)(iv) is revised, paragraph (a)(4)(v) is added, paragraphs (d)(5)(i) through (d)(5)(iv) are reserved, and paragraph (d)(5)(v) is added to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(4) * * *

(iv) 1994 rice, 0 percent;

(v) 1995 rice, 5 percent.

* * * * *

(d) * * *

(5) * * *

(i)–(iv) [Reserved]

(v) Shall not be made available to producers of rice.

* * * * *

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

3.The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f–1, 1445b–3a, 1445c–3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

4. In § 1421.7, paragraph (b)(7)(v) is added to read as follows:

§ 1421.7 Adjustment of basic support rates.

* * * * *

(b) * * *

(7) * * *

(v) 1995 Rice—$6.50 per hundredweight;

* * * * *

Signed at Washington, DC, on August 14, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–20491 Filed 8–17–95; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF ENERGY

10 CFR Part 810

RIN 1992–AA20

Assistance to Foreign Atomic Energy Activities

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: The Department of Energy (DOE) is amending its regulations concerning unclassified assistance to foreign atomic energy activities. This action removes Argentina, Brazil, Chile, and South Africa from the list of countries for which specific authorization by the Secretary of Energy is required. The effect of the action is to enable U.S. firms and individuals to provide assistance to civilian nuclear power reactor-related activities in these countries under the general authorization. The amendment is consistent with U.S. foreign policy commitments and reflects the significant progress made by these four countries on matters related to nuclear nonproliferation.

DATES: This amendment is effective on August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Zander Hollander, Export Control Operations Division, NN–43, Office of Arms Control and Nonproliferation, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585, Telephone (202) 586–2125; or Robert Newton, Esq., Office of the General Counsel, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585, Telephone (202) 586–0806.

SUPPLEMENTARY INFORMATION:

1. Background

10 CFR Part 810 implements section 57 b.(2) of the Atomic Energy Act of 1954, as amended by section 302 of the Nuclear Non-Proliferation Act of 1978 (NNPA) (42 U.S.C. 2077 (b)(2)). This section requires that U.S. persons who engage directly or indirectly in the production of special nuclear material outside the United States be authorized to do so by the Secretary of Energy. Pursuant to the Part 810 regulations, assistance by U.S. persons to nuclear power reactor-related activities outside the United States is generally authorized for countries not identified in section 810.8(a). Inclusion of a country on the list means that even nuclear power reactor-related assistance requires the Secretary of Energy's specific authorization. Section 810.8(a) notes that countries may be removed from or added to this list by amendments published in the **Federal Register**. Such actions are based on U.S. foreign policy and national security considerations.

The intent of removing Argentina, Brazil, Chile, and South Africa from the section 810.8(a) list of countries is to:

- Recognize that Argentina, Brazil, and Chile in 1994 brought into force for their national territories the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) and that Argentina and South Africa have become party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and members of the Nuclear Suppliers Group.
- Recognize that Argentina and Brazil have completed ratification of the Quadripartite Safeguards Agreement with the International Atomic Energy Agency [IAEA] and the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials for the application of IAEA safeguards on all of their nuclear activities, that South Africa has completed its own full-scope safeguards agreement with IAEA, and that Chile also has IAEA safeguards agreements covering its nuclear facilities.
- Enable U.S. firms and individuals to compete more effectively against foreign competition to provide assistance to the safeguarded Argentine, Brazilian, Chilean, and South African civilian nuclear power programs.
- Reduce unnecessary paperwork and time-consuming U.S. Government reviews of proposals by U.S. firms and individuals to participate in Argentine, Brazilian, Chilean, and South African civilian nuclear power reactor-related activities.

2. Regulatory Changes

The following change is made to section 810.8 Activities Requiring Specific Authorization:

Argentina, Brazil, Chile, and South Africa are deleted from the list of countries in section 810.8(a).

3. Statutory Requirements

Pursuant to section 57 b. of the Atomic Energy Act, with the concurrence of the Department of State and after consultations with the Departments of Defense and Commerce, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, the Secretary of Energy has determined that removal of Argentina, Brazil, Chile, and South Africa from the list of countries in section 810.8 (a) of 10 CFR Part 810 will not be inimical to the interests of the United States.

4. Procedural Matters

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under the Regulatory Flexibility Act

The rule was reviewed under the Regulatory Flexibility Act, P. L. 96–354 (42 U.S.C. 601–612) which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities, i.e., small businesses and small government jurisdictions. This action amends regulations in a manner to expedite the current process of authorization for U.S. persons to conduct certain activities in other countries; thus, it imposes no economic burden upon small entities subject to those regulations and, on balance, should reduce economic burdens on small businesses who will be able to compete for work in these four countries without undergoing unnecessary paperwork and time-consuming U.S. Government reviews. DOE, accordingly, certifies that there will not be a significant and adverse economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

C. Review Under the National Environmental Policy Act

The rule eliminates the requirement for U.S. persons to file an application for authorization to assist civilian nuclear power reactor programs in four countries that until now required review and approval by the Secretary of Energy. The amendment permits U.S. companies seeking to do business in these four countries to compete with foreign companies without the time-consuming application procedure that has often put them at a disadvantage. Argentina, Brazil, Chile, and South Africa are now parties to international arrangements established for nuclear nonproliferation purposes and have shown by their actions that requests to assist their nuclear power industries no longer require a case-by-case analysis. Implementation of this rule affects only application procedures and will not result in environmental impacts. DOE has, therefore, determined that this rule is covered under the Categorical Exclusion found in paragraph A.6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to the establishment of procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

D. Review Under Executive Order 12612

Executive Order 12612 requires that regulations be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or in the distribution of power among various levels of government. If there are sufficient substantial direct effects, the Executive Order requires the preparation of a Federalism assessment to be used in decisions by senior policy makers in promulgating or implementing the regulation. The rule will not have a substantial direct effect on the traditional rights and prerogatives of States in relationship to the Federal Government. Preparation of a Federalism assessment is, therefore, unnecessary.

E. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction.

Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's rulemaking meets the requirements of sections 2(a) and (b) of Executive Order 12778.

5. Review of Comments

DOE published a Proposed Rule of this amendment in the **Federal Register** on August 29, 1994 (59 FR 44381). Written comments were received from seven parties. These comments have been available for public inspection in the DOE Reading Room during consideration of this Final Rule.

Six of the seven commenters strongly favored the Proposed Rule, which is now published as a Final Rule. The one unfavorable commenter found the amendment ''premature'' and cited various factors as relevant to his belief that ''it is still too early to conclude that none of the (countries) constitutes a proliferation risk.'' A summary of the critical comments and DOE responses follow:

- Brazil has a uranium enrichment program run by the Brazilian Navy and it would be a ''blow to nonproliferation for a United States citizen to participate in such a program.''

DOE response: U.S. firms or individuals require specific authorization under Part 810 to participate in enrichment, reprocessing, plutonium fuel fabrication, heavy water production, and large research/test reactor activities in all foreign countries, whether or not the country is on the section 810.8 list. Such participation is given the closest scrutiny from a nonproliferation perspective.

- U.S. citizens should not participate in South Africa's nuclear program until South Africa reveals the outside assistance it received for its nuclear weapons program.

DOE Response: South Africa, now a member in good standing of the international nonproliferation community, has been very forthcoming in its public disclosures concerning its abandoned nuclear weapons activities and has declared it did not receive foreign assistance. The commenter offers no evidence to the contrary.

- The four countries do not have effective export control systems.

DOE response: Even assuming that one or more of the four countries has an export control system less effective than that of the United States, the kinds of U.S. technology that would become available to them under general authorization are technologies related to a peaceful nuclear power program. Further, U.S. firms supplying such technologies under general authorization must have a commitment from the recipient not to retransfer the technology to a country on the section 810.8 list without prior U.S. Government consent. Moreover, the technologies most useful to a would-be proliferant—enrichment, reprocessing, plutonium fuel fabrication, heavy water production, and large research/test reactor activities—will continue to require specific authorization by the Secretary of Energy. Finally, as adherents to the NPT and/or the Treaty of Tlatelolco, the four countries are committed to deny assistance to would-be proliferants.

- Continuing to require specific authorizations even for U.S. nuclear power reactor-related assistance to these countries would enable the United States to track their nuclear programs.

DOE response: Removal of these countries from the list will still permit DOE to remain aware of their nuclear programs since U.S. firms and individuals providing assistance under general authorization still must report such assistance to the Department.

- The examples of Iraq, North Korea, Iran, and Libya show that countries violate their NPT pledges.

DOE response: In contrast to Iraq, North Korea, Iran, and Libya, the four countries being removed from the section 810.8 list have in recent years acted in a manner that confirms their nonproliferation commitments.

As for the comments favoring removal of the four countries from the section 810.8 list, the following excerpts summarize their tenor and arguments. The Department finds these arguments largely persuasive:

One commenter said: ''It is important to accord affirmative recognition to countries that take the necessary steps to support the world's non-proliferation regime. It is especially important now, as the extension conference for the Treaty on the Non-Proliferation of Nuclear Weapons NPT approaches, to provide concrete evidence that benefits do flow to countries that accept full-scope safeguards.'' (The conference took place in April 1995.)

A second commenter said: ''No reason remains to treat (the four countries) under Part 810 in the same way we treat such terrorist-supporting and demonstrably untrustworthy countries as Iraq and North Korea . . . If the Department fails to (remove the four countries from the list), U.S. credibility as a serious participant in the formulation of international nuclear nonproliferation policy will be the clearest loser.''

A third commenter said: ''Failure to implement the proposed rule will force customers in those countries' emerging markets to deal with non-U.S. suppliers and will deny the economic as well as the nonproliferation policy benefits that would accrue to the United States.''

A fourth commenter said: ''For the world community to understand that the United States backs up its commitments, these countries must be allowed to receive United States assistance under a DOE general authorization. Furthermore, such action will demonstrate that the United States abides by Article IV of the Treaty on the Non Proliferation of Nuclear Weapons (NPT). Failure to provide prompt and clear recognition to these four countries would only assist those opponents of the upcoming NPT extension conference who will argue that the Treaty is just an excuse for the nuclear 'haves' to discriminate against the 'have nots'. . . The removal of these four countries from the Part 810.8(a) list is also a necessary step to enable U.S. vendors to compete more effectively in those markets against their European and Asian competitors.''

A fifth commenter said: ''The proposed rule would help ensure that U.S. firms have an equal opportunity to compete for business in the civilian nuclear power industry in four very important overseas markets. Three of these —Argentina, Brazil, and South Africa—have been identified as key emerging markets under the Clinton Administration's National Export Strategy, and it is widely anticipated that the U.S. will enter into a free-trade agreement with Chile in the near future. The proposed rules will bring U.S. export control policies into line with the practices of other supplier nations. It also will eliminate a substantial paperwork burden on U.S. exporters.''

A sixth commenter said: '' Other countries, such as Ukraine, will be watching DOE's actions to determine if participation in international forums brings with it reciprocal benefits . . . Approval of the proposal would also send a message to potential proliferators that they will be further marginalized from the international community if they continue to act outside of accepted nonproliferation norms.''

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting and recordkeeping requirements.

Issued in Washington, D.C., August 15, 1995.

Kenneth E. Baker,

Acting Director, Office of Nonproliferation and National Security.

For the reasons set out in the preamble, Part 810 of Title 10 of the Code of Federal Regulations is amended as set forth below:

PART 810—ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

1. The authority citation for Part 810 continues to read as follows:

Authority: Secs. 57, 127, 128, 129, 161, and 223, Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138, (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Sec. 301, Department of Energy Organization Act, Pub. L. 95–91.

2. Section 810.8 paragraph (a) is revised to read as follows:

§ 810.8 Activities requiring specific authorization

* * * * *

(a) Engaging directly or indirectly in the production of special nuclear material in any of the countries listed below:

Afghanistan
Albania
Algeria
Andorra
Angola
Armenia
Azerbaijan
Bahrain
Belarus
Burma (Myanmar)
Cambodia
China, People's Republic of
Comoros
Cuba
Djibouti
Georgia
Guyana
India
Iran
Iraq
Israel
Kazakhstan
Korea, People's Democratic Republic of
Kuwait
Kyrgyzstan
Laos
Libya
Mauritania
Moldova
Monaco
Mongolian People's Democratic Republic
Mozambique
Niger
Oman

Pakistan
Qatar
Russia
Saudi Arabia
Syria
Tajikistan
Turkmenistan
Ukraine
United Arab Emirates
Uzbekistan
Vanuatu
Vietnam
Zambia
Zimbabwe

Countries may be removed from or added to this list by amendments published in the **Federal Register**.

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[FR Doc. 95–20553 Filed 8–17–95; 8:45 am]

BILLING CODE 6450–01–P

POSTAL SERVICE

39 CFR Part 111

Changes to Certain Priority Mail Rates

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends Domestic Mail Manual R100.10.0 to reflect changes to certain rates for Priority Mail that were recommended by the Postal Rate Commission on June 7, 1995, and adopted by the Governors of the Postal Service.

EFFECTIVE DATE: Sunday, August 27, 1995, 12:01 a.m.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: On March 8, 1994, pursuant to 39 U.S.C. 3622, the Postal Service filed a request with the Postal Rate Commission for a recommended decision on increased fees and postage rates for its domestic mail services; the docket number for that filing was R94–1. The Postal Rate Commission issued an Opinion and Recommended Decision on November 30, 1994, which the Governors of the Postal Service on December 12, 1994, allowed to take effect under protest and directed to be implemented on January 1, 1995, as published in the **Federal Register** on December 16, 1994 (59 FR 65133–65203).

Subsequently, the Postal Service filed a request for reconsideration that, among other matters, sought reconsideration of the rates for Priority Mail that had been recommended by the Postal Rate Commission and adopted and implemented by the Postal Service. After reconsidering the record of Docket No. R94–1, the Postal Rate Commission issued an Opinion and Further Recommended Decision on June 7, 1995, that recommended changes in certain of the Priority Mail rates contained in the Commission's November 30, 1994, recommended decision. On July 31, 1995, the Governors of the Postal Service accepted the Postal Rate Commission's further recommended decision and its revised Priority Mail rates and set the date for the implementation of these revised rates as Sunday, August 27, 1995, at 12:01 a.m.

Pursuant to that action, the Postal Service hereby notifies its customers of the changes in Domestic Mail Manual R100.10.0, detailed below, that are necessary to implement the revised rates. Only certain rates for single-piece Priority Mail and Presorted Priority Mail are changed as follows (all other Priority Mail rates revised effective January 1, 1995, remain unchanged):

(1) For local, 1, 2, and 3 zones, 10 pounds: the single-piece rate changes from $7.85 to $7.80; the Presorted rate changes from $7.74 to $7.69.

(2) For zone 4, 7 pounds to 70 pounds: the single-piece rates change from $7.80 through $49.00 to $7.50 through $47.65, respectively; the Presorted rates change from $7.69 through $48.89 to $7.39 through $47.54, respectively.

(3) For zone 5, 8 pounds through 14 pounds: the single-piece rates change from $9.05 through $13.65 to $9.00 through $13.60, respectively; the Presorted rates change from $8.94 through $13.54 to $8.89 through $13.49, respectively.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following units of the Domestic Mail Manual as set forth below:

R100 First-Class Mail

* * * * *

10.0 PRIORITY MAIL

EXHIBIT 10.0a SINGLE-PIECE PRIORITY MAIL RATES

Weight not exceeding (pounds)	Zone					
	Local, 1, 2, and 3	4	5	6	7	8
1	$3.00	$3.00	$3.00	$3.00	$3.00	$3.00
2	3.00	3.00	3.00	3.00	3.00	3.00
3	4.00	4.00	4.00	4.00	4.00	4.00
4	5.00	5.00	5.00	5.00	5.00	5.00
5	6.00	6.00	6.00	6.00	6.00	6.00
6	6.35	6.90	7.10	7.20	7.80	8.00
7	6.65	7.50	8.10	8.40	9.20	9.80
8	6.95	8.00	9.00	9.50	10.40	11.60
9	7.40	8.60	9.80	10.60	11.30	13.00
10	7.80	9.30	10.55	11.40	12.15	14.05
11	8.25	9.90	11.35	12.20	13.00	15.10
12	8.70	10.55	12.10	13.00	13.90	16.15
13	9.10	11.20	12.80	13.80	14.75	17.20
14	9.55	11.85	13.60	14.55	15.60	18.25
15	10.00	12.45	14.35	15.35	16.50	19.30
16	10.40	13.15	15.05	16.15	17.35	20.35
17	10.85	13.75	15.80	16.95	18.20	21.40

EXHIBIT 10.0a SINGLE-PIECE PRIORITY MAIL RATES—Continued

Weight not exceeding (pounds)	Zone					
	Local, 1, 2, and 3	4	5	6	7	8
18	11.30	14.35	16.50	17.75	19.05	22.45
19	11.70	15.05	17.25	18.55	19.95	23.50
20	12.15	15.65	17.95	19.30	20.80	24.55
21	12.60	16.35	18.70	20.10	21.65	25.60
22	13.00	16.95	19.40	20.90	22.55	26.65
23	13.45	17.55	20.15	21.70	23.40	27.70
24	13.85	18.25	20.85	22.50	24.25	28.75
25	14.30	18.85	21.60	23.25	25.15	29.85
26	14.75	19.50	22.30	24.05	26.00	30.90
27	15.15	20.15	23.00	24.85	26.85	31.95
28	15.60	20.80	23.75	25.65	27.70	33.00
29	16.05	21.40	24.45	26.45	28.60	34.05
30	16.45	22.10	25.20	27.20	29.45	35.10
31	16.90	22.70	25.90	28.00	30.30	36.15
32	17.35	23.40	26.65	28.80	31.20	37.20
33	17.75	24.00	27.35	29.60	32.05	38.25
34	18.20	24.60	28.10	30.40	32.90	39.30
35	18.60	25.30	28.80	31.20	33.75	40.35
36	19.05	25.90	29.55	31.95	34.65	41.40
37	19.50	26.55	30.25	32.75	35.50	42.45
38	19.90	27.20	31.00	33.55	36.35	43.50
39	20.35	27.80	31.70	34.35	37.25	44.55
40	20.80	28.45	32.40	35.15	38.10	45.60
41	21.20	29.10	33.15	35.90	38.95	46.65
42	21.65	29.75	33.85	36.70	39.85	47.70
43	22.10	30.35	34.60	37.50	40.70	48.80
44	22.50	31.05	35.30	38.30	41.55	49.85
45	22.95	31.65	36.05	39.10	42.40	50.90
46	23.35	32.35	36.75	39.85	43.30	51.95
47	23.80	32.95	37.50	40.65	44.15	53.00
48	24.25	33.55	38.20	41.45	45.00	54.05
49	24.65	34.25	38.95	42.25	45.90	55.10
50	25.10	34.85	39.65	43.05	46.75	56.15
51	25.55	35.50	40.35	43.85	47.60	57.20
52	25.95	36.15	41.10	44.60	48.50	58.25
53	26.40	36.80	41.80	45.40	49.35	59.30
54	26.85	37.40	42.55	46.20	50.20	60.35
55	27.25	38.05	43.25	47.00	51.05	61.40
56	27.70	38.70	44.00	47.80	51.95	62.45
57	28.10	39.35	44.70	48.55	52.80	63.50
58	28.55	40.00	45.45	49.35	53.65	64.55
59	29.00	40.60	46.15	50.15	54.55	65.60
60	29.40	41.30	46.90	50.95	55.40	66.65
61	29.85	41.90	47.60	51.75	56.25	67.75
62	30.30	42.50	48.35	52.50	57.10	68.80
63	30.70	43.20	49.05	53.30	58.00	69.85
64	31.15	43.80	49.75	54.10	58.85	70.90
65	31.60	44.45	50.50	54.90	59.70	71.95
66	32.00	45.10	51.20	55.70	60.60	73.00
67	32.45	45.75	51.95	56.50	61.45	74.05
68	32.90	46.35	52.65	57.25	62.30	75.10
69	33.30	47.05	53.40	58.05	63.20	76.15
70	33.75	47.65	54.10	58.85	64.05	77.20

1. The 2-pound rate is charged for matter sent in a flat rate envelope provided by the USPS.
2. Add $4.95 for each pickup stop.
3. Pieces presented in mailings of at least 300 pieces and meeting applicable USPS standards for Presorted Priority Mail receive a discount of $0.11 per piece (see Exhibit 10.0b).
4. Parcels weighing less than 15 pounds but measuring more than 84 inches in length and girth combined are charged a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

EXHIBIT 10.0b PRESORTED PRIORITY MAIL RATES

Weight not exceeding (pounds)	Zone					
	Local, 1, 2, and 3	4	5	6	7	8
1	$2.89	$2.89	$2.89	$2.89	$2.89	2.89

EXHIBIT 10.0b PRESORTED PRIORITY MAIL RATES—Continued

Weight not exceeding (pounds)	Zone					
	Local, 1, 2, and 3	4	5	6	7	8
2	2.89	2.89	2.89	2.89	2.89	2.89
3	3.89	3.89	3.89	3.89	3.89	3.89
4	4.89	4.89	4.89	4.89	4.89	4.89
5	5.89	5.89	5.89	5.89	5.89	5.89
6	6.24	6.79	6.99	7.09	7.69	7.89
7	6.54	7.39	7.99	8.29	9.09	9.69
8	6.84	7.89	8.89	9.39	10.29	11.49
9	7.29	8.49	9.69	10.49	11.19	12.89
10	7.69	9.19	10.44	11.29	12.04	13.94
11	8.14	9.79	11.24	12.09	12.89	14.99
12	8.59	10.44	11.99	12.89	13.79	16.04
13	8.99	11.09	12.69	13.69	14.64	17.09
14	9.44	11.74	13.49	14.44	15.49	18.14
15	9.89	12.34	14.24	15.24	16.39	19.19
16	10.29	13.04	14.94	16.04	17.24	20.24
17	10.74	13.64	15.69	16.84	18.09	21.29
18	11.19	14.24	16.39	17.64	18.94	22.34
19	11.59	14.94	17.14	18.44	19.84	23.39
20	12.04	15.54	17.84	19.19	20.69	24.44
21	12.49	16.24	18.59	19.99	21.54	25.49
22	12.89	16.84	19.29	20.79	22.44	26.54
23	13.34	17.44	20.04	21.59	23.29	27.59
24	13.74	18.14	20.74	22.39	24.14	28.64
25	14.19	18.74	21.49	23.14	25.04	29.74
26	14.64	19.39	22.19	23.94	25.89	30.79
27	15.04	20.04	22.89	24.74	26.74	31.84
28	15.49	20.69	23.64	25.54	27.59	32.89
29	15.94	21.29	24.34	26.34	28.49	33.94
30	16.34	21.99	25.09	27.09	29.34	34.99
31	16.79	22.59	25.79	27.89	30.19	36.04
32	17.24	23.29	26.54	28.69	31.09	37.09
33	17.64	23.89	27.24	29.49	31.94	38.14
34	18.09	24.49	27.99	30.29	32.79	39.19
35	18.49	25.19	28.69	31.09	33.64	40.24
36	18.94	25.79	29.44	31.84	34.54	41.29
37	19.39	26.44	30.14	32.64	35.39	42.34
38	19.79	27.09	30.89	33.44	36.24	43.39
39	20.24	27.69	31.59	34.24	37.14	44.44
40	20.69	28.34	32.29	35.04	37.99	45.49
41	21.09	28.99	33.04	35.79	38.84	46.54
42	21.54	29.64	33.74	36.59	39.74	47.59
43	21.99	30.24	34.49	37.39	40.59	48.69
44	22.39	30.94	35.19	38.19	41.44	49.74
45	22.84	31.54	35.94	38.99	42.29	50.79
46	23.24	32.24	36.64	39.74	43.19	51.84
47	23.69	32.84	37.39	40.54	44.04	52.89
48	24.14	33.44	38.09	41.34	44.89	53.94
49	24.54	34.14	38.84	42.14	45.79	54.99
50	24.99	34.74	39.54	42.94	46.64	56.04
51	25.44	35.39	40.24	43.74	47.49	57.09
52	25.84	36.04	40.99	44.49	48.39	58.14
53	26.29	36.69	41.69	45.29	49.24	59.19
54	26.74	37.29	42.44	46.09	50.09	60.24
55	27.14	37.94	43.14	46.89	50.94	61.29
56	27.59	38.59	43.89	47.69	51.84	62.34
57	27.99	39.24	44.59	48.44	52.69	63.39
58	28.44	39.89	45.34	49.24	53.54	64.44
59	28.89	40.49	46.04	50.04	54.44	65.49
60	29.29	41.19	46.79	50.84	55.29	66.54
61	29.74	41.79	47.49	51.64	56.14	67.64
62	30.19	42.39	48.24	52.39	56.99	68.69
63	30.59	43.09	48.94	53.19	57.89	69.74
64	31.04	43.69	49.64	53.99	58.74	70.79
65	31.49	44.34	50.39	54.79	59.59	71.84
66	31.89	44.99	51.09	55.59	60.49	72.89
67	32.34	45.64	51.84	56.39	61.34	73.94
68	32.79	46.24	52.54	57.14	62.19	74.99
69	33.19	46.94	53.29	57.94	63.09	76.04

EXHIBIT 10.0b PRESORTED PRIORITY MAIL RATES—Continued

Weight not exceeding (pounds)	Zone					
	Local, 1, 2, and 3	4	5	6	7	8
70	33.64	47.54	53.99	58.74	63.94	77.09

Notes 1, 2, and 4 from Domestic Mail Manual Exhibit 10.0a apply to these rates as well.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–20459 Filed 8–17–95; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN48–1–6761a; FRL–5266–7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On October 25, 1994, the Indiana Department of Environmental Management (IDEM) submitted a Federally Enforceable State Operating Permit Program (FESOP) regulation and an Enhanced New Source Review (NSR) regulation as requested revisions to the State Implementation Plan (SIP). USEPA made a completeness finding in a letter dated November 25, 1994. In this rule USEPA approves Indiana's FESOP regulation, as a SIP revision, because the regulation provides an acceptable mechanism for establishing federally enforceable State operating permits for the purpose of creating federally enforceable limitations on the potential to emit of certain pollutants regulated under the Clean Air Act (Act). This program allows a number of small sources to be exempt from further operating permit review otherwise required by the Act. In this action, USEPA also approves Indiana's Enhanced NSR regulation. Sources subject to the State construction permit rule will have the opportunity to satisfy its State operating permit requirements by opting into this preconstruction rule. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on these requested SIP revisions. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address the comments received in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. Unless this final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective October 17, 1995 unless adverse or critical comments are received by September 18, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments can be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

A copy of this SIP revision is also available at the following location: Office of Air and Radiation, Docket and Information Center (Air Docket 6102), room M1500, USEPA, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, USEPA (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189.

SUPPLEMENTARY INFORMATION:

I. Background

Once approved by USEPA as a SIP revision, the Indiana FESOP program will be a major mechanism in limiting potential to emit for sources to remain below the applicability threshold for the operating permits program of title V of the Act. Similarly, once approved as a SIP revision, the Indiana Enhanced NSR regulation will allow the State to integrate the NSR preconstruction permit process with the title V permit modification process. The Federal title V State operating permit program regulation is codified in 40 CFR part 70 and the State of Indiana's title V program is codified in Title 326 of the Indiana Administrative Code (326 IAC) 2–7. Without some mechanism in State law to issue FESOPs to small sources and thereby exempt them from title V review, the title V program would encompass a large number of small sources and could be a resource burden on both the State and the smaller title V sources. The USEPA approval of these State mechanisms to establish federally enforceable limits on sources' potential to emit below the title V threshold and to establish an integrated NSR and title V permitting process will enable Indiana and Indiana sources to reduce resource burdens.

II. USEPA's Review and Findings

A. Analysis of State Submittal

1. Federally Enforceable State Operating Permit Program

Prior to the Act Amendments of 1990, States were not required to have a distinct operating permit program under the Act. In a June 28, 1989 final rule, however, USEPA promulgated five criteria for approving a State operating permit program for the purpose of issuing FESOPs limiting criteria pollutants as part of the SIP. See 54 FR 27274, 27282. Since operating permits are issued pursuant to a program approved by USEPA, these permits will also be enforceable by citizens pursuant to section 304 of the Act. On November 3, 1993, the USEPA announced in a guidance document entitled, ''Approaches to Creating Federally Enforceable Emissions Limits,'' signed by John S. Seitz, Director, Office of Air Quality Planning and Standards, that this mechanism could be extended to create federally enforceable limits for emissions of hazardous air pollutants (HAP) if the program were approved pursuant to section 112(l) of the Act.

a. Approval Criteria

The following discussion compares the Indiana regulations and procedures governing the State's FESOP program with the five criteria of the June 28, 1989, final rule.

i. First Criterion

''The state operating permit program (i.e., the regulations or other administrative framework describing how such permits are issued) is submitted and approved by EPA into the SIP.''

On October 25, 1994, Indiana submitted the regulations and administrative framework for the FESOP regulation, 326 IAC 2–8, as a revision to its SIP. The USEPA's approval of this submittal satisfies the first criterion.

ii. Second Criterion

''The SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provides that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not 'federally enforceable' by USEPA.''

The following provisions satisfy the second criterion for Indiana's FESOP program. 326 IAC 2–8–2 states that until the Commissioner of IDEM has issued a FESOP for a source, a source is subject to all applicable requirements of 326 IAC 2–7 (326 IAC 2–7–3 states ''no Part 70 source may operate after the time that it is required to submit a timely and complete application except in compliance with a Part 70 permit issued under this rule''). For sources that have a FESOP permit, 326 IAC 2–8–5(b) states ''the commissioner may issue a compliance order to any source upon discovery that an issued permit is in nonconformance with an applicable requirement. The order may require immediate compliance or contain a schedule for expeditious compliance with the applicable requirement.'' Also, 326 IAC 2–8–6(b) states that ''all terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit, are enforceable by the U.S. EPA and citizens under the Act.'' 326 IAC 2–8–6(a) states ''the commissioner may not issue a FESOP that waives, or makes less stringent, any limitation or requirement contained in or issued under the state implementation plan (SIP) or requirements that are otherwise federally enforceable under the Act. Permits that do not conform to the requirements of this rule and the requirements of U.S. EPA's underlying regulations may be deemed by the U.S. EPA not federally enforceable.''

Such a determination will (1) be done according to appropriate procedures, and (2) be based upon the permit, permit approval procedures or permit requirements which do not conform with the operating permit program requirements and the requirements of USEPA's underlying regulations. USEPA will make a determination that a FESOP permit is not federally enforceable in the form of a letter to the State. Although USEPA is authorized to deem permit conditions not federally enforceable at any later date, USEPA will strive to determine Federal enforceability during Indiana's public comment period. The procedures for such a determination will be specified in a letter from IDEM to USEPA to be developed before the effective date of this action.

iii. Third Criterion

''The State operating permit program requires that all emissions, limitations, controls and other requirements imposed by such permits, will be at least as stringent as any other applicable limitation or requirement contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitation or requirement contained in or issued pursuant to the SIP, or that are otherwise 'federally enforceable' (e.g., standards established under Sections 111 and 112 of the Act).''

326 IAC 2–8–4(1) requires FESOP permits to contain emission limitations and standards that assure compliance with all applicable requirements at the time of FESOP issuance. This language, in addition to the above-mentioned language of 326 IAC 2–8–6(a), satisfies the third criterion for the Indiana FESOP program.

iv. Fourth Criterion

''The limitations, controls, and requirements in the operating permits are permanent, quantifiable and otherwise enforceable as a practical matter.''

The USEPA has reviewed the Indiana FESOP program and is satisfied that it requires the State to issue permits which meet the requirements of this provision. While the permits do expire, the conditions they impose must be complied with during the entire term of the permit. In addition, 326 IAC 2–8–9 states that a FESOP expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with requirements of the FESOP regulation.

v. Fifth Criterion

''The permits are issued subject to public participation.'' This means that the State agrees, as a part of its program, to provide USEPA and the public with timely notice of the proposed issuance of such permits, and to provide USEPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be federally enforceable.

The Indiana FESOP program requires public notice in 326 IAC 2–8–13. Prior to the issuance of any FESOP, 326 IAC 2–8–13(c) requires the State to notify the public of the draft permit by publishing, in at least 1 newspaper of general circulation, a notification of the receipt of the permit application, the State's draft approval of the permit application, a notification of a public comment period at least 30 days in duration, a notification to the public of the opportunity for a public hearing, and a notification that a copy of the application and the State's analysis are available for inspection in a public building in the area where the source is located. 326 IAC 2–8–7(a) requires that USEPA receives a copy of the draft FESOP and any notice required. These notice requirements satisfy the fifth criterion for the Indiana FESOP program.

b. Hazardous Air Pollutants

The June 28, 1989, final rule addresses only SIP programs to control criteria pollutants. Federally enforceable limits on criteria pollutants (i.e., volatile organic compounds or particulate matter) may have the incidental effect of limiting certain HAPs listed pursuant to section 112(b) of the Act. This situation would occur when a pollutant classified as a HAP is also classified as a criteria pollutant. As a legal matter, no additional program approval by USEPA is required in order for these criteria pollutant limits to be recognized for this purpose.

Since USEPA's June 28, 1989, final rule does not establish approval criteria for FESOP programs to limit HAP emissions, another mechanism must be used to approve FESOP programs for the purpose of creating federally enforceable limits on HAP emissions. The November 3, 1993, guidance document entitled ''Approaches to Creating Federally Enforceable Emissions Limits'' indicates that a FESOP program could be extended to create federally enforceable limits for emissions of HAPs if the program were

approved pursuant to section 112(l) of the Act. Therefore, USEPA is approving Indiana's FESOP program under section 112(l) of the Act for the purposes of creating federally enforceable limitations on the potential to emit HAPs.

The USEPA's June 28, 1989, final rule does not address HAPs because it was written prior to the 1990 amendments to section 112 and not because it establishes requirements unique to criteria pollutants. As a result, USEPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989, final rule are also appropriate for evaluating and approving the programs under section 112(l). Hence, the five criteria are applicable to State operating permit program approvals under section 112(l). The USEPA is approving this program under section 112(l) as meeting the criteria (articulated in the previous paragraphs) of the June 28, 1989, final rule for State operating permit programs to establish federally enforceable limits on potential to emit.

In addition to meeting the criteria in the June 28, 1989, final rule a State operating permit program must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) allows USEPA to approve a program only if it (1) contains adequate authority to assure compliance with any section 112 standards or requirements, (2) provides for adequate resources, (3) provides for an expeditious schedule for assuring compliance with section 112 requirements, and, (4) is otherwise likely to satisfy the objectives of the Act.

The USEPA plans to codify the approval criteria for programs limiting potential to emit of HAPs (under section 112(l)) in 40 CFR part 63, Subpart E. The USEPA currently anticipates that these criteria, as they apply to FESOPs, will mirror those set forth in the June 28, 1989, final rule with the addition that the State's authority must extend to HAPs instead of or in addition to criteria pollutants. The USEPA currently anticipates that FESOPs that are approved pursuant to section 112(l) prior to the Subpart E revisions will have had to meet these criteria, and hence, will not be subject to any further approval action.

The USEPA believes it has authority under section 112(l) to approve programs to limit potential to emit of HAPs directly under section 112(l) prior to this revision to Subpart E. Accordingly, USEPA is approving Indiana's FESOP program now so as to enable Indiana to begin issuing federally enforceable permits as soon as possible. The following discussion compares the Indiana regulations and procedures governing the State's FESOP program with criteria listed in section 112(l)(5).

i. Indiana's FESOP program contains adequate authority to assure compliance with any section 112 standards or requirements. 326 IAC 2–8–4(1) requires FESOP permits to contain emission limitations and standards that assure compliance with all applicable requirements at the time of FESOP issuance. Also, 326 IAC 2–8–6(b) states that ''all terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit, are enforceable by the U.S. EPA and citizens under the Act.'' 326 IAC 2–8–6(a) states ''the commissioner may not issue a FESOP that waives, or makes less stringent, any limitation or requirement contained in or issued under the state implementation plan (SIP) or requirements that are otherwise federally enforceable under the Act. Permits that do not conform to the requirements of this rule and the requirements of U.S. EPA's underlying regulations may be deemed by the U.S. EPA not federally enforceable.''

ii. 326 IAC 2–8–16 requires fees to be collected from FESOP sources. The State believes that sufficient resources will be available to administer FESOP permits for those who request and qualify. The USEPA believes this fee mechanism will be sufficient to provide for adequate resources to implement this program, and will monitor the State's implementation of the program to assure that adequate resources continue to be available. Please refer to the technical support document, included with the docket of this notice, for more information regarding Indiana's FESOP resources.

iii. Indiana's FESOP program also meets the requirement for an expeditious schedule for assuring compliance. Nothing in this program would allow a source to avoid or delay compliance with the Federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline.

iv. Finally, Indiana's FESOP program is consistent with the objectives of the section 112 program since its purpose is to enable sources to obtain federally enforceable limits on potential to emit. The USEPA believes this purpose is consistent with the overall intent of section 112.

In this rule, USEPA has stated that the Indiana FESOP program meets the five criteria required for Federal approvability under the June 28, 1989, final rule. By approving the Indiana FESOP program, USEPA recognizes the program as a federally enforceable method of limiting potential to emit criteria pollutants. The USEPA is approving Indiana's FESOP program for the purpose of limiting potential to emit of HAPs, in addition to criteria pollutants.

c. Conclusion

After consideration of the material submitted by the State of Indiana, USEPA has determined that the Indiana FESOP Program satisfies the criteria needed to establish Federal enforceability of State operating permits, published in the final rule on June 28, 1989 (54 FR 27274) and Section 112(l) of the Act. The USEPA approves the incorporation of this program into the SIP for the purpose of issuing federally enforceable operating permits. Therefore, emissions limitations and other provisions contained in operating permits issued by the State in accordance with the applicable Indiana SIP provisions, approved herewith, shall be federally enforceable by USEPA, and by any person in the same manner as other requirements of the SIP.

2. Enhanced New Source Review

40 CFR part 70 gives State permitting authorities the option of integrating requirements determined during preconstruction permit review (NSR) with those required under title V. See 40 CFR 70.7(d)(1)(v) and 57 FR 32259 (July 21, 1992). If an NSR process is integrated with the procedural and compliance-related requirements of 40 CFR 70.6, 70.7, and 70.8, an existing title V permit can be revised through the administrative amendment process described in 40 CFR 70.7(d). Indiana has included the ''Enhanced NSR'' regulation (326 IAC 2–1–3.2) in its SIP submittal for the purpose of providing title V and NSR sources an integrated permit review process. This regulation is also available to integrate NSR and FESOP requirements.

The following is a comparison of the Indiana Enhanced NSR regulation to the procedural and compliance-related requirements of 40 CFR 70.6, 70.7, and 70.8.

a. Permit Applications

326 IAC 2–1–3.2(a) allows anyone required to obtain a construction permit to elect to be subject to the Enhanced NSR regulations for the purpose of integrating their NSR requirements with their title V or FESOP requirements. 326 IAC 2–1–3.2(b) states that sources must meet the permit application requirements of 326 IAC 2–7–4 (title V) or 326 2–8–3 (FESOP), as appropriate. Sources may use the standard

application forms available to title V or FESOP sources.

b. Permit Content

326 IAC 2–1–3.2(c) requires permits issued to title V sources under the Enhanced NSR regulation to include the permit requirements of 326 IAC 2–7–5 and 2–7–6. These subsections meet the requirements of 40 CFR 70.6 for permit content and compliance requirements. 326 IAC 2–1–3.2(c) requires permits issued under the Enhanced NSR regulation to FESOP sources to include the permit requirements of 326 IAC 2–8–4. This subsection addresses FESOP permit content.

c. Permit Issuance

326 IAC 2–1–3.2(e) states that an Enhanced NSR permit may be issued only if IDEM has received a complete application for a permit, IDEM has complied with the public and affected States notices of 326 IAC 2–1–3.2(f) and (g), the permit conditions provide for compliance with all applicable requirements, USEPA has received a copy of the proposed permit and any notices required, and USEPA has not objected to the issuance of a permit subject to title V. These requirements are consistent with 40 CFR 70.7(a).

d. Public Comment

326 IAC 2–1–3.2(f) requires all permit proceedings under the Enhanced NSR regulation to follow the public comment procedures of 326 IAC 2–7–17 for title V sources and 326 IAC 2–8–14 for FESOP sources. 326 IAC 2–1–3.2(g) requires review by USEPA and affected States for each permit application, draft permit, proposed permit, and final permit in accordance with 326 IAC 2–7–18 for title V sources and 326 IAC 2–8–14 for FESOP sources. 326 IAC 2–7–17 and 2–7–18 are the subsections of the Indiana title V regulation which address the requirements of 40 CFR 70.7(h) and 70.8.

e. Permit Integration

326 IAC 2–1–3.2(h) states that for any source subject to 326 IAC 2–7–2 or 2–8–2, a permit issued under the Enhanced NSR regulation shall become the source's title V permit or FESOP permit, respectively. For any modification to an existing title V source subject to 326 IAC 2–7–12, a permit issued under the Enhanced NSR regulation shall be incorporated into the source's title V permit through an administrative amendment in accordance with 326 IAC 2–7–11. This is consistent with 40 CFR 70.7(d)(1)(v). For any modification to an existing FESOP source subject to 326 IAC 2–8–11, a permit issued under the Enhanced NSR regulation shall be incorporated into the source's FESOP permit through an administrative amendment in accordance with 326 IAC 2–8–10.

f. Conclusion

The USEPA is approving the 326 IAC 2–1–3.2 Enhanced NSR regulation for the purpose of providing an integrated NSR and title V process. The 326 IAC 2–1–3.2 regulation meets the requirements of the 40 CFR part 70 preamble (see 57 FR 32259 (July 21, 1992)), and 40 CFR 70.7(d)(1)(v).

B. Conclusion

The USEPA is approving the 326 IAC 2–8 regulation for the Indiana FESOP program to enable sources to establish federally enforceable limits on potential to emit of criteria pollutants and HAPs. This regulation meets the 5 following criteria established in the June 28, 1989, final rule (54 FR 27274): (1) the State operating permit program is submitted to and approved by USEPA into the SIP; (2) the SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits which do not conform to the State program requirements and the requirements of USEPA's underlying regulations may be deemed not federally enforceable by USEPA; (3) the State program requires that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise federally enforceable; (4) the limitations, controls, and requirements in the operating permits are permanent, quantifiable, and otherwise enforceable as a practical matter; and (5) the permits are issued subject to public participation. The State agrees, as part of its program, to provide USEPA and the public with timely notice of the proposal and issuance of such permits, and to provide USEPA, on a timely basis, with a copy of each proposed and final permit intended to be federally enforceable. The program must also provide for an opportunity for public comment on the permit applications prior to issuance of the final permit.

The USEPA is also approving 326 IAC 2–8 for the Indiana FESOP program, pursuant to section 112(l) of the Act, to enable sources to establish federally enforceable limits on potential to emit for HAPs. The Indiana FESOP program meets the following section 112(l) criteria: (1) the program contains adequate authority to assure compliance with any section 112 standards or requirements; (2) the program provides for adequate resources; (3) the program provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) the program is otherwise likely to satisfy the objectives of the Act.

USEPA is also approving the 326 IAC 2–1–3.2 Enhanced NSR regulation for integrating requirements determined under preconstruction permits with those required under title V. The Enhanced NSR regulation requires sources to meet the requirements in 40 CFR 70.5, 70.6, 70.7, and 70.8. This regulation is consistent with the preamble to the 40 CFR part 70 regulations (see 57 FR 32259 (July 21, 1992)) and 40 CFR 70.7(d)(1)(v).

III. Rulemaking Action

The USEPA approves the plan revisions submitted on October 25, 1994, to implement the FESOP program and the Enhanced NSR program. Each of the program elements mentioned above were properly addressed. The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on October 17, 1995, unless USEPA receives adverse or critical comments by September 18, 1995.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent final rule which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking notice.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on October 17, 1995. The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for

revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternately, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and Subchapter I, Part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976).

V. Unfunded Mandates

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

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves programs that are not Federal mandates. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Lead, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: August 20, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended to read as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraphs (c)(97) and (c)(98) to read as follows:

§ 52.770 Identification of plan.

(c) * * *

(97) On October 25, 1994, the Indiana Department of Environmental Management requested a revision to the Indiana State Implementation Plan in the form of revisions to State Operating Permit Rules intended to satisfy Federal requirements for issuing federally enforceable State operating permits (FESOP) and thereby exempt certain small emission sources from review under the State's title V operating permit program. This FESOP rule is also approved for the purpose of providing federally enforceable emissions limits on hazardous air pollutants listed under section 112(b) of the Clean Air Act. This revision took the form of an amendment to Title 326: Air Pollution Control Board of the Indiana Administrative Code (326 IAC) 2–8 Federally Enforceable State Operating Permit Program.

(i) Incorporation by reference. 326 IAC 2–8 Federally Enforceable State Operating Permit Program. Sections 1 through 17. Filed with the Secretary of State May 25, 1994. Effective June 24, 1994. Published at Indiana Register, Volume 17, Number 10, July 1, 1994.

(98) On October 25, 1994, the Indiana Department of Environmental Management requested a revision to the Indiana State Implementation Plan in the form of revisions to State Operating Permit Rules intended to allow State permitting authorities the option of integrating requirements determined during preconstruction permit review with those required under title V. The State's Enhanced New Source Review provisions are codified at Title 326: Air Pollution Control Board (326 IAC) 2–1–3.2 Enhanced New Source Review.

(i) Incorporation by reference. 326 IAC 2–1–3.2 Enhanced new source review. Filed with the Secretary of State May 25, 1994. Effective June 24, 1994. Published at Indiana Register, Volume 17, Number 10, July 1, 1994.

* * * * *

3. *Section 52.788* is added to read as follows:

§ 52.788 Operating permits.

Emission limitations and other provisions contained in operating permits issued by the State in accordance with the provisions of the federally approved permit program shall be the applicable requirements of the federally approved State Implementation Plan (SIP) for Indiana for the purpose of sections 112(b) and 113 of the Clean Air Act and shall be enforceable by the United States Environmental Protection Agency (USEPA) and any person in the same manner as other requirements of the SIP. USEPA reserves the right to deem an operating permit not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures or permit requirements which do not conform with the operating permit program requirements or the requirements of USEPA's underlying regulations.

[FR Doc. 95–20482 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

PA62–1–7023a; FRL–5272–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County: USX Clairton Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision requires the availability and maintenance of certain air pollution control equipment at the USX Corporation's Clairton Works in Allegheny County, Pennsylvania. The intended effect of this action is to

approve relevant portions of an enforcement order and agreement entered into between the Allegheny County Health Department and the USX Corporation. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective October 17, 1995 unless notice is received on or before September 18, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and, Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: 215 597–9781.

SUPPLEMENTARY INFORMATION: On April 26, 1995, the Commonwealth of Pennsylvania submitted a revision to its State implementation plan (SIP) for Allegheny County pertaining to the USX Corporation's Clairton Works. The intended result of the revision is to minimize air pollution control equipment unavailability. This action will significantly reduce the potential for excessive sulfur dioxide (SO_2) emissions from the facility.

Background

On January 30, 1991, EPA notified Pennsylvania of EPA's intention to start the process of redesignating the ''Clairton Area'' in Allegheny County as nonattainment for SO_2 pursuant to section 107(d)(3) of the Clean Air Act. The Clairton Area is defined as the area inclusive of Lincoln, Liberty, Glassport and Port Vue Boroughs and the City of Clairton in Allegheny County, Pennsylvania. In response to EPA's letter, the Commonwealth of Pennsylvania requested on March 3, 1991 that the Clairton Area be redesignated as nonattainment. As a result, the Clairton Area was proposed to be redesignated as nonattainment for SO_2 on September 22, 1992 (57 FR 43846).

The basis of EPA's determination to redesignate the Clairton Area as nonattainment for SO_2 was the recording of monitored violations of the 24-hour national ambient air quality standard (NAAQS) for SO_2 in 1986 and 1988 and of the 3-hour NAAQS in 1985, 1986, and 1988. The SO_2 monitor that recorded these violations is located in the Borough of Glassport.

Upon investigation into the cause of the monitored violations, it was determined that the exceedances were primarily attributable to the USX Corporation's Clairton Works coking facility located in the City of Clairton. After discussions with the Allegheny County Health Department Bureau of Environmental Quality Division of Air Quality and USX, each of the monitored exceedances correlated with specific sulfur-removal equipment failures and outages at the Clairton Works. Further, USX detailed the significant pollution abatement equipment modification and enhancement program it was implementing at the time to address the equipment failures and outages. USX was adding redundant pollution control devices at its coke oven gas desulfurization facility to greatly reduce SO_2 emissions from the facility. Since the improvement program was initiated, there was a documented reduction in monitored SO_2 concentrations and no monitored exceedances of the NAAQS recorded since 1990.

Based on this information, EPA deferred the redesignation of this area to nonattainment on December 21, 1993 (58 FR 67334). The deferral was contingent upon the codification of the pollution equipment improvements at the USX Clairton Works into the Pennsylvania State implementation plan (SIP) revision for Allegheny County. On April 26, 1995, Pennsylvania submitted a request that EPA approve an official State implementation plan (SIP) revision request for Allegheny County pertaining to the USX Clairton Works.

Summary of SIP Revision

The April 26, 1995 SIP revision consists of an enforcement order and agreement (EOA) entered into between the Allegheny County Health Department and USX Corporation. EPA is specifically approving the introductory portion of the EOA, the section entitled ''I. Order'' in its entirety, and two attachments to the EOA. The remainder of the EOA pertains to certain enforcement provisions agreed to between Allegheny County and USX. These provisions are not relevant to the SIP revision.

The EOA, entered into between the County and USX on November 17, 1994, establishes general operating procedures at the Clairton Works regarding certain air pollution control devices. Specifically, the EOA requires USX to maintain and operate the following control devices: two Claus Plants at the Clairton Works coke oven gas desulfurization facility; a hydrogen cyanide (HCN) destruct unit with two catalytic reactors; a vacuum carbonate unit with two absorber columns, two axi compressors, and two strippers; and, spare heat exchangers. The goal of the EOA is to require redundancy of control devices in order to minimize unavailability of such devices during normal plant operations.

The result of the EOA will be minimized equipment outages and breakdowns. This action will foster the continued maintenance of the NAAQS for SO_2 in the area surrounding the facility. Because the area of concern has been monitoring attainment for a number of years and the previously monitored violations were directly attributable to pollution control equipment malfunctions and breakdowns, the existing federally-approved SO_2 emission limit for the Clairton Works continues to be adequate.

Evaluation of State Submittal

In order to evaluate the approvability as a SIP revision of Pennsylvania's April 26, 1995 submittal, the critical factors to be considered are (A) whether the revised implementation plan demonstrates attainment and maintenance of the national ambient air quality standards (NAAQS) and (B) whether issues of enforceability arise. The following is an discussion of each of these factors; a more detailed evaluation is provided in a Technical Support Document available upon request from the Regional EPA office listed in the **ADDRESSES** section of this notice.

A. Impacts on Attainment/Maintenance on the NAAQS

As mentioned earlier, the Clairton Area is currently designated as attainment for SO_2. The EOA promotes continued maintenance of the NAAQS for SO_2 in the area of concern. Since USX began its pollution control device modification and enhancement program at the Clairton Works in the early 1990's, the ambient air quality monitors in the Clairton Area have indicated a

significant improvement in air quality with regards to SO_2. For the last four years, the three monitoring stations most impacted by the Clairton Works have recorded maximum annual arithmetic means that are less than 60 percent of the annual NAAQS (80 μg/m³) and maximum 24-hour averages that are 75 percent of the 24-hour standard (365 μg/m³). This provides a strong indication that the improvements at Clairton Works has had a direct benefit on ambient air quality in terms of SO_2 and that the NAAQS for SO_2 should continue to be maintained.

B. Enforceability Issues

The EOA requires USX to properly maintain and operate a number of pollution control devices to ensure maximum availability of those devices during plant operation. The EOA fully articulates the expectations of USX in terms of the type of equipment that is to be maintained, the capacity of that equipment, and the required availability of the equipment. The EOA also indicates the level of diligence that is to be applied to the operation and maintenance of the control devices. The EOA requires USX to report any event that causes the breakdown or unavailability of any of the equipment specified in the EOA.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 17, 1995 unless, by September 18, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 17, 1995.

Final Action

EPA is approving the Pennsylvania SIP revision for the USX Clairton Works in Allegheny County.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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

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

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve a revision to Pennsylvania's SIP for Allegheny County pertaining to the USX Clairton Works may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: July 25, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(99) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(99) Revisions to the Pennsylvania implementation plan for Allegheny County pertaining to the operation and maintenance of certain air pollution control devices at USX Corporation's Clairton Works submitted on April 26, 1995 by the Pennsylvania Department of Environmental Resources:

(i) Incorporation by reference.

(A) Letter of April 26, 1995 from Mr. James M. Seif, Secretary, Pennsylvania Department of Environmental Resources transmitting a SIP revision for Allegheny County regarding USX Corporation's Clairton Works.

(B) Portions of an enforcement order and agreement entered into by and between the Allegheny County Health Department and USX Corporation on November 17, 1994 (Enforcement Order No. 200 Upon Consent). Specifically, the introductory section (pages 1–2), the section entitled, ''I. Order'' (pages 2–6), and attachments C and D to the enforcement order and agreement which list the relevant pollution control equipment. The Agreement was effective on November 17, 1994.

(ii) Additional material.

(A) Remainder of Pennsylvania's December 9, 1993 submittal.

[FR Doc. 95–20484 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA 146–1–7134a; FRL–5272–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Nonattainment Area, Transportation Control Measure Replacement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the California State Implementation Plan (SIP) for ozone for the San Joaquin Valley, which was submitted to EPA on March 2, 1995. This direct final approval action approves the ''Railroad Grade Separations'' transportation control measure (TCM) adopted by the State of California on January 13, 1995. This TCM supersedes the ''Controls on Extended Vehicle Idling'' transportation control measure (TCM) in the federally-approved 1982 California ozone SIP. The intended effect of direct final approval of this SIP revision is to control emissions of ozone precursors and carbon monoxide in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or 1990 Act).

DATES: This direct final action is effective on October 17, 1995 unless adverse or critical comments are received by September 18, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State submittal and EPA's technical support document are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted SIP revision are available for inspection at the following locations:

Mobile Sources Section (A–2–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), ANR 443, 401 ''M'' Street SW., Washington, DC 20460

California Air Resources Board, 2020 ''L'' Street, Sacramento, CA 92123

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolomne Street, Suite #200, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT: Deborah Schechter, Mobile Sources Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1227.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 1982, the State of California submitted the 1982 ozone and carbon monoxide (CO) SIP for the San Joaquin County portion of the San Joaquin Valley nonattainment area. EPA approved California's 1982 ozone and CO SIP for San Joaquin County and published the **Federal Register** document on December 20, 1983 (48 FR 56215). The 1982 San Joaquin County SIP, or Air Quality Management Plan (AQMP), was adopted by the San Joaquin County Board of Supervisors on June 22, 1982. The AQMP included a transportation control measure (TCM) designated as ''Controls on Extended Vehicle Idling''. This TCM was intended to reduce vehicular emissions from extended idling at railroad crossings by requiring a signing system at all railroad crossings asking motorists to turn off their engines for waits longer than one minute. Site design improvements during the planning stage to mitigate circumstances where excessive idling could occur were also required in this TCM. This TCM was never implemented.

On March 20, 1991, the air pollution control districts in the San Joaquin Valley, including the San Joaquin County district, merged into the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). The SJVUAPCD was authorized to exercise all powers and carry out all duties of air pollution control districts within the Valley as provided by state and federal law.

On March 2, 1995, the California Air Resources Board (CARB) submitted to EPA a revision to the SIP for ozone for the San Joaquin Valley nonattainment area entitled San Joaquin Valley Transportation Control Measure Replacement. The SIP revision was adopted by the SJVUAPCD on September 14, 1994 and later by CARB on January 13, 1995. The SIP revision replaces the ''Controls on Extended Vehicle Idling'' TCM with the ''Railroad Grade Separations'' TCM. In its March 2, 1995 letter to EPA, CARB requested prompt handling of the submittal because of its implications for conformity determinations.

In a letter to the State dated July 24, 1995, EPA found the submittal of the San Joaquin Valley Transportation Control Measure Replacement complete.

II. Summary and Evaluation of SIP Revision

Section 176(c) of the Clean Air Act (CAA) prohibits any metropolitan planning organization (MPO) designated under section 134 of title 23 of the United States Code, from approving any transportation project, program, or plan which does not conform to a SIP approved under section 110 of the CAA. The federal transportation conformity regulation (40 CFR Part 51, subpart T) implements the transportation-related requirements of section 176(c). Section 51.418 of the regulation requires the

transportation plan and program to provide for the timely implementation of transportation control measures (TCMs) from the applicable federally-approved implementation plan. A TCM is defined in section 51.392 as any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentration of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions.

Under the federal transportation conformity rule, before an MPO or the Department of Transportation (DOT) can approve a transportation plan or program, a conformity determination must be made which shows timely implementation of all of the TCMs in the approved SIP and demonstrates that all obstacles to TCM implementation have been removed. In the case of San Joaquin County, the TCMs identified in the 1982 SIP must meet the timely implementation criterion in order for the transportation plan and program to be approved and projects to be funded. Because the ''Controls on Extended Vehicle Idling'' TCM was never implemented and is not expected to be implemented, this TCM cannot be found to meet the criterion of timely implementation.

The preamble to the conformity regulation at 58 FR 62198 states that if the original project sponsor or the cooperative planning process decides not to implement the TCM or decides to replace it with another TCM, a SIP revision which removes the TCM will be necessary before plans and programs may be found in conformity. (In order to be approved by EPA, such a SIP revision must include substitute measures that achieve emissions reductions sufficient to meet all applicable requirements of the CAA, including section 110(l).)

In order to meet the requirement of the conformity regulation for timely implementation of TCMs and to enable FHWA to approve future transportation plans and programs for San Joaquin County, the San Joaquin County Council of Governments (SJCOG), the SJVUAPCD, and the State of California have opted to revise the SIP to delete the ''Controls on Extended Vehicle Idling'' TCM and replace the measure with an alternative TCM for which timely implementation can be demonstrated. On March 2, 1995, California submitted a SIP revision for San Joaquin County which replaces the ''Controls on Extended Vehicle Idling'' TCM with the ''Railroad Grade Separations'' TCM.

The TCM includes two railroad grade separations to be constructed in the Stockton Urbanized Area:

—Hammer Lane at Southern Pacific RR (scheduled completion in 1997)

—Hammer Lane at Union Pacific RR (scheduled completion in 1997)

The SIP revision anticipated the following emissions reductions from these projects: 1.2 kg total organic gases (TOG) per day, 4.0 kg nitrogen oxides (No_X) per day, and 20 kg carbon monoxide (CO) per day.

The 1982 SIP took credit only for the CO emissions reductions expected from the implementation of the ''Controls on Extended Vehicle Idling'' TCM. The expected reduction was 0.017 tons/day or 15.4 kg/day of CO in 1987. Thus, the ''Railroad Grade Separations'' TCM is expected to result in greater reductions in CO, TOG, and NO_X than were credited to the ''Controls on Extended Vehicle Idling'' TCM.

In addition, the SJCOG and the SJVUAPCD have found that the emissions reductions that would result if the ''Controls on Extended Vehicle Idling'' TCM were implemented today are likely to be less than originally projected. First, the TCM was voluntary. Emissions reductions were calculated based on the assumption that motorists would obey the signs and turn off their engines for waiting times of over one minute, when, in reality, motorists may have kept their engines idling due to a lack of an enforcement mechanism for the measure. In addition, changes in motor vehicle technology have led to a reduced benefit from this TCM. Motor vehicle engine technology has led to reduced idling emissions from today's cars. As a result, shutting off idling vehicles and starting them back up again a few minutes later will result in fewer emissions reductions today than in 1982 when the TCM was included in the SIP.

Because the ''Railroad Grade Separations'' TCM is expected to result in greater emissions reductions than the ''Controls on Extended Vehicle Idling'' TCM, the SIP revision does not weaken the federally-approved 1982 SIP.

III. EPA's Action

This action approves the ''Railroad Grade Separations'' TCM, submitted to EPA by the State of California on March 2, 1995 for inclusion in the California Ozone SIP for the San Joaquin Valley. This TCM supersedes the ''Controls on Extended Vehicle Idling'' TCM in the 1982 SIP. This latter TCM is, therefore, no longer subject to the timely implementation criterion of the conformity regulation. EPA has evaluated the submitted TCM and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, the San Joaquin Valley Transportation Control Measure Replacement SIP revision is being approved under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and (l) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document published elsewhere in this **Federal Register**, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 17, 1995, unless, by September 18, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published elsewhere in this **Federal Register**. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 17,1995.

IV. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve

requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The OMB has exempted this action from review under Executive Order 12866.

V. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 182(b) of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local, or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 26, 1995.

Jeff Zelikson,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(223) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(223) Revised ozone transportation control measure (TCM) for the San Joaquin Valley submitted on March 2, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Railroad Grade Separations TCM, adopted on September 14, 1994.

[FR Doc. 95–20481 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[TN 141–1–6986a; FRL–5277–7]

Clean Air Act Approval and Promulgation of Redesignation of the Rossville Area of Fayette County, Tennessee, to Attainment for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) for the purpose of redesignating the portion of Fayette County near Rossville, Tennessee, from nonattainment to attainment status for the lead National Ambient Air Quality Standard (NAAQS).

DATES: This final rule is effective on October 17, 1995 unless adverse or critical comments are received by September 18, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by TDEC may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 401 Church Street, L & C Annex, 9th Floor, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4195.

SUPPLEMENTARY INFORMATION: On June 7, 1993, a portion of Fayette County, Tennessee, near Rossville, was designated nonattainment for lead. Since that time, the only source of lead emissions in the area, a facility operated by Ross Metals Inc., has permanently closed, and monitoring data from the area demonstrates that the area is attaining the NAAQS for lead. Section 107(d)(3)(E) of the Clean Air Act (CAA) permits nonattainment areas that have attained the lead NAAQS to be redesignated to attainment provided certain criteria are met. Consequently, the State of Tennessee submitted a request to redesignate the area to attainment.

Section 107(d)(3)(E) of the CAA, as amended in 1990, sets forth the requirements that must be met for a nonattainment area to be redesignated to attainment. It states that an area can be redesignated to attainment if the following conditions are met.

1. The EPA has determined that the lead NAAQS has been attained.

2. The applicable implementation plan has been fully approved by EPA under section 110(k).

3. The EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.

4. The State has met all applicable requirements for the area under section 110 and part D.

5. The EPA has fully approved a maintenance plan, including a

contingency plan, for the area under section 175A.

On July 1, 1992, Ross Metals Inc., the only lead source in the area, began a 30 to 90 day temporary shutdown, however the facility did not re-start its operation. The facility has gone out of business and has surrendered its state operating permit. Therefore, the source of emissions that led to the lead nonattainment designation for the Fayette County area has permanently shut down. On October 6, 1994, the State of Tennessee through TDEC submitted a request to redesignate the portion of Fayette County near Rossville from nonattainment to attainment status for lead. The public hearing was held on August 25, 1994. The State did not receive any adverse comments during the public hearing or the 30 day comment period. A letter of completeness was mailed to John Walton, Technical Secretary, Tennessee Air Pollution Control Board, from EPA on December 8, 1994, for the submittal. The State of Tennessee's redesignation request meets the requirements of Section 107(d)(3)(E). The following is a description of how each requirement has been achieved.

1. Attainment of the Lead NAAQS

To demonstrate that the Fayette County area is in attainment with the lead NAAQS, TDEC's submittal included air quality data for the years 1990–1994. No exceedances of the lead standard have occurred since Ross Metals, Inc. shutdown on July 1, 1992. This amount of monitoring data (more than eight consecutive quarters at the present time) without an exceedance of the lead standard is adequate to demonstrate attainment of the standard. Modeling may also be required to redesignate an area to attainment. The EPA believes that because there are no lead sources in the area since Ross Metals has shut down, then no modeling analysis is needed. The EPA is approving the State of Tennessee official request to discontinue monitoring the air quality of the Rossville area because Ross Metals, Inc. was the only lead source in the area and monitoring has been conducted for more than two years following its closure.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

To be redesignated to attainment, section 107(d)(3)(E) requires that an area must have met all applicable requirements of section 110 of part D of title I of the CAA. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of a complete redesignation request. Requirements of the CAA that come due subsequently continue to be applicable to the area at those later dates (see section 175A(c)) and, if the redesignation is not approved, the State remains obligated to fulfill those requirements. Therefore, for purposes of redesignation, to meet the requirement that the SIP fulfills all applicable requirements under the CAA, EPA has reviewed the Fayette County SIP to ensure that it satisfies all requirements due under the CAA prior to or at the time the State of Tennessee submitted its redesignation request (i.e., October 4, 1994).

A. Section 110 Requirements

Section 110 of the 1977 CAA required states to submit lead SIPs (see 52 FR 47686). Based on the requirements of the 1977 CAA amendments, the State of Tennessee submitted a prevention of significant deterioration (PSD) submittal which included lead. EPA believes that this SIP satisfies the requirements of section 110(a)(2) based on a memorandum from G. T. Helms to the EPA Regional Air Branch Chiefs dated June 14, 1979.

B. Part D Requirements

Before a lead nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes the general requirements applicable to all nonattainment areas and subpart 5 of part D establishes certain requirements applicable to lead nonattainment areas. Section 191(a) requires the submission of nonattainment SIPs meeting the requirements of part D for areas designated nonattainment for lead after the 1990 CAAA, such as the Fayette County area, within 18 months of the designation. As the Fayette County area was designated nonattainment on June 7, 1993, its part D SIP was not due until December 7, 1994. As a complete redesignation was submitted to EPA on October 6, 1994, for the area, the part D SIP requirements are not applicable requirements for purposes of the evaluation of this redesignation request.

The requirements of sections 172(c) and 192(a) for providing for attainment of the lead NAAQS, and the requirements of section 172(c) for requiring reasonable further progress (RFP), imposition of reasonably available control measures (RACM) the adoption of contingency measures, and the submission of an emission inventory have been satisfied or no longer applicable due to the permanent closure of the only lead source in the area and the demonstration that the area is now attaining the standard. The EPA notes that the Ross Metals facility ceased operation and its permit has been revoked. See General Preamble for the Implementation of Title I, 57 FR 13498, 13564 (April 16, 1992).

3. Permanent and Enforceable Improvement in Air Quality

TDEC provided a copy of a letter dated May 5, 1994, certifying that Ross Metals has surrendered its operating permits, proving that Ross Metals, Inc., the sole source of lead emissions had ceased operation. Since the Ross Metals facility has ceased operation, the improvement in air quality resulting in attainment of the standard is permanent and enforceable.

4. Maintenance Plan

Section 175(A) of the CAA requires states that submit a redesignation request for a nonattainment area under section 107(d) to include a maintenance plan to ensure that the attainment of NAAQS for any pollutant is maintained. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating attainment for the ten years following the initial ten year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard that occurs after redesignation. The contingency provisions are to include a requirement that the state will implement all measures for controlling the air pollutant of concern that were contained in the SIP prior to redesignation.

The State of Tennessee through TDEC has submitted a maintenance plan to ensure that the lead NAAQS is protected. The maintenance plan for the Fayette County area near Rossville, Tennessee contains the part C PSD program. The EPA believes that this submittal is adequate in light of the permanent closure of the only lead source in the area.

In addition, the EPA does not believe any additional contingency measures are needed. Contingency measures would serve no useful purpose in light of the permanent closure of the Ross Metals facility and the revocation of its permit. Moreover, any attempt to reopen

a facility on the same site would be subject to the permitting requirements of the State's preconstruction review program.

Final Action

In this action, EPA is approving the redesignation of the Fayette County area near Rossville, Tennessee, to attainment for lead and the accompanying SIP revision submitted by the State of Tennessee, because Tennessee has addressed all of the requirements of the CAA and the culpable lead source has been permanently shut down. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments.

The public should be advised that this action will be effective October 17, 1995. However, if adverse or critical comments are received by September 18, 1995, this action will be withdrawn and two subsequent documents will be published before the effective date. One document will withdraw the final action. The second document will be the final document which will address the comments received.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)].

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), P.L. 104–4, establishes requirements for the Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, 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, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Through submission of the SIP or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The submission approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the submission being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The 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, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(e) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead.

40 CFR Part 81

Air pollution control.

Dated: August 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2236, is added to read as follows:

§ 52.2236 Control strategy; lead.

The Tennessee Department of Environment and Conservation has submitted revisions to the Tennessee SIP on October 6, 1994. These revisions address the requirements necessary to change an lead nonattainment area to attainment. The maintenance plan for the Fayette County area near Rossville, Tennessee is comprised of a maintenance demonstration and NSR/PSD program. For areas where the only lead source has shut down, these components are sufficient for an approvable maintenance plan. The State's maintenance plan is complete and satisfies all of the requirements of section 175(A) of the CAA.

PART 81—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.343 the lead table is amended by revising the entry for Fayette County (part) to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	* *	* *		
Fayette County (part) Area encompassed by a circle centered on Universal Transverse Mercator coordinate 267.59 E, 3881.30 N (Zone 16) with a radius of 1.0 kilometers.	Oct. 17, 1995	Attainment		
* * *	* *	* *		

* * * * *

[FR Doc. 95–20191 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[LA–24–1–7026a; FRL–5270–2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plans for the Parishes of Beauregard, Grant, Lafayette, Lafourche, and St. Mary; Redesignation of these Ozone Nonattainment Areas to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 27, 1995, December 12, 1994, October 21, 1994, November 18, 1994, and November 23, 1994, the State of Louisiana submitted revised maintenance plans and requests to redesignate the ozone nonattainment areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes to attainment. These maintenance plans and redesignation requests were initially submitted to the EPA during the Summer of 1993. Although the EPA deemed these initial submittals complete, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has revised its submissions. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Louisiana's redesignation requests because they meet the maintenance plan and redesignation requirements set forth in the CAA and EPA is approving the 1990 base year emissions inventory. The approved maintenance plans will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

DATES: This final rule is effective on October 17, 1995, unless notice is received by September 18, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register** (FR).

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6T–AP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

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

Louisiana Department of Environmental Quality, Office of Air Quality, P.O. Box 82135, Baton Rouge, Louisiana 70884–2135.

Anyone wishing to review this petition at the U.S. EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Planning Section (6T–AP), Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

Background

The CAA as amended in 1977 required areas that were designated nonattainment based on a failure to meet the ozone national ambient air quality standard (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. The areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes, Louisiana were designated under section 107 of the 1977 CAA as nonattainment with respect to the ozone NAAQS on September 11, 1978 (40 CFR 81.319). In accordance with section 110 of the 1977 CAA, the State of Louisiana submitted an ozone SIP as required by part D on December 10, 1979. EPA fully approved this ozone SIP on October 29, 1981 (46 FR 53412). The most recent revision to the ozone SIP occurred on May 5, 1994, when the EPA approved a SIP revision for the State of Louisiana to correct certain enforceability deficiencies in their volatile organic compound (VOC) rules (59 FR 23164). For purposes of

redesignations, the State of Louisiana has an approved ozone SIP.

On November 15, 1990, the CAA Amendments of 1990 were enacted (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The ozone nonattainment designation for each of these areas continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990 (See 56 FR 56694, November 6, 1991). Since the State had not yet collected the required three years of ambient air quality data necessary to petition for redesignation to attainment in the areas of Beauregard, Grant, Lafourche, and St. Mary Parishes, each of these areas was designated as unclassifiable-incomplete data for ozone. Lafayette Parish had collected the required three years of ambient air quality data, but the State likewise had not petitioned the EPA to redesignate the area to attainment. Lafayette Parish was consequently designated as unclassifiable-transitional for ozone.

The Louisiana Department of Environmental Quality (LDEQ) more recently has collected ambient monitoring data that show no violations of the ozone National Ambient Air Quality Standard (NAAQS) of .12 parts per million. The State developed maintenance plans for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes, and solicited public comment. Subsequently, the State of Louisiana submitted requests, through the Governor's office, to redesignate these areas to attainment with respect to the ozone NAAQS. The initial redesignation requests for Beauregard, Lafourche, and St. Mary Parishes were submitted to the EPA on June 14, 1993. The initial redesignation requests for Grant and Lafayette Parishes were submitted to the EPA on May 25, 1993. Although these maintenance plans and redesignation requests were deemed complete, several approvability issues existed. The State of Louisiana addressed these approvability issues, and submitted revised maintenance plans and redesignation requests accordingly. The revised redesignation requests for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes were received on March 27, 1995, December 12, 1994, October 21, 1994, November 18, 1994, and November 23, 1994, respectively. These revised redesignation requests were accompanied by ozone maintenance SIPs. Please see the TSD for the detailed air quality monitoring data.

Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) the area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110 and part D of the CAA; (3) the area must have a fully approved SIP under section 110(k) of the CAA; (4) the air quality improvement must be permanent and enforceable; and, (5) the area must have a fully approved maintenance plan pursuant to section 175A of the CAA. Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status. Please see EPA's Technical Support Document (TSD) for a detailed discussion of these requirements.

(1) Attainment of the NAAQS for Ozone

Attainment of the ozone NAAQS is determined based on the expected number of exceedances in a calendar year. The method for determining attainment of the ozone NAAQS is contained in 40 CFR 50.9 and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances at each monitoring site over a three year period. An area is in attainment of the standard if this average results in expected exceedances for each monitoring site of 1.0 or less per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year. Appendix H provides the formula used to estimate the expected number of exceedances for each year.

The State of Louisiana's request is based on an analysis of quality-assured ozone air quality data which is relevant to both the maintenance plans and to the redesignation requests. The data come from the State and Local Air Monitoring Station network. With the exception of Grant Parish, the requests are based on ambient air ozone monitoring data collected for 3 consecutive years from January 1, 1990, through December 31, 1992. The data clearly show an expected exceedance rate of less than 1 for all these areas.

The Grant Parish monitor did not collect data from April through December of 1991 due to poor data capture. Once the data capture problem was corrected, the monitor collected data continuously through 1992. The resulting data spanned three complete years, from January 1989 through March 1991, and January 1992 through December 1992. EPA accepted the data as an adequate demonstration that the ozone standard was attained in Grant Parish. The decision to consider the data collected as adequate for redesignation purposes was based on several factors. First, Grant Parish has 3 full years of ozone data over a four year period. Second, Grant Parish is rural. The area's population is less than 50,000, and Grant Parish is not adjacent to any urban area. Third, Grant Parish has no major non-complying volatile organic compound sources. Finally, there has been only one monitored ozone concentration near the standard (0.103 ppm in October 1990) during the 4 year monitoring period.

The State did not collect ozone data for Grant Parish in 1993 or 1994. The ozone monitor was reinstalled in January 1995, and will continue to operate for the duration of the maintenance period. While the EPA generally requires that an area have the most recent three years of data for redesignation purposes, we are departing from established policy in this instance because of the continued downward trend of measured ozone values in this area, and no significant increase in the level of emissions in Grant Parish. Additionally, preliminary ozone data collected from the Grant Parish monitor from 1995 supports this downward trend argument. Please see the TSD for a detailed discussion of the area's downward trend.

In addition to the demonstration discussed above, EPA required completion of air network monitoring requirements set forth in 40 CFR part 58. This included a quality assurance plan revision and a monitoring network review to determine the adequacy of the ozone monitoring network. The LDEQ fulfilled these requirements to complete documentation for the air quality demonstration. The LDEQ has also committed to continue monitoring in these areas in accordance with 40 CFR part 58.

In sum, EPA believes that the data submitted by the LDEQ provides an adequate demonstration that the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment to date.

If the monitoring data records a violation of the NAAQS before the direct final action is effective, the direct final approval of the redesignation will be withdrawn and a proposed disapproval substituted for the direct

final approval. Please see the TSD for a detailed discussion of the monitoring data.

(2) Section 110 Requirements

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA has reviewed the SIP to ensure that it contains all measures that were due under the CAA prior to or at the time the State submitted its redesignation request, as set forth in EPA policy. EPA interprets section 107(d)(3)(E)(v) of the CAA to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. In this case, the dates of submission of a complete redesignation request are May 25, 1993, for Grant and Lafayette Parishes, and June 14, 1993, for Beauregard, Lafourche, and St. Mary Parishes. Requirements of the CAA that come due subsequently continue to be applicable to the area at later dates (see section 175A(c)) and, if redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements. These requirements are discussed in the following EPA documents: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992; ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992; and ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

EPA has analyzed the Louisiana SIP and determined that it is consistent with the requirements of amended section 110(a)(2). The SIP contains enforceable emission limitations, requires monitoring, compiling, and analyzing ambient air quality data, requires preconstruction review of new major stationary sources and major modifications to existing ones, provides for adequate funding, staff, and associated resources necessary to implement its requirements, and requires stationary source emissions monitoring and reporting.

(3) Part D Requirements

Before the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes can be redesignated to attainment, the Louisiana SIP must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a)(1). Since the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes are considered nonclassifiable, the State is only required to meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176. As long as EPA did not determine that any of the pertinent section 172(c) requirements were applicable prior to the submission of these redesignation requests in 1993, none of these requirements are applicable for purposes of this redesignation action.

Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federal actions (''general conformity'').

Section 176 further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A.

Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Louisiana was required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Louisiana was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Louisiana submitted both its transportation and general conformity rules to EPA on November 10, 1994. As these requirements did not come due until after the original submission date of these redesignation requests, these conformity rule submissions need not be approved prior to taking action on these redesignation requests.

The EPA recently published additional guidance on maintenance plans and their applicability to conformity issues in a memorandum entitled ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas,'' (limited maintenance plan memo) from Sally L. Shaver, Director, Air Quality Strategies & Standards Division, on November 16, 1994. This limited maintenance plan memo discusses maintenance requirements for certain areas petitioning for redesignation to attainment. Nonclassifiable ozone nonattainment areas with design values less than 85% of the exceedance level of the ozone standard are no longer required to project emissions over the maintenance period.

The Federal transportation conformity rule (58 FR 62188) and the Federal general conformity rule (58 FR 63214) apply to areas operating under maintenance plans. Under either rule, one means by which a maintenance area can demonstrate conformity for Federal projects is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Based on guidance discussed in the limited maintenance plan memo, emissions inventories in areas that qualify for the limited maintenance plan approach are not required to be projected over the life of the maintenance plan. EPA feels it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the NAAQS would occur. Emissions budgets in limited maintenance plan areas would be treated as essentially not constraining emissions growth, and would not need to be capped for the maintenance period. In these cases, Federal projects subject to conformity determinations could be considered to satisfy the ''budget test'' of the Federal conformity rules.

(4) Fully Approved SIP

The EPA finds that the State of Louisiana has a fully approved SIP for the areas of Beauregard, Grant,

Lafayette, Lafourche, and St. Mary Parishes.

(5) Permanent and Enforceable Measures

Under the CAA, EPA approved Louisiana's SIP control strategy for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. Several Federal and Statewide rules are in place which have significantly improved the ambient air quality in these areas. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure (RVP) limit of 7.8 pounds per square inch for gasoline, will not be lifted upon redesignation. These programs will counteract emissions growth as the areas experience economic growth over the life of their maintenance plans.

The State adopted VOC rules such as oil/water separation; degreasing and solvent clean-up processes; surface coating rules for large appliances, furniture, coils, paper, fabric, vinyl, cans, miscellaneous metal parts and products, and factory surface coating of flat wood paneling; solvent-using rules for graphic arts; and miscellaneous industrial source rules such as for cutback asphalt. The applicable reasonably available control technology (RACT) rules will also remain in place in the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes. In addition, the State permits program, the PSD permits program, and the Federal Operating Permits program will help counteract emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

(6) Fully Approved Maintenance Plan Under Section 175A

In today's document, EPA is approving the State's maintenance plans for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes because EPA finds that the LDEQ's submittal meets the requirements of section 175A. Thus, these areas will have fully approved maintenance plans in accordance with section 175A as of the effective date of this redesignation. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems. Each of the section 175A plan requirements is discussed below.

Demonstration of Maintenance

The requirements for an area to redesignate to attainment are discussed in the memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memo). One aspect of a complete maintenance demonstration discussed in the Calcagni memo is the requirement to develop an emission inventory from one of the three years during which the area has demonstrated attainment. This inventory should include VOCs, and oxides of nitrogen (NO_X) from the area in tons per day measurements. In addition to the Calcagni memo, more recent guidance on the redesignation of certain nonattainment areas to attainment is provided in the limited maintenance plan memo.

Attainment Inventory

The LDEQ adopted comprehensive inventories of VOC, NO_X, and CO emissions from area, stationary, and mobile sources using 1990 as the base year to demonstrate maintenance of the ozone NAAQS. EPA has determined that 1990 is an appropriate year on which to base attainment level emissions because EPA policy allows States to select any one of the three years in the attainment period as the attainment year inventory. The State's submittals contain the detailed inventory data and summaries by source category.

The LDEQ provided the stationary source estimates for each company meeting the emissions criteria by requiring the submission of complete emission inventory questionnaires which had been designed to obtain site-specific data. The LDEQ generated area source emissions for each source category based on EPA's ''Procedures for the Preparation of Emissions Inventories for Precursors of Carbon Monoxide and Ozone, Volume I'', and the EPA document entitled ''Compilation of Air Pollutant Emission Factors''. The non-road mobile source inventory was developed using methodology recommended in EPA's ''Procedures for Emission Inventory Preparation. Volume IV: Mobile Sources''. Data were provided regarding an EPA-sponsored study entitled ''Nonroad Engine Emission Inventories for CO and Ozone Nonattainment Boundaries.'' On-road emissions of VOC, NO_X, and CO were calculated on a county-wide basis using EPA's MOBILE5a computer model.

In the limited maintenance plan memo, EPA set forth new guidance on maintenance plan requirements for certain ozone nonattainment areas. The limited maintenance plan memo identified criteria through which certain nonclassifiable ozone nonattainment areas could choose to submit less rigorous maintenance plans. As mentioned earlier, the method for calculating design values is presented in the June 18, 1990 memorandum, ''Ozone and Carbon Monoxide Design Value Calculations,'' from William G. Laxton, former Director of the Office of Air Quality Planning and Standards Technical Support Division. Nonclassifiable ozone nonattainment areas whose design values are calculated at or below 0.106 parts per million (ppm) at the time of redesignation, are no longer required to project emissions over the maintenance period. The 0.106 ppm represents 85% of the ozone exceedance level of 0.125 ppm. As explained in the November 16, 1994 limited maintenance plan memo, the EPA believes if an area begins the maintenance period at or below 85% of the ozone exceedance level of the NAAQS, the existing Federal and SIP control measures, along with the PSD program, will be adequate to assure maintenance of the ozone NAAQS in the area. The areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes have calculated design values of 0.106, 0.090, 0.102, 0.096, and 0.085 ppm, respectively. In light of this, and the lack of any recent history of violations of the ozone NAAQS, EPA believes that it is reasonable to conclude that the combination of the RACT measures in the SIP, the Federal Motor Vehicle Control Program, the RVP limit of 7.8 pounds per square inch, and the applicability of preconstruction review in accordance with the prevention of significant deterioration (PSD) requirements of part C of Title I, provides adequate assurance that the ozone NAAQS will be maintained. Thus, the EPA believes these areas

qualify for the limited maintenance plan approach.

The following are tables of the revised average peak ozone season weekday VOC and NO_X emissions for the major anthropogenic source categories for the 1990 attainment year inventory.

BEAUREGARD PARISH

Emissions source	1990 tons per day
Point Source CO	60.20
Point Source VOC	9.19
Point Source NO_X	12.00
Area Source CO	0.28
Area Source VOC	1.66
Area Source NO_X	0.11
Nonroad CO	8.62
Nonroad VOC	1.93
Nonroad NO_X	3.72
Onroad CO	19.6
Onroad VOC	2.69
Onroad NO_X	3.23
Total CO	88.70
Total VOC	15.47
Total NO_X	19.05

GRANT PARISH

Emissions source	1990 tons per day
Point Source CO	0.53
Point Source VOC	0.28
Point Source NO_X	3.03
Area Source CO	0.14
Area Source VOC	3.31
Area Source NO_X	0.05
Nonroad CO	5.49
Nonroad VOC	1.26
Nonroad NO_X	3.21
Onroad CO	28.00
Onroad VOC	3.59
Onroad NO_X	3.81
Total CO	34.15
Total VOC	8.44
Total NO_X	10.11

LAFAYETTE PARISH

Emissions source	1990 tons per day
Point Source CO	0.44
Point Source VOC	0.25
Point Source NO_X	5.35
Area Source CO	1.19
Area Source VOC	7.47
Area Source NO_X	0.52
Nonroad CO	56.97
Nonroad VOC	9.61
Nonroad NO_X	37.28
Onroad CO	123.46

LAFAYETTE PARISH—Continued

Emissions source	1990 tons per day
Onroad VOC	14.98
Onroad NO_X	17.10
Total CO	182.05
Total VOC	32.31
Total NO_X	60.25

LAFOURCHE PARISH

Emissions source	1990 tons per day
Point Source CO	1.33
Point Source VOC	5.56
Point Source NO_X	9.56
Area Source CO	0.45
Area Source VOC	3.89
Area Source NO_X	0.43
Nonroad CO	16.68
Nonroad VOC	3.57
Nonroad NO_X	1.44
Onroad CO	63.08
Onroad VOC	8.31
Onroad NO_X	10.17
Total CO	81.54
Total VOC	21.33
Total NO_X	21.6

ST. MARY PARISH

Emissions source	1990 tons per day
Point Source CO	684.55
Point Source VOC	24.79
Point Source NO_X	31.57
Area Source CO	0.49
Area Source VOC	2.99
Area Source NO_X	0.22
Nonroad CO	13.85
Nonroad VOC	2.62
Nonroad NO_X	3.18
Onroad CO	32.44
Onroad VOC	4.31
Onroad NO_X	5.61
Total CO	731.33
Total VOC	34.71
Total NO_X	40.58

The attainment inventories submitted by the LDEQ for these areas meet the redesignation requirements as discussed in the Calcagni memo and limited maintenance plan memo. Therefore, the EPA is today approving the emissions inventory component of the maintenance plans for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes.

Continued Attainment

Continued attainment of the ozone NAAQS in the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes will depend, in part, on the Federal and State control measures discussed previously. However, the ambient air monitoring sites will remain active at their present locations during the maintenance period. These data will be quality assured and submitted to the Aerometric Information and Retrieval System (AIRS) on a monthly basis. As discussed in the limited maintenance plan memo, certain monitored ozone levels will provide the basis for triggering measures contained in the contingency plan. Additionally, as discussed above, during year 8 of the maintenance period, the LDEQ is required to submit a revised plan to provide for maintenance of the ozone standard in these areas for the next ten years.

Contingency Plan

Section 175A of the CAA requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. The contingency plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify specific triggers which will be used to determine when the measures need to be implemented.

The LDEQ has selected VOC offsets and new Control Techniques Guidelines (CTG) or Alternative Control Technology (ACT) rule implementation as its contingency measures. At any time during the maintenance period, if the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes record a second exceedance of the ozone NAAQS within any consecutive three-year period, the LDEQ will promulgate a rule change to implement VOC offsets in the applicable parish. This rule will be submitted to EPA within 9 months of the second exceedance. Implementation will occur immediately upon verification of a third exceedance of the ozone standard in any consecutive 3 year period.

Should Beauregard, Grant, Lafayette, Lafourche, or St. Mary Parishes experience a third exceedance of the ozone standard during any consecutive 3 year period, the LDEQ will promulgate a rule revision to place new CTG and ACT VOC rules (where applicable) in the affected parish. These rules will be submitted to the EPA within 9 months

of the third exceedance. Implementation will occur immediately upon verification that a violation of the ozone standard has occurred. These contingency measures and schedules for implementation satisfy the requirements of section 175A(d).

Final Action

The EPA has evaluated the State's redesignation request for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes, Louisiana, for consistency with the CAA, EPA regulations, and EPA policy. The EPA believes that the redesignation requests and monitoring data demonstrate that these areas have attained the ozone standard. In addition, the EPA has determined that the redesignation requests meet the requirements and policy set forth in the General Preamble and policy memorandum discussed in this notice for area redesignations, and today is approving Louisiana's redesignation request for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes.

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document published elsewhere in this **Federal Register**, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 17, 1995, unless adverse or critical comments are received by September 18, 1995. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received on this action, the public is advised that this action will be effective October 17, 1995.

The EPA has reviewed these redesignation requests for conformance with the provisions of the CAA and has determined that this action conforms to those requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, under 5 U.S.C. 605(b), the EPA may certify that the rule will not have a significant impact on a substantial number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 1995. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA from basing its actions concerning SIPs on such grounds. Union Electric Co. v. U.S. E.P.A., 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2). The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The rules and commitments approved in this action may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, EPA has determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National parks, Reporting and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Dated: July 21, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6A).

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. Section 52.975 is added to read as follows:

§ 52.975 Redesignations and maintenance plans; ozone.

Approval. The Louisiana Department of Environmental Quality (LDEQ) submitted redesignation requests and maintenance plans for the areas of Beauregard, Lafourche, and St. Mary Parishes on June 14, 1993. Redesignation requests and maintenance plans were submitted for the areas of Grant and Lafayette on May 25, 1993. The EPA deemed these

requests complete on September 10, 1993. Several approvability issues existed, however. The LDEQ addressed these approvability issues in supplemental ozone redesignation requests and revised maintenance plans. These supplemental submittals were received for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes on March 27, 1995, December 12, 1994, October 21, 1994, November 18, 1994, and November 23, 1994, respectively. The redesignation requests and maintenance plans meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignations meet the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for these areas. The EPA therefore approved the request for redesignation to attainment with respect to ozone for the areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes on October 17, 1995.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7871q.

2. In § 81.319, the attainment status designation table for ozone is amended by revising the entries for Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes under ''Designated Area'' to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Beauregard Parish	Oct. 17, 1995	Attainment.		
* * *	*	*	*	*
Grant Parish	Oct. 17, 1995	Attainment.		
* * *	*	*	*	*
Lafayette Parish	Oct. 17, 1995	Attainment.		
* * *	*	*	*	*
Lafourche Parish	Oct. 17, 1995	Attainment.		
* * *	*	*	*	*
St. Mary Parish	Oct. 17, 1995	Attainment.		
* * *	*	*	*	*

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

[FR Doc. 95–20193 Filed 8–17–95; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–60; RM–8455; RM–8511]

Radio Broadcasting Services; Duncan, AZ and Reserve, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 264A to Duncan, Arizona, as that community's first local aural transmission service, in response to a petition for rule making filed on behalf of Duncan Community Radio (RM–8455). *See* 59 FR 34405, July 5, 1994. Additionally, Channel 283C3 is allotted to Reserve, New Mexico, as that community's first local aural transmission service, in response to a counterproposal filed on behalf of Acme Enterprises (RM–8511). Coordinates used for Channel 264A at Duncan, Arizona, are 32–43–12 and 109–06–12. Coordinates used for Channel 283C3 at Reserve, New Mexico, are 33–43–00 and 108–45–24. As Duncan and Reserve are each located within 320 kilometers (199 miles) of the United States-Mexico border, concurrence of the Mexican government in the respective allotments was obtained. With this action, the proceeding is terminated.

DATES: Effective September 28, 1995. The window period for filing applications will open on September 28, 1995, and close on October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 264A at Duncan, Arizona, and for Channel 283C3 at Reserve, New Mexico, should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–60, adopted August 4, 1995, and released August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Duncan, Channel 264A.

3. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding, Reserve, Channel 283C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–20472 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–63; RM–8617]

Radio Broadcasting Services; Rushville, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 223A for Channel 244A at Rushville, Illinois, at the request of Larry K. and Cathy M. Price. *See* 60 FR 26711, May 18, 1995. Channel 223A can be allotted to Rushville in compliance with the Commission's minimum distance separation requirements at petitioner's licensed site with a site restriction of 8.3 kilometers (5.1 miles) northwest of the community. The coordinates for Channel 223A at Rushville are North Latitude 40–08–20 and West Longitude 90–39–26. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–63, adopted August 4, 1995, and released August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 244A and by adding Channel 223A at Rushville.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–20476 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–64; RM–8618]

Radio Broadcasting Services; Talking Rock, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 261A to Talking Rock, Georgia, as that community's first local transmission service, at the request of Funseeker's Network, Inc., *See* 60 FR 26711, May 18, 1995. Channel 261A can be allotted to Talking Rock in compliance with the Commissions minimum distance separation requirements with a site restriction of 13.6 kilometers (8.5 miles) north of the community, in order to avoid a short spacing to the licensed sites of Station WNNX(FM), Channel 259C, Atlanta, Georgia, and Station WUSY(FM), Channel 264C, Cleveland, Tennessee. The coordinates for Channel 261A at Talking Rock are North Latitude 34–37–54 and West Longitude 84–31–24. With this action, this proceeding is terminated.

DATES: Effective September 28, 1995. The window period for filing applications will open on September 28, 1995, and close on October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–64, adopted August 4, 1995, and released August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Talking Rock, Channel 261A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–20475 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–37; RM–8586]

Television Broadcasting Services; Waimanalo, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 56 to Waimanalo, Hawaii, as the community's first local television service, at the request of Joyce Cathcart. *See* 60 FR 19012, April 14, 1995. Channel 56 can be allotted to Waimanalo consistent with the Commission's minimum distance separation requirements of Section 73.610. The coordinates for this allotment are North Latitude 21–21–00 and West Longitude 157–43–12. Although the Commission has imposed a freeze on television allotments in certain areas, Waimanalo is not in one of the affected areas. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report*

and Order, MM Docket No. 95–37, adopted August 4, 1995, and released August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, 303.

§ 73.606(b) [Amended]

2. Section 73.606(b), the Television Table of Allotments under Hawaii, is amended by adding Waimanalo, Channel 56.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–20473 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–38; RM–8587]

Television Broadcasting Services; Kailua, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 50 to Kailua, Hawaii, as the community's first local television service, at the request of Paul Alfred Tennyson. *See* 60 FR 19205, April 17, 1995. Channel 50 can be allotted to Kailua consistent with the Commission's minimum distance separation requirements of Section 73.610. The coordinates for Channel 50 at Kailua are North Latitude 21–24–00 and West Longitude 157–44–30. Although the Commission has imposed a freeze on television allotments in certain areas, Kailua is not in one of the affected areas. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–38, adopted August 4, 1995, and released August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, 303.

§ 73.606(b) [Amended]

2. Section 73.606(b), the Television Table of Allotments under Hawaii, is amended by adding Kailua, Channel 50.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–20474 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket PS–135; Amdt. 192–74]

RIN 2137–AC32

Customer-Owned Service Lines; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; correction of amendment number.

SUMMARY: This document corrects the amendment number of final rule document 95–20021 published in the **Federal Register** on Monday, August 14, 1995 (60 FR 41821). In the document heading on page 41821, the amendment number ''Amdt. 192–3'' is changed to read ''Amdt. 192–74.'' The final rule requires operators of gas service lines who do not maintain buried customer piping up to building walls or certain other locations to notify their customers of the need to maintain that piping.

EFFECTIVE DATE: September 13, 1995.

FOR FURTHER INFORMATION CONTACT: Jenny Donohue, (202) 366–4046.

Issued in Washington, DC on August 15, 1995.

Lucian M. Furrow,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 95–20525 Filed 8–17–95; 8:45 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 501

Organization and Delegation of Powers and Duties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA's Associate Administrator for Safety Performance Standards is delegated authority to issue certain **Federal Register** documents relating to the theft and fuel economy programs, and to issue documents making nonsubstantive changes and corrections to rulemaking documents. In addition, delegations of authority to the Associate Administrator for State and Community Services are described, and statutory citations in NHTSA's regulations on organization and delegation of powers and duties are updated to reflect the 1994 codification of the Department of Transportation's statutes.

EFFECTIVE DATE: August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Dorothy Nakama, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW, Room 5219, Washington, DC 20590. Ms. Nakama's telephone number is: (202) 366–2992.

SUPPLEMENTARY INFORMATION: This final rule amends the regulations on the organization of and delegation of powers and duties within the National Highway Traffic Safety Administration (NHTSA). In addition to the authority already delegated by the NHTSA Administrator, authority is delegated to the Associate Administrator for Safety Performance Standards (AASPS) to issue the following—

(1) All documents issued under the Motor Vehicle Theft Prevention Program (49 U.S.C. chapter 331).

(2) All **Federal Register** documents issued under the Automobile Fuel Economy Program (49 U.S.C. chapter 329), except final rules establishing or amending generally applicable Corporate Average Fuel Economy Standards.

(3) All **Federal Register** documents issued in response to a manufacturer's petition for exemption from 49 U.S.C. chapter 301's notification and remedy requirements, in connection with a defect or noncompliance concerning labeling errors.

(4) All **Federal Register** documents extending the comment period for a noncontroversial rulemaking, making technical amendments or corrections to a final rule, and extending the effective date of a final rule.

In addition, this final rule amends part 501 to describe the delegation of authority to the Associate Administrator for State and Community Services. Part 501 has also been amended to cite new statutory authorities, and remove outdated citations. These amendments are necessary to reflect the 1994 codification of the statutory authority for many of NHTSA's programs, ''without substantive change,'' into Title 49 of the United States Code.

As matters relating to agency management, the amendments made by this document are not covered by the notice and comment or the effective date requirements of the Administrative Procedure Act. These amendments relate solely to changes in the scope of the delegation of authority from the NHTSA Administrator to the Associate Administrator for Safety Performance Standards, or reflect new statutory citations, and have no substantive effect. Notice and the opportunity for comment are, therefore, not required, and these amendments are effective immediately upon publication in the **Federal Register**. In addition, these amendments are not covered by Executive Order 12866 or the Department of Transportation's regulatory policies and procedures.

List of Subjects in 49 CFR Part 501

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, 49 CFR part 501 is amended as follows:

PART 501—[AMENDED]

1. The authority citation for Part 501 continues to read as follows:

Authority: 49 U.S.C. 105 and 322; delegation of authority at 49 CFR 1.50.

2. Section 501.2 is revised to read as follows:

§ 501.2 General.

The Administrator is delegated authority by the Secretary of Transportation (49 CFR 1.50) to:

(a) Carry out the following chapters or sections of Title 49 of the United States Code:

(1) Chapter 301—Motor Vehicle Safety.

(2) Chapter 303—National Driver Register.

(3) Chapter 305—National Automobile Title Information System.

(4) Chapter 321—General.

(5) Chapter 323—Consumer Information.

(6) Chapter 325—Bumper Standards.

(7) Chapter 327—Odometers.

(8) Chapter 329—Automobile Fuel Economy.

(9) Chapter 331—Theft Prevention.

(10) Section 20134(a), with respect to the laws administered by the National Highway Traffic Safety Administrator pertaining to highway, traffic and motor vehicle safety.

(b) Carry out 23 U.S.C. chapter 4, HIGHWAY SAFETY, as amended, except for section 409 and activities relating to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian and bicycle safety.

(c) Exercise the authority vested in the Secretary by section 210(2) of the Clean Air Act, as amended (42 U.S.C. 7544(2)).

(d) Carry out the Act of July 14, 1960, as amended (23 U.S.C. 313 note).

(e) Administer the following sections of Title 23, United States Code, with the concurrence of the Federal Highway Administrator:

(1) Section 141, as it relates to certification of the enforcement of speed limits.

(2) Section 153.

(3) Section 154(a), (b), (d), and (e).

(4) Section 158.

(f) Carry out the consultation functions vested in the Secretary by Executive Order 11912 (3 CFR, 1976 Comp., p. 114), as amended.

3. In § 501.3, the undesignated paragraph preceding paragraph (a) is transferred to the end of the introductory text, paragraphs (a)(1)(i), (a)(2), and (a)(3), and (c) are revised, and paragraph (d) is removed, to read as follows:

§ 501.3 Organization and general responsibilities.

* * * * *

(a) *Office of the Administrator*—(1) *Administrator.* (i) Represents the Department and is the principal advisor to the Secretary in all matters related to chapters 301, 303, 305, 321, 323, 325, 327, 329, and 331 of Title 49 U.S.C.; 23 U.S.C. chapter 4, except section 409; as each relates to highway safety, sections 141, 153, 154(a), (b), (d) and (e), and 158 of Title 23 U.S.C.; and such other authorities as are delegated by the Secretary of Transportation (49 CFR 1.50);

* * * * *

(2) *Deputy Administrator.* Assists the Administrator in discharging responsibilities. Directs and coordinates the Administration's management and operational programs, and related policies and procedures at headquarters and in the field. Provides policy direction and executive direction to the Associate Administrator for State and Community Services.

(3) *Executive Director.* As the principal advisor to the Administrator and Deputy Administrator, provides direction on internal management and mission support programs. Provides executive direction over the Associate Administrators, except for the Associate Administrator for State and Community Services.

* * * * *

(c) *Associate Administrators*—(1) *Associate Administrator for Plans and Policy.* Acts as the principal advisor to the Administrator on all matters involving NHTSA policies, objectives, budget, programs, and plans and their effectiveness in carrying out the goals and missions of the Administrator.

(2) *Associate Administrator for Safety Performance Standards.* As the principal advisor to the Administrator on the setting of motor vehicle standards and regulations, administers the programs of the Administration to develop and issue Federal standards and regulations dealing with motor vehicle safety, fuel economy, theft prevention, and consumer information and regulations dealing with the following characteristics of motor vehicles: damage susceptibility, crashworthiness, and ease of diagnosis and repair.

(3) *Associate Administrator for Safety Assurance.* As the principal advisor to the Administrator on the enforcement of motor vehicle standards and regulations, directs and administers programs to ensure compliance with Federal laws, standards, and regulations relating to motor vehicle safety, fuel economy, theft prevention, damageability, consumer information and odometer fraud.

(4) *Associate Administrator for Traffic Safety Programs.* As the principal advisor to the Administrator on traffic safety programs, develops national

traffic safety programs, including the reduction of alcohol and drug use among drivers, the encouragement of safety belt and child safety seat use, and the enforcement of traffic laws; provides technical assistance and liaison to States (in cooperation with the Associate Administrator for State and Community Services) and other organizations in support of highway safety programs.

(5) *Associate Administrator for State and Community Services.* As the principal advisor to the Administrator on all matters as they relate to the NHTSA Regional Offices, directs the management of the State and community highway safety programs and the activities of the Regional Administrators in the provision of leadership, technical guidance and assistance to the States; assures coordination of field programs with the Federal Highway Administration; provides guidance to promote effective implementation of the State and community highway safety programs; participates in the development, review, implementation, and coordination of related programs, policies, and procedures.

(6) *Associate Administrator for Research and Development.* As the principal advisor to the Administrator on motor vehicle and highway safety research and development, directs and administers programs related to accident investigation and information collection, analysis and dissemination, and facilities requirements to support NHTSA research and development efforts.

(7) *Associate Administrator for Administration.* Acts as the principal advisor to the Administrator on all administrative and managerial matters as they relate to NHTSA missions, programs, and objectives; organization and delegations of authority; management studies; personnel management; training; logistics and procurement; financial management; accounting and data systems design; paperwork management; investigations and security; audits; defense readiness; and administrative support services.

4. Section 501.4 is revised to read as follows:

§ 501.4 Succession to Administrator.

The following officials in the order indicated, shall act in accordance with the requirements of 5 U.S.C. 3346–3349 as Administrator of the National Highway Traffic Safety Administration, in the case of the absence or disability or in the case of a vacancy in the office of the Administrator, until a successor is appointed:

(a) Deputy Administrator;

(b) Executive Director;

(c) Chief Counsel;

(d) Associate Administrator for Plans and Policy;

(e) Associate Administrator for Safety Performance Standards;

(f) Associate Administrator for Safety Assurance;

(g) Associate Administrator for Traffic Safety Programs;

(h) Associate Administrator for State and Community Services;

(i) Associate Administrator for Research and Development; and

(j) Associate Administrator for Administration.

5. Section 501.7 is revised to read as follows:

§ 501.7 Administrator's reservations of authority.

The delegations of authority in this part do not extend to the following authority which is reserved to the Administrator and, in those instances when the office of the Administrator is vacant due to death or resignation, or when the Administrator is absent as provided by § 501.5(a), to the Deputy Administrator or Executive Director:

(a) The authority under chapter 301—Motor Vehicle Safety—of Title 49 of the United States Code to:

(1) Issue, amend, or revoke final federal motor vehicle safety standards and regulations;

(2) Make final decisions concerning alleged safety-related defects and noncompliances with Federal motor vehicle safety standards;

(3) Grant or renew temporary exemptions from federal motor vehicle safety standards; and

(4) Grant or deny appeals from determinations upon petitions for inconsequential defect or noncompliance.

(b) The authority under 23 U.S.C. chapter 4, as amended, to:

(1) Apportion authorization amounts and distribute obligation limitations for State and community highway safety programs under 23 U.S.C. 402;

(2) Approve the initial awarding of alcohol incentive grants to the States authorized under 23 U.S.C. 408, and drunk driving prevention grants to the States authorized under 23 U.S.C. 410;

(3) Issue, amend, or revoke uniform State and community highway safety guidelines, and, with the concurrence of the Federal Highway Administrator, designate priority highway safety programs, under 23 U.S.C. 402;

(4) Fix the rate of compensation for non-government members of agency sponsored committees which are entitled to compensation.

(c) The authority under chapters 321, 323, 325, and 329 of Title 49 of the United States Code to:

(1) Issue, amend, or revoke final rules and regulations, except for final rules issued under section 32902(d); and

(2) Assess civil penalties and approve manufacturer fuel economy credit plans under chapter 329.

(d) The authority under sections 141, 153, 154 and 158 of Title 23 of the United States Code, with the concurrence of the Federal Highway Administrator, to disapprove any State certification or to impose any sanction or transfer on a State for violations of the National Maximum Speed Limit, Safety Belt and Motorcycle Helmet Use Requirements, or the National Minimum Drinking Age.

6. Section 501.8 is revised to read as follows:

§ 501.8 Delegations.

(a) *Deputy Administrator.* The Deputy Administrator is delegated authority to act for the Administrator, except where specifically limited by law, order, regulation, or instructions of the Administrator. The Deputy Administrator is delegated authority to provide executive direction to the Associate Administrator for State and Community Services and the Director of International Harmonization, and assist the Administrator in providing executive direction to all organizational elements of NHTSA.

(b) *Executive Director.* The Executive Director is delegated line authority for executive direction over the Associate Administrators, except for the Associate Administrator for State and Community Services.

(c) *Director, Office of Civil Rights.* The Director, Office of Civil Rights is delegated authority to:

(1) Act as the NHTSA Director of Equal Employment Opportunity.

(2) Act as NHTSA Contracts Compliance Officer.

(3) Act as NHTSA coordinator for matters under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Executive Order 12250 (3 CFR, 1980 Comp., p. 298), and regulations of the Department of Justice.

(d) *Chief Counsel.* The Chief Counsel is delegated authority to:

(1) Exercise the powers and perform the duties of the Administrator with respect to setting of odometer regulations authorized under 49 U.S.C. chapter 327, and with respect to providing technical assistance and granting extensions of time to the states under 49 U.S.C. 32705.

(2) Establish the legal sufficiency of all investigations conducted under the

authority of the following chapters of Title 49 of the United States Code: chapter 301; chapter 323; chapter 325; chapter 327; chapter 329; and chapter 331, and to compromise any civil penalty or monetary settlement in an amount of $25,000 or less resulting from a violation of any of these chapters.

(3) Exercise the powers of the Administrator under 49 U.S.C. 30166 (c), (g), (h), (i), and (k).

(4) Issue subpoenas, after notice to the Administrator, for the attendance of witnesses and production of documents pursuant to chapters 301, 323, 325, 327, 329, and 331 of Title 49 of the United States Code.

(e) *Associate Administrator for Plans and Policy.* The Associate Administrator for Plans and Policy is delegated authority to direct the NHTSA planning and evaluation system in conjunction with Departmental requirement and planning goals; to coordinate the development of the Administrator's plans, policies, budget, and programs, and analyses of their expected impact, and their evaluation in terms of the degree of goal achievement; and to perform independent analyses of proposed Administration regulatory, grant, legislative, and program activities.

(f) *Associate Administrator for Safety Performance Standards.* Except for authority reserved to the Administrator or delegated to the Associate Administrator for Safety Assurance, the Associate Administrator for Safety Performance Standards is delegated authority to exercise the powers and perform the duties of the Administrator with respect to the setting of motor vehicle safety and theft prevention standards, average fuel economy standards, procedural regulations, and the development of consumer information and regulations authorized under 49 U.S.C. chapter 301 (except for sections 30141 through 30147), and authorized under 49 U.S.C. chapters 323, 325, 329, and 331. The Associate Administrator for Safety Performance Standards is also delegated authority to:

(1) Respond to a manufacturer's petition for exemption from 49 U.S.C. chapter 301's notification and remedy requirements in connection with a defect or noncompliance concerning labelling errors;

(2) Extend comment periods (both self-initiated and in response to a petition for extension of time) for noncontroversial rulemakings;

(3) Make technical amendments or corrections to a final rule; and

(4) Extend the effective date of a noncontroversial final rule.

(g) *Associate Administrator for Safety Assurance.* Except for those portions that have been reserved to the Administrator or delegated to the Chief Counsel, the Associate Administrator for Safety Assurance is delegated authority to exercise the powers and perform the duties of the Administrator with respect to:

(1) Administering the NHTSA enforcement program for all laws, standards, and regulations pertinent to vehicle safety, fuel economy, theft prevention, damageability, consumer information and odometer fraud, authorized under 49 U.S.C. chapters 301, 323, 325, 327, 329, and 331.

(2) Issuing regulations relating to the importation of motor vehicles under 49 U.S.C. 30141 through 30147.

(3) Granting and denying petitions for import eligibility determinations submitted to NHTSA by motor vehicle manufacturers and registered importers under 49 U.S.C. 30141.

(h) *Associate Administrator for Traffic Safety Programs.* Except for those portions that have been reserved to the Administrator or delegated to the Associate Administrator for State and Community Services, the Associate Administrator for Traffic Safety Programs is delegated authority to exercise the powers and perform the duties of the Administrator with respect to: 23 U.S.C. chapter 4, as amended; the authority vested by section 210(2) of the Clean Air Act, as amended (42 U.S.C. 7544(2)); the authority vested by 49 U.S.C. 20134(a), with respect to the laws administered by the Administrator pertaining to highway, traffic, and motor vehicle safety; the Act of July 14, 1960, as amended (23 U.S.C. 313 note) and 49 U.S.C. chapter 303; the authority vested by section 141, as it relates to certification of the enforcement of speed limits, and sections 153, 154(a), (b), (d), and (e) and 158 of Title 23 of the United States Code, with the concurrence of the Federal Highway Administrator; and section 209 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 401 note) as delegated by the Secretary in § 501.2(i).

(i) *Associate Administrator for State and Community Services.* The Associate Administrator for State and Community Services is delegated authority to exercise the powers and perform the duties of the Administrator with respect to State and community highway safety programs under 23 U.S.C. 402, including approval and disapproval of State highway safety plans and final vouchers, in accordance with the procedural requirements of the Administration; to approve the awarding of alcohol incentive grants to the States under 23 U.S.C. 408 and drunk driving prevention grants under 23 U.S.C. 410, for years subsequent to the initial awarding of such grants by the Administrator; as appropriate for activities benefiting states and communities, to implement 23 U.S.C. 403; and to implement the requirements of 23 U.S.C. 153, jointly with the delegate of the Federal Highway Administrator.

(j) *Associate Administrator for Research and Development.* The Associate Administrator for Research and Development is delegated authority to: develop and conduct research and development programs and projects necessary to support the purposes of chapters 301, 323, 325, 327, 329, and 331 of Title 49 U.S.C., and Title 23 U.S.C. chapter 4, as amended, in coordination with the appropriate Associate Administrators, and the Chief Counsel.

(k) *Associate Administrator for Administration.* The Associate Administrator for Administration is delegated authority to:

(1) Exercise procurement authority with respect to NHTSA requirements;

(2) Administer and conduct NHTSA's personnel management activities;

(3) Administer NHTSA financial management programs, including systems of funds control and accounts of all financial transactions; and

(4) Conduct administrative management services in support of NHTSA missions and programs.

(l) *Director, Office of Vehicle Safety Compliance, Enforcement.* The Director, Office of Vehicle Safety Compliance, Enforcement, is delegated authority to exercise the powers and perform the duties of the Administrator with respect to granting and denying petitions for import eligibility decisions submitted to NHTSA by motor vehicle manufacturers and registered importers under 49 U.S.C. 30141(a)(1).

Issued on: August 4, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–19710 Filed 8–17–95; 8:45 am]

BILLING CODE: 4910–59–P

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49 CFR Parts 571, 572, and 589

[Docket No. 92–28; Notice 4]

RIN 2127–AB85

Federal Motor Vehicle Safety Standards; Head Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends Standard No. 201, *Occupant Protection*

in Interior Impact, to require passenger cars, and trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, to provide protection when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash. The amendments add procedures and performance requirements for a new in-vehicle component test. Insofar as this rulemaking applies to passenger cars, it is required by the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act).

DATES: *Effective date:* The amendments made in this rule are effective on September 18, 1995.

Incorporation by reference date: The incorporation by reference of the material listed in this document is approved by the Director of the Federal Register as of September 18, 1995.

Petition date: Any petitions for reconsideration must be received by NHTSA no later than September 18, 1995.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bill Fan, Side and Rollover Crash Protection Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4922); or Mary Versailles, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2992).

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I. Statutory Basis for Rulemaking

This final rule responds to the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act (''ISTEA''), Pub. L. 102–240). ISTEA requires NHTSA to address several vehicle safety matters through rulemaking. One of these matters, set forth in section 2503(5), is improved head impact protection from interior components (i.e., roof rails, pillars, and front headers) of passenger cars.

Section 2502 of ISTEA generally directed NHTSA to initiate rulemaking on improving head impact protection and other matters not later than May 31, 1992. Rulemaking was to be initiated by the publication of either an advance notice of proposed rulemaking (ANPRM) or a notice of proposed rulemaking (NPRM). Section 2502 provided that, if the agency was unable to publish such a notice by May 31, 1992, the agency had to publish, by that date, a notice announcing that the rulemaking will begin by a date that was not later than January 31, 1993. On June 5, 1992, NHTSA published a notice of intent announcing that it would publish an NPRM on improved head impact protection by January 31, 1993. (57 FR 24008) The NPRM was published on February 8, 1993 (58 FR 7506).

Section 2502(b)(2)(B)(iii) of ISTEA generally provides that this rulemaking action, as it applies to passenger cars, must be completed within 24 months of the NPRM. NHTSA may delay the date for completion for not more than six months. Under ISTEA, the rulemaking will be considered completed when the agency promulgates a final rule with standards on improved head injury protection.

II. Safety Problem

Head impacts with the upper interior components of vehicles are the leading cause of head injury for non-ejected occupants killed in a crash. Counting only each fatally injured occupant's most severe injury as the cause of death, NHTSA estimates that 2,430 occupants of passenger cars and trucks, buses, and multipurpose passenger vehicles (LTVs) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less are killed annually when the occupant's head strikes the upper structures in the interior compartment of the vehicle. These head impacts also result in nearly 60,000 occupant injuries, 4,070 of which are serious injuries, rated AIS 3 or greater. (The AIS, or Abbreviated Injury Scale, is used to rank injuries by level of severity. An AIS 1 injury is a minor one, while an AIS 6 injury is one that is currently untreatable and fatal.) Accident data show that occupant head injuries result primarily from head contact with a vehicle's pillars, side rails, headers and other components during a crash.

NHTSA has several Federal motor vehicle safety standards that improve crash protection to the occupant's head in a crash. These include Standard No. 208, *Occupant Crash Protection,* which limits the forces and accelerations that are imposed on the head of a crash dummy in a frontal, 30 mile-per-hour (mph) crash test. Standard No. 208 has been highly effective at reducing actual fatality risk, and, together with the nationwide effort to increase safety belt use, has significantly reduced fatality risk, resulting in thousands of lives saved annually. (''Evaluation of the Effectiveness of Occupant Protection,'' NHTSA Interim Report, June 1992, DOT–HS–807 843.) However, Standard No. 208's effectiveness in reducing the potential for head injury due to impacts with upper interior components is limited. Only rarely does the test dummy in Standard No. 208's crash test strike the windshield header and/or A-pillar of the vehicle. Similarly, NHTSA observed in dynamic side impact tests for passenger cars that high head injury criterion (HIC) readings were not found for the test dummies. Crash test films for 90 degree car-to-car crash tests indicated that the dummy used in the side impact tests typically did not hit its head on areas that cause head injury in real world crashes; i.e., upper interior components.

The main safety standard that directly addresses head impacts is Standard No. 201, *Occupant Protection in Interior Impact.* Standard No. 201 took effect for passenger cars on January 1, 1968 and

was extended to LTVs on September 1, 1981. The standard sets requirements for instrument panels, interior compartment doors, seat backs, sun visors, and armrests to lessen injuries to persons thrown against them in crashes. Performance of the instrument panel and seat backs is measured by impacting those components at a speed of 15 mph with a head form. The deceleration of the head form cannot exceed 80g's for more than 3 milliseconds. In a 1988 evaluation report on occupant protection in frontal interior impact, NHTSA found that improvements that manufacturers made to the vehicle interior during 1965–75, particularly to the instrument panel, reduced the risk of fatality and serious injury in frontal crashes by about 25 percent for unrestrained right front passengers of cars. These improvements may be saving 400 to 700 lives per year in frontal crashes. (''An Evaluation of Occupant Protection in Frontal Interior Impact for Unrestrained Front Seat Occupants of Cars and Light Trucks,'' January 1988, DOT HS 807 203.)

While those numbers are significant, a large number of occupant injuries and fatalities result from head impacts with upper interior components not covered by Standard No. 201. In 1970, NHTSA proposed to require force-distributing material (padding) on the door pillars, roof interiors and windshield headers (35 FR 14936). However, the agency terminated the action in 1979, along with a number of other rulemaking actions, citing as a reason the agency's limited resources. (See, NHTSA's five year plan for motor vehicle safety rulemaking, 44 FR 24591; April 26, 1979.) In the mid-1980's, NHTSA initiated a research program to support upgrading Standard No. 201 to provide occupant protection from head injuries in upper interior impacts. The findings of that program provided the basis for the NPRM leading to today's rule.

III. Summary of the NPRM

The NPRM proposed amendments to Standard No. 201 to set specific performance criteria for the pillars, side rails, headers, and roof of passenger cars and LTVs. NHTSA proposed to evaluate the ability of these components to limit occupant head injury by impacting the components with a headform at a specified speed. To measure the magnitude of injury threat resulting from the impact, the proposed headform contains accelerometers that measure head impact responses in a crash. The notice proposed performance criteria for tested components, and a test procedure simulating an occupant's head striking the vehicle interior.

A. Proposed Performance Requirement

The agency tentatively determined that the head injury criterion (HIC) is an appropriate injury criterion for the proposed rule since NHTSA considers the HIC to be the best currently available head injury indicator. This is especially true for injuries produced by contact with an object, such as in a head-to-interior component impact. Many of NHTSA's impact protection standards use the HIC to measure head injury, such as Standard No. 208, Standard No. 213, *Child Restraint Systems*, and Standard No. 222, *School Bus Passenger Seating and Crash Protection*. Each of these standards use a HIC limit of 1000 because research has shown that prohibiting the HIC from exceeding 1000 would prevent or reduce serious injuries in actual crashes.

The NPRM proposed two alternatives for the performance limits. The first was an across-the-board limit of HIC(d) 1000 for all specified components. HIC is calculated using the acceleration readings from an instrumented free motion headform (FMH), and transforming it to a dummy equivalent HIC(d). It represents the HIC that would be experienced by a full dummy or actual vehicle occupant. The second was a two-tiered limit of HIC(d) 1000 for the forward and rearward upper interior components (front and rear headers and A-pillar) and HIC(d) 800 for side upper interior components (side rails and pillars other than the A-pillars) and the upper roof. The agency proposed the lower HIC limit for the side upper interior components because research indicated that the side of the head is more susceptible to injury than the front of the head; i.e., the head injury tolerance threshold is lower in lateral impacts than in frontal impacts.

B. Proposed Test Procedure

1. Headform

Since the proposed test procedure was to simulate the striking of an occupant's head against a vehicle's upper interior, a test device was needed to represent and simulate the responses of a human head in an impact. NHTSA proposed to use a modified Hybrid III dummy head as this test device. The modifications included replacing the Hybrid III skull cap with a steel skullcap plate. The plate would, among other things, allow the headform to be mounted by means of a magnet to the device that propels the headform against the target component. The modified headform lacked the nose of the Hybrid III head, to eliminate interference from the nose during testing. The proposed headform is instrumented with tri-axial accelerometers, positioned to measure the acceleration at the headform's center of gravity. These measurements are used to calculate the magnitude of the potential for injury resulting from the impact; i.e., HIC.

As discussed in the NPRM, the agency tentatively concluded that the headform performed well in terms of its biofidelity, repeatability and reproducibility. Biofidelity is a measure of how well a test device duplicates the responses of a human in an impact. The agency compared the biofidelity of the headform with that of the head of the Hybrid III dummy specified in subpart E of 49 CFR part 572. The Hybrid III dummy is used in Standard No. 208 compliance tests, and the biofidelity of the dummy in frontal impacts is well accepted, particularly for forehead impacts. NHTSA found that the headform duplicated the performance of the Hybrid III dummy very well. Repeatability refers to the repetition of similar impact responses by the same test device, and reproducibility refers to the variation of impact responses among different dummies. NHTSA believed the repeatability and reproducibility of the headform to be within acceptable ranges.

The NPRM proposed amending NHTSA's regulation for anthropomorphic test dummies (49 CFR Part 572) to add specification and qualification provisions for the headform. The proposed specifications consisted of a drawing package containing all of the technical details of the headform parts and assembly. The proposed specifications included a user's manual establishing inspection and assembly procedures and calibration procedures to assure the uniformity of the headform's assembly, and the reliability of its readings.

2. Impact Zones

The purpose of the NPRM was to regulate (i.e., set performance criteria for) those areas of a vehicle's upper interior that are likely to be impacted by an occupant's head in a crash. The proposed areas were the pillar impact zones, front and rear header impact zones, side rail impact zones, and upper roof impact zone. Each of these impact zones was defined in the NPRM. All portions of those zones were subject to testing and had to meet the proposed performance criteria when impacted by the headform in accordance with specified conditions and procedures.

The proposed test procedure was an in-vehicle component test. In real world crashes of all types (frontal, side, rear and rollover), occupants' heads sometimes contact upper interior

components. However, in a laboratory simulation of a particular crash mode (e.g., Standard No. 208's frontal crash), the head of a full test dummy often does not contact an upper interior component. Using an in-vehicle component test and only the head of a test dummy, the agency could test different components, all of which may not be contacted by a full test dummy in a particular, simulated crash. In the NPRM, the agency proposed to test any area that the head could contact in a crash, provided that area was within the pillar, header, side rail and upper roof impact zones.

However, certain areas of these regulated zones where head impacts were unlikely in real world crashes were excluded from the performance requirements. For example, NHTSA proposed excluding the portion of the cargo area of vans that is not close to any designated seating position.

3. Conditions and Procedures

The NPRM proposed a compliance test that was intended to replicate the circumstances of actual crashes.

a. Impact Speed. The NPRM proposed that the tested upper interior component be impacted by the headform at a speed of 15 mph. The 15 mph test speed was chosen because it is the current test speed used in Standard No. 201 to test the instrument panel and seat backs of vehicles, and it is the average speed at which the onset of serious injuries occur. The 15 mph speed represents the velocity at which the headform contacts the upper interior component and is lower than the actual speed at which the vehicle is impacted. The agency also tentatively determined that there may be a practicability problem with higher test speeds, since it may not be possible to meet the proposed limit on HIC without using unacceptably thick padding.

b. Free Motion Impact. NHTSA proposed that the flight of the headform be ''free motion'' (as opposed to guided). The advantage of a free motion headform (FMH) over a guided one is that the FMH can simulate the glancing and non-perpendicular impacts experienced in real world crashes. Also, a FMH can be equipped with rotational accelerometers, if desired, although none is currently specified by NHTSA. The NPRM did not propose to specify a specific method for propelling the headform, since the means of propulsion does not affect test results.

c. Impact Parameters. The NPRM stipulated the manner in which the headform impacted the tested vehicle component. For each impact zone, the proposed test procedure defined a range of angles (''approach angles'') at which the free motion headform would strike any point in that zone. The specific point to be impacted by the headform (i.e., any part of a tested zone), would be marked with a solid target circle 0.5 inch in diameter. The headform could be launched from any location inside the vehicle, provided that the specified approach angles and the following restrictions were met. The headform had to travel through the air for a distance of at least one inch before contacting the vehicle interior surface. At the time of initial contact between the headform and the vehicle, a specified portion of the headform's forehead must contact some portion of the target circle, and no portion of the headform may contact any part of the vehicle outside of the specified impact zone. If the headform cannot strike a portion of a specified impact zone without interference from another part of the vehicle (e.g., the windshield or instrument panel), that portion of the zone would be excluded from the performance requirements.

C. Costs and Benefits

The NPRM discussed tentative conclusions about the impacts (e.g., costs and benefits) of a final rule. Based on tests done on current production vehicles, the agency anticipated that some vehicles would be able to meet the proposed criteria for some components, as presently designed. For vehicles that had to be redesigned to meet the proposed criteria, NHTSA determined that added padding would be a feasible and effective countermeasure to improve upper interior head impact protection. NHTSA did not believe that the required amount of increased padding would reduce visibility and/or be unacceptable to consumers, or would increase the risk of neck injury.

The NPRM estimated the average cost of padding needed to meet the two alternatives for the proposed injury criteria (across-the-board HIC 1000 versus HIC 800/1000). NHTSA estimated that, under the first alternative, the total per vehicle average cost, including the average cost and weight of needed padding, lifetime fuel penalty cost and secondary weight cost, was $29 for passenger cars and $45 for all LTVs. Under the second alternative (HIC 800/1000), the estimated total per vehicle average cost was $49 for passenger cars and $68 for LTVs.

The agency used two models (i.e., Lognormal, Prasad/Mertz) to calculate the estimated benefits of the two alternative performance proposals. Under the first alternative (HIC 1000), NHTSA estimated that AIS 2–5 injuries for passenger cars and LTVs would be reduced by 824 under the Lognormal model, and by 683 under the Prasad/Mertz model. Fatalities for passenger cars and LTVs would be reduced by 1,143 under the Lognormal model, and by 1,390 under Prasad/Mertz. Under the second alternative performance proposal (HIC 800/1000), AIS 2–5 injuries for passenger cars and LTVs would be reduced by 841 under the Lognormal model, and by 1,478 under Prasad/Mertz. Fatalities for passenger cars and LTVs would be reduced by 1,365 under the Lognormal model, and by 1,614 under Prasad/Mertz.

D. Leadtime

The agency believed that the earliest possible effective date for the rule would be the first September 1 approximately two years after issuance of a final rule. The agency sought comments on whether a phase-in requirement would be appropriate, starting one to two years after issuance of a final rule.

IV. Summary of the Comments

The agency received over 70 comments in response to the NPRM. Many commenters submitted more than one comment. No commenter disputed that ISTEA mandates NHTSA to promulgate a final rule to improve head impact protection of passenger cars. However, some commenters believed the passenger car proposal inappropriately exceeded the scope of ISTEA. For example, the American Automobile Manufacturers Association (AAMA) believed that, in contrast to the NPRM, ISTEA does not require A-pillars and windshield headers to be included in a rule for increased head impact protection. Volkswagen commented that ISTEA included no mandate to improve the protection of the rear header and roof of passenger cars, or any interior component of LTVs. On the other hand, Advocates for Highway and Auto Safety (Advocates) commented that it does not believe ISTEA provides NHTSA discretion to exclude any rails or pillars from the rule.

Commenters diverged widely in their support of, or opposition to, specific aspects of the proposal. Consumer groups and a coalition of insurance groups generally favored all aspects of the NPRM that would have imposed the most stringent performance requirements (e.g., the two-tiered 800/1000 HIC criteria; setting impact speed at 20 mph) on the greatest portion of the vehicle interior. They supported extending the requirements to as many vehicle types as possible and favored having the requirements become effective in the shortest time possible, opposing a phased-in effective date. The

Insurance Institute for Highway Safety believed the NPRM greatly underestimated the potential benefits of the rule.

In contrast, vehicle manufacturers, suppliers, and associations generally sought to considerably narrow the scope of the rule. They had concerns about the proposed two-tiered HIC criteria of 800/1000, believing that an across-the-board HIC of 1000 is superior to a HIC of 800. They argued that the latter could not be supported by biomechanical or accident data. Many manufacturers had concerns about specific aspects of the proposed test procedure, such as the appropriateness of the headform, the impact speed for the headform, and the feasibility of meeting the proposal that any portion of a target impact zone had to meet the performance criteria of the standard. Since the NPRM placed few limits on the points at which the headform was to contact the tested component and on the approach angles at which the headform was to be launched at the component from inside the vehicle, some manufacturers believed it would be virtually impossible, under the NPRM, for them to locate and certify all of the potential impact locations of a targeted upper interior component. Commenters suggested excluding various interior components, and types of vehicles from the rule. In contrast to the proponents of the NPRM, these commenters believed NHTSA vastly overestimated the safety benefits of the rule and underestimated the costs.

Numerous comments addressed the issue of leadtime. The domestic manufacturers were unanimously opposed to an implementation date earlier than September 1, 1998. These companies stated that, regardless of cost, most companies could not implement the required changes for this rule for any model, even with the phase-in suggested in the NPRM. The reasons given were, first, that the designs to meet the proposed requirements are not bookshelf technologies. Second, the design concepts have to be tested and evaluated for feasibility and implementation readiness. Third, these concepts have to meet the requirements while providing acceptable visibility and interior spaciousness that meet the customer needs, and be manufacturable with tooling that in some cases may have yet to be developed. To meet all these demands, the industry contended that a rule that begins by September 1, 1998 with a phase-in period of four years with the rule becoming 100 percent effective no earlier than September 1, 2002, is essential.

On October 20, 1993, NHTSA published in the **Federal Register** a notice of a public meeting. In that notice, the agency announced that it was reopening the comment period to respond to the NPRM by an additional 30 days (58 FR 54099). On November 15, 1993, a public meeting was held in Washington, D.C., to discuss the various issues raised by the commenters. Representatives from AAMA, General Motors, Ford, Chrysler, Liability Research Group, and Advocates repeated many concerns expressed in earlier comments and submitted supplemental information to support those comments. Additionally, a private citizen gave a presentation concerning FMH impact speed and neck injury risks.

The four main concerns expressed by the commenters in seventeen submissions received during the additional comment period related to; (1) The magnitude of the safety problem, (2) the appropriateness of the proposed test device and test conditions, (3) the anticipated safety benefits from this rulemaking, and (4) the need for an extended leadtime with phase-in and carry-forward provisions. No new issues were brought up in these comments or in the discussions at the public meeting.

V. Summary of the NPRM/Final Rule Differences

The main differences between the provisions of this final rule and those of the NPRM relate to the following matters. The NPRM proposed a test procedure that would have required any portion of the upper interior components (e.g., pillar, side rail or header) to meet specified performance criteria. This rule requires specific targets on those components to meet the criteria and adds procedures for locating those targets. The NPRM proposed two alternatives regarding performance requirements—a single, across-the-board limit of HIC(d) 1000 for all upper interior components or a two-tiered limit of HIC(d) 1000 for the forward and rearward upper interior components and HIC(d) 800 for side upper interior components. This rule adopts a single, across-the-board limit of HIC(d) 1000 for all specified components. The NPRM proposed that the new requirements would become effective on the first September 1 that occurred approximately two years after issuance of the final rule. This rule adopts a five year phase-in period, which will begin September 1, 1998. In addition, this rule allows manufacturers to carry forward credits from previous years during the phase-in period. Each of these changes is fully discussed, together with all other relevant issues, in section VI.

VI. Final Rule

A. Performance Requirements

As explained in section III–A, the agency proposed two alternative versions of the performance requirements. While many commenters agreed that, for impacts of the same severity, there is a higher risk of injury to the side of the head than the forehead, most commenters did not support the two-tiered requirement for HIC(d). The most common rationale cited for disagreeing with the HIC(d) 800 requirement for side components was a lack of sufficient biomechanical data to support that particular level of requirement. In addition to submitting comments on the HIC(d) limit, some commenters suggested other performance measures in addition to, or instead of, HIC(d). Of the alternatives suggested, the most common was a peak acceleration limit to measure the risk of neck injury. One individual questioned the validity of using HIC determined from the accelerations measured from the FMH as the sole measurement of impact severity. He was concerned about the variability in the measurements obtained from the Hybrid III headform. He also raised questions about the effect of FMH rotation on measured impact severity which could be very different from the rotation of a human head constrained by a neck in real world impact conditions. Finally, one manufacturer suggested that a 36 ms time limit be included for HIC calculation.

With respect to a HIC(d) 800 requirement for side components, NHTSA has concluded that, although the proposal is directionally correct, such a requirement should not be adopted at this time. The data to support the HIC(d) 800 requirement was scarce and NHTSA believes it should do testing to acquire additional biomechanical data. In addition, NHTSA is concerned that compliance with such a requirement may not be feasible for side components because of interior space limitations. The agency's research on head injury, including side head impacts, continues. The agency will reexamine the HIC(d) 800 requirement, along with other possible head injury criteria, if research advances to a point that it indicates a revised limit would be sufficiently beneficial, achievable at reasonable cost, and feasible.

With respect to a peak acceleration limit, NHTSA considers such a supplement to the proposed HIC(d)

limit unnecessary because the principal effect of any countermeasure on head impacts is effectively to reduce both the peak head acceleration and the HIC. Further, it is not clear how the acceleration limits suggested by commenters were selected, or what the biomechanical bases for those limits are. Since the HIC is considered a better measure than acceleration for evaluating head injury potential, NHTSA believes that adding a peak FMH acceleration limit to the HIC(d) 1000 requirement is redundant. The suggestion that limiting head acceleration would eliminate neck injuries does not take into account the effect of torso motion on neck injury. None of the commenters provided any data to substantiate the claim that addition of acceleration limits to HIC(d) would reduce the potential for neck injuries.

NHTSA has conducted many tests of simulated and production upper interior components of vehicles with the FMH. The free flight of the FMH in all cases is less than six inches and during the period of FMH primary contact, the observed FMH rotation is less than ten degrees in most cases. Therefore, it is the agency's belief that this small amount of rotation has no appreciable effect on the HIC value. It is widely recognized that no biomechanical criteria are available for head rotation. As and when such criteria become available, the agency would certainly consider the addition of other criteria or adoption of another test device to evaluate potential for neck injuries. However, the agency does not see a need to delay adopting HIC as a criterion in the interim to assess head impact protection in interior impacts.

With respect to the 36 ms limit for HIC calculation, agency testing indicates that the FMH acceleration pulse is less than 20 ms in duration. The 36 ms time limit is used in Standard No. 208 frontal crash tests in which the dummy head acceleration pulses are often wide. For that standard, the objective of limiting the time period to 36 ms is to eliminate unrealistic HIC calculations from non-contact head acceleration pulses that are wide. Because a FMH impact test is not valid unless contact occurs, the pulse is generally narrow. In addition, the agency's test data indicate that the rebound pulse during FMH testing is insignificant. However, to allay any concerns and to achieve consistency with other HIC calculations, NHTSA has retained the 36 ms limit it proposed in the NPRM for FMH HIC calculation in the final rule.

B. Headform

The NPRM proposed using the FMH for determining compliance with the new requirements. The FMH is essentially a modified Hybrid III dummy head. The modifications include replacing the Hybrid III skull cap with a steel skullcap plate, which allows the FMH to be mounted to the propulsion unit by means of a magnet. The skullcap plate also serves to hold the headskin in place during testing. In addition, the nose of the Hybrid III head is removed to eliminate interference during testing. The FMH is instrumented with a set of tri-axial accelerometers, positioned to measure the acceleration of the center of gravity, which permit the measurement of HIC. The HIC value is then transformed to an equivalent HIC for the dummy (HIC(d)) using a transfer function.

Ford recommended that the vehicle's upper interior component tests be performed using the Ford hemispherical impactor, because Ford believes that it is simpler and yields more repeatable test results than the FMH. Ford's hemispherical impactor was developed in 1991 specifically for vehicle upper interior impact tests. Other manufacturers and manufacturer associations supported the use of Ford's hemispherical impactor. Volvo recommended that the ''lateral load sensing head'' developed jointly by Volvo and Collision Safety Engineering be incorporated into the FMH impactor for lateral head impact tests. In addition to suggestions for alternative headforms, commenters raised questions regarding whether the headform should be free-motion or guided, its potential to assess neck injury, and the effect of early chin contact on HIC(d).

After reviewing these comments, NHTSA has decided to specify the FMH in this final rule, with one amendment. The amendment relates to the vertical angles to be used in launching the FMH in testing. The angles have been adjusted to reduce the potential for early chin contact with the vehicle's interior during a test.

The agency considers the FMH to be superior to a guided headform impactor, because unlike the guided impactor, which only simulates a single impact, the FMH's movement is more likely to simulate the variety of impacts that occur in real world crashes. In addition, while this rule does not require head rotational acceleration measurements, it is possible that a 9-accelerometer array, which the FMH could accommodate, would allow both the calculation of HIC and the recording of the head rotational accelerations. It is believed that, when biomechanics research on head rotational acceleration has advanced sufficiently to permit establishing suitable criteria, the FMH could be modified and used to measure head rotational acceleration to assess the potential for brain injury.

While neither the FMH nor Ford's hemispherical impactor has a neck component, the FMH has the shape of a human head so that it can simulate forehead impacts against vehicle interior components. Further, because the FMH is essentially a Hybrid III headform, a modified headform could be developed with the addition of a neck in the future, if suitable injury criteria become available. With respect to adopting load sensing technology for lateral head impacts, NHTSA believes that additional research is needed before it could be considered for adoption.

Several manufacturers recommended that Ford's hemispherical impactor be adopted for this rulemaking because of its asserted superior test repeatability. The results of NHTSA's FMH repeatability study were presented in Section 12, Chapter III of the PRIA. The primary findings of this study are that the repeatability of the HIC and peak-g's are excellent (+/−5 percent) for simulated structure tests and very good (+/−10 percent) for vehicle component tests. These results are comparable to the repeatability of Ford's hemispherical impactor. In view of the potential for additional measurements in the future, NHTSA has retained the FMH for this final rule.

In response to concerns about early chin contact, the agency is amending the proposed test procedure by providing that, after the FMH is aimed at a target within the corresponding range of vertical approach angles, the FMH is tilted forward a specified number of degrees. The new test procedure allows for a 5 degree chin offset for targets on the A-pillar and the rearmost pillar and a 10 degree offset for any other pillar. Tilting the head creates a chin offset clearance that will delay chin contact beyond the time of the HIC calculation, which was less than 20 ms in duration in agency testing. The agency is amending the vertical angle ranges proposed in the NPRM to expand the range to accommodate the new chin offsets. For example, for B-pillars the proposed vertical angle range of 0 to 50 degrees has been increased to −10 to 50 degrees.

C. Targets and Angles

In the NPRM, the agency proposed to require that vehicles meet specified HIC(d) limits when any portion of a number of specified upper interior

surface areas was impacted by the FMH, at any of a range of specified angles. To achieve this, the agency defined a number of impact zones within the vehicle. Due to the difficulty in clearly differentiating among the various impact zones, the agency proposed to require any area of the interior surface within two or more zones to comply with the requirements for all such zones. For each impact zone, the proposed test procedure defined a range of angles at which the FMH could strike that zone. These angles were referred to as approach angles, and were expressed using a specified orthogonal reference system. The direction of travel by the FMH would have been required to be within the specified ranges.

Manufacturers uniformly criticized this aspect of the NPRM. Almost all the manufacturers and their organizations stated that they would be unable to certify compliance without doing an infinite number of tests. These commenters stated that it was virtually impossible to determine the worst potential combinations of locations and angles, and that therefore, they would be required to test every point at every angle before they could be certain that a vehicle complied. Manufacturers suggested that the agency instead specify a limited number of specific impact locations and a specific approach angle for each such location.

With regard to the infinite testing argument, NHTSA disagrees that it is impossible or even unduly burdensome to determine worst case combinations for testing. NHTSA testing indicates that higher HIC readings are achieved when the underlying vehicle structure (not trim) is stiffer or harder. For example, the joints where more than one component meet had higher HIC readings than mid-points on components, due to the additional stiffness or rigidity at the joint. Manufacturers are in a better position than NHTSA to know exactly where these stiffer/harder areas are as they are often disguised by the trim in production vehicles. Further, at any given point, a higher HIC reading is achieved when the impact is normal to the surface of the underlying structure. Again, manufacturers are in a better position to know this angle because the trim disguises the surface of the underlying structure.

However, in the interest of administrative simplicity and of allaying manufacturer concerns, the agency is specifying target locations throughout the upper interior of the vehicle for all components other than the roof (discussed below). NHTSA believes that specifying these targets will not reduce the safety benefits of this rule. There are several reasons for that belief.

First, the targets were selected on the basis of NHTSA's experience with the location of the hard points in vehicles. While it may be theoretically possible for manufacturers to take the approach of changing their designs and moving the existing hard points out of the designated target locations as a way of meeting the requirements, NHTSA does not believe this can or will be done. For example, a target is specified at the joint between each pillar and the side rail and/or header. This joint could not be easily moved without radical changes in current designs. Other targets are specified in a way that they will be approximately 6 inches from the joints, measured along a component like a pillar or side rail. NHTSA's experience shows that the overlap of the materials of two or more components is, on average, located at this distance. While it may be possible to move the overlap a few inches, NHTSA does not believe it would be economical to do so. Other targets are described in a way that is unaffected by the actual location of the component which the agency seeks to test. For example, whenever there is a seat belt anchorage on a pillar, there is a target on the seat belt anchorage, regardless of where a seat belt anchorage is located on the pillar.

Second, for a number of reasons, NHTSA believes that manufacturers will pad (or install other countermeasures) uniformly on the covered components rather than simply protect the target locations. These reasons include liability concerns, styling, and manufacturing cost. For example, NHTSA believes that it will be cheaper to install one continuous piece of padding on the B-pillar rather than four separate, small, carefully tailored pieces just covering the four targets on that pillar. The upper interior components are sufficiently covered by targets that the cost of the pad to cover the non-target locations should be cheaper than the labor costs in carefully sculpting the padding to just cover the target locations.

Illustrations 1 and 2 show the possible locations of the targets on one side of a passenger car and a minivan.

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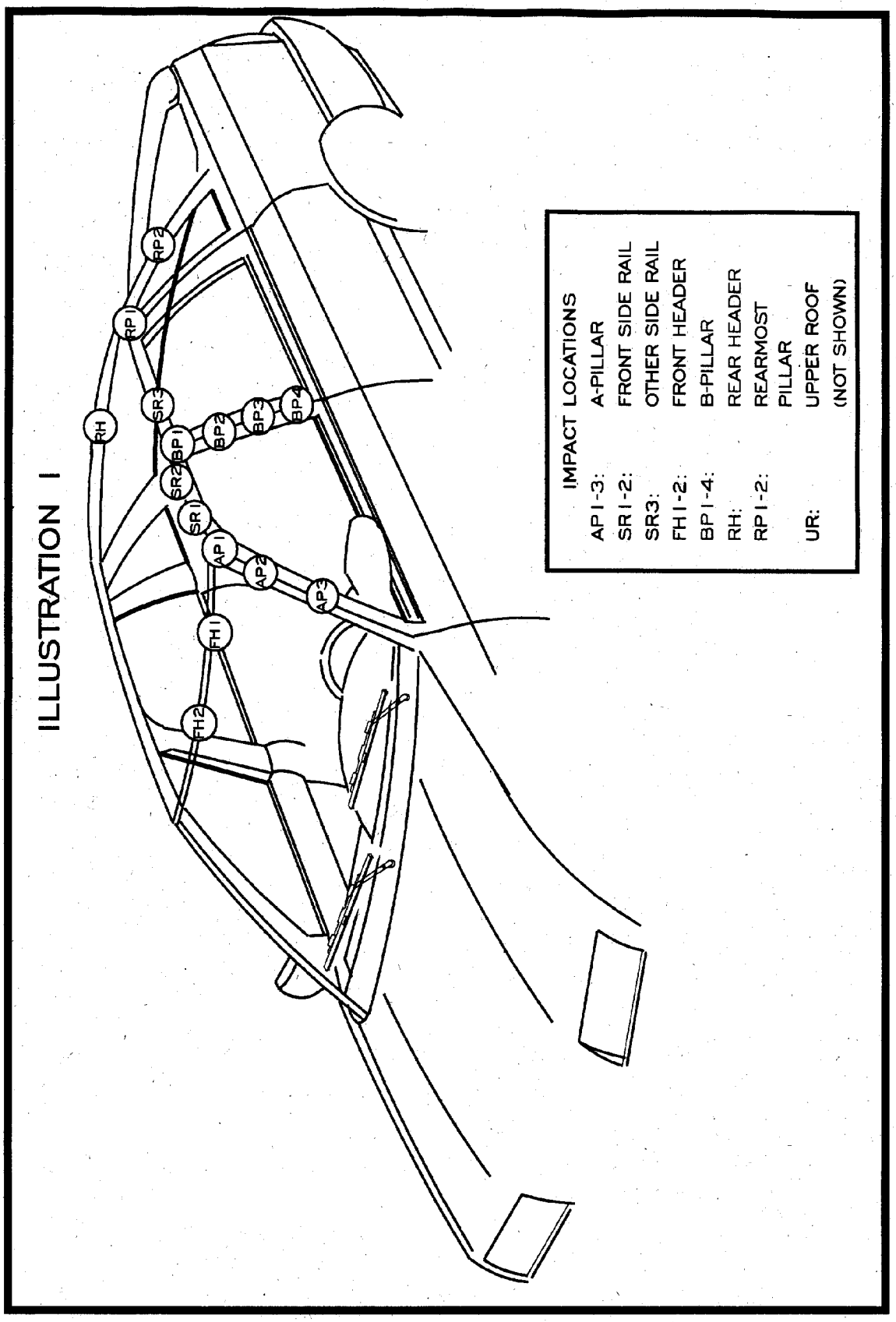
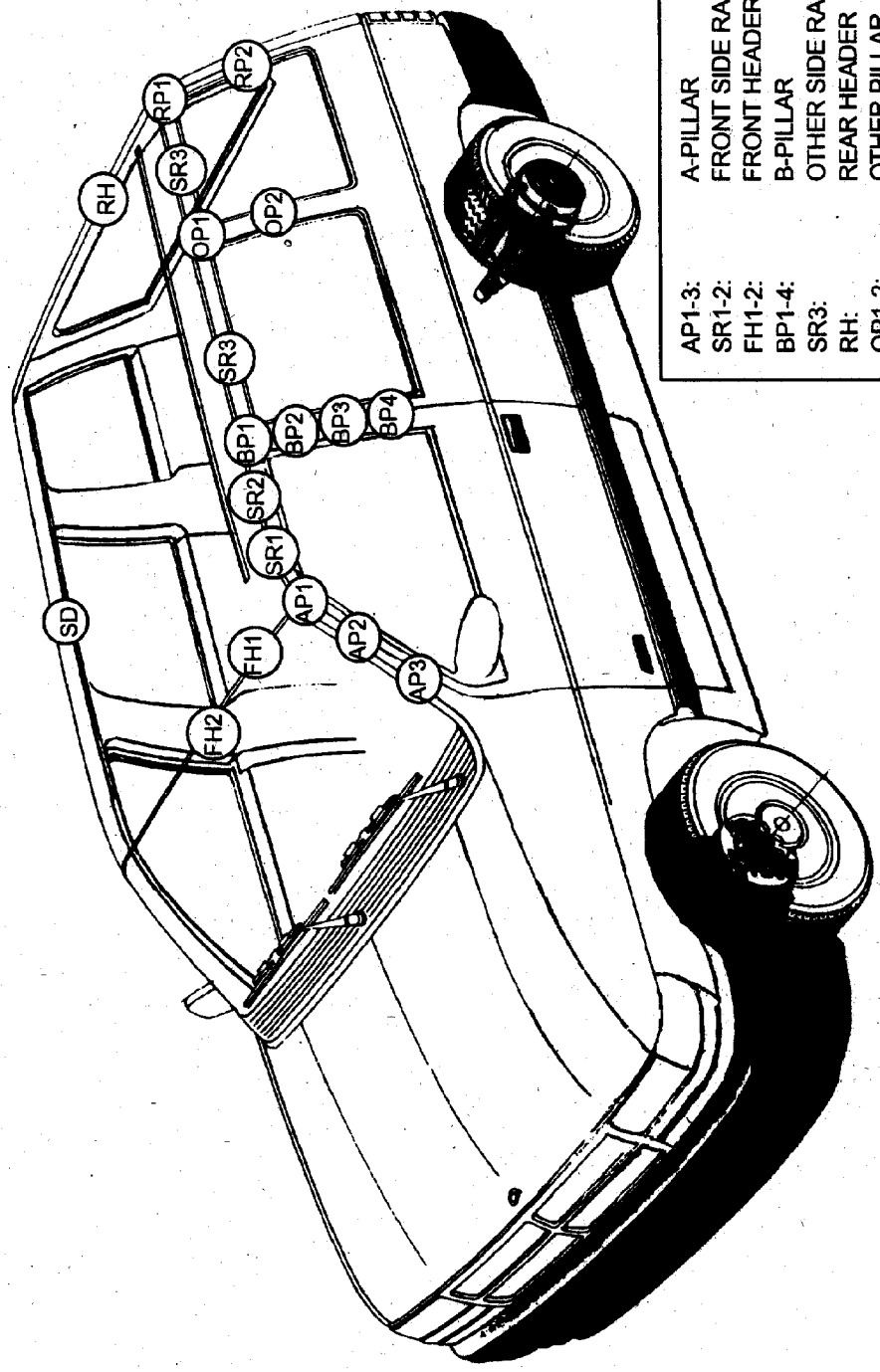


ILLUSTRATION I
RH
RP1
RP2
SR3
SR2
SR1
BP1
BP2
BP3
BP4
AP1
AP2
AP3
FH1
FH2
IMPACT LOCATIONS
AP1-3: A-PILLAR
SR1-2: FRONT SIDE RAIL
SR3: OTHER SIDE RAIL
FH1-2: FRONT HEADER
BP1-4: B-PILLAR
RH: REAR HEADER
RP1-2: REARMOST PILLAR
UR: UPPER ROOF (NOT SHOWN)

ILLUSTRATION 2



AP1-3: A-PILLAR
SR1-2: FRONT SIDE RAIL
FH1-2: FRONT HEADER
BP1-4: B-PILLAR
SR3: OTHER SIDE RAIL
RH: REAR HEADER
OP1-2: OTHER PILLAR
RP1-2: REAR PILLAR
SD: SLIDING DOOR TRACK
UR: UPPER ROOF (NOT SHOWN)

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In addition, NHTSA has decided to include a procedure which may limit the horizontal angles for testing some components. (For a discussion of vertical angles see Section V–A, *Headform*.) If the maximum angle located by the procedure is lower than the maximum angle in the range of possible angles, it becomes the new maximum angle. Similarly, if the minimum angle located by the procedure is greater than the minimum angle in the range of possible angles, it becomes the new minimum angle. NHTSA has concluded that the new specification of horizontal angles would not likely compromise the safety benefits available from any of the interior components or reduce the effectiveness of any countermeasures that are likely to be used by manufacturers. Since the new angle ranges include the most severe impact angles possible and exclude only certain glancing head impacts, they would not affect significantly the safety benefits. However, narrowing the range of angles will help reduce the possibility of excessively padding the pillars, thus preventing the loss of visibility from padding the pillars.

For an A-pillar, the minimum and maximum horizontal angles are determined by extending the shortest line from the pillar to the center of gravity (c.g.) of a 50th percentile male head at the rearmost seat position of the front seat on the same side of the vehicle and the shortest line from the opposite pillar to the c.g. of the head at the forwardmost seat position. These lines would simulate the direct line of travel that a person's head would take in striking the respective A-pillars at maximum severity and therefore, would also simulate the impacts most likely to result in severe head injuries.

The procedure to determine the range of angles for the B-pillar is similar, using angles created by a line extending from the pillar to the c.g. of a 50th percentile male head located in the rear seat adjacent to the pillar and another line extending from the pillar to the c.g. of the head located in the rearwardmost seat position of the seat forward of the pillar on the same side of the vehicle. Illustration 3 shows how the horizontal approach angles for the left A-pillar and the left B-pillar are determined.

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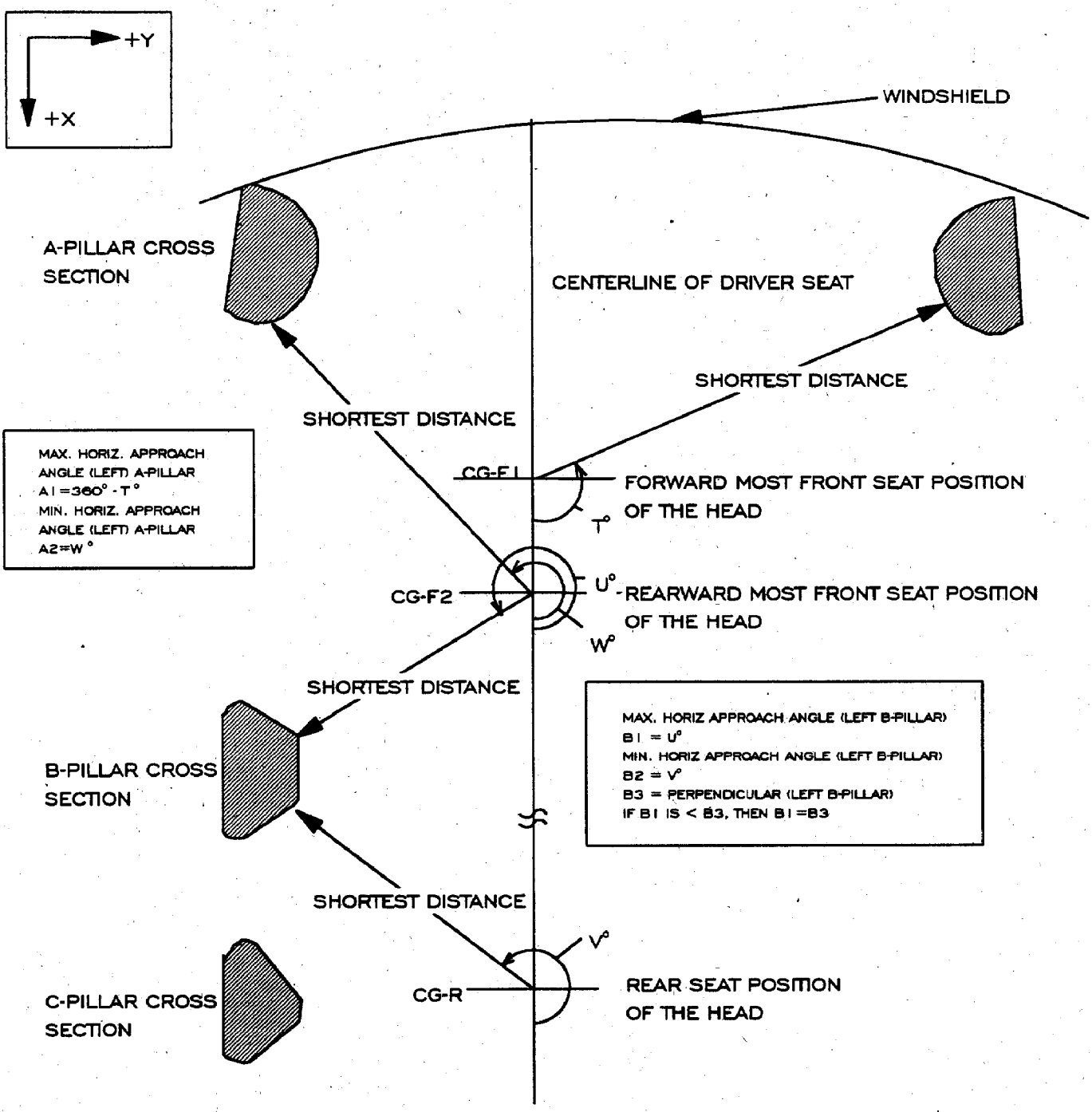

ILLUSTRATION 3

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In addition to generally criticizing the proposal, manufacturers commented that the definition of one zone, the upper roof impact zone was unclear. To define where the other impact zones end and the upper roof impact zone begins, the NPRM defined an upper roof zone plane. All interior surfaces of the vehicle above this plane were included in the upper roof impact zone. The upper roof zone plane was defined as the horizontal plane passing through a point 0.5 inch below the highest point of the vehicle roof interior. The agency requested comments on whether this proposed definition distinguished the other upper interior components from the middle area of the roof and on the practicability of demarcating these regions.

Many vehicle manufacturers stated that the definition should be clarified. For example, commenters noted that some components installed in the roof (e.g., sun roofs) may protrude below the proposed upper roof zone plane and therefore, that it was not clear whether some or all of those components were covered by the rule.

To address concerns about the definition of the upper roof zone, the agency has changed the definition. The new definition delineates four vertical planes (two longitudinal and two transverse) intersecting the interior roof. The upper roof is any area on the upper roof within the area bounded by those four planes. Illustration 4 shows how the upper roof is defined.

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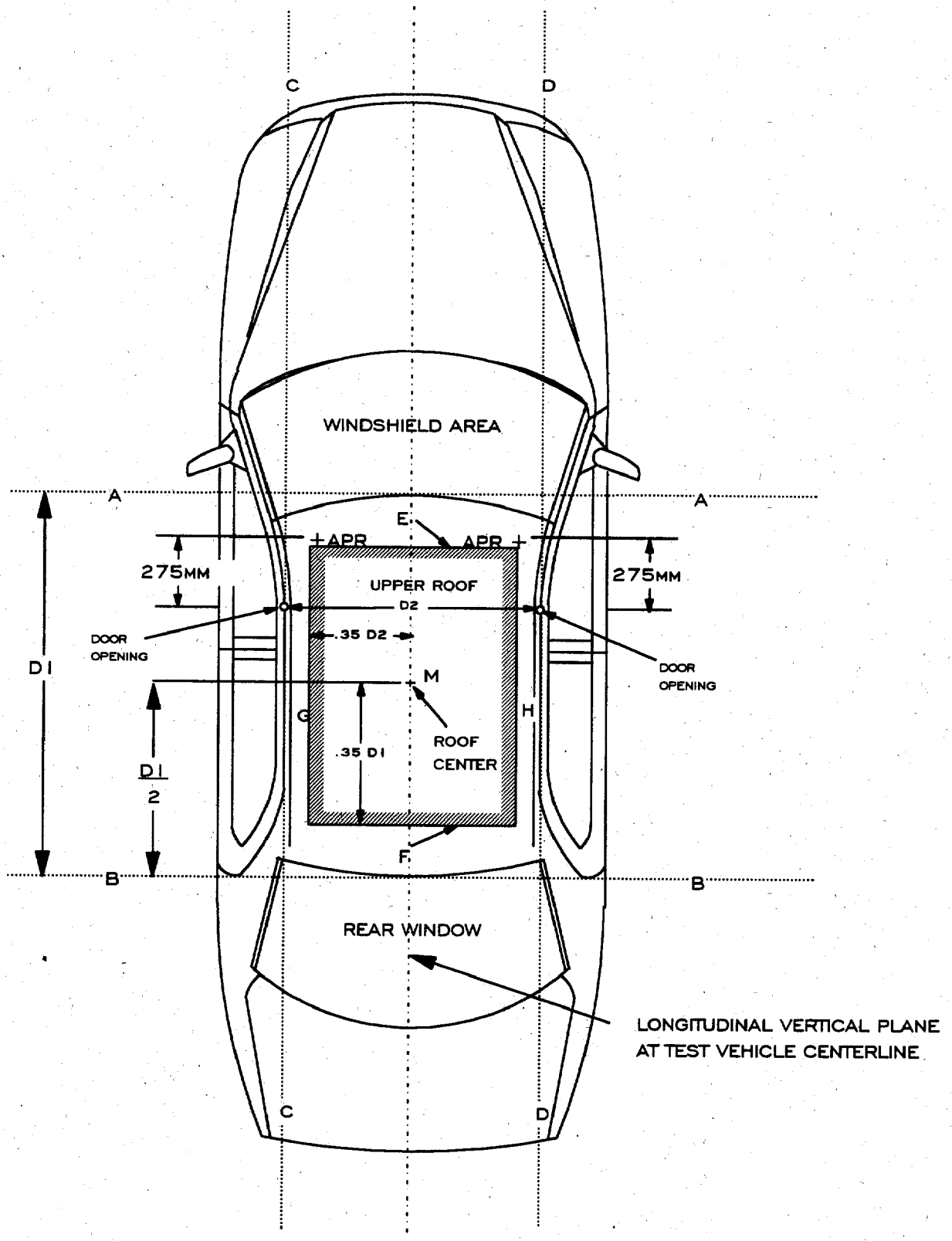

ILLUSTRATION 4

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D. Impact Speed

In the NPRM, the agency proposed that vehicles would have to meet the new requirements when a vehicle's upper interior components were impacted by the FMH at any speed up to and including 15 mph. The 15 mph speed was chosen because agency research indicated that it is approximately the onset speed for an average injury level between AIS 2 and AIS 3, or essentially the threshold at which serious injury can be expected. In addition, 15 mph is the test speed that is generally specified for the existing requirements of Standard No. 201. Finally, the agency's testing indicated that there might be a practicability problem with complying with the injury criterion at higher test speeds, such as 20 mph, since it may not be possible to meet the proposed performance limits at such speeds without using unacceptably thick padding.

Six comments were received on the proposed impact speed. Advocates did not support the 15 mph impact speed for testing of A-pillars and front headers since they do not consider the test speed to be representative of head impact speeds seen in real world accidents. Instead, they suggested a 20 mph impact test for all frontal components without providing any supporting data. Manufacturers suggested lower impact speeds, particularly for frontal components in dual-airbag vehicles. A private individual commented on the possibility of increased risk of ''body induced'' neck injuries when impacting padded components. He contended that current biomechanics research indicates that impacts above 7 mph would tend to increase the potential for neck injuries and therefore, any device used at speeds above that limit should incorporate means to evaluate neck loading.

After reviewing these comments, NHTSA has concluded that the proposed 15 mph FMH impact test is appropriate for all components, regardless of their locations. The agency conducted several accident/crash data analyses to determine the average head impact speed for various components. While the average impact speed is generally higher in frontal impacts than in side impacts, the onset of serious head injury (AIS 2–3) occurs at approximately the same speed (15 mph) for all components. An examination of head/face injury cases in the 1982–1989 NASS data files indicates that the average vehicle delta-v's in accidents vary by injury category. The delta-v's in accidents range from approximately 13 mph for maximum AIS (MAIS) 2 to 27 mph for MAIS 5. An analysis of laboratory crash test data was used to estimate an appropriate head impact speed, given the delta-v derived from accident data. However, the contact velocities for head injuries range from 10 mph to 20 mph for AIS 1 and AIS 5 respectively.

Even though, as raised by one commenter, cadaver drop tests on rigid and padded plates indicate potential for neck injuries above 7 mph, the injury mechanism in such tests is likely to be very different from head impacts against upper interior components in real world crashes. In drop tests, the head comes to rest upon contact, while the remaining mass continues to move, pinching the neck between the head and the rest of the body. In real world head impacts against upper interior components, the kinematics of the torso are different in different crash modes, especially when knee restraints interact with the legs. The pinching action of the neck as seen in cadaver drop tests is unlikely in crashes and therefore, the 7 mph threshold for neck injury based on drop tests is not valid for upper interior head contacts in accidents.

Therefore, NHTSA sees no justification to lower the impact speed for frontal components. Were the agency to adopt a lower impact speed, it would be addressing a much smaller safety problem than that seen in accidents. The agency estimated that the proposed 15 mph test speed is the average speed at which the onset of AIS 2 and AIS 3 injuries are likely to occur. It is also the current test speed for testing other interior components included in the existing standard. In addition, since no commenters have submitted new data to support a 20 mph impact speed, NHTSA finds no justification in adopting such an impact speed for this rule.

E. Visibility

In the NPRM, NHTSA stated that it had tentatively concluded that countermeasures used to meet the new requirements could be selected and designed so that they would not have a significant effect on visibility. The agency invited comment on these tentative conclusions.

Manufacturers who commented on this issue believed that padding would affect visibility, particularly the padding for frontal components. One manufacturer stated that the range of horizontal impact angles for the A-pillar was too large and would lead to the installation of padding in locations where it would affect the driver's forward vision. Safety groups did not believe that visibility was an issue since padding is not the only countermeasure choice that is available to automobile manufacturers.

NHTSA believes that a number of changes in this final rule resolve any concerns about visibility. First, as explained in VI–C, *Targets and Angles*, NHTSA has added a new procedure to limit the range of horizontal impact angles for the pillars, thereby reducing the likely area of the pillar which must be padded. Second, as is discussed later in this notice, NHTSA has extended the leadtime for the new requirements so that manufacturers could make structural modifications to reduce the HIC values in those components. Recently, NHTSA conducted a simple structural analysis of A-pillars of two production vehicles. (Docket No. 92–28–N02–52) The results of the analysis indicate that, with the additional leadtime that is available, alternative A-pillar designs can be developed in some vehicles to accommodate increased padding thickness without significant changes in component weight or forward vision, since the original A-pillar shape was not modified appreciably. NHTSA believes that, with sufficient leadtime, other interior components also can be redesigned to obtain optimal results that would not affect significantly the driver's vision.

F. Requested Exclusions

In the NPRM, the agency proposed excluding from the new requirements certain areas of the upper vehicle interior or certain types of vehicles because of lower likelihood of head injuries in real world crashes. The particular exclusions discussed in the NPRM were:

(1) Components located 36 inches rearward of the vehicle's rearmost designated seating position.

(2) Components along the side walkway of passenger vans.

(3) Components behind a vehicle's front seat area.

(4) Particular types of vehicles, such as walk-in vans.

NHTSA received a number of comments on these exclusions and suggestions for other exclusions. Each type of exclusion raised by commenters is discussed below.

1. Non-passenger Areas

In the NPRM, the agency proposed to exclude the portion of a vehicle that is well to the rear of the rearmost designated seating position. Specifically, the agency proposed that a vehicle need not meet the proposed HIC(d) limits for any part of the vehicle located rearward of a vertical transverse plane 36 inches behind the seating reference point (SgRP) of the vehicle's

rearmost designated seating position. The 36 inch value was based on the normal position of the head relative to the SgRP and the extent of possible movement of the head rearward in a crash. The agency requested comment on whether this or another distance would be more appropriate or cost-effective. The agency also requested comment on whether the 36 inch distance would ensure that protection is provided by a vehicle's upper interior areas that an occupant's head is likely to impact, while avoiding requiring padding in areas that are so far behind occupant seating positions that they are very unlikely to be struck by occupants.

Some commenters who addressed this issue, while agreeing that components to the rear of any seating position should be excluded, questioned whether the 36 inch cut-off was justified. Some commenters suggested alternate limits, including 12 inches, and all components rearward of the B-pillar (for vehicles with no rear seats).

After reviewing these comments, NHTSA has decided to exclude any target located more than 24 inches to the rear of the SgRP of the rearmost seating position. NHTSA has reviewed the 36 inch cut-off proposed in the NPRM and decided that it was excessive for planar rear crashes. This conclusion is based on front seat-back angle rotation since the amount of rotation affects the extent of rearward travel of a front seat occupant in a rear crash. Previous research that reviewed front seat-back angle rotation in rear impact compliance testing for Standard No. 301, *Fuel System Integrity,* indicates that over 70 percent of the vehicles had rotation of less than 30 degrees. (See, Summary of Safety Issues Related to FMVSS No. 207, *Seating Systems,* Docket No. 89–02–N03.) These tests were of small cars. Because vehicle accelerations are lower for large cars and LTVs, NHTSA believes that seat-back rotation would be lower. For belted occupants in seats with seat back rotations of 20 degrees and 30 degrees, the amount of rearward head excursion would be 8.5 inches and 12.5 inches, respectively. When a seat back rotates much more than 30 degrees, the occupant's head would not contact the vehicle upper interior components. While the rearward head excursion could be increased by an occupant sliding up the seat (ramping), further review of Standard No. 301 test films showed no indication of ramping of belted occupants in rear impacts. Because the average location of the back of the head relative to the SgRP is 10 inches rearward, this indicates that the back of the head might travel 18.5 inches to 22.5 inches rearward of the SgRP. Therefore, NHTSA has concluded that a 24 inch cut-off is sufficient.

NHTSA disagrees that the B-pillar should be used for the cut-off point. The relationship among the SgRP, the head, and the B-pillar is not consistent between vehicles. The B-pillar may be slightly in front of the head in one vehicle or behind the head in another and therefore, does not ensure that areas that might be impacted by the head are protected. NHTSA also believes a 12 inch cut-off is insufficient. This distance is only two inches behind the typical head location. Consequently, any accident as in an oblique side collision which caused rearward and lateral excursion of the head of more than two inches could result in contact with an unprotected B-pillar. As explained above, most accidents which resulted in rearward excursion would exceed this amount.

2. Aisles

In the NPRM, NHTSA also requested comments on whether components along the side walkway of passenger vans should be excluded from the new requirements, since occupants are not seated directly next to such components.

Two commenters addressed the issue of excluding walkways. One commenter supported such an exclusion, while the other did not support the exclusion.

After reviewing these comments, NHTSA has decided not to exclude targets located along a side walkway. Inclusion of these targets will be beneficial to unbelted passengers in particular. A higher proportion of second and third seat occupants than of front seat occupants are unbelted. One of the targets which would have been excluded is the target on a sliding door track. Because vehicles are often narrower at the roof than at the floor of the walkway, these components are closer to the head and therefore, there is a potential for head contact with this component. In addition, NHTSA agrees with the commenter that contact with side components is possible in some crash scenarios (i.e., side impacts or rollovers) even with a typical 12 inch aisle.

3. Rear Seating Areas

In the NPRM, NHTSA suggested that it might exclude components in a vehicle's rear seating area. The agency noted that, of the approximately 1,143 to 1,389 fatalities that would be prevented by the new requirements, only 28 to 36 would involve rear seat occupants.

While some manufacturers and manufacturer associations supported excluding rear seat areas because of low occupancy rates and a high cost per equivalent life saved, other commenters opposed their exclusion. Opponents of exclusion cited a number of reasons, including: an equal potential for injury when the rear seats are occupied; a high proportion of children among rear seat occupants; and a belief that increased car pooling in the future will increase rear seat occupancy rates.

As explained in the Final Economic Assessment (FEA) prepared for this final rule, the target population used in the current analysis has been adjusted based on more recent accident data, the current (higher) safety belt usage rate, and the phase-in of airbags into the on-road vehicle fleet. The new analysis showed that about 873 to 1,045 fatalities would be prevented by the new requirements, 575 to 711 in passenger cars and 298 to 334 in LTVs. As in the NPRM analysis, the bulk of the benefits in the new analysis would accrue from padding upper interior components in the front seating areas. Based on currently available accident data, the agency estimates about 97 to 122 of the fatalities prevented in passenger cars and about 7 to 8 of the fatalities prevented in LTVs would be in the rear seating areas.

Based on current cost estimates included in the FEA's new analysis, the cost per equivalent life saved in passenger cars is $0.5 to $0.6 million for all seating positions, $0.3 to $0.4 million for front seating positions, and $1.7 to $2.1 million for rear seating positions. The cost per equivalent life saved in LTVs is $1.3 to $1.4 million for all seating positions, $0.7 to $0.8 million for front seating positions, and $24.2 to $26.8 million for rear seating positions.

Although these cost figures appear to disfavor regulating rear seat areas in LTVs, they rest on a current discrepancy between the fatality and injury data for front and rear seating areas. A large discrepancy exists between the number of rear seat fatalities in passenger cars and those in LTVs. NHTSA estimates that about 229 fatalities occurred in the rear seating areas of passenger cars while only 13 fatalities occurred in the rear seating areas of LTVs. This represents about 14 percent of the total fatalities in passenger cars but only 2 percent of the total fatalities in LTVs.

NHTSA believes that basing cost estimates on that current discrepancy leads to a high cost per equivalent life saved for rear seating areas of LTVs but that discrepancy will diminish in the future. The agency anticipates that the proportion of LTVs in the vehicle fleet will increase in the future and thus the

proportion of rear seat fatalities involving LTVs occupants will also increase.

The agency's belief about the forthcoming changes in the underlying data is supported by two apparent trends. First, the distribution of rear seat fatalities between these two classes of vehicles is likely to be different by the time 100 percent compliance with this rule is achieved as the proportion of passenger cars and of LTVs in the fleet changes. In recent years, there have been significant changes in the composition of the light vehicle fleet. The percentage of passenger vans and sport utility vehicles in the fleet has increased significantly because of consumer preferences for these vehicles for personal transportation. If this trend continues, the annual benefits estimate for LTVs based on the incidence of fatalities and serious injuries for previous years would change substantially by the time all vehicles in the fleet meet the new standard. Second, the occupancy rate of the rear seating area of all LTVs is also likely to increase because of the increased use of vans and sport utility vehicles for family transportation.

To evaluate the effect of these two trends on the new analysis, NHTSA further revised the new estimate of benefits for passenger cars and LTVs to reflect the mix of those vehicles in the future vehicle fleet. NHTSA anticipated that the proportion of LTVs in the light vehicle fleet would increase from 29 percent to 46 percent. This would result in an increase in the target population of light trucks and a decrease in the target population of passenger cars, and a corresponding change in the benefits for this rule. By contrast, the agency's original cost estimate in the FEA assumed that the current mix of passenger cars and LTVs would not change.

The assumption of mix shifts was considered in the context of two different scenarios including additional assumptions to estimate benefits. In the first scenario, a change in the relative proportion of LTVs and passenger cars was assumed in addition to fleet growth, resulting in a directly proportional change in benefits. However, this scenario does not account for the steady decline in fatality and injury rates over the past twenty years due to improvements in motor vehicles and highway systems.

In the second scenario, it was assumed that the injury and fatality rates would continue to decline, but be offset by increased exposure due to fleet growth, resulting in a constant number of injuries and fatalities for the entire fleet. As in the first scenario, it was assumed that a shift would occur in registration percentages and thus in the percentage of injuries and fatalities in passenger cars and LTVs.

For each of these scenarios, the agency has revised its estimates of fatalities prevented and injuries reduced. NHTSA also revised its estimate of the cost per equivalent life saved in 1993 dollars, using each of the scenarios.

These revisions produced significant, and in some cases dramatic, changes in the estimates of relative benefits and costs per equivalent life saved for passenger cars and LTVs. Based on those revisions, it is estimated that the cost per equivalent life saved in passenger cars may increase to $0.6 to $0.9 million. However, for LTVs, the cost per equivalent life saved is reduced to $0.7 to $0.9 million. The breakdown for front and rear seating areas also shows that the cost per equivalent life saved in passenger cars increased slightly while that in LTVs decreased significantly. The cost per equivalent life saved in the front seating area of passenger cars increased to $0.4 to $0.5 million. For LTVs, the cost per equivalent life saved in the front seating area decreased to $0.4 to $0.5 million. The cost per equivalent life saved in the rear seating areas of passenger cars increased to $2.0 to $2.9 million. The most significant change is in the rear seating areas of LTVs, where the cost decreased substantially to $7.5 to $10.1 million, approximately a two-thirds reduction.

While the costs per equivalent life saved still vary according to seating position, the conclusive factor in determining whether to regulate a particular seating position should not be the existence of such variations, but the reasonableness of the cost for that particular position. Calculating the cost per equivalent life saved by seating position would never yield the same figures for each seating position. For example, while an occupant is always present in the driver's seating position, the same occupancy rate cannot be expected for the right front passenger seating position or any rear seating position. Therefore, cost based on the degree of occupancy in each seating position will almost certainly lead to uneven estimates of cost per equivalent life saved. So long as the cost per equivalent life is reasonable, NHTSA believes that a vehicle should be designed to offer the same level of protection to all occupants, regardless of the occupant's choice of seat.

In addition, the agency believes that the decision whether to regulate rear seating areas must take into consideration any special populations at risk. It is particularly necessary to protect children, who are often seated in the rear and who will be susceptible to head injuries unless the rear seating areas are included in this rule. For all vehicles, 37 percent of injuries and fatalities in rear seating areas are children ranging in age up to 17 years.

4. Vehicles

In the NPRM, the agency also requested comments on whether any particular types of vehicles, such as walk-in vans, should be excluded. NHTSA received a number of comments recommending that various types of vehicles be excluded from the new requirements. Recommendations included: walk-in vans, ambulances, motor homes, vehicles produced in two or more stages, school buses, and vehicles with a gross vehicle weight rating above either 6,000 pounds or 8,500 pounds.

With regard to walk-in vans which have upper interior components located much higher in comparison to other vehicles, head contacts against those components are unlikely for belted occupants and therefore, NHTSA has decided to exclude these vehicles from this rule. NHTSA has excluded these vehicles from other safety standards in the past (i.e., Standard No. 208, *Occupant Crash Protection*) because these vehicles are typically driven at low speeds. Therefore, these vehicles are generally involved in low severity crashes and any impact with the upper interior components would be less severe in these vehicles.

In addition, NHTSA is excluding targets in ambulances and motor homes which are located more than 24 inches rearward of the seating reference point of the driver. These vehicles often have special equipment in these areas which would be difficult to redesign for compliance with these requirements. Definitions of both these vehicles have been added to the regulatory text.

With regard to other requested exclusions, NHTSA is not excluding any other vehicles. None of the comments provided a convincing reason why any of these vehicles would not benefit from being required to offer the same level of protection as other vehicles or why it is not practicable for these vehicles to comply. However, as explained below in section V–I, *Leadtime*, NHTSA is allowing vehicles manufactured in two or more stages to delay compliance until the final year of the phase-in.

5. A-pillars and Front Headers

Manufacturers also requested exclusion of the A-pillar and front header. Manufacturers expressed their belief that there is no safety need justifying inclusion of these components since recent amendments to Standard No. 208 would require air bags in all vehicles affected by these requirements before the effective date of this rule. Further, the manufacturers argued that it is impossible for front seat occupants to contact these components during a crash in a vehicle with air bags.

The agency disagrees that air bags will eliminate or even significantly mitigate all head injuries caused by contacts with A-pillar/front header components and that protecting these components is therefore unnecessary. Air bags and seat belts are safety devices that are primarily effective in frontal impacts. While it is true that they will mitigate head injuries in full frontal and oblique crashes in terms of both the frequency and severity of occurrence, it is also true that secondary contacts in frontal crashes or A-pillar/front header contacts in other crash modes could also cause head injuries that cannot be prevented by air bags.

Before issuing the NPRM, NHTSA analyzed 24 National Accident Sampling System (NASS) airbag cases to assess the impact of air bags on head injury prevention. However, no reliable conclusions could be made because of insufficient airbag data. After issuing the NPRM, NHTSA conducted an additional analysis using the NASS and Air Bag Management Information System (AIRMIS) data files. (Docket No. 92–28–N02–52) Even though the NASS/AIRMIS air bag data are sparse and not statistically representative of real world injury distribution, they show that frontal upper interior components were still being struck, even when belt-air bag restraints were used. For this final rule, NHTSA has re-estimated the target population of injuries and fatalities involving A-pillar and front header impacts. This re-estimation still showed substantial numbers of injuries and fatalities from occupants striking these components, even after the agency adjusted these figures to reflect 100 percent air bag installation (see Chapter IV of the FEA). Therefore, NHTSA is not excluding these components from the final rule.

6. Roof

Many vehicle manufacturers stated that the upper roof zone should not be included in this rulemaking. Manufacturers stated inclusion of the roof will not significantly reduce injuries or fatalities from contact with the roof since the test procedure does not simulate situations in which the roof is being pushed towards the occupant (roof crush) or rollovers in which contact occurs when the roof is reinforced by the ground. Other commenters stated that the test procedure should include placing a rigid surface on the exterior of the roof to simulate the effect of ground contact.

While NHTSA agrees that the test procedure does not simulate the accident scenarios mentioned by the commenters, NHTSA has decided not to exclude the upper roof. For most areas of the upper roof (sheet metal), the HIC(d) requirements are easily met without additional countermeasures. However, including the upper roof will require manufacturers to protect areas (e.g., sun roof frames) that are hard even when the roof is not reinforced by the ground. The inclusion of those areas will be particularly likely to provide some benefits. However, in view of the variety of components in a roof, NHTSA is unable to define a specific target(s) for the upper roof. Therefore, any target on the upper roof may be impacted. NHTSA testing indicates that only components added to the sheet metal or the sheet metal reinforced by such components may not meet the HIC(d) requirements. Therefore, NHTSA does not believe manufacturers will have difficulty in determining and testing worst case scenarios for the upper roof.

7. Convertible Roofs

Both AAMA and the Association of International Automobile Manufacturers (AIAM) stated that convertibles should be excluded from the final rule because of the difficulties associated with padding the movable components of the roof. American Sunroof Company, Automobile Specialty Company, and Aeromotive Systems Company (all convertible top manufacturers), while agreeing that padding movable components would be difficult, stated that only convertible tops and frames, but not other upper interior components (e.g., pillars), needed to be excluded.

After reviewing these comments, NHTSA agrees that countermeasures would not be feasible on convertible roof frames and linkage mechanisms because the presence of a countermeasure such as padding would interfere with their movement. Therefore, NHTSA has decided to exclude from the new requirements any target which would be located on those components. Definitions of the terms ''convertible roof frame'' and ''convertible roof linkage mechanism'' have been added to the final rule. NHTSA is not excluding all targets in convertibles from this final rule as AAMA and AIAM suggested. These commenters did not provide any justification to suggest that it was not practicable to install countermeasures on any components other than the targets in convertibles NHTSA has decided to exclude.

G. Components Currently Subject to Standard No. 201

The NPRM requested comments on the desirability of amending the test procedure for components currently subject to Standard No. 201 to provide for using the FMH in testing those components. These comments were requested not because of any identifiable benefits, but because a uniform test procedure might simplify compliance testing for the industry. The only commenters who addressed this issue were manufacturers or manufacturer associations, all of whom opposed such a change.

NHTSA does not believe that the extension of the FMH test procedures to instrument panels, seat backs, interior compartment doors, sun visors, and armrests would serve a safety purpose because these components are very soft relative to the upper interior components. Thus, it is not likely that any of the components currently tested under Standard No. 201 would exceed the HIC(d)-1000 limit when tested at 15 mph using the FMH. For that reason and because none of the manufacturers believed there was any safety benefit associated with amending the current requirements, NHTSA has not done so.

H. Costs and Benefits

In the NPRM, NHTSA estimated that, for a performance requirement of HIC(d) 1000, the per vehicle cost associated with designing and making the necessary modifications needed to meet the proposed performance requirements would be $29 for passenger cars and $45 for LTVs (in 1991 dollars).

After reviewing the comments and the changes made in this final rule, NHTSA estimates that the per vehicle cost associated with designing and making the modifications needed to meet the new requirements is $33 for passenger cars and $51 for LTVs (in 1993 dollars). In addition, NHTSA estimates that the cost of a new FMH is approximately $3,000 and the cost of a propulsion unit is approximately $35,000. On a per vehicle model basis, NHTSA estimates that total testing costs are $1,870 to $3,740.

A detailed discussion of these estimates can be found in the Final Economic Assessment (FEA) which has

been prepared for this final rule. In the FEA, costs have been updated to 1993 economics. Further, more baseline data have now become available for additional analysis. These analyses indicate that a higher percentage of vehicles would require padding.

As to benefits, NHTSA estimated in the NPRM that, for a performance requirement of HIC(d) 1000, the annual reduction of AIS 2–5 head injuries would be 683 to 824, and that the annual reduction in fatalities would be 1,143 to 1,389. Based on more recent accident data, adjustment for current safety belt use (66 percent) and assuming all passenger cars and LTVs would have air bags, additional baseline and padded vehicle test data, and trends indicating future fleet changes, NHTSA has revised these estimates to 675 to 975 AIS 2–5 head injuries reduced and 873 to 1192 fatalities prevented. A study of the 1988–1992 NASS data estimated that about 28 percent of the serious injuries from contacting vehicle interior components, such as pillars, headers, side rails, and the roof occur in rollover accidents. Padding of these interior components should be of substantial benefit in preventing serious injuries and fatalities as well as in reducing minor injuries. If 28 percent of the benefits of this standard are in rollover crashes, it is estimated that, in implementing the Secretary's comprehensive rollover plan, 189–273 AIS 2–5 injuries and 244–334 fatalities would be averted in rollovers as a direct result of this rule. A detailed discussion of these estimates can also be found in the FEA.

I. Leadtime

In the NPRM, NHTSA proposed that the new requirements would become effective on the first September 1 that occurred approximately two years after issuance of the final rule. NHTSA's proposal was based on previous estimates that, for ''padding only'' countermeasures, the normal leadtime to design, tool, and test is approximately 14 to 18 months. In the NPRM the agency recognized that it was possible that a longer leadtime might be necessary for this rulemaking because of the large number of vehicles that would be affected (the previous estimates had not been for a rule applicable to both passenger cars and LTVs) and because of the large number of components in each model which might require changes. Further, countermeasures other than padding might be required and/or desirable. Therefore, the agency requested comments on whether a longer leadtime was necessary and/or whether a phase-in was desirable.

Manufacturers uniformly commented that the agency's leadtime estimates were inadequate. Further, manufacturers almost uniformly believed that a phase-in of the final rule was desirable, with some commenters suggesting that small volume manufacturers be allowed to defer compliance until later in the phase-in schedule. Manufacturer estimates of how much leadtime was necessary prior to the beginning of a phase-in schedule ranged from three to five years. Manufacturers also suggested phase-in schedules of four years (similar to previous phase-in schedules for Standard No. 208 or Standard No. 214, *Side Impact Protection*) or five years (10 percent, 25 percent, 40 percent, 70 percent, and 100 percent). As an alternative, one commenter suggested that the agency require 25 percent of each vehicle to comply within two years, 50 percent of each vehicle within three years, and 100 percent within five years. Manufacturers did not appear to believe that separate phase-in schedules for passenger cars and LTVs would be helpful. However, some commenters suggested that the agency should allow carry-forward or carry-back credits to provide additional flexibility.

The manufacturers provided a number of rationales to support their belief that additional leadtime was necessary. Some manufacturers provided test data that indicated none of the affected vehicles currently comply with the requirements for all the covered components and that many vehicles do not comply with respect to any of the covered components. Manufacturers also indicated that padding may not be sufficient to enable some of the covered components to comply with the standard. Manufacturers also indicated that, even if padding alone were sufficient to comply with the proposed requirements, this would not be the preferred option as padding decreases visibility (a safety concern) and interior roominess (a customer satisfaction concern). Manufacturers indicated that they believed that changes to the vehicle structure (greenhouse) would be necessary (to the extent that a component could not comply with padding alone) or desirable (to compensate for loss in visibility or interior roominess). Manufacturers also explained that such changes had to be made early in a design cycle and that the typical design cycle was four to six years for passenger cars and eight to ten years for LTVs.

In contrast, the safety groups that commented on leadtime believed that the proposed leadtime was sufficient. However, these safety groups did not provide any specific information to support their belief.

After reviewing the comments, NHTSA has determined that the leadtime proposed in the NPRM was not sufficient. NHTSA has found only one vehicle currently in production (tested at only 4 locations) that would comply with all aspects of the new requirements and that, for over 50 percent of the components tested will require changes. NHTSA also agrees with comments that padding alone will not be sufficient for some components in some vehicles. In addition, NHTSA agrees that other countermeasures may be preferable to padding, even if padding alone might be sufficient to meet the new requirements. To the extent that these other countermeasures require additional leadtime, NHTSA is concerned that the leadtime proposed in the NPRM would require manufacturers to use padding alone for some components, and that such padding might have a negative side effect as far as its effect on visibility is concerned. For example, while NHTSA believes many visibility concerns were addressed by the reduction in horizontal approach angles, it still may be possible that the safety benefits resulting from the padded components could be partially offset by an increased accident rate if the padding were added in a way that caused a significant decrease in visibility.

NHTSA also agrees that some countermeasures which would offset some of the problems (e.g., interior roominess) associated with padding alone must be done early in the design process (i.e., increasing the size of the greenhouse or structure of pillars to offset the decrease in visibility or interior roominess). Those countermeasures would, therefore, require much more leadtime to accomplish than simply padding components. NHTSA is also aware that a number of other significant new safety requirements have been issued in recent years (e.g., Standards Nos. 208, 214, etc.), placing a significant cumulative burden on manufacturer's resources.

Finally, NHTSA is convinced that because all vehicles will require some redesign to meet the new requirements, a phase-in is necessary and desirable. Manufacturers will have to design and make the necessary modifications to meet the new requirements for each of their models. However, the same engineering resources and testing facilities may be needed for all of the models and cannot be used simultaneously. Given this, NHTSA has decided that the phase-in period for these new requirements will begin

September 1, 1998. In the first year of the phase-in, 10 percent of each manufacturer's vehicles will be required to comply with the new requirements. In the second year, 25 percent of all vehicles must comply; in the third year, 40 percent; and in the fourth year, 70 percent. All vehicles manufactured on or after September 1, 2002 must comply with the new requirements. NHTSA is aware that this phase-in is one year longer than previous phase-in requirements. However, NHTSA believes that this is justified. Unlike previous phase-ins, available evidence (which amounts to testing of 32 different models) indicates that only one vehicle model as currently manufactured could comply with the new requirements for all covered components. In addition, unlike previous phase-ins, the new requirements are being phased-in for two types of vehicles (passenger cars and LTVs) at the same time.

For manufacturers with few vehicle lines, NHTSA has decided to allow an alternative phase-in. The alternative phase-in allows a manufacturer to delay compliance in the first year of the phase-in. However, manufacturers which take this option must certify all vehicles manufactured on or after September 1, 1999 as complying with the new requirements.

NHTSA also has decided to allow manufacturers of vehicles manufactured in two or more stages to delay compliance until the final year of the phase-in. Since final stage manufacturers and alterers have no control over the year of the phase-in in which a particular vehicle will be certified as complying with the new requirements, NHTSA is allowing these manufacturers until the final year of the phase-in to certify that their vehicles meet the new requirement. NHTSA has taken this approach previously with the phase-ins for Standards Nos. 208. However, NHTSA is not allowing additional leadtime beyond the end of the phase-in, because individual components can be tested outside the vehicle. This will enable a final stage manufacturer or an alterer to verify that the changes it intends to make to a vehicle's compliant interior will not affect the vehicle's compliance.

Finally, NHTSA has decided to allow carry-forward credits. NHTSA believes that this will encourage manufacturers to exceed the requirements in early years, by concentrating initial efforts on either vehicles which present fewer redesign problems or high volume vehicles. This will benefit consumers by accelerating the availability of vehicles which comply with the new requirements and will benefit manufacturers by providing them with flexibility for the later years of the phase-in. NHTSA notes, however, that carry-forward credits can not be used to delay the beginning of 100 percent compliance beyond September 1, 2002.

VII. OVSC Laboratory Test Procedure

A number of manufacturers have asked NHTSA when the Office of Vehicle Safety Compliance's (OVSC) Laboratory Test Procedure for the new requirements in Standard No. 201 would be available. For interested parties, a copy of the OVSC Laboratory Test Procedure has been placed in the docket for this notice. NHTSA would like to emphasize that the OVSC Laboratory Test Procedure is prepared for use by independent laboratories under contract to conduct compliance tests for the agency. The OVSC Laboratory Test Procedures are not intended to change the requirements of the applicable safety standard.

VIII. Correction

NHTSA is amending S3.4.2 of Standard No. 201 to replace the word ''contractable'' with the word ''contactable.'' NHTSA finds for good cause that notice and opportunity to comment are not required. This amendment does not substantively change a requirement, as it merely corrects a typographic error.

IX. Rulemaking Analyses and Notices

A. Executive Order 12866 and Dot Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures. NHTSA has prepared a Final Economic Assessment (FEA) for this final rule. As explained in the FEA, NHTSA estimates the consumer costs of this rule to be $641 million annually.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained in the FEA, while there are a substantial number of small businesses that would be affected by this final rule, the agency does not believe there would be a significant economic impact. The agency believes general testing on worst case components can be carried out at low cost and be used as a basis for compliance by using the same thickness of padding on similar components.

C. Paperwork Reduction Act

The reporting requirements associated with this rule have been submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. chapter 35. *Administration:* National Highway Traffic Safety Administration; *Title:* Head Protection Phase-in Reporting Requirements; *Need for Information:* To report manufacturer's annual production for the first four years of the phase-in period.; *Proposed Use of Information:* To determine compliance with phase-in requirements.; *Frequency:* Annual; *Burden Estimate:* 1260 hours/year; *Respondents:* 35; *Form(s):* Written report; *Average Burden Hours for Respondent:* 36 hours/year.

D. National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

In consideration of the foregoing, 49 CFR Parts 571, 572, and 589 are amended as follows:

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

49 CFR Part 572

Incorporation by reference, Motor vehicle safety.

49 CFR Part 589

Reporting and recordkeeping requirements.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.201 [Amended]

2. Section 571.201 is amended by adding a new S2.1, revising S3 and S3.4.2, and adding new S4 through S8.13, to read as follows:

S2.1 *Definitions.*

A-pillar means any pillar that is, in whole or part, forward of a transverse vertical plane passing through the seating reference point of the driver's seat.

Ambulance means a motor vehicle designed exclusively for the purpose of emergency medical care, as evidenced by the presence of a passenger compartment to accommodate emergency medical personnel, one or more patients on litters or cots, and equipment and supplies for emergency care at a location or during transport.

B-pillar means the forwardmost pillar on each side of the vehicle that is entirely rearward of a transverse vertical plane passing through the seating reference point of the driver's seat, unless there is only one pillar rearward of that plane and it is also a rearmost pillar.

Brace means a fixed diagonal structural member in an open body vehicle that is used to brace the roll-bar and that connects the roll-bar to the main body of the vehicle structure.

Convertible roof frame means the metal frame of a convertible roof.

Convertible roof linkage mechanism means any anchorage, fastener, or device necessary to deploy a convertible roof frame.

Daylight opening means, for openings on the side of the vehicle, other than a door opening, the locus of all points where a horizontal line, perpendicular to the vehicle longitudinal centerline, is tangent to the periphery of the opening. For openings on the front and rear of the vehicle, other than a door opening, *daylight opening* means the locus of all points where a horizontal line, parallel to the vehicle longitudinal centerline, is tangent to the periphery of the opening. If the horizontal line is tangent to the periphery at more than one point at any location, the most inboard point is used to determine the daylight opening.

Door opening means, for door openings on the side of the vehicle, the locus of all points where a horizontal line, perpendicular to the vehicle longitudinal centerline, is tangent to the periphery of the side door opening. For door openings on the back end of the vehicle, *door opening* means the locus of all points where a horizontal line, parallel to the vehicle longitudinal centerline, is tangent to the periphery of the back door opening. If the horizontal line is tangent to the periphery at more than one point at any location, the most inboard point is the door opening.

Forehead impact zone means the part of the free motion headform surface area that is determined in accordance with the procedure set forth in S6.10.

Free motion headform means a test device which conforms to the specifications of Part 572, Subpart L of this Chapter.

Mid-sagittal plane of a dummy means a longitudinal vertical plane passing through the seating reference point of a designated seating position.

Motor home means a motor vehicle with motive power that is designed to provide temporary residential accommodations, as evidenced by the presence of at least four of the following facilities: cooking; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a potable water supply system including a faucet and a sink; and a separate 110–125 volt electrical power supply and/or an LP gas supply.

Other pillar means any pillar which is not an A-pillar, a B-pillar, or a rearmost pillar.

Pillar means any structure, excluding glazing and the vertical portion of door window frames, but including accompanying moldings, attached components such as safety belt anchorages and coat hooks, which (1) supports either a roof or any other structure (such as a roll-bar) that is above the driver's head, or (2) is located along the side edge of a window.

Roll-bar means a fixed overhead structural member, including its vertical support structure, that extends from the left to the right side of the passenger compartment of any open body vehicles and convertibles. It does not include a header.

Seat belt anchorage means any component involved in transferring seat belt loads to the vehicle structure, including, but not limited to, the attachment hardware, but excluding webbing or straps, seat frames, seat pedestals, and the vehicle structure itself, whose failure causes separation of the belt from the vehicle structure.

Sliding door track means a track structure along the upper edge of a side door opening that secures the door in the closed position and guides the door when moving to and from the open position.

Stiffener means a fixed overhead structural member that connects one roll-bar to another roll-bar or to a header of any open body vehicle or convertible.

Upper roof means the area of the vehicle interior that is determined in accordance with the procedure set forth in S6.15.

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S3 *Requirements for instrument panels, seat backs, interior compartment doors, sun visors, and armrests.* Each vehicle shall comply with the requirements specified in S3.1 through S3.5.2.

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S3.4.2 Each sun visor mounting shall present no rigid material edge radius of less than 0.125 inch that is statically contactable by a spherical 6.5-inch diameter head form.

* * * * *

S4 *Requirements for upper interior components.* Except as provided in S4.1 through S4.3, each vehicle manufactured on or after September 1, 1998, except walk-in van-type vehicles, shall, when tested under the conditions of S6, comply with the requirements specified in S5 at the target locations specified in S8 when impacted by the free motion headform specified in S6.8 at any speed up to and including 24 kilometers per hour. The requirements do not apply to any target that cannot be located using the procedures of S8.

S4.1 *Vehicles manufactured on or after September 1, 1998 and before September 1, 2002.* Except as provided in S4.1.5, vehicles manufactured on or after September 1, 1998 and before September 1, 2002 shall comply with S4.1.1 through S4.1.4.

S4.1.1 *Vehicles manufactured on or after September 1, 1998 and before September 1, 1999.* For vehicles manufactured by a manufacturer on or after September 1, 1998 and before September 1, 1999, the amount of vehicles complying with S5 shall be not less than 10 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 1996 and before September 1, 1999, or

(b) The manufacturer's production on or after September 1, 1998 and before September 1, 1999.

S4.1.2 *Vehicles manufactured on or after September 1, 1999 and before September 1, 2000.* Subject to S4.1.6(a), for vehicles manufactured by a manufacturer on or after September 1, 1999 and before September 1, 2000, the amount of vehicles complying with S5 shall be not less than 25 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 1997 and before September 1, 2000, or

(b) The manufacturer's production on or after September 1, 1999 and before September 1, 2000.

S4.1.3 *Vehicles manufactured on or after September 1, 2000 and before September 1, 2001.* Subject to S4.1.6(b), for vehicles manufactured by a manufacturer on or after September 1, 2000 and before September 1, 2001, the amount of vehicles complying with S5 shall be not less than 40 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 1998 and before September 1, 2001, or

(b) The manufacturer's production on or after September 1, 2000 and before September 1, 2001.

S4.1.4 *Vehicles manufactured on or after September 1, 2001 and before September 1, 2002.* Subject to S4.1.6(c), for vehicles manufactured by a manufacturer on or after September 1, 2001 and before September 1, 2002, the amount of vehicles complying with S5 shall be not less than 70 percent of:

(a) The manufacturer's average annual production of vehicles manufactured on or after September 1, 1999 and before September 1, 2002, or

(b) The manufacturer's production on or after September 1, 2001 and before September 1, 2002.

S4.1.5 *Alternative phase-in schedules.*

(a) *Alternative phase-in schedule for all manufacturers.* A manufacturer may, at its option, comply with the requirements set forth in S4.1.5(a)(1) and S4.1.5(a)(2) instead of complying with the requirements set forth in S4.1.1 through S4.1.4.

(1) Vehicles manufactured on or after September 1, 1998 and before September 1, 1999 are not required to comply with the requirements specified in S5.

(2) Vehicles manufactured on or after September 1, 1999 shall comply with the requirements specified in S5.

(b) *Alternative phase-in schedule for final stage manufacturers or alterers.* A final stage manufacturer or alterer may, at its option, comply with the requirements set forth in S4.1.5(b)(1) and S4.1.5(b)(2) instead of complying with the requirements set forth in S4.1.1 through S4.1.4.

(1) Vehicles manufactured on or after September 1, 1998 and before September 1, 2002 are not required to comply with the requirements specified in S5.

(2) Vehicles manufactured on or after September 1, 2002 shall comply with the requirements specified in S5.

S4.1.6 *Calculation of complying vehicles.*

(a) For the purposes of complying with S4.1.2, a manufacturer may count a vehicle if it:

(1) Is manufactured on or after September 1, 1998, but before September 1, 2000, and

(2) Is not counted toward compliance with S4.1.1.

(b) For the purposes of complying with S4.1.3, a manufacturer may count a vehicle if it:

(1) Is manufactured on or after September 1, 1998, but before September 1, 2001, and

(2) Is not counted toward compliance with S4.1.1 or S4.1.2.

(c) For the purposes of complying with S4.1.4, a manufacturer may count a vehicle if it:

(1) Is manufactured on or after September 1, 1998, but before September 1, 2002, and

(2) Is not counted toward compliance with S4.1.1, S4.1.2, or S4.1.3.

S4.1.7 *Vehicles produced by more than one manufacturer.*

S4.1.7.1 For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S4.1.1 through S4.1.4, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S4.1.7.2.

(a) A vehicle which is imported shall be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

S4.1.7.2 A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 589, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S4.1.7.1.

S4.2 *Vehicles manufactured on or after September 1, 2002.* Except as provided in S4.3, vehicles manufactured on or after September 1, 2002 shall comply with the requirements specified in S5.

S4.3 A vehicle need not meet the requirements of S4.1 through S4.2 for:

(a) Any target located on a convertible roof frame or a convertible roof linkage mechanism.

(b) Any target located rearward of a vertical plane 600 mm behind the seating reference point of the rearmost designated seating position.

(c) Any target located rearward of a vertical plane 600 mm behind the seating reference point of the driver's seating position in an ambulance or a motor home.

S5. *Performance Criterion.* The HIC(d) shall not exceed 1000 when calculated in accordance with the following formula:

(a) HIC(d) = 0.75446 (free motion headform HIC) + 166.4.

(b) The free motion headform HIC is calculated in accordance with the following formula:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2 - t_1)$$

Where the term *a* is the resultant acceleration expressed as a multiple of *g* (the acceleration of gravity), and t1 and t2 are any two points in time during the impact which are separated by not more than a 36 millisecond time interval.

S6 *Test conditions.*

S6.1 *Vehicle test attitude.*

(a) The vehicle is supported off its suspension at an attitude determined in accordance with S6.1(b).

(b) Directly above each wheel opening, determine the vertical distance between a level surface and a standard reference point on the test vehicle's body under the conditions of S6.1(b)(1) through S6.1(b)(3).

(1) The vehicle is loaded to its unloaded vehicle weight, plus its rated cargo and luggage capacity or 136 kg, whichever is less, secured in the luggage area. The load placed in the cargo area is centered over the longitudinal centerline of the vehicle.

(2) The vehicle is filled to 100 percent of all fluid capacities.

(3) All tires are inflated to the manufacturer's specifications listed on the vehicle's tire placard.

S6.2 *Windows.* Movable vehicle windows are placed in the fully open position.

S6.3 *Convertible tops.* The top, if any, of convertibles and open-body type vehicles is in the closed passenger compartment configuration.

S6.4 *Doors.*

(a) Except as provided in S6.4(b), doors, including any rear hatchback or tailgate, are fully closed and latched but not locked.

(b) Any side door on the opposite side of the longitudinal centerline of the vehicle from the target to be impacted may be open or removed.

S6.5 *Sun visors.* Each sun visor either is placed in any of the following positions:

(a) Any position where one side of the visor is in contact with the vehicle interior surface (windshield, side rail, front header, roof, etc.), or;

(b) Removed.

S6.6 *Steering wheel and seats.* The steering wheel and seats may be removed from the vehicle.

S6.7 *Seat belt anchorages.*

(a) If a target is on a seat belt anchorage, and if the seat belt anchorage is adjustable, tests are conducted with the anchorage adjusted to a point midway between the two extreme adjustment positions. If the anchorage has distinct adjustment positions, none of which is midway between the two extreme positions, tests are conducted with the anchorage adjusted to the nearest position above the midpoint of the two extreme positions.

(b) If a target is not on a seat belt anchorage, the seat belt anchorage may be removed to test the component on which the anchorage is mounted.

S6.8 *Temperature and humidity.*

(a) The ambient temperature is between 19 degrees C. and 26 degrees C., at any relative humidity between 10 percent and 70 percent.

(b) Tests are not conducted unless the headform specified in S6.9 is exposed to the conditions specified in S6.8(a) for a period not less than four hours.

S6.9 *Headform.* The headform used for testing conforms to the specifications of Part 572, Subpart L of this chapter.

S6.10 *Forehead impact zone.* The forehead impact zone of the headform is determined according to the procedure specified in (a) through (f).

(a) Position the headform so that the baseplate of the skull is horizontal. The midsagittal plane of the headform is designated as Plane S.

(b) From the center of the threaded hole on top of the headform, draw a 69 mm line forward toward the forehead, coincident with Plane S, along the contour of the outer skin of the headform. The front end of the line is designated as Point P. From Point P, draw a 100 mm line forward toward the forehead, coincident with Plane S, along the contour of the outer skin of the headform. The front end of the line is designated as Point O.

(c) Draw a 125 mm line which is coincident with a horizontal plane along the contour of the outer skin of the forehead from left to right through Point O so that the line is bisected at Point O. The end of the line on the left side of the headform is designated as Point a and the end on the right as Point b.

(d) Draw another 125 mm line which is coincident with a vertical plane along the contour of the outer skin of the forehead through Point P so that the line is bisected at Point P. The end of the line on the left side of the headform is designated as Point c and the end on the right as Point d.

(e) Draw a line from Point a to Point c along the contour of the outer skin of the headform using a flexible steel tape. Using the same method, draw a line from Point b to Point d.

(f) The forehead impact zone is the surface area on the FMH forehead bounded by lines a-O-b and c-P-d, and a-c and b-d.

S6.11 *Target circle.* The area of the vehicle to be impacted by the headform is marked with a solid circle 12.7 mm in diameter, centered on the targets specified in S8, using any transferable opaque coloring medium.

S6.12 *Location of head center of gravity.*

(a) *Location of head center of gravity for front outboard designated seating positions (CG–F).*

(1) *Location of rearmost CG–F (CG–F2).* For front outboard designated seating positions, the head center of gravity with the seat in its rearmost adjustment position (CG–F2) is located 160 mm rearward and 660 mm upward from the seating reference point.

(2) *Location of forwardmost CG–F (CG–F1).* For front outboard designated seating positions, the head center of gravity with the seat in its forwardmost adjustment position (CG–F1) is located horizontally forward of CG–F2 by the distance equal to the fore-aft distance of the seat track.

(b) *Location of head center of gravity for rear outboard designated seating positions (CG–R).* For rear outboard designated seating positions, the head center of gravity (CG–R) is located 160 mm rearward and 660 mm upward from the seating reference point.

S6.13 *Impact configuration.*

S6.13.1 The headform is launched from any location inside the vehicle which meets the conditions of S6.13.4. At the time of launch, the midsagittal plane of the headform is vertical and the headform is upright.

S6.13.2 The headform travels freely through the air, along a velocity vector that is perpendicular to the headform's skull cap plate, not less than 25 mm before making any contact with the vehicle.

S6.13.3 At the time of initial contact between the headform and the vehicle interior surface, some portion of the forehead impact zone of the headform contacts some portion of the target circle.

S6.13.4 *Approach Angles.* The headform launching angle is as specified in Table 1. For components for which Table 1 specifies a range of angles, the headform launching angle is within the limits determined using the procedures specified in S6.13.4.1 and 6.13.4.2, and within the range specified in Table I, using the orthogonal reference system specified in S7.

TABLE 1—APPROACH ANGLE LIMITS (IN DEGREES)

Impact zones	Horizontal angle	Vertical angle
Front Header	180	0–50
Rear Header	0 or 360	0–50
Left Side Rail	270	0–50
Right Side Rail	90	0–50
Left A-Pillar	195–255	−5–50
Right A-Pillar	105–165	−5–50
Left B-Pillar	195–345	−10–50
Right B-Pillar	15–165	−10–50
Other Left Pillars	270	−10–50
Other Right Pillars	90	−10–50
Left Rearmost Pillar.	270–345	−10–50
Right Rearmost Pillar.	15–90	−10–50
Upper Roof	Any	0–50
Overhead Rollbar	0 or 180	0–50
Brace or Stiffener	90 or 270	0–50
Seat Belt	Any	0–50

S6.13.4.1 *Horizontal Approach Angles for Headform Impacts.*

(a) *Left A-Pillar Horizontal Approach Angles.*

(1) Locate a line formed by the shortest horizontal distance between CG-F1 for the left seat and the right A-pillar. The maximum horizontal approach angle for the left A-pillar equals 360 degrees minus the angle formed by that line and the X-axis of the vehicle, measured counterclockwise.

(2) Locate a line formed by the shortest horizontal distance between CG-F2 for the left seat and the left A-pillar. The minimum horizontal approach angle for the left A-pillar impact equals the angle formed by that line and the X-axis of the vehicle, measured counterclockwise.

(b) *Right A-Pillar Horizontal Approach Angles.*

(1) Locate a line formed by the shortest horizontal distance between CG-F1 for the right seat and the left A-pillar. The minimum horizontal approach angle for the right A-pillar equals 360 degrees minus the angle

formed by that line and the X-axis of the vehicle, measured counterclockwise.

(2) Locate a line formed by the shortest horizontal distance between CG-F2 for the right seat and the right A-pillar. The maximum horizontal approach angle for the right A-pillar impact equals the angle formed by that line and the X-axis of the vehicle measured counterclockwise.

(c) *Left B-Pillar Horizontal Approach Angles.*

(1) Locate a line formed by the shortest horizontal distance between CG-F2 for the left seat and the left B-pillar. The maximum horizontal approach angle for the left B-pillar equals the angle formed by that line and the X-axis of the vehicle measured counterclockwise, or 270 degrees, whichever is greater.

(2) Locate a line formed by the shortest horizontal distance between CG-R for the left seat and the left B-pillar. The minimum horizontal approach angle for the left B-pillar equals the angle formed by that line and the X-axis of the vehicle measured counterclockwise.

(d) *Right B-Pillar Horizontal Approach Angles.*

(1) Locate a line formed by the shortest horizontal distance between CG-F2 for the right seat and the right B-pillar. The minimum horizontal approach angle for the right B-pillar equals the angle formed by that line and the X-axis of the vehicle measured counterclockwise, or 90 degrees, whichever is less.

(2) Locate a line formed by the shortest horizontal distance between CG-R for the right seat and the right B-pillar. The maximum horizontal approach angle for the right B-pillar equals the angle between that line and the X-axis of the vehicle measured counterclockwise.

S6.13.4.2 *Vertical Approach Angles.*

(a) Position the forehead impact zone in contact with the selected target at the prescribed horizontal approach angle. If a range of horizontal approach angles is prescribed, position the forehead impact zone in contact with the selected target at any horizontal approach angle within the range which may be used for testing.

(b) Keeping the forehead impact zone in contact with the target, rotate the FMH upward until the lip, chin or other part of the FMH contacts the component or other portion of the vehicle interior.

(1) Except as provided in S6.13.4.2(b)(2), keeping the forehead impact zone in contact with the target, rotate the FMH downward by 5 degrees for each target to determine the maximum vertical angle.

(2) For all pillars except A-Pillars, keeping the forehead impact zone in contact with the target, rotate the FMH downward by 10 degrees for each target to determine the maximum vertical angle.

S6.14 *Multiple impacts.*

(a) A vehicle being tested may be impacted multiple times, subject to the limitations in S6.14(b) and (c).

(b) As measured as provided in S6.14(d), impacts within 300 mm of each other may not occur less than 30 minutes apart.

(c) As measured as provided in S6.14(d), no impact may occur within 150 mm of any other impact.

(d) For S6.14(b) and S6.14(c), the distance between impacts is the distance between the centers of the target circle specified in S6.11 for each impact, measured along the vehicle interior.

S6.15 *Upper Roof.* The upper roof of a vehicle is determined according to the procedure specified in S6.15(a) through (h).

(a) Locate the transverse vertical plane A at the forwardmost point where it contacts the interior roof (including trim) at the vehicle centerline.

(b) Locate the transverse vertical plane B at the rearmost point where it contacts the interior roof (including trim) at the vehicle centerline.

(c) Measure the horizontal distance (D1) between Plane A and Plane B.

(d) Locate the vertical longitudinal plane C at the leftmost point at which a vertical transverse plane, located 275 mm rearward of the A-pillar reference point described in S8.1(a), contacts the interior roof (including trim).

(e) Locate the vertical longitudinal plane D at the rightmost point at which a vertical transverse plane, located 275 mm rearward of the A-pillar reference point described in S8.1(a), contacts the interior roof (including trim).

(f) Measure the horizontal distance (D2) between Plane C and Plane D.

(g) Locate a point (Point M) on the roof interior surface, midway between Plane A and Plane B along the vehicle longitudinal centerline.

(h) The upper roof zone is the area of the vehicle upper interior surface bounded by the four planes described in S6.15(h)(1) and S6.15(h)(2):

(1) A transverse vertical plane E located at a distance of (.35 D1) forward of Point M and a transverse vertical plane F located at a distance of (.35 D1) rearward of Point M, measured horizontally.

(2) A longitudinal vertical plane G located at a distance of (.35 D2) to the left of Point M and a longitudinal vertical plane H located at a distance of (.35 D2) to the right of Point M, measured horizontally.

S7. *Orthogonal Reference System.* The approach angles specified in S6.13.4 are determined using the reference system specified in S7.1 through S7.4.

S7.1 An orthogonal reference system consisting of a longitudinal X axis and a transverse Y axis in the same horizontal plane and a vertical Z axis through the intersection of X and Y is used to define the horizontal direction of approach of the headform. The X-Z plane is the vertical longitudinal zero plane and is parallel to the longitudinal centerline of the vehicle. The X-Y plane is the horizontal zero plane parallel to the ground. The Y-Z plane is the vertical transverse zero plane that is perpendicular to the X-Y and Y-Z planes. The X coordinate is negative forward of the Y-Z plane and positive to the rear. The Y coordinate is negative to the left of the X-Z plane and positive to the right. The Z coordinate is negative below the X-Y plane and positive above it. (See Figure 1.)

S7.2 The origin of the reference system is the center of gravity of the headform at the time immediately prior to launch for each test.

S7.3 The horizontal approach angle is the angle between the X axis and the headform impact velocity vector projected onto the horizontal zero plane, measured in the horizontal zero plane in the counter-clockwise direction. A 0 degree horizontal vector and a 360 degree horizontal vector point in the positive X direction; a 90 degree horizontal vector points in the positive Y direction; a 180 degree horizontal vector points in the negative X direction; and a 270 horizontal degree vector points in the negative Y direction. (See Figure 2.)

S7.4 The vertical approach angle is the angle between the horizontal plane and the velocity vector, measured in the midsagittal plane of the headform. A 0 degree vertical vector in Table I coincides with the horizontal plane and a vertical vector of greater than 0 degrees in Table I makes a upward angle of the same number of degrees with that plane.

S8 *Target Locations.*

(a) The target locations specified in S8.1 through S8.12 are located on both sides of the vehicle and, except as specified in S8(b), are determined using the procedures specified in those paragraphs.

(b) Except as specified in S8(c), if there is no combination of horizontal and vertical angles specified in S6.13.4 at which the forehead impact zone of free motion headform can contact one of

the targets located using the procedures in S8.1 through S8.12, the center of that target is moved to any location within a circle with a radius of 25 mm, centered on the center of the original target and measured along the vehicle interior, which the forehead impact zone can contact at one or more combination of angles.

(c) If there is no point within the circle specified in S8(b) which the forehead impact zone of the free motion headform can contact at one or more combination of horizontal and vertical angles specified in S6.13.4, the radius of the circle is increased by 25 mm increments until the circle contains at least one point that can be contacted at one or more combination of angles.

S8.1 *A-pillar targets.*

(a) *A-pillar reference point and target AP1.* On the vehicle exterior, locate a transverse vertical plane (Plane 1) which contacts the rearmost point of the windshield trim. The intersection of Plane 1 and the vehicle exterior surface is Line 1. Measuring along the vehicle exterior surface, locate a point (Point 1) on Line 1 that is 125 mm inboard of the intersection of Line 1 and a vertical plane tangent to the vehicle at the outboardmost point on Line 1 with the vehicle side door open. Measuring along the vehicle exterior surface in a longitudinal vertical plane (Plane 2) passing through Point 1, locate a point (Point 2) 50 mm rearward of Point 1. Locate the A-pillar reference point (Point APR) at the intersection of the surface of the vehicle ceiling and a line that is perpendicular to the vehicle exterior surface at Point 2. Target AP1 is located at point APR.

(b) *Target AP2.* Locate the horizontal plane (Plane 3) which intersects point APR. Locate the horizontal plane (Plane 4) which is 88 mm below Plane 3. Target AP2 is the point in Plane 4 and on the A-pillar which is closest to CG–F2 for the nearest seating position.

(c) *Target AP3.* Locate the horizontal plane (Plane 5) containing the highest point at the intersection of the dashboard and the A-pillar. Locate a horizontal plane (Plane 6) half-way between Plane 3 and Plane 5. Target AP3 is the point on Plane 6 and the A-pillar which is closest to CG–F1 for the nearest seating position.

S8.2 *B-pillar targets.*

(a) *B-pillar reference point and target BP1.* Locate the point (Point 3) on the vehicle interior at the intersection of the horizontal plane passing through the highest point of the forwardmost door opening and the centerline of the width of the B-pillar, as viewed laterally. Locate a transverse vertical plane (Plane 7) which passes through Point 3. Locate the point (Point 4) at the intersection of the surface of the vehicle ceiling, Plane 7, and the plane, described in S6.15(h), defining the nearest edge of the upper roof. The B-pillar reference point (Point BPR) is the point located at the middle of the line from Point 3 to Point 4 in Plane 7, measured along the vehicle interior surface. Target BP1 is located at Point BPR.

(b) *Target BP2.* If a seat belt anchorage is located on the B-pillar, Target BP2 is located at any point on the anchorage.

(c) *Target BP3.* Target BP3 is located in accordance with this paragraph. Locate a horizontal plane (Plane 8) which intersects Point BPR. Locate a horizontal plane (Plane 9) which passes through the lowest point of the daylight opening forward of the pillar. Locate a horizontal plane (Plane 10) half-way between Plane 8 and Plane 9. Target BP3 is the point located in Plane 10 and on the interior surface of the B-pillar, which is closest to CG–F(2) for the nearest seating position.

(d) *Target BP4.* Locate a horizontal plane (Plane 11) half-way between Plane 9 and Plane 10. Target BP4 is the point located in Plane 11 and on the interior surface of the B-pillar which is closest to CG–R for the nearest seating position.

S8.3 *Other pillar targets.*

(a) *Target OP1.*

(1) Except as provided in S8.3(a)(2), Target OP1 is located in accordance with this paragraph. Locate the point (Point 5), on the vehicle interior, at the intersection of the horizontal plane through the highest point of the highest adjacent door opening or daylight opening (if no adjacent door opening) and the centerline of the width of the other pillar, as viewed laterally. Locate a transverse vertical plane (Plane 12) passing through Point 5. Locate the point (Point 6) at the intersection of the surface of the vehicle ceiling, Plane 12 and the plane, described in S6.15(h), defining the nearest edge of the upper roof. The other pillar reference point (Point OPR) is the point located at the middle of the line between Point 5 and Point 6 in Plane 12, measured along the vehicle interior surface. Target OP1 is located at Point OPR.

(2) If a seat belt anchorage is located on the pillar, Target OP1 is any point on the anchorage.

(b) *Target OP2.* Locate the horizontal plane (Plane 13) intersecting Point OPR. Locate a horizontal plane (Plane 14) passing through the lowest point of the daylight opening forward of the pillar. Locate a horizontal plane (Plane 15) half-way between Plane 13 and Plane 14. Target OP2 is the point located on the interior surface of the pillar at the intersection of Plane 15 and the centerline of the width of the pillar, as viewed laterally.

S8.4 *Rearmost pillar targets.*

(a) *Rearmost pillar reference point and target RP1.* Locate the point (Point 7) at the corner of the upper roof nearest to the pillar. The distance between Point M, as described in S6.15(g), and Point 7, as measured along the vehicle interior surface, is D. Extend the line from Point M to Point 7 along the vehicle interior surface in the same vertical plane by (3*D/7) beyond Point 7 or until the edge of a daylight opening, whichever comes first, to locate Point 8. The rearmost pillar reference point (Point RPR) is at the midpoint of the line between Point 7 and Point 8, measured along the vehicle interior. Target RP1 is located at Point RPR.

(b) *Target RP2.*

(1) Except as provided in S8.6(b)(2), Target RP2 is located in accordance with this paragraph. Locate the horizontal plane (Plane 16) through Point RPR. Locate the horizontal plane (Plane 17) 150 mm below Plane 16. Target RP2 is located in Plane 17 and on the pillar at the location closest to CG–R for the nearest designated seating position.

(2) If a seat belt anchorage is located on the pillar, Target RP2 is any point on the anchorage.

S8.5 *Front header targets.*

(a) *Target FH1.* Locate the contour line (Line 2) on the vehicle interior trim which passes through the APR and is parallel to the contour line (Line 3) at the upper edge of the windshield on the vehicle interior. Locate the point (Point 9) on Line 2 that is 125 mm inboard of the APR, measured along that line. Locate a longitudinal vertical plane (Plane 18) that passes through Point 9. Target FH1 is located at the intersection of Plane 18 and the upper vehicle interior, halfway between a transverse vertical plane (Plane 19) through Point 9 and a transverse vertical plane (Plane 20) through the intersection of Plane 18 and Line 3.

(b) *Target FH2.*

(1) Except as provided in S8.5(b)(2), target FH2 is located in accordance with this paragraph. Locate a point (Point 10) 275 mm inboard of Point APR, along Line 2. Locate a longitudinal vertical plane (Plane 21) that passes through Point 10. Target FH2 is located at the intersection of Plane 21 and the upper vehicle interior, halfway between a transverse vertical plane (Plane 22) through Point 10 and a transverse vertical plane (Plane 23) through the intersection of Plane 21 and Line 3.

(2) If a sunroof frame is located forward of the front edge of the upper roof and intersects the mid-sagittal

plane of a dummy seated in either front outboard seating position, target FH2 is the nearest point that is forward of a transverse vertical plane (Plane 24) through CG–F(2) and on the intersection of the mid-sagittal plane and the sunroof opening.

S8.6 *Targets on the side rail between the A-pillar and the B-pillar.*

(a) *Target SR1.* Locate a transverse vertical plane (Plane 25) 150 mm rearward of Point APR. Locate the point (Point 11) at the intersection of Plane 25 and the upper edge of the forwardmost door opening. Locate the point (Point 12) at the intersection of the surface of the vehicle ceiling, Plane 25 and the plane, described in S6.15(h), defining the nearest edge of the upper roof. Target SR1 is located at the middle of the line between Point 11 and Point 12 in Plane 25, measured along the vehicle interior.

(b) *Target SR2.* Locate a transverse vertical plane (Plane 26) 275 mm rearward of the APR or 275 mm forward of the BPR. Locate the point (Point 13) at the intersection of Plane 26 and the upper edge of the forwardmost door opening. Locate the point (Point 14) at the intersection of the surface of the vehicle ceiling, Plane 26 and the plane, described in S6.15(h), defining the nearest edge of the upper roof. Target SR2 is located at the middle of the line between Point 13 and Point 14 in Plane 26, measured along the vehicle interior.

S8.7 *Other side rail target (target SR3).*

(a) Except as provided in S8.7(b), target SR3 is located in accordance with this paragraph. Locate a transverse vertical plane (Plane 27) 150 mm rearward of either Point BPR or Point OPR. Locate the point (Point 15) as provided in either S8.7(a)(1) or S8.7(a)(2), as appropriate. Locate the point (Point 16) at the intersection of the interior surface of the vehicle ceiling, Plane 27 and the plane, described in S6.15(h), defining the nearest edge of the upper roof. Target SR3 is located at the middle of the line between Point 15 and Point 16 in Plane 27, measured along the vehicle interior surface.

(1) If Plane 27 intersects a door or daylight opening, the Point 15 is located at the intersection of Plane 27 and the upper edge of the door opening or daylight opening.

(2) If Plane 27 does not intersect a door or daylight opening, the Point 15 is located on the vehicle interior at the intersection of Plane 27 and the horizontal plane through the highest point of the door or daylight opening nearest Plane 27. If the adjacent door(s) or daylight opening(s) are equidistant to Plane 27, Point 15 is located on the vehicle interior at the intersection of Plane 27 and either horizontal plane through the highest point of each door or daylight opening.

(b) Except as provided in S8.7(c), if a grab handle is located on the side rail, target SR3 is located at any point on the anchorage of the grab-handle. Folding grab-handles are in their stowed position for testing.

(c) If a seat belt anchorage is located on the side rail, target SR3 is located at any point on the anchorage.

S8.8 *Rear header target (target RH).* Locate the point (Point 17) at the intersection of the surface of the upper vehicle interior, the mid-sagittal plane (Plane 28) of the outboard rearmost dummy and the plane, described in S6.15(h), defining the rear edge of the upper roof. Locate the point (Point 18) as provided in S8.8(a) or S8.8(b), as appropriate. Except as provided in 8.8(c), Target RH is located at the mid-point of the line that is between Point 17 and Point 18 and is in Plane 28, as measured along the surface of the vehicle interior.

(a) If Plane 28 intersects a rear door opening or daylight opening, then Point 18 is located at the intersection of Plane 28 and the upper edge of the door opening or the daylight opening (if no door opening).

(b) If Plane 28 does not intersect a rear door opening or daylight opening, then Point 18 is located on the vehicle interior at the intersection of Plane 28 and a horizontal plane through the highest point of the door or daylight opening nearest to Plane 28. If the adjacent door(s) or daylight opening(s) are equidistant to Plane 28, Point 18 is located on the vehicle interior at the intersection of Plane 28 and either horizontal plane through the highest point of each door or daylight opening.

(c) If Target RH is more than 112 mm from Point 18 on the line that is between Point 17 and Point 18 and is in Plane 28, as measured along the surface of the vehicle interior, then Target RH is the point on that line which is 112 mm from Point 18.

S8.9 *Upper roof target (target UR).* Target UR is any point on the upper roof.

S8.10 *Sliding door track target (target SD).* Locate the transverse vertical plane (Plane 29) passing through the middle of the widest opening of the sliding door, measured horizontally and parallel to the vehicle longitudinal centerline. Locate the point (Point 19) at the intersection of the surface of the upper vehicle interior, Plane 29 and the plane, described in S6.15(h), defining the nearest edge of the upper roof. Locate the point (Point 20) at the intersection of Plane 29 and the upper edge of the sliding door opening. Target SD is located at the middle of the line between Point 19 and Point 20 in Plane 29, measured along the vehicle interior.

S8.11 *Roll-bar targets.*

(a) *Target RB1.* Locate a longitudinal vertical plane (Plane 30) at the mid-sagittal plane of a dummy seated in any outboard designated seating position. Target RB1 is located on the roll-bar and in Plane 30 at the location closest to either CG–F2 or CG–R, as appropriate, for the same dummy.

(b) *Target RB2.* If a seat belt anchorage is located on the roll-bar, Target RB2 is any point on the anchorage.

S8.12 *Stiffener targets.*

(a) *Target ST1.* Locate a transverse vertical plane (Plane 31) containing either CG–F2 or CG–R, as appropriate, for any outboard designated seating position. Target ST1 is located on the stiffener and in Plane 31 at the location closest to either CG–F2 or CG–R, as appropriate.

(b) *Target ST2.* If a seat belt anchorage is located on the stiffener, Target ST2 is any point on the anchorage.

S8.13 *Brace target (target BT).* Target BT is any point on the width of the brace as viewed laterally from inside the passenger compartment.

§ 571.201 [Amended]

3. Section 571.201 is amended by adding new Figure 1 and Figure 2 at the end of the section as follows:

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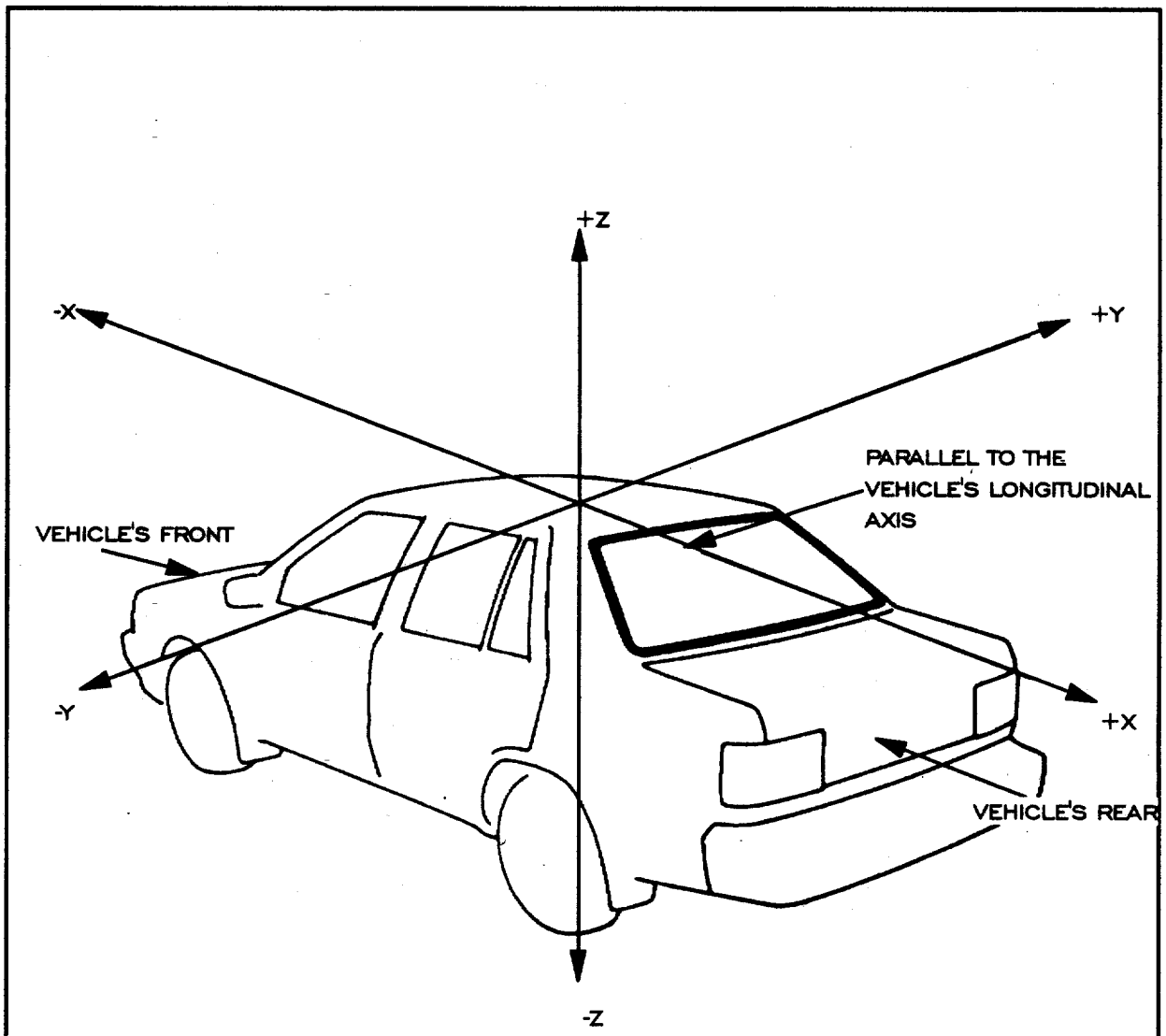
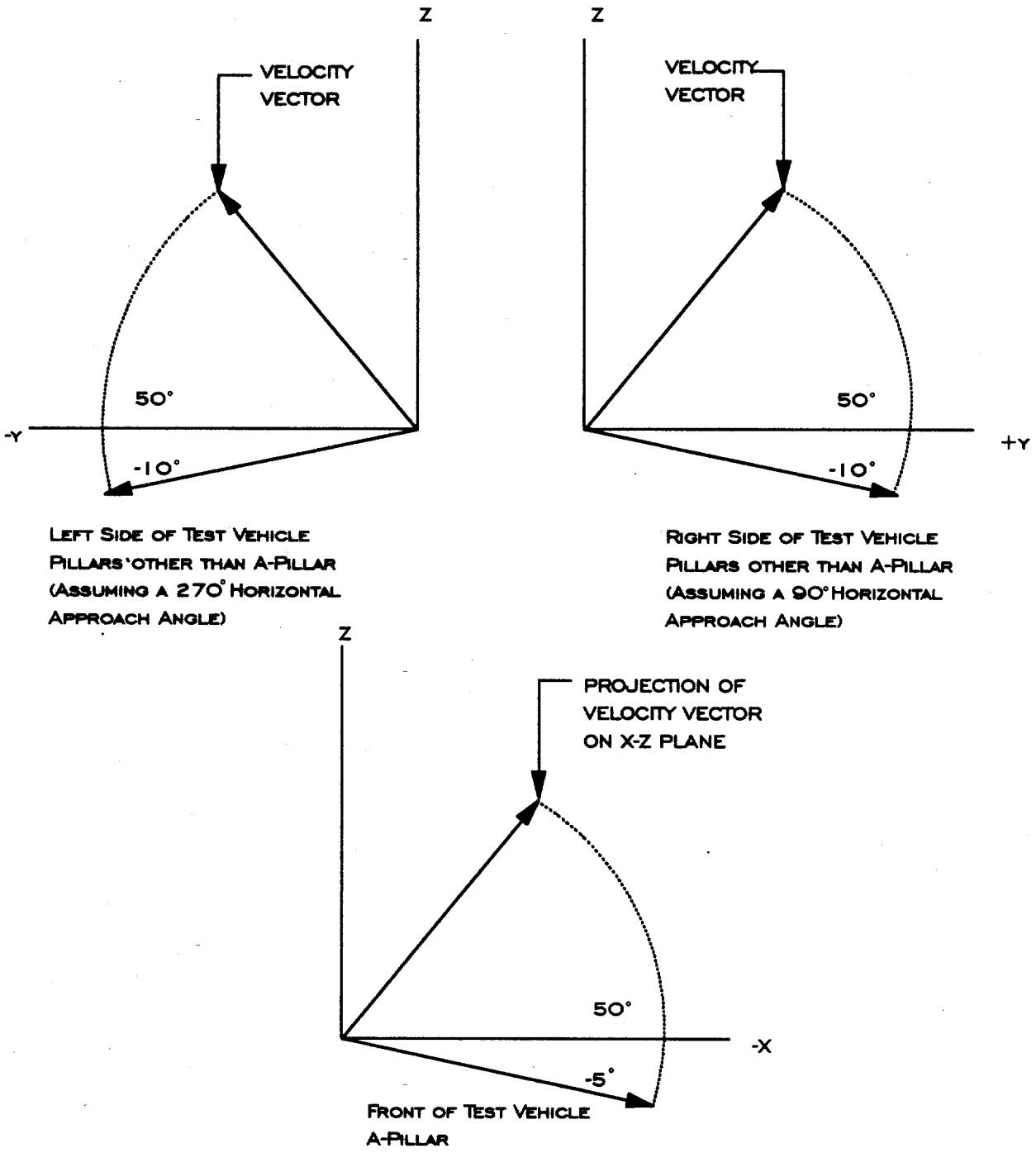


FIGURE 1 - ORTHOGONAL REFERENCE SYSTEM



VERTICAL AND HORIZONTAL APPROACH ANGLE PLANE
FIGURE 2

BILLING CODE 4910–59–C

PART 572—ANTHROPOMORPHIC TEST DEVICES

1. The authority citation for Part 572 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

PART 572—[REVISED]

3. The title of Part 572 is revised to read as set forth above.

4. Section 572.1 is revised to read as follows:

§ 572.1 Scope.

This part describes the anthropomorphic test devices that are to be used for compliance testing of motor vehicles and motor vehicle equipment with motor vehicle safety standards.

5. Part 572 is amended by adding a new subpart L, consisting of §§ 572.100 through 572.103, to read as follows:

Subpart L—Free motion headform

Sec.
572.100 Incorporation by Reference.
572.101 General description.
572.102 Drop test.
572.103 Test conditions and instrumentation.

Subpart L—Free motion headform

§ 572.100 Incorporation by Reference.

(a) The drawings and specifications referred to in § 572.101 are hereby incorporated in subpart L by reference. These materials are thereby made part of this regulation. The Director of the **Federal Register** approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials may be inspected at NHTSA's Docket Section, 400 Seventh Street, S.W., room 5109, Washington, DC, or at the Office of the **Federal Register**, 800 North Capitol Street, N.W., Washington, DC.

(b) The incorporated material is available as follows:

(1) Drawing number 92041–001, ''Head Form Assembly,'' (November 30, 1992); drawing number 92041–002, ''Skull Assembly,'' (November 30, 1992); drawing number 92041–003, ''Skull Cap Plate Assembly,'' (November 30, 1992); drawing number 92041–004, ''Skull Cap Plate,'' (November 30, 1992); drawing number 92041–005, ''Threaded Pin,'' (November 30, 1992); drawing number 92041–006, ''Hex Nut,'' (November 30, 1992); drawing number 92041–008, ''Head Skin without Nose,'' (November 30, 1992, as amended March 6, 1995); drawing number 92041–009, ''Six-Axis Load Cell Simulator Assembly,'' (November 30, 1992); drawing number 92041–011, ''Head Ballast Weight,'' (November 30, 1992); drawing number 92041–018, ''Head Form Bill of Materials,'' (November 30, 1992); drawing number 78051–148, ''Skull-Head (cast) Hybrid III,'' (May 20, 1978, as amended August 17, 1978); drawing number 78051–228/78051–229, ''Skin- Hybrid III,'' (May 20, 1978, as amended through September 24, 1979); drawing number 78051–339, ''Pivot Pin-Neck Transducer,'' (May 20, 1978, as amended May 14, 1986); drawing number 78051–372, ''Vinyl Skin Formulation Hybrid III,'' (May 20, 1978); and drawing number C–1797, ''Neck Blank, (August 1, 1989); drawing number SA572–S4, ''Accelerometer Specification,'' (November 30, 1992), are available from Reprographic Technologies, 1111 14th Street, N.W., Washington, DC 20005.

(2) A user's manual entitled ''Free-Motion Headform User's Manual,'' version 2, March 1995, is available from NHTSA's Docket Section at the address in paragraph (a) of this section.

(3) SAE Recommended Practice J211, OCT 1988, ''Instrumentation for Impact Tests,'' Class 1000, is available from The Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

§ 572.101 General description.

(a) The free motion headform consists of the component assembly which is shown in drawings 92041–001 (incorporated by reference; see § 572.100), 92041–002 (incorporated by reference; see § 572.100), 92041–003 (incorporated by reference; see § 572.100), 92041–004 (incorporated by reference; see § 572.100), 92041–005 (incorporated by reference; see § 572.100), 92041–006 (incorporated by reference; see § 572.100), 92041–008 (incorporated by reference; see § 572.100), 92041–009 (incorporated by reference; see § 572.100), 92041–011 (incorporated by reference; see § 572.100), 78051–148 (incorporated by reference; see § 572.100), 78051–228/ 78051–229 (incorporated by reference; see § 572.100), 78051–339 (incorporated by reference; see § 572.100), 78051–372 (incorporated by reference; see § 572.100), C–1797 (incorporated by reference; see § 572.100), and SA572–S4 (incorporated by reference; see § 572.100).

(b) Disassembly, inspection, and assembly procedures, and sign convention for the signal outputs of the free motion headform accelerometers, are set forth in the Free-Motion Headform User's Manual (incorporated by reference; see § 572.100).

(c) The structural properties of the headform are such that it conforms to this part in every respect both before and after being used in the test specified in Standard No. 201 of this chapter (§ 571.201).

(d) The outputs of accelerometers installed in the headform are recorded in individual data channels that conform to the requirements of SAE Recommended Practice J211, OCT 1988, ''Instrumentation for Impact Tests,'' Class 1000 (incorporated by reference; see § 572.100).

§ 572.102 Drop test.

(a) When the headform is dropped from a height of 14.8 inches in accordance with paragraph (b) of this section, the peak resultant accelerations at the location of the accelerometers mounted in the headform as shown in drawing 92041–001 (incorporated by reference; see § 572.100) shall not be less than 225g, and not more than 275g. The acceleration/time curve for the test shall be unimodal to the extent that oscillations occurring after the main acceleration pulse are less than ten percent (zero to peak) of the main pulse. The lateral acceleration vector shall not exceed 15g (zero to peak).

(b) *Test procedure.*

(1) Soak the headform in a test environment at any temperature between 19 degrees C. to 26 degrees C. and at a relative humidity from 10 percent to 70 percent for a period of at least four hours prior to its use in a test.

(2) Clean the headform's skin surface and the surface of the impact plate with 1,1,1 Trichloroethane or equivalent.

(3) Suspend the headform, as shown in Figure 50. Position the forehead below the chin such that the skull cap plate is at an angle of 28.5 ± 0.5 degrees with the impact surface when the midsagittal plane is vertical.

(4) Drop the headform from the specified height by means that ensure instant release onto a rigidly supported flat horizontal steel plate, which is 2 inches thick and 2 feet square. The plate shall have a clean, dry surface and any microfinish of not less than 8 microinches 203.2 X 10^{-6} mm (rms) and not more than 80 microinches 2032 X 10^{-6} mm (rms).

(5) Allow at least 3 hours between successive tests on the same headform.

§ 572.103 Test conditions and instrumentation.

(a) Headform accelerometers shall have dimensions, response characteristics, and sensitive mass locations specified in drawing SA572–S4 (incorporated by reference; see § 572.100) and be mounted in the headform as shown in drawing 92041–001 (incorporated by reference; see § 572.100).

(b) The outputs of accelerometers installed in the headform are recorded in individual data channels that conform to the requirements of SAE Recommended Practice J211, OCT 1988, ''Instrumentation for Impact Tests,'' Class 1000 (incorporated by reference; see § 572.100).

(c) Coordinate signs for instrumentation polarity conform to the sign convention shown in the Free-Motion Headform User's Manual (incorporated by reference; see § 572.100).

(d) The mountings for accelerometers shall have no resonant frequency within a range of 3 times the frequency range of the applicable channel class.

6. Part 572 is amended by adding a new Figure 50 at the end of subpart L as follows:

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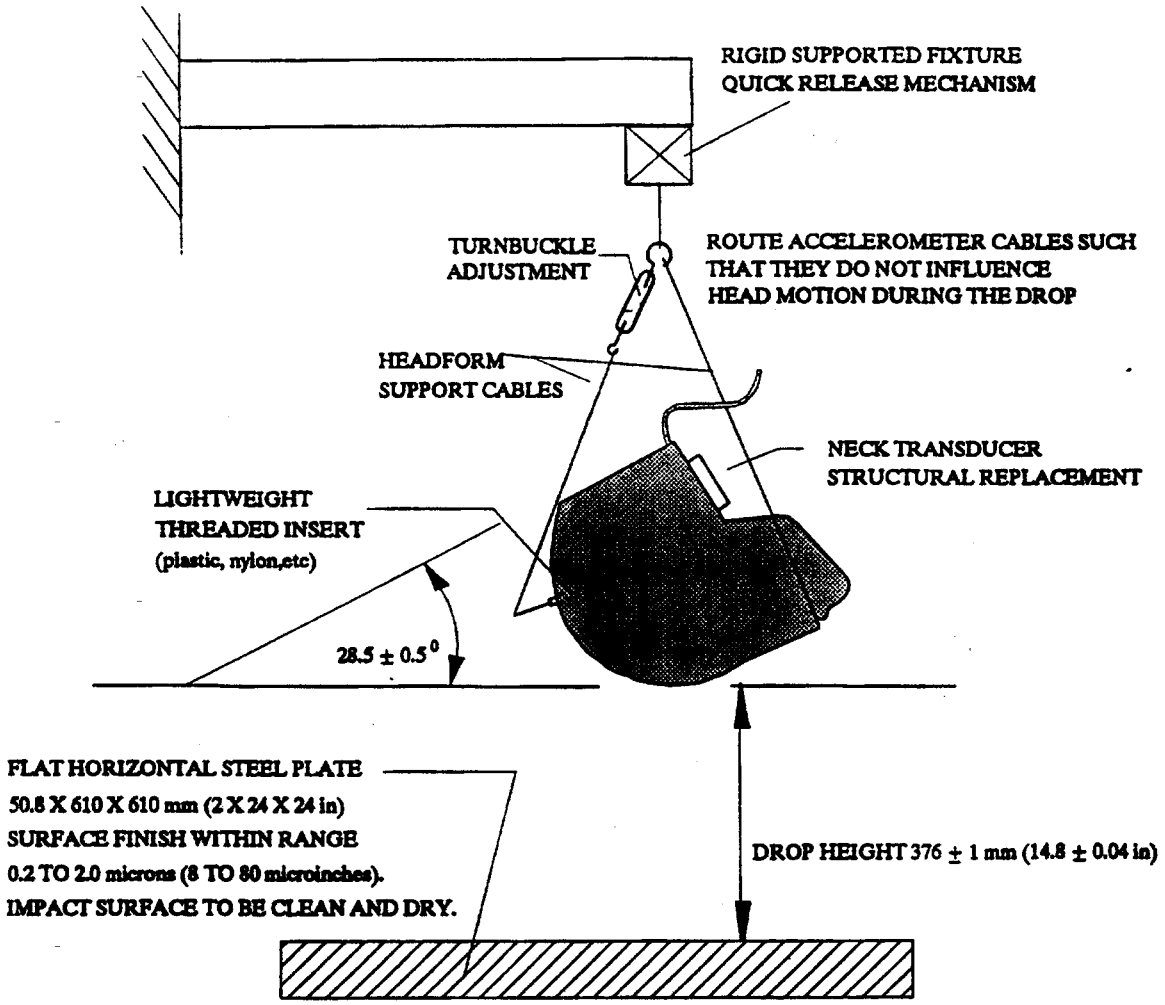
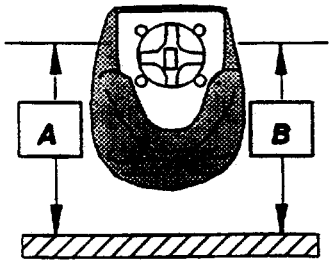
Figure 50

HEADFORM DROP TEST
Set-Up Specifications





CENTERLINE OF 1.6 mm (0.062 in) DIAMETER HOLES IN SKULL

DISTANCE "A" = DISTANCE "B" (± 1 mm, ± 0.04 in)

BILLING CODE 4910–59–C

PART 589—UPPER INTERIOR COMPONENT HEAD IMPACT PROTECTION PHASE-IN REPORTING REQUIREMENTS

1. Part 589 is added to read as follows:

Sec.
589.1 Scope.
589.2 Purpose.
589.3 Applicability.
589.4 Definitions.
589.5 Response to inquiries.
589.6 Reporting requirements.
589.7 Records.
589.8 Petition to extend period to file report.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 589.1 Scope.

This part establishes requirements for manufacturers of passenger cars and trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less to respond to NHTSA inquiries, to submit a report, and maintain records related to the report, concerning the number of such vehicles that meet the upper interior component head impact protection requirements of Standard No. 201, *Occupant protection in interior impact* (49 CFR 571.201).

§ 589.2 Purpose.

The purpose of these reporting requirements is to aid the National Highway Traffic Safety Administration in determining whether a manufacturer of passenger cars and trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less has complied with the upper interior component head impact protection requirements of Standard No. 201.

§ 589.3 Applicability.

This part applies to manufacturers of passenger cars and trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less. However, this part does not apply to any manufacturers whose production consists exclusively of walk-in vans, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

§ 589.4 Definitions.

(a) All terms defined in 49 U.S.C. 30102 are used in their statutory meaning.

(b) Bus, gross vehicle weight rating or GVWR, multipurpose passenger vehicle, passenger car, and truck are used as defined in § 571.3 of this chapter.

(c) *Production year* means the 12-month period between September 1 of one year and August 31 of the following year, inclusive.

§ 589.5 Response to Inquiries.

During the production years ending August 31, 1999, August 31, 2000, August 31, 2001, and August 31, 2002, each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information regarding which vehicle make/models are certified as complying with the requirements of S4 of Standard No. 201.

§ 589.6 Reporting requirements.

(a) *General reporting requirements.* Within 60 days after the end of the production years ending August 31, 1999, August 31, 2000, August 31, 2001, and August 31, 2002, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the upper interior component head impact protection requirements of Standard No. 201 for its passenger cars, trucks, buses and multipurpose passenger vehicles produced in that year. Each report shall—

(1) Identify the manufacturer;

(2) State the full name, title, and address of the official responsible for preparing the report;

(3) Identify the production year being reported on;

(4) Contain a statement regarding whether or not the manufacturer complied with the upper interior component head impact protection requirements of the amended Standard No. 201 for the period covered by the report and the basis for that statement;

(5) Provide the information specified in § 589.5(b);

(6) Be written in the English language; and

(7) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590.

(b) *Report content*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of passenger cars and trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that has not previously manufactured passenger cars and trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less for sale in the United States must report the number of such vehicles manufactured during the current production year. However, manufacturers are not required to report any information with respect to those vehicles that are walk-in van type vehicles, vehicles manufactured in two or more stages, and/or vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

(2) *Production.* Each manufacturer shall report for the production year for which the report is filed the number of passenger cars and multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less that meet the upper interior component head impact protection requirements (S4) of Standard No. 201.

(3) *Vehicles produced by more than one manufacturer.* Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by S4.1.7.2 of Standard No. 201 shall:

(i) Report the existence of each contract, including the names of all parties to the contract, and explain how the contract affects the report being submitted.

(ii) Report the actual number of vehicles covered by each contract.

§ 589.7 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each passenger car, multipurpose passenger vehicle, truck and bus for which information is reported under § 589.5(b)(2) until December 31, 2003.

§ 589.8 Petition to extend period to file report.

A petition for extension of the time to submit a report must be received not later than 15 days before expiration of the time stated in § 589.5(a). The petition must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. The filing of a petition does not automatically extend the time for filing a report. A petition will be granted only if the petitioner shows good cause for the extension and if the extension is consistent with the public interest.

Issued on August 14, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–20407 Filed 8–16–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 380

[Docket No. 950707173–5773–01; I.D. 052495A]

RIN 0648–AF51

Antarctic Marine Living Resources Convention Act of 1984

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary) amends the regulations governing harvesting and reporting of Antarctic living marine resource catches. The regulations implement conservation and management measures promulgated by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR or Commission) and accepted in whole by the Government of the United States to regulate catches in Convention for the Conservation of Antarctic Marine Living Resources (Convention) statistical reporting areas 48 and 58. These measures restrict the use of gear, restrict the directed taking and bycatch of certain species of fish, prohibit the taking of other species, and require real-time and other reporting of the harvest of certain species.

EFFECTIVE DATE: August 18, 1995.

ADDRESSES: A copy of the framework environmental assessment may be obtained from the Assistant Administrator for Fisheries, NOAA, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

Comments regarding burden estimates or collection of information aspects of this rule should be sent to Robin Tuttle, National Marine Fisheries Service, 1315 East-West Highway, Room 14212, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Paperwork Reduction Act Project 0648–0194.

FOR FURTHER INFORMATION CONTACT: Robin Tuttle (NMFS International Organizations and Agreements Division), 301–713–2282.

SUPPLEMENTARY INFORMATION:

Background

At its annual meeting in Hobart, Tasmania, in 1986, CCAMLR, of which the United States is a member, adopted a conservation measure requiring the Commission at subsequent meetings to adopt limitations on catch, or to implement equivalent measures, which would be binding for species upon which fisheries are permitted in Convention subarea 48.3 (South Georgia), depicted at figure 1 of 50 CFR part 380. The Commission has, also, adopted measures that apply to other Convention subareas.

The measures adopted by the 1994 meeting of the Commission address the 1994–95 and 1995–96 fishing seasons. The measures are based upon the advice of the Scientific Committee and take into account research conducted by Commission members and the reports and recommendations of the Scientific Committee's Working Groups. The 1994–95 fishing season is defined as November 5, 1994, to the end of the Commission meeting in 1995 (November 3, 1995).

The 1995–96 fishing season is defined as the end of the Commission meeting in 1995 (November 3, 1995) to the end of the Commission meeting in 1996 (likely November 1, 1996).

The Commission adopted a resolution requesting that Members comply, on a voluntary basis, with the management plan for the Cape Shirreff CEMP Protected Area, until its effective date May 1, 1995.

The measures were announced and public comments invited (until February 7, 1995) by **Federal Register** notice on January 19, 1995. No comments were received.

(i) Data Reporting Requirements

The Commission has, at past annual meetings, adopted detailed, fine-scale reporting requirements. These measures continue in force until amended or revoked. Two minor additional reporting requirements were adopted at the 1994 meeting for statistical area 58.4.4. Data on the number of seabirds of each species killed or injured in incidents involving net monitor cables used in the *N. squamifrons* fishery and monthly effort and biological reporting on the bycatch of *D. eleginoides* in the fishery are to be reported to the Commission in 1994–95 and 1995–96.

(ii) Finfishing in Subareas 48.1 (South Shetland Islands) and 48.2 (South Orkney Islands)

The Commission continued prohibitions on the taking of all species of finfish, other than for scientific research purposes, in subareas 48.1 and 48.2 from November 6, 1993, until at least such time that a survey of stock biomass is carried out, and a decision that the fishery is to be reopened is made by the Commission based on the advice of the Scientific Committee.

(iii) Finfishing in Subarea 48.3 (South Georgia)

The Commission took action on finfishing in subarea 48.3 for the 1994–95 and 1995–96 fishing seasons, as follows:

Directed fishing for *Notothenia gibberifrons* (humped rockcod), *Chaenocephalus aceratus* (blackfin icefish), *Pseudochaenichthys georgianus* (South Georgia icefish), *Notothenia squamifrons* (grey rockcod), and *Patagonotothen brevicauda guntheri* (Patagonian rockcod) is prohibited in the 1994–95 and 1995–96 fishing seasons.

Directed fishing for *Champsocephalus gunnari* (mackerel icefish) is prohibited in the 1994–95 season.

In any directed fishery in the subarea during the 1994–95 season, the bycatch of *N. gibberifrons* shall not exceed 1,470 tons; the bycatch of *C. aceratus* shall not exceed 2,200 tons; and the bycatch of *P. georgianus*, *N. rossii*, and *N. squamifrons* shall not exceed 300 tons each, the 1992–93 levels.

The Commission continued in full all of measures previously in effect for *Electrona carlsbergi* (lanternfish). The total catch for the 1994–95 fishing season continues at an amount not to exceed 200,000 tons. In addition, the total catch of

E. carlsbergi shall not exceed 43,000 tons in the Shag Rocks region. The directed fishery for *E. carlsbergi* will close if the bycatch limit for *N. gibberifrons*, *C. aceratus*, *P. georgianus*, *N. rossii*, or *N. squamifrons* is reached for any of these species or if the total catch of *E. carlsbergi* reaches 200,000 tons, whichever comes first.

The directed fishery for *E. carlsbergi* in the Shag Rocks region will close if the bycatch limit for any of the bycatch species is reached, or if the total catch of 43,000 tons is reached, whichever comes first. If, in the course of the directed fishery for *E. carlsbergi*, the bycatch of any one haul of the bycatch species exceeds 5 percent, the fishing vessel must move to another fishing ground within the subarea.

In the event that the catch of *E. carlsbergi* is expected to exceed 20,000 tons in the 1994–95 season, a survey of stock biomass and age structure must be conducted by the principal fishing nations. This is not a requirement on individual fishing vessel operators.

As previously decided, each month, the length composition of a minimum of 500 *E. carlsbergi*, randomly collected from the commercial fishery, will be

measured and the information passed to the Executive Secretary of CCAMLR not later than the end of the following month. Monthly reporting of catch and effort is required for the fishery.

The total catch of *Dissostichus eleginoides* (Patagonian toothfish) is limited to 2,800 tons for the fishing season defined as March 1, 1995, to August 31, 1995, or until the total allowable catch (TAC) is reached, whichever comes first.

Each vessel participating in the fishery must have a scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation on board throughout all fishing activities within the fishing period.

Catch and effort data are due on an every–5-day reporting period. The monthly reporting of representative samples of length composition measurements using forms provided by the Commission is required for *D. eleginoides* during the 1994–95 fishing season. Failure by any Contracting Party, including the United States, to submit length composition data for three consecutive reporting periods will result in the closure of the fishery to vessels of that party.

(iv) Finfishing in Subarea 48.4 (South Sandwich Islands)

The total catch of *D. eleginoides* in subarea 48.4 in the 1994–95 fishing season beginning December 15, 1994, remains limited to 28 tons. The season continues to November 3, 1995, or until the TAC is reached, whichever comes first.

(v) Finfishing in Division 58.4.4 (Ob and Lena Banks)

Measures adopted in 1992 setting TACs for the 1993–94 fishing season are continued in force for the 1994–95 and 1995–96 fishing seasons, with the additional data reporting indicated in section (i). Total catch of *N. squamifrons* for the entire two year period shall not exceed 1,150 metric tons, divided as 715 metric tons on Lena Bank and 435 metric tons on Ob Bank. The Commission also required that each vessel participating in the fishery in 1994–95 and 1995–96 carry a scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, on board throughout all fishing activities within the fishing period.

(vi) Finfishing in Division 58.5.2 (McDonald and Heard Islands)

The Commission adopted a new measure of continuing application setting precautionary catch limits in division 58.5.2 of 311 metric tons for *C. gunnari* and 297 metric tons (by trawling only) for *D. eleginoides*. The 5-day catch and effort and monthly effort and biological data reporting requirements established previously for other fisheries also apply.

Fishing seasons commence in each year at the close of the annual meeting of the Commission and continue until the earlier of June 30 or reaching the precautionary catch limits. The Commission will keep the limits under review.

(vii) Fishing for Euphausia Superba

Measures adopted by the Commission at its 1991 and 1992 meetings capping the catch of krill at 1.5 million metric tons in area 48 and 390,000 metric tons in subarea 58.4.2 in any fishing season continue in force. Precautionary catch limits on subareas 48.1, 48.2, 48.3, 48.4, 48.5, and 48.6 lapsed at the end of the 1993–94 fishing season.

(viii) Fishing for Antarctic Crab

The Commission continued measures adopted in 1992 limiting the exploratory crab fishery in subarea 48.3 and requiring the use of data reporting forms through the 1994–95 fishing season. The crab fishery continues to be limited to a TAC of 1,600 tons and to one vessel per Commission member. An experimental harvest regime adopted in 1993 continues through the 1995–96 fishery.

(ix) Protected Sites

The Commission accorded protection to Cape Shirreff and the San Telmo Islands by establishing the ''Cape Shirreff CEMP Protected Area'' and requesting voluntary compliance until the

May 1, 1995, effective date.

Classification

NMFS has determined that this rule is necessary to implement the Antarctic Marine Living Resources Convention Act of 1984 (the Act) and to give effect to the management measures adopted by CCAMLR and agreed to by the United States.

This action is exempt from review under Executive Order 12866. It is exempt from section 553 of the Administrative Procedure Act because it involves a foreign affairs function of the United States.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of information has been approved by the Office of Management and Budget under OMB Control Number 648–0194, which expires August 31, 1997. The annual reporting burden for this collection of information is estimated to average 44 1/2 hours in harvesting and import permit-related activities; 1 1/2 hours in CEMP permit-related activities; 1/2 hour for finfish reporting in the crab fishery; 6 1/2 hours for crab data reporting; 1 hour of radio contact; and 1/2 hour for reporting biological data in the finfish and crab fisheries. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Robin Tuttle, NMFS, and to the Office of Information and Regulatory Affairs (see **ADDRESSES**).

List of Subjects in 50 CFR Part 380

Antarctic, Fish and wildlife, Reporting and recordkeeping requirements.

Dated: August 10, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service. For the reasons set out in the preamble, 50 CFR part 380 is amended as follows:

PART 380—ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984

1. The authority citation for part 380 continues to read as

follows:

Authority: 16 U.S.C. 2431 *et seq.*

2. In § 380.23 paragraphs (a), (c), (d), (e) introductory text, (f) through (j), and (k) introductory text are revised to read as follows:

§ 380.23 Catch restrictions.

(a) The following catch restrictions apply to *E. superba* in statistical area 48 (Figure 1 to part 380):

(1) The total catch of *E. superba* shall not exceed 1.5 million tons in any fishing season.

(2) For the purposes of applying this catch restriction limit, a fishing season begins on July 1 and ends on June 30 of the following year.

* * * * *

(c) The total catch of *D. eleginoides* in statistical subarea 48.4 in the 1994–95 fishing season beginning December 15, 1994, is limited to 28 tons. The season continues through November 3, 1995, or until the total allowable catch is reached, whichever comes first.

(d) The following directed fishing is prohibited in statistical subarea 48.3:

(1) Directed fishing on *N. rossii* is prohibited in any fishing season.

(2) Directed fishing on *N. gibberifrons*, *C. aceratus*, *P. georgianus*, *N. squamifrons*, and *P. b. guntheri* is

prohibited during the period from November 5, 1994, through November 1, 1996.

(3) Directed fishing on *C. gunnari* is prohibited during the period from November 5, 1994, through November 3, 1995.

(e) The following bycatch limitations apply in statistical subarea 48.3 during the period from November 5, 1994, through November 3, 1995:

* * * * *

(f) The following catch restrictions apply to *D. eleginoides* in statistical subarea 48.3 during the period from March 1, 1995, through August 31, 1995, or until the total allowable catch is reached, whichever comes first:

(1) The total catch of *D. eleginoides* shall not exceed 2,800 tons.

(2) Each vessel participating in the fishery shall have a scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation on board throughout all fishing activities within the fishing period.

(g) The following catch restrictions apply to *E. carlsbergi* in statistical subarea 48.3 during the period from November 5, 1994, through November 3, 1995:

(1) The total catch of *E. carlsbergi* shall not exceed 200,000 tons.

(2) The total catch of *E. carlsbergi* shall not exceed 43,000 tons in the Shag Rocks region, defined as the area bounded by 52°30′ S. lat., 40° W. long.; 52°30′ S. lat., 44° W. long.; 54°30′ S. lat., 40° W. long.; and 54°30′ S. lat., 44° W. long.

(h) The taking of finfish, other than for scientific research purposes, is prohibited in subareas 48.1 and 48.2 (see Figure 1 to part 380).

(i) The following catch restrictions apply to *N. squamifrons* in statistical division 58.4.4 (see Figure 1 to part 380) during the period from November 5, 1994, through November 1, 1996:

(1) The total catch of *N. squamifrons* during the entire 2– year period shall not exceed 715 tons on Lena Bank and 435 tons on Ob Bank.

(2) Each vessel participating in the fishery shall carry a scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation on board throughout all fishing activities within the fishing period.

(j) The following catch restrictions apply to statistical division 58.5.2 for each fishing season:

(1) Fishing seasons commence in each year at the close of the annual meeting of CCAMLR and continue until the earlier part of June 30 or until respective precautionary catch limits are reached whichever comes first.

(2) The total catch limit for *C. gunnari* is 311 tons.

(3) The total catch limit for *D. eleginoides* is 297 tons.

(k) The following catch restrictions apply to fishing for any Antarctic crab species in the crab group Order Decapoda, Suborder Reptantia, in statistical area 48 during the period from November 5, 1994, through November 3, 1995:

* * * * *

3. In § 380.24, paragraphs (d) introductory text, (d)(2), (f) introductory text, (g)(1) introductory text, and (g)(2) are revised to read as follows:

§ 380.24 Reporting requirements.

* * * * *

(d) Monthly effort and biological data reporting for *N. squamifrons* in statistical division 58.4.4 and for the bycatch of *D. eleginoides* taken during the period from November 5, 1994, through November 1, 1996, in the target fishery for *N. squamifrons* is established as follows:

* * * * *

(2) The operator of any vessel fishing in a trawl fishery to which this system applies, must complete, for all catch and bycatch species, the CCAMLR fine-scale catch and effort data form for trawl fisheries (Form C1, latest version) and, within 1 day of the end of the reporting period, submit the form to the Assistant Administrator. The report must include data on the numbers of seabirds of each species killed or injured in incidents involving net monitor cables. The report must be made in writing and conveyed by cable, telex, rapidfax, or other appropriately timely method to the address or number specified in the vessel's permit and must include the vessel's name, permit number, and the month to which the report applies.

* * * * *

(f) Monthly biological data reporting for *D. eleginoides* for fishing in statistical subareas 48.3 and 48.4 during the period from November 5, 1994, through November 3, 1995, is established as follows:

* * * * *

(g) * * *

(1) The following data must be reported to the Assistant Administrator by August 15, 1995, for catches taken between November 5, 1994, and July 31, 1995:

* * * * *

(2) Data on catches taken between July 31, 1995, and August 31, 1995, must be submitted to the Assistant Administrator by September 15, 1995.

* * * * *

4. In § 380.26, paragraphs (a) through (i) are revised to read as follows:

§ 380.26 Closures.

(a) The fishery for *E. superba* is statistical area 48 shall close when the total catch in any fishing season reaches 1.5 million tons.

(b) The fishery for *D. eleginoides* in statistical subarea 48.3 shall close on August 31, 1995, or when the total catch reaches 2,800 tons, whichever comes first.

(c) The fishery for *D. eleginoides* in statistical subarea 48.4 shall close on November 3, 1995, or when the total catch reaches 28 tons, whichever comes first.

(d) The fishery for *C. gunnari* in statistical subarea 48.3 is closed from November 5, 1994, through November 3, 1995.

(e) The directed fishery for *E. carlsbergi* in statistical subarea 48.3 during the period from November 5, 1994, through November 3, 1995, shall close when the bycatch of any of the species *N. gibberifrons*, *C, aceratus*, *N. rossii*, *N. squamifrons*, *P. georgianus*, or *P. b. guntheri* reaches its bycatch limit, or when the total catch of *E. carlsbergi* reaches 200,000 tons, whichever comes first.

(f) The directed fishery for *E. carlsbergi* in the Shag Rocks region of statistical subarea 48.3 during the period from November 5, 1994, through November 3, 1995, shall close when the bycatch of any of the species named in paragraph (e) of this section reaches its bycatch limit or if the total catch of *E. carlsbergi* reaches 43,000 tons, whichever comes first.

(g) The fishery for *N. squamifrons* on Lena Bank in statistical division 58.4.4 shall close when the total catch between November 5, 1994, and November 1, 1996, reaches 715 tons.

(h) The fishery for *N. squamifrons* on Ob Bank in statistical division 58.4.4 shall close when the total catch between November 5, 1994, and November 1, 1996, reaches 435 tons.

(i) The fishery for Antarctic crab species in the crab group Order Decapoda, Suborder Reptantia in statistical area 48 shall close when the total catch reaches 1,600 tons.

* * * * *

5. In § 380.27, paragraphs (c) and (d) are revised to read as follows:

§ 380.27 Gear restrictions.

* * * * *

(c) The precautionary catch of *D.eleginoides* in statistical subdivision 58.5.2 may only be taken by trawling.

(d) The use of any gear, except crab pots (traps), in the crab fishery in statistical area 48 during the period from November 5, 1994, through November 3, 1995, is prohibited.

* * * * *

6. In § 380.28, paragraph (m)(2) introductory text is revised, and paragraph (m)(2)(ii) is added to read as follows:

§ 380.28 Procedure for according protection to CCAMLR Ecosystem Monitoring Program Sites.

* * * * *

(m) * * * *

(2) The following sites have been identified as CEMP Protected Sites subject to the regulatory authority of the Act:

* * * * *

(ii) *Cape Shirreff and the San Telmo Islands*. This designation takes effect on May 1, 1995. Cape Shirreff is a low, ice-free peninsula towards the western end of the north coast of Livingston Island, South Shetland Islands, situated at lat. 62° ′ S, long. 60°47′ W, between Barclay Bay and Hero Bay. San Telmo Island is the largest of a small group of ice-free rock islets, approximately 2 km west of Cape Shirreff. The boundaries of the Cape Shirreff CEMP Protected Site are identical to the boundaries of the Site of Special Scientific Interest No. 32, as specified by ATCM Recommendation XV–7. No man-made boundary markers indicate the limits of the SSSI or protected site. The boundaries are defined by natural features and include the entire area of the Cape Shirreff peninsula north of the glacier ice tongue margin, and most of the San Telmo Island group. For the purposes of the protected site, the entire area of Cape Shirreff and the San Telmo Island group is defined as any land or rocks exposed at mean low tide within the area delimited by the map of SSSI No. 32.

[FR Doc. 95–20467 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 160
Friday, August 18, 1995

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 1040

[Docket No. AO–225–A45–R01; DA–92–10]

Milk in the Southern Michigan Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision adopts a multiple component pricing (MCP) plan in the Southern Michigan Federal milk order. The three components to be priced are butterfat, protein, and a ''fluid carrier'' residual. The proposed plan includes adjustments to the producer protein price based on the somatic cell count of producer milk. The decision also adopts changes in qualifying shipments from pool supply plants and gives the market administrator the authority to adjust the monthly shipping percentage requirements for both proprietary and cooperative supply plants or units of supply plants. In addition, the maximum allowable administrative and marketing service assessment rates are increased to 4 and 7 cents, respectively. The amendments are based on industry proposals considered at public hearings held during February 1993 and March 1994 in Novi, Michigan, and in Grand Rapids, Michigan, respectively.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7183.

SUPPLEMENTARY INFORMATION: This administrative 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. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. The amended order will promote more orderly marketing of milk by producers and regulated handlers.

These proposed amendments have been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), 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 the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Prior documents in this proceeding:

Notice of Hearing: Issued December 3, 1992; published December 10, 1992 (57 FR 58418).

Supplemental Notice of Hearing: Issued January 19, 1993; published January 29, 1993 (58 FR 6447).

Recommended Decision: Issued November 29, 1993; published December 6, 1993 (58 FR 64176).

Notice of Reopened Hearing: Issued February 18, 1994; published February 24, 1994 (59 FR 8874).

Extension of Time for Filing Briefs: Issued April 6, 1994; published April 13, 1994 (59 FR 17497).

Emergency Partial Final Decision: Issued May 12, 1994; published May 23, 1994 (59 FR 26603).

Final Rule: Issued June 22, 1994; published June 29, 1994 (59 FR 33418).

Revised Recommended Decision: Issued December 2, 1994; published December 14, 1994 (59 FR 64464).

Extension of Time for Filing Exceptions: Issued January 18, 1995; published January 24, 1995 (60 FR 4571).

Preliminary Statement

Public hearings were held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southern Michigan marketing area. The hearings were held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR Part 900), at Novi, Michigan, on February 17–18, 1993, and at Grand Rapids, Michigan, on March 1, 1994. The February 1993 hearing was held pursuant to a notice of hearing issued December 3, 1992 (57 FR 58418), and a supplemental notice of hearing issued January 19, 1993 (58 FR 6447). The March 1994 reopened hearing was held pursuant to a notice of hearing issued February 18, 1994 (59 FR 8874).

Upon the basis of the evidence introduced at the February 1993 hearing and the record thereof, the Administrator, on November 29, 1993, issued a recommended decision containing notice of the opportunity to file written exceptions thereto. The proceeding was reopened; an emergency decision and final rule pertaining to the ''lock-in'' provision (Issues 7 and 8) were published on May 23, 1994 (59 FR 26603) and June 29, 1994 (59 FR 33418), respectively. On December 2, 1994, the Administrator issued a revised recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under Issue 2, one sentence is added in paragraph 1, one paragraph is added after paragraph 7, paragraph 13 is revised, and one paragraph is added after paragraph 13.

2. Under Issue 3, two sentences are added to paragraph 2, two paragraphs are added after paragraph 46, the fourth sentence of paragraph 47 is revised, one paragraph is added after paragraph 47, one paragraph is added after paragraph 56, one paragraph is added after paragraph 69, one sentence is added after the third sentence of paragraph 70, the last sentence of paragraph 70 is revised, one paragraph is added after paragraph 71, two paragraphs are added after paragraph 72, one paragraph is added after paragraph 74, one paragraph is added after paragraph 78, one sentence is added after the first sentence of paragraph 87, one sentence is added at the end of paragraph 89, and three sentences are added at the end of paragraph 90.

3. Under Issue 4, paragraph 1 is revised, the third sentence of paragraph 3 is revised, the first sentence of paragraph 33 is modified, ten paragraphs are added after paragraph 41, the second sentence of paragraph 42 is deleted, three paragraphs are added after paragraph 42, paragraph 45 is revised, one paragraph is added after paragraph 45, one paragraph is added after paragraph 50, four paragraphs are added after the table following paragraph 50, paragraphs 51, 52, 53, and 54 are deleted, paragraph 58 is revised, and one paragraph is added after paragraph 58.

4. Under Issue 9, paragraph 1 is revised, two paragraphs are added after paragraph 1, the second sentence of paragraph 3 is revised, five paragraphs are added after paragraph 3, paragraph 4 is deleted, paragraph 5 is revised, and one paragraph is added after paragraph 5.

5. Throughout this proposed rule, non-substantive changes to the revised recommended decision, such as referring to Michigan Milk Producers Associations as MMPA, were made to increase consistency.

The material issues on the record of the hearing relate to:

1. Pool supply plant definition.
2. Modification of cooperative pool supply plant shipping requirement by market administrator.
3. Multiple component pricing.
4. Somatic cell adjustment.
5. Administrative assessment.
6. Marketing service assessment.
7. Pool distributing plant definition (UHT plant ''lock-in'').
8. Emergency action with respect to Issue 7.
9. Conforming changes.

No comments were received in response to the November 1993 recommended decision regarding the pool supply plant definition, administrative assessment, and marketing service assessment provisions (Issues 1, 5, and 6, respectively) that were considered at the initial 1993 hearing. Therefore, this decision contains no changes regarding those issues from the decisions published December 6, 1993 (58 FR 64176), and December 14, 1994 (59 FR 64464).

Issues 2, 3, 4, and 9 were addressed in the reopened hearing on March 1, 1994, and discussed in the revised recommended decision. Comments on the revised recommended decision were received regarding modification of the pool supply plant shipping standard, multiple component pricing, and somatic cell adjustment (Issues 2, 3, and 4, respectively). The comments are summarized and addressed under the appropriate issue. The discussion of Issue 3, multiple component pricing, is revised to reflect comments received and responses to those comments. The conclusions of Issue 3 remain as recommended in the revised decision. Based on comments received and reexamination of the hearing record, Issues 2 and 4 are revised in this final decision. Issue 9, conforming changes, has been revised to reflect changes in the decision regarding Issues 2 and 4.

Issues 7 and 8 were addressed in an emergency partial final decision issued May 12, 1994, and the resulting final order amendments were made effective for June 1994. The amendments were issued June 22, 1994, and published June 29, 1994 (59 FR 33418).

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Pool supply plant definition. A witness for Michigan Milk Producers Association (MMPA) testified during the initial hearing in support of the cooperative's proposal which would amend the pool supply plant definition to include as qualifying shipments transfers of milk to a partially regulated distributing plant. The witness testified that MMPA supplies bulk milk to a local partially regulated distributing plant that has substantial Class I and Class II utilization but receives no credit for such sales toward fulfilling the pool supply plant shipping requirement. The witness explained that the shipment is a bulk transfer from the cooperative (MMPA) to the nonpool plant, with its classification determined during the pooling process. MMPA's post-hearing brief contended that adoption of the proposed amendment would eliminate the inequity caused by such transfers.

According to the cooperative's brief, the current month's marketwide Class I utilization percentage, which includes the portion of the transfer classified as Class I, determines the minimum qualifying shipping requirement for the same month of the following year but does not contribute to the cooperative's Class I use in determining whether pooling standards have been met.

The MMPA witness testified that the partially regulated plant historically had been a pool distributing plant but recently had become involved in the production of extended-life Class II products. As a result, he stated, the plant now has Class I utilization of approximately 40 percent. According to the witness, the partially regulated plant to which MMPA transfers milk is the only such plant to which the proposed amendment would apply. A post-hearing brief filed by National Farmers Organization (NFO) supported adoption of the proposed amendment. There was no opposition to the proposal.

Testimony in the record illustrates that the partially regulated distributing plant is indeed satisfying Class I needs in the marketplace through the use of pooled milk, thereby benefitting the pool. Therefore, the proposal to include shipments of producer milk to a partially regulated distributing plant when determining the qualifications of pool supply plants should be adopted.

2. Modification of pool supply plant shipping standard by market administrator. A proposal to give the market administrator the discretionary authority to administratively change the shipping percentages upward or downward for a supply plant or a unit of supply plants being qualified by a cooperative association should be adopted. This decision extends the market administrator's discretionary authority to include proprietary supply plants. The proposed provisions would operate similarly to ''call'' provisions in other order markets where the market administrator, upon request or upon recognizing a potential problem, notifies the handlers in the order that action may be taken to change the shipping percentage requirements. The percentage change required would be based upon the evidence that the market administrator receives and/or the supply and use data for the market.

The order currently provides that for a cooperative's balancing plant or unit of such plants, the minimum qualifying percentage for each month is established according to the amount of producer milk used in Class I as a percent of total producer milk within the order for the same month of the previous year. The order currently does not provide for any

sort of discretionary authority to change pool supply plant shipping requirements. To adjust the shipping percentage requirements, either the requirements must be suspended or permanent changes must be sought through amendments to the order.

The director of bulk milk sales for MMPA testified in support of the cooperative's proposal at the reopened hearing. The proponent's intent is to allow for the adjustment of these requirements on a more timely basis than can be done under the current provisions.

The MMPA witness testified that the current order provision is designed to establish a performance standard that reflects the Class I needs of the local market and assures fluid processors that their requirements will be fulfilled. He stated that the provision contains a self-adjusting mechanism because the current month's shipping requirements are based on the market requirements from the previous year. He further stated that the provision normally works well. The witness testified, however, that occasions exist in which the market conditions have changed to such an extent that necessary corrections to the self-adjusting mechanism cannot be made on a timely basis.

As an example, the MMPA witness stated that because the minimum shipping percentages are determined by the percentage of producer milk utilized in Class I, the percentage can be influenced by changes in the monthly producer receipts. The witness stated that if milk that normally would be pooled is not, producer receipts and the Class I utilization percentage for the order would change, in turn affecting the following year's shipping requirement. The witness also stated that combining this possible decrease in pool receipts with an increase in bulk milk sales to other markets also may impact the following year's shipping requirements. He said that the shipping percentages established may not reflect the following year's actual fluid requirements from the local and distant markets.

The witness noted that two current options to adjust the shipping percentage requirements, suspension or permanent amendment to the order provisions, are time-consuming and may require unwarranted drastic action.

In a post-hearing brief, MMPA reiterated support for the proposal. No other support or opposition was expressed at the hearing or in briefs.

Dean Foods Company's (Dean Foods) exception to the revised recommended decision agreed that this proposal's adoption would allow for greater flexibility than currently exists. However, Dean Foods contended that by not extending authority for the market administrator to modify shipping standards for proprietary supply plants, the revised recommended decision excludes proprietary and favors cooperative supply plants. The exception noted that market conditions would affect proprietary and cooperative supply plants similarly; hence, the flexibility of standards should be available to all supply plants.

The record evidence indicates that empowering the market administrator with the authority to adjust the pool supply plant shipping requirements should result in more timely changes in comparison to current procedures. A more flexible and efficient process would result by authorizing the market administrator to adjust the requirements to either encourage shipments or discourage uneconomic movements of milk as a result of changes in marketing conditions.

It appears that there is a need to provide flexibility of supply plant performance standards when market conditions change from one year to the next. Under such conditions, which could occur at any time, the normal mechanism for change in the order program, which is the hearing process, would not provide a timely response.

Thus, the proposal to give the market administrator discretionary authority to revise the supply plant shipping standards should be adopted. Doing so will provide a means of making appropriate adjustments in this pooling provision as market conditions indicate a need for adjustments. It must be recognized that a more timely response to changed conditions can be provided under such a provision.

There is no apparent reason why restrictions should be imposed to limit the market administrator's authority to change the pooling provisions. It is intended and expected that this authority will be exercised with impartiality and integrity. Moreover, without restrictions more appropriate responses over a broader range of changed conditions may be obtained. Limitations on the authority to revise shipping percentages could result in the market administrator being unable to either increase or decrease the requirements to the full extent necessary in a given situation.

It should be noted that, to the extent appropriate shipping requirements for supply plants can be determined in advance, it would be desirable for the market administrator to revise the requirements for several months at a time, if necessary. If conditions subsequently changed, the market administrator would again review the situation and make further adjustments as necessary. It is hoped that such an arrangement will serve the market well and provide less uncertainty as to what the requirements will be.

Testimony by proponent at the hearing stated that because proprietary supply plants have different qualifying standards than cooperative supply plants, the proposal did not need to be applied to proprietary supply plants. Proprietary plants have a fixed qualification percentage of 30 percent of the total quantity of Grade A milk received at the plant each month. The order allows both proprietary and cooperative supply plants to qualify automatically during the months of March through August based on performance during the previous September through February.

The proposal published in this proceeding's hearing notice did not limit the scope of the market administrator's authority to adjust shipping percentages to cooperative-operated supply plants only. Though no testimony was offered to include proprietary supply plants, it is reasonable to extend the market administrator's authority to adjust the shipping percentages for either or both cooperative- or proprietary-operated pool supply plants. Market conditions affect all plants, no matter whether operated by cooperatives or proprietors, and the recommended decision would have been unnecessarily restrictive.

Whenever the market administrator believes that a change in the shipping standards may be needed, whether by request or on his own initiative, he will give written notice that such a change is being considered and invite interested persons to comment. This procedure will assure that all potentially affected persons can have their views and other pertinent information fully considered by the market administrator before a decision is made and announced. Such a procedure now is followed under other orders when a ''call'' for additional shipments by supply plants is contemplated and also is an appropriate requirement for the new authority provided herein.

3. Multiple Component Pricing. A multiple component pricing (MCP) plan should be adopted in the Southern Michigan Federal milk marketing order. The pricing plan would be patterned after the multiple component pricing plan initially proposed by Leprino Foods Company (Leprino) and supported by MMPA, Independent Cooperative Milk Producers Association (ICMPA), and several other dairy

organizations. Producers would be paid on the basis of three components in the milk: butterfat, protein, and the remaining fluid portion that is the ''fluid carrier'' of the butterfat and protein ingredients. Producers would also share in the value of the pool's Class I and Class II uses. A somatic cell adjustment would apply to the protein prices paid to all producers no matter how the milk was used.

Regulated handlers would pay for the milk they receive on the basis of total butterfat, the protein and fluid carrier used in Classes II and III, skim milk used in Class I, and the hundredweight of milk used in Classes I and II. The protein price paid by handlers for Class II and Class III milk will be adjusted based on the somatic cell content of the milk. This somatic cell adjustment is discussed fully under Issue 4.

At the present time, milk received by handlers is priced according to the pounds of producer milk allocated to each class of use multiplied by the prices per hundredweight of milk testing 3.5 percent butterfat, as determined under the order for each class of use. Adjustments for such items as overage, reclassified inventory, location, and other source milk allocated to Class I are added to or subtracted from the classified use value of the milk. The resulting amount is divided by the total producer milk in the pool to calculate a price per hundredweight for milk testing 3.5 percent butterfat to be paid to producers for the milk they have delivered to handlers. The price paid to each producer is then adjusted according to the specific butterfat test of the producer's milk by means of a butterfat differential. The butterfat differential is computed by multiplying the wholesale selling price of Grade A (92-score) bulk butter per pound on the Chicago Mercantile Exchange, as reported for the month by the U.S. Department of Agriculture (USDA), by 0.138 and subtracting the Minnesota-Wisconsin price (the M-W) at test, also as reported by USDA, multiplied by 0.0028.

The initial hearing in this proceeding was held February 17 and 18, 1993. MMPA and ICMPA, the two original proponents of multiple component pricing under the order, requested reopening the February 1993 proceeding to consider proposals to modify the MCP plan recommended by the USDA for the Southern Michigan Order in a decision issued November 29, 1993 (58 FR 64176). MMPA and ICMPA represent approximately 80 percent of producer milk in the Order.

The November 1993 recommended decision included a thorough analysis and discussion of the need for MCP pricing and the desirability of including protein as a pricing component based on the record of the proceeding initiated on February 17, 1993. This revised recommended decision includes some of the discussion and basis for adoption of MCP contained in the initial recommended decision, but is based on the entire record of the proceeding which includes the reopened hearing held March 1, 1994.

The MCP plan in the original recommended decision would have priced milk on the basis of its protein and butterfat components. The recommended MCP plan generally was patterned after the plan adopted for the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Indiana orders. Producers would have been paid on the basis of the pounds of milkfat and protein contained in their milk and would have shared in the value of the pool's Class I and Class II uses on a per hundredweight basis. The butterfat price would have been based on the market value of butter, while the protein price would have been computed by attributing all of the residual value of the M-W, after its butterfat value had been subtracted, to protein. Regulated handlers would have paid for the milk they received on the basis of total milkfat, the protein used in Classes II and III, the skim milk used in Class I, and the hundredweight of total product used in Classes I and II. Protein prices paid to producers on all producer milk would have been adjusted by the somatic cell count of the milk.

MMPA and ICMPA endorsed the recommendation to adopt MCP, but proposed a specific change to the recommended MCP plan. The MMPA and ICMPA (proponent) witness stated in testimony at the reopened hearing that the cooperatives remain committed to the adoption of a MCP plan administered through the Federal order system. Proponents' witness testified that the adopted plan should be equitable to both producers and processors and should send the correct economic signals from the marketplace to the farmer. The witness testified that when the proponents initially proposed a multiple component pricing plan for the Southern Michigan order, their intent was not to create conflicting economic signals for farmers and processors. Proponents' witness stated that the recommended MCP plan could send conflicting signals to handlers and producers by overstating the value of protein in producer milk. The witness stated that such overstatement would create an incentive for processors to purchase low-protein milk while at the same time would encourage farmers to produce high-protein milk.

In the reopened hearing, MMPA and ICMPA specifically requested further consideration of the MCP approach proposed by Leprino in the original proceeding. Because other hearing participants had been given insufficient advance notice of Leprino's pricing plan to adequately evaluate the proposal and cross-examine the Leprino witnesses, the Leprino proposal was not considered as a viable alternative in the recommended decision. After having an opportunity for extensive review of the Leprino proposal after the initial hearing, the proponents concluded that the Leprino alternative was a better alternative than the one in the recommended decision.

The Leprino proposal is a three-component pricing system, with the butterfat and protein component prices based on market values for butter and cheese, and a ''fluid carrier'' component representing the residual value of the M-W price after the protein and butterfat values are subtracted. Proponents' witness testified that because butterfat and protein values can be determined by the butter and cheese markets, respectively, they are reflective of economic conditions with a known degree of precision. Proponents' witness agreed with the original Leprino proposal that the balance of the M-W value should be attributed to a fluid residual price applied to milk volume after the butterfat and protein portions of the M-W price have been accounted for, stating that it is not feasible to assign as precise a value to the other nonfat nonprotein solids in milk as can be assigned to the butterfat and protein components.

Proponents' witness gave two reasons for wanting to consider the Leprino proposal instead of supporting the recommended MCP plan. The first reason involves the method of determining the value of protein. The witness stated that the recommended decision equates the protein value to the skim residual of the M–W price, while the Leprino proposal values protein on the basis of its cheese yield potential.

The proponents' witness stated that the Leprino proposal uses a current market value for cheese and a modified version of the Van Slyke formula, which relates changing protein levels in milk to changes in cheese yield, to calculate the value of protein. The witness stated that the protein price determined through the Van Slyke formula accurately reflects the incremental value of protein in milk and would result in a fair measure of protein value to the dairy producer and handler.

The proponents' witness suggested that the protein price should be derived from the National Cheese Exchange (NCE) price for 40-pound blocks of Cheddar cheese as representing the current market value for cheese. The witness stated that the block cheese price is the most commonly used base price for cheese and is a standard that many cheese manufacturers recognize in pricing their product. The witness testified that the block price better reflects the Southern Michigan commercial market for cheese than the barrel cheese price. He contended that a barrel cheese price would reflect a surplus commodity price, a situation that does not exist in this order.

The second reason that proponents' witness gave for supporting the Leprino proposal is that this plan moderates the impact that component pricing would have on processors of dairy products that have not been scientifically shown to have as direct a relationship between yield and protein content as does cheese. For example, the witness testified, in some instances processors may be unable to recover the same value for protein from products such as packaged fluid cream, condensed milk, and powder in comparison to the value from cheese manufacture.

MMPA's post-hearing brief asserted that under Leprino's proposal, the cost and value of protein is neither too low nor too high. The brief contended that the current butterfat/skim pricing system, in which only the value of butterfat is specifically recognized, places no value on protein. The brief further contended that the recommended decision, in which the entire value of the skim portion of milk is assigned to protein, places too much value on protein, for the true economic value of protein to dairy product processors may bear little resemblance to the skim residual.

A Leprino witness testified again at the reopened hearing in support of Leprino's proposal. Leprino operates two manufacturing plants in the Southern Michigan marketing area that process over 40 percent of the Class III milk and approximately 16 percent of all milk marketed in the Southern Michigan order area. Leprino also manufactures and distributes mozzarella cheese to the food service industry throughout the country.

In testimony at the reopened hearing, the Leprino witness supported the pooling and producer pay price proposals suggested by MMPA and ICMPA. The witness reiterated the characteristics and merits of Leprino's three-component proposal submitted at the original hearing.

The Leprino witness argued at the reopened hearing that one of the major inadequacies of the current butterfat/skim pricing system is that skim is priced without any consideration to the components in this skim milk. The witness said that under the current pricing provisions, the skim value of milk accounts for almost 79 percent of the total Class III (M–W) price; however, the protein or solids-not-fat components included in the skim are not valued. The witness said that producers and handlers receive or pay the same price for milk containing lower or higher levels of protein.

The Leprino witness stated that the original recommended decision in the proceeding would have replaced this current system with another system that inequitably allocates almost 79 percent of the M–W price to only the protein component of skim milk. The witness testified that allocating all of the skim value of milk to the protein component creates a residual protein value which reflects more than the true value of protein to manufacturers. The witness stated that the recommended decision ignores the value and importance of milk components other than butterfat and protein and places a value on protein that cannot be recovered from the marketplace by most manufacturers of butter, nonfat dry milk, or cheese.

The Leprino witness stated that encouragement needs to be given to producers to produce milk with higher protein content and to manufacturers to utilize these higher levels of protein. He stated that the intent of Leprino's proposal is to send an economic message to producers to produce higher-protein milk while allowing handlers to recover the cost of milk components from the market and cover operating costs. The witness asserted that the concepts offered in its proposal are economically sound, fair to handlers and producers, and in the best interest of long-term stability in milk pricing.

Leprino's post-hearing brief stated that under the original recommended decision, a Cheddar cheese manufacturer's gross margin may decline when paying more for milk with a higher protein content. The brief described Leprino's proposal as achieving the economic balance necessary for processors to pay producers for milk with higher protein levels without reducing processors' profit margins. Leprino's brief stated that consumers also would benefit by receiving dairy products with potentially higher-protein contents without unwarranted inflationary price increases.

The Leprino witness stated that pricing the butterfat component provides producers with an economic incentive to produce the butterfat in raw milk. The witness asserted that a related revenue value for processors exists for butterfat in finished products such as butter, fluid milk, cheese, and other products.

As in the case of butterfat, the witness stated, pricing the protein component gives producers an economic incentive to increase the protein content of their milk. The Leprino witness stated that the protein component's value and related revenue to processors is based on its market value in cheese, with the formula for the protein price based on recognized Cheddar cheese yields using the modified Van Slyke formula.

The Leprino witness suggested that the NCE price reflects the market value of cheese and that the NCE price multiplied by a representative yield factor (calculated via the Van Slyke formula) would establish the value of a pound of protein to a cheese manufacturer. He stated that either the block or the barrel price could be used to represent the Cheddar cheese market price, and stated a preference for the barrel price.

Leprino's exception to the original recommended decision and testimony in the reopened hearing noted that a single component such as protein is not an appropriate means of accounting for all of the value of the skim portion of milk to a handler. Instead, the exception and witness suggested, the value of the protein component should be based on the value of protein in cheese, and the fluid carrier should be used to carry the residual M-W value (M-W price less fat and protein values) which currently cannot be tied specifically to an individual component of milk or derived from a market value for individual components of milk.

A witness for the National Cheese Institute (NCI), the national trade association for manufacturers, processors, and marketers of all varieties of cheese, stated that NCI did not testify at this proceeding's initial hearing because at that time a NCI task force made up of cheese manufacturers and processors was studying the MCP issue. The witness testified that NCI supports the adoption of a single uniform three-component pricing system in all orders where a significant amount of cheese is produced. At the reopened hearing, the NCI witness supported MCP on Class III milk but had no position regarding Class II milk. In a post-hearing brief, NCI asserted that applying MCP to Class I milk would be inappropriate because there exists no measurable or

discernable advantage to varying protein levels for milk used as a fluid beverage.

The pricing plan supported by NCI is identical to the proposal advanced by Leprino, MMPA, and ICMPA. NCI's post-hearing brief noted that its proposal (the Leprino plan) allows cheesemakers to break even from processing milk with higher protein contents by seeking out and rewarding producers with higher-protein milk. The NCI witness asserted that any formula which prices protein higher than its value in producing cheese will cut into processor margins and cause cheese manufacturers to seek out lower-protein milk.

As an industry-wide consensus resulting from the NCI task force, the NCI witness suggested that the NCE barrel price should be used to represent the market value of cheese. The witness stated that Cheddar cheese is recognized as an industry standard, and the barrel price was chosen because a significant amount of barrel cheese is traded on the National Cheese Exchange.

Kraft General Foods (Kraft) testified at the initial hearing in this proceeding but not at the reopened hearing. A post-hearing brief filed on behalf of Kraft supported the Leprino proposal. The brief supported using a barrel cheese price to derive a value for protein in milk. The brief also supported maintaining the quality/somatic cell count adjustment included in the recommended decision.

The Kraft brief asserted that the Leprino plan would avoid establishing conflicting economic signals from a protein price which is so high that manufacturers are encouraged to procure low-protein milk. As such, according to the brief, the Leprino proposal represents a positive refinement in the evolution of MCP plans under the Federal order system. The brief stated that the Leprino proposal's protein price tracks the added value of extra protein in added cheese yield and is more closely aligned to the competitive value of milk protein as reflected in many existing industry-sponsored MCP plans than is the plan contained in the recommended decision.

The Kraft brief stated that no proposal at the reopened hearing accounted for handler manufacturing costs when protein is converted from producer milk to finished products. Therefore, the brief noted, all proposals overstate the protein component in raw producer milk.

The Kraft brief noted that the absence of a make allowance causes exaggeration of the component value of protein in raw producer milk and that using the barrel price will tend to moderate any overstatement of the protein value. The brief argued that the price difference between the barrel and the block prices of cheese is due primarily to packaging costs, not milk or cheese value, and concluded that use of the block price instead of the barrel price to calculate a protein price would effectively assign some finished product packaging value to milk protein.

In opposition to one feature of the Leprino plan, a witness for National All-Jersey, Incorporated, (NAJ) argued at the reopened hearing that attributing the residual M–W value to volume does not recognize the value of solids in milk other than protein and fat. The witness asserted that MCP plans that price a portion of the skim milk value on a volume basis would only partially correct the current provisions because all of the solids in skim milk should be priced. The witness stated that increasing returns for milk on a volume basis relative to the price of protein would tend to reduce the producer's incentive to employ feeding, genetics, and management practices to increase protein.

NAJ is a national dairy farmer organization that assists members in marketing their milk. The NAJ witness testified that NAJ's primary mission since 1976 has been the promotion of multiple component pricing with the goal of implementing a uniform MCP plan throughout the Federal order system.

In the reopened hearing, the NAJ witness supported the proposal submitted by MMPA and ICMPA, with two modifications. The witness stated that under the NAJ proposal, the protein price is calculated using a different formula than in the proponents' proposal, and the protein price includes a market value for whey. The NAJ witness also stated that the NAJ proposal, after pricing the butterfat and protein components, places the residual value on other nonfat nonprotein solids.

The NAJ witness stated that the major objective of any MCP plan is to provide dairy producers with an economic incentive to produce protein, the most valuable component in milk. The witness stated that because a direct relationship exists between product yields and the level of protein and other solids contained in milk, Class II and III handlers are able to pay for milk in more direct relation to its economic value. The witness stated that an economically and justifiably high protein price is needed to encourage producers to increase the ratio of protein to fat in their milk production.

The NAJ proposal was characterized by the witness as a total solids plan which prices all components in milk. The witness stated that pricing all components in skim milk corrects the inadequacy of the current butterfat/skim pricing system in which a pound of water receives the same price as does a pound of protein or nonfat solids in the skim portion of producer milk. The witness asserted that the NAJ proposal allows handlers to purchase milk more in accordance with its economic return and still gives handlers the incentive to procure and producers to produce higher-protein milk. The NAJ witness supported calculating the same protein and other solids price for both handlers and producers.

The NAJ witness stated that the NAJ proposal includes whey in its protein price calculation in an effort to account for all of the value in milk protein, and described the whey protein concentrate (WPC) price as the best indicator of the market value of protein in whey. The witness contended that the protein price computed under the NAJ proposal provides more equitable returns to both handlers and producers in comparison to the other proposals presented at the reopened hearing. NAJ's brief asserted that under its proposal, as high a percentage of skim value is allocated to protein as can be economically justified. NAJ maintained that whether or not a cheese plant processes whey should have no bearing on the inclusion of whey in the pricing formula.

For the protein calculation, the NAJ witness said that the NAJ proposal uses the NCE block price for Cheddar cheese because this price is used more widely than other announced cheese prices. Also, the witness stated that the NCE block price is used as a base for pricing other cheeses more than any other cheese price.

The witness stated that the residual under the NAJ proposal represents both the value of other milk solids besides protein and the difference between the value determined by product prices and the competitive M–W price. The NAJ witness testified that the purpose of placing the residual value on other solids is to provide farmers with an incentive to produce something in milk other than water.

Also supporting NAJ's proposal is Tri-State Milk Producers Cooperative (Tri-State), a qualified cooperative with about 640 members marketing milk in several orders, including the Southern Michigan order.

Several participants in the proceeding expressed opposition to portions of the NAJ plan during the hearing and in post-hearing briefs. MMPA's post-

hearing brief asserted that placing market values on whey protein and non-fat non-protein solids (principally lactose) assigns values to these solids that are not present in the marketplace.

The Leprino witness opposed including whey in the computation of the protein price for the following reasons: (1) the value of whey is not based on the inherent value of protein or other solids in raw milk; (2) investment in a whey operation is based on a return calculated from the value-added nature of the process and/or the cost of other disposal options rather than the raw ingredient cost; (3) raw unprocessed whey recovered from the cheese making process has no inherent value in the United States; (4) unprocessed whey cannot be sold beyond the factory; (5) raw unprocessed whey is a disposal problem for many cheese operations; and (6) whey returns are excluded from calculation of the cheese support price.

Leprino's brief asserted that the main interest of NAJ is to maximize producer returns for high protein milk and that the NAJ plan achieves this objective by providing for a higher protein component price than can be justified in the marketplace. NCI's brief gave reasons similar to Leprino's for excluding whey in a MCP plan.

The Leprino witness stated that use of a residual solids approach requires a total solids test on milk in addition to a protein test. The witness stated that using a residual fluid approach ascribes all the remaining value to volume, eliminating the need for additional testing, and thus is easier and less costly to administer.

At the initial hearing session, two witnesses testified that protein testing is already widespread in the Southern Michigan market and that testing methods are reliable and accurate. A witness employed in the field of dairy chemistry testified on behalf of MMPA that in the case of protein, the infra-red milk analyzer calibrated with reference to the Kjeldahl test is the method most used by the industry. This method is approved by the Association of Official Analytical Chemists, and the repeatability and accuracy of this method is much better than those of the Babcock test for butterfat.

A MMPA quality control witness testified that protein tests on producer milk in Order 40 are conducted on infra-red test instruments. The witness emphasized that all cooperatives in Order 40 have infra-red instruments and currently are testing producer milk for protein a minimum of five times a month. Therefore, he stated, the inclusion of protein testing would not result in increased cost. The proponent's witness recommended that if the proposal is adopted, the payment to producers should be based on an average of a minimum of five fresh tests per month for both protein and somatic cell count.

After issuance of the revised recommended decision, comments that specifically pertained to multiple component pricing generally supported its adoption in the Southern Michigan marketing area. Of the comments received by hearing participants, Leprino and NCI supported the recommended ''Leprino Plan.''

Several exceptions to the revised recommended decision advocated consistency of multiple component pricing plans across orders. NCI advocated the importance of consistent plans in those orders with a significant quantity of manufacturing milk and production of a significant quantity of cheese. A joint exception filed on behalf of Country Fresh, Inc. (Country Fresh) and Parmalat USA Corporation (Parmalat) advocated consistency of plans across orders, and commented that component pricing plans implemented within the Federal milk order system have become more complex. NAJ and Tri-State also commented on the lack of uniformity between the recommended multiple component pricing plans for this Southern Michigan proceeding and the proceeding involving five midwest markets (DA–92–27).

The Southern Michigan order should be amended to include multiple component pricing. On the basis of both the initial and reopened records of this proceeding, the proposed multiple component pricing plan would entail pricing milk used in Class II and Class III on the basis of protein and a fluid carrier residual. The Class I and Class II differential prices would be applied to milk used in Classes I and II, and Class I milk would continue to be priced on the basis of volume. Handlers would pay all producers for butterfat directly and would adjust protein prices paid to producers for the somatic cell count of Class II and Class III milk. Because milk used for Class III–A purposes is allocated on a pro rata basis with total receipts of Class III milk, MCP is applicable to milk used in Class III–A in this recommended pricing plan.

Dean Foods and several other fluid milk processors concurred with the revised recommended decision that multiple component pricing should apply to Class II and Class III milk only, while Class I milk should continue to be priced on a butterfat-skim volume basis. Numerous comments filed regarding the proposed somatic cell adjustment on Class I milk also stated that MCP should not be applied to Class I. This decision has neither recommended nor adopted provisions that would price Class I milk on its protein and fluid carrier residual components.

The record indicates that a large percentage of the producers pooled under the Southern Michigan order are already eligible for or receive some form of multiple component pricing and that nearly all of these component pricing plans use protein as a pricing component. The record also shows that the diverse component pricing programs that currently exist promote disorderly and inefficient marketing conditions in the procurement of milk supplies by competing handlers. The different programs cause non-uniform bases of payments to producers.

The adoption of multiple component pricing will allow the Order to recognize the additional value in milk with a higher-than-average protein content. At the same time, by establishing a residual value based on milk volume, the protein component will not be over-valued, as proponents argue would be the case under the original recommended decision.

Attributing at least a portion of the value of milk to protein in a market such as Southern Michigan, where most of the milk not used for bottling purposes is processed into cheese, is appropriate. Record evidence in this proceeding clearly shows that demand for protein is higher than for other components of milk because of its functional, nutritional, and economic value in the marketplace. The functional characteristics of protein allow it to form the matrix in the production of cheese and yogurt. Protein is also important to the air formation in the manufacture of certain products and provides some required nutrients in the human diet.

Milk containing a higher percentage of protein will result in greater yields of most manufactured products than milk with a lower protein test. Additionally, handlers receiving milk that results in greater volumes of finished products such as cheese and cottage cheese than an equivalent volume of milk testing lower in protein should be required to pay more for the higher-testing milk. At the same time, the dairy farmer producing milk that yields greater amounts of finished products deserves to be paid more for it than a dairy farmer producing the same volume of milk that results in less product yield. Thus, sending an economic signal to dairy farmers will encourage them to maximize the production of those

components which have the greatest demand in the marketplace.

Pricing milk on the basis of its protein content also meets the criteria of measurability, intrinsic value, and variability. The evidence in the record shows that protein can be easily measured and, in fact, that the variability in measurement may be less than the variability in butterfat testing because protein does not separate as does butterfat. The record evidence shows that protein has value to the manufacturing sector in the form of improved product yield and product structure. The value to the fluid sector was not quantified in the hearing record; however, testimony indicated some benefit to the fluid sector from higher-protein milk, resulting in a more wholesome and nutritional product. The criterion of variability is necessary to justify pricing a component separately from the product in which it is contained. In the case of protein in milk the record indicates that the level of protein varies from season to season, region to region, and farm to farm. In view of its functional, nutritional, and economic value in dairy products, its widespread use as a pricing component in the Southern Michigan market, and its qualification under the three criteria above, protein appears to be an appropriate component for pricing milk in Federal Order 40.

Hearing evidence from all parties indicates that pricing milk in Order 40 on either the current butterfat/skim basis or the basis of two components—butterfat and either protein or nonfat solids—will not adequately describe, accurately value, or be a sufficiently precise method for classifying and pricing milk used for manufactured products.

As proposed, prices for butterfat and protein should be market-driven. Deriving butterfat and protein values from finished product prices will send the appropriate economic signals to producers and handlers by indicating current market supply and demand conditions for dairy products containing these components of milk.

At issue is the specific design for the revised recommended MCP plan. Two basic MCP plans were proposed in the reopened hearing: The plan proposed by proponents MMPA and ICMPA and supported by Leprino, NCI, and Kraft (the Leprino plan) and the plan proposed by NAJ and supported by Tri-State and the American Jersey Cattle Club (the NAJ plan).

The Leprino plan derives a protein price from either the NCE block or barrel cheese price and assigns the residual skim value of the M–W price to a ''fluid carrier'' component of milk. The NAJ plan derives a protein price from the NCE block cheese and whey protein concentrate prices and assigns the residual skim value of the M–W price to the remaining nonfat nonprotein solids. Each component of the multiple component pricing plan recommended for adoption will be discussed separately.

The variety of multiple component pricing plans in Federal milk orders reflect different industry proposals, different hearing records, different marketing conditions, a continual refinement in multiple component pricing plans, and an attempt to acknowledge and lend uniformity to what is occurring in the marketplace. It seems reasonable to believe that multiple component pricing plans will improve as the industry develops more experience with them.

Butterfat. The value of butterfat in the amended order will be the same as under the current order. There was no proposal or testimony to change the way butterfat currently is valued.

This decision continues the historical relationship of the values of butterfat and butter. Currently the value of butterfat is expressed as a differential; that is, the difference in value between 0.1 pound of butterfat and 0.1 pound of skim milk. The amended order will express the value of butterfat on the basis of a price per pound. Whichever method is used, the value of butterfat in milk is the same. However, by expressing the value on a per pound basis instead of a differential, the objective of demonstrating clearly to producers the value of fat in milk is easily achieved.

As proposed, the butterfat price per pound in the amended order will be determined by multiplying the butterfat differential by 965 and adding the Class III price. The resulting price per hundredweight would then be divided by 100 to give a price per pound of butterfat.

Protein. The protein price for milk pooled under the Southern Michigan Federal milk order should be calculated by multiplying the monthly average of 40-pound block cheese prices on the National Cheese Exchange at Green Bay, WI, by 1.32, without including a value for whey protein.

No opposition was expressed at the hearing to pricing protein on the basis of its value in the manufacture of cheese. The differences between participants came in determining the appropriate level of the protein price.

The original Leprino proposal would calculate the protein price by multiplying the monthly average of 40-pound block cheese prices on the NCE by 1.32. Leprino's formula would have resulted in average protein prices, per pound, of $1.6925 in 1992 and $1.6971 in 1993.

The NCI proposal supported by Kraft (modifying the Leprino plan) would calculate the protein price by multiplying the monthly average NCE Cheddar barrel price by 1.32. NCI's formula would have resulted in average protein prices, per pound, of $1.6408 in 1992 and $1.6475 in 1993.

NAJ uses a ''justifiably higher protein value'' established from block Cheddar (normally higher than barrel) and adds a WPC price in order to account for all milk protein and to give farmers an incentive to produce protein rather than to reflect the additional value manufacturers realize from increased protein. The NAJ proposal would calculate the protein price in two parts: (1) multiply the NCE monthly average 40-pound block cheese price by 1.32, and (2) add the monthly average WPC price multiplied by a yield factor of 0.735. The sum of these two values would equal the protein price. NAJ's formula would have resulted in average protein prices, per pound, of $2.0738 in 1992 and $2.1664 in 1993.

Each of the proposals would result in a lower protein value than in the recommended decision or in orders containing MCP plans, such as the Indiana, Ohio Valley, and Eastern Ohio-Western Pennsylvania Federal orders. The handler protein price per pound for these orders would have averaged $2.77 and $2.82 in 1992 and 1993, respectively.

Because the percent of the skim milk value allocated to protein differs under the two proposed plans, the protein price also differs. Under the original recommended MCP plan, 79 percent of the total milk price would be allocated to protein on the basis of 1993 prices. For 1993, the NAJ proposal would allocate 59 percent to protein, and the Leprino proposal would allocate 46 percent of the total M-W price to protein. The Leprino plan assigns less value to protein than the NAJ plan because this plan does not value the protein in whey.

Undisputed by hearing participants was the 1.32 factor, which represents the pounds of 38 percent moisture Cheddar cheese obtained from one pound of protein with 75 percent of the protein going into the cheese as calculated by the modified Van Slyke cheese yield formula. The hearing record indicates that the modified Van Slyke formula accurately measures incremental changes in protein. This accuracy supports the concept that

cheese plants would be able to maintain consistent margins from the processing of small increases of protein content in milk. Assuming butterfat is constant, a change of protein by one pound in this formula will change cheese yield by 1.32 pounds. Therefore, the 1.32 factor is appropriate for determining an order protein price based on a market-determined cheese price.

Use of a Cheddar cheese price as a basis for valuation recognizes that, for Cheddar cheese: (1) a well-established national market price exists; (2) standards for manufacture and grading are accepted widely on a national basis; (3) the Van Slyke formula calculates yields that are well-known and verifiable; (4) a majority of other cheese manufactured in the U.S. is traded in relation to Cheddar values with economic differences in costs of manufacturing being reflected in the marketplace; and (5) using Cheddar as a standard significantly simplifies the process.

The question of which cheese price to use in the market protein value calculation, either the NCE block or barrel price, will determine the degree to which the value of the skim portion of milk will be assigned or allocated to protein. For the purpose of reflecting changes in Cheddar cheese market prices (as opposed to the level of such prices), it makes little difference whether the barrel or block price is used because the prices move very similarly, with the barrel price approximately 3 to 4 cents per pound lower than the block price during 1991–93. The difference between the average block and barrel prices from 1992 to 1993 was $0.0383 per pound. Multiplying this difference by the 1.32 factor results in an average difference of $0.0506 per pound of protein between the prices derived from the barrel and the block cheese prices.

In comments filed in response to the revised recommended decision, NAJ and Tri-State supported the use of the NCE 40-pound block cheese price to calculate the protein price and adjust the protein price for somatic cell count level. However, Dean Foods, Farmers Dairies, Inc., Anderson-Erickson Dairy Company (Anderson-Erickson), and Southern Food Groups, Inc., took exception to using the 40-pound block Cheddar cheese price in determining the protein value and the somatic cell adjustment, and instead supported using the barrel Cheddar cheese price. The exceptions stated that prices in the Federal order program are based on a concept of minimum prices and the barrel Cheddar cheese price would better approximate a minimum price.

The monthly average price for 40-pound block Cheddar cheese on the NCE is the appropriate price to use for determining the protein price. Use of the block price results in producers receiving a higher price for protein than if the barrel price were used, without handlers incurring any significantly higher cost for milk. Use of the block price is also consistent with the Eastern Ohio-Western Pennsylvania, Ohio Valley, and Indiana Federal orders, where the block price is used to adjust the producer pay price for somatic cell count. The block Cheddar cheese price has been determined to be the appropriate price to be used in determining the protein value and adjust for somatic cell count in a separate proceeding involving five midwest markets. The Cheddar cheese block price is used as a standard by many cheese manufacturers to price different types of cheese; used in the Coffee, Sugar, and Cocoa Exchange futures price of cheese; and in California's 4b price.

The price difference between block and barrel cheese may be due to packaging and other nonmilk factors. However, the protein price must be established at a level that best meets the needs of all concerned. The block cheese price should be more effective than the barrel price in establishing a sufficiently high protein price to accomplish the goal of encouraging producers to produce protein without having a detrimental impact on handlers.

In pure economic terms the price of a product represents the supply and demand for that product as affected by place, form, and time. The problem with determining a price for protein contained in milk is that the protein is not marketed as a separate unique product, but is marketed as an integral part of both fluid and manufactured dairy products. Therefore, in determining an appropriate protein price, the value of protein in dairy products is determined by using the value of a product whose yield is a function of the protein content of the milk. At this point in time no attempt is made to reflect the protein content of milk in the value of milk used for fluid use. For this reason, the component pricing plan recommended in this decision does not apply to milk used for Class I purposes.

The protein formula proposed by NAJ also would include the value of whey protein in the protein price so that all of the protein in the milk would be accounted for. NAJ's inclusion of whey value would increase the protein price computed from the NCE block price by an average of $0.3813 and $0.4690 per pound in 1992 and 1993, respectively.

Dean Foods concurred with the revised recommended decision that the value of protein in whey should not be included in the protein price calculation.

NAJ and Tri-State excepted to the calculation of the protein price in the revised recommended decision, advocating instead their proposal from the reopened hearing. The groups disagreed with the revised recommended decision's conclusion that because whey processing facilities do not currently exist in the Southern Michigan marketing area, whey should not be included in the protein price calculation. The groups also contended that the NAJ plan would allow for more uniform gross margins for all component levels than would the Leprino plan. The exception questioned whether the Department was more interested in providing returns to producers or manufacturers.

The whey protein factor should not be included in the computation of the protein price. Hearing evidence shows that the whey protein portion of the NAJ protein price is not necessarily based on a value that a manufacturer can recover from a whey operation. Use of the market price for whey protein concentrate, the highest-priced whey product, ignores the diversity of whey handling operations and practices that exist throughout the dairy industry.

Whey protein concentrate manufacturing involves sophisticated and expensive technology used by very few manufacturers, and apparently by none in Michigan. Until recently, the dairy industry has treated whey as having negative value, and the production of whey in connection with cheese manufacturing represented a disposal problem involving costs rather than a byproduct opportunity. Inclusion of a whey value in the protein price at this point in the development of whey disposal technology would result in including the potential revenue associated with whey, but none of its actual cost.

The principal issues that must be addressed in determining the computation of the protein price are the factors that must be included to arrive at a price that most accurately reflects the value of protein in milk. Analysis of the data in this decision shows that using the block cheese price results in a protein price that accomplishes three goals: 1) components will be priced at levels that reflect their value in the market place, 2) components will be priced at levels that inform producers about which component has the greatest

value and that make it worthwhile to produce that component, and 3) components will be priced at a level that will return a positive result to the manufacturing industry. All three of these goals are constrained by the requirement that the total value of the component prices must be equal to the M-W price.

Fluid Carrier. The balance of the M-W price, after the values of protein and butterfat are removed, should be priced on the basis of a ''fluid carrier'' residual. The fluid carrier price per hundredweight will be computed by subtracting from the Class III price the sum of the butterfat price times 3.5 and the protein price times the month's average protein test of the M-W price survey milk. Because the computation of the fluid carrier price is based on a residual value, the fluid carrier price could be negative. In this instance, the fluid carrier price would remain negative, instead of adjusting either the butterfat or protein prices.

Because the M–W price is a competitive pay price rather than a price determined from calculating each component's value, the M–W price reflects factors such as volume premiums, cheese yield premiums, solids-not-fat premiums, butterfat values offered by some manufacturers that exceed the butterfat differential, and pure competition for supply. The fluid carrier residual helps to place a value on these factors that is not accounted for elsewhere. Also, the standards for all finished products require inclusion of some fluid from raw milk; for example, skim milk powder has approximately 4 percent moisture, and Cheddar cheese has a 38-percent moisture standard. Therefore, the water in producer milk has some value in manufactured products, resulting in revenue to the processor as that fluid is captured in products such as butter, yogurt, cheeses, and nonfat dry milk.

MMPA, ICMPA, Leprino, NCI, and Kraft all supported a fluid carrier component to represent the residual value of the hundredweight of producer milk in Class II and Class III. Each party supported a formula identical to that which is recommended for adoption. The fluid carrier residual would have provided an average value, per hundredweight, of $3.39 in 1992 and $3.68 in 1993.

An alternative residual price was proposed by NAJ, which would price the residual value of the M–W price after the removal of the butterfat and protein values on the basis of ''other nonfat solids.'' The other solids price would be calculated by subtracting from the M–W price the sum of the value of 3.5 pounds of butterfat and the average protein content of milk included in the M–W price survey times the protein price. The result would be divided by the M–W other solids content (M–W nonfat solids minus M–W protein) to obtain the other solids price per pound. This proposed residual would have provided average values, per pound, of $0.40 and $0.41 in 1992 and 1993, respectively.

NAJ and Tri-State took exception to the revised recommended decision's placement of the residual value of the M–W price, after butterfat and protein are accounted for, on a fluid carrier component. These two groups advocated the position contained in their proposal that the residual value should be placed on other nonfat nonprotein solids. The groups contended that the solids in milk have value, allow manufactured products to hold water, and thus should be included in the MCP plan. They argued that the fluid carrier residual would not provide the correct incentive for producers.

There is no readily available measure of the market value of the other nonfat solids. The nonfat nonprotein solids component principally consists of lactose. The other solids price would represent not only the value of the lactose and ash, but would include an adjustor between the butterfat and protein component values of milk, which are determined by the market value of those components in dairy products, with a competitively set producer pay price (the M–W). While there is a value to lactose, attributing the entire residual value of milk to the nonfat nonprotein component would overstate the true economic value of lactose after accounting for processing costs and ignore the value of water in milk. It would be inequitable and uneconomical to place the residual value of milk on lactose instead of on the residual fluid volume. The other solids price may send a signal to producers to produce higher solids while sending a conflicting signal to manufacturers.

Because the M–W price is a basic price for milk, at least one of the components in the payment plan must represent the difference between a competitively-set pay price (the M–W) and the product-derived component prices. The fluid carrier is this component.

In addition, if the other solids price had a negative value, either the protein or butterfat price would need to be adjusted in order for the other solids price to retain at least a value of zero. If this situation were to arise, the adjusted protein price, for example, would no longer represent the true market value associated with protein. Consequently, producers and handlers would receive an inappropriate economic signal from the adjusted price.

The residual skim value of the M–W, after accounting for protein, should be placed on the fluid carrier component. Hearing record evidence indicates that the M–W price represents various factors that may not have a known market value, such as various premiums or pure competition for milk supply. The fluid carrier value would represent these factors. The hearing record also shows that moisture standards exist for all dairy products. The fluid carrier component recognizes the fact that the water in milk does hold value for the processor and the producer. Lastly, the correct economic signals relating to butterfat and protein will be sent to both producers and processors if the residual calculation is negative. The function of the residual is to connect the value of milk components in manufactured dairy products with a market-determined price for milk used in those products.

Miscellaneous. The butterfat and protein component prices will be expressed on a per-pound basis to the nearest one-hundredth cent. Analysis has shown that by expressing these prices to the nearest one-hundredth of a cent, the accuracy of the prices is enhanced significantly over expressing the prices to the nearest cent. The fluid carrier price will be expressed on a per hundredweight basis, rounded to the nearest whole cent.

For the purpose of allocating protein and fluid carrier to the classes of use, the assumption will be made that the protein and fluid carrier cannot easily be separated. The protein and fluid carrier will therefore be allocated proportionately based on the percentage of protein and fluid carrier in the skim milk received from producers.

In contrast to other orders that have multiple component pricing provisions, this decision incorporates only one protein price. The pooling of the components to include the Class I skim portion is incorporated within the computation of the producer price differential. This feature of the pricing plan allows for the elimination of separate handler and producer protein prices, and resulting confusion over which price, handler or producer, should be used in different situations. In addition, a handler's per-pound price for protein is the same whether the handler is buying milk from producers or from other handlers.

The producer price differential, which represents the additional value of Class I and Class II milk in the pool and any

positive or negative effect of Class III–A, will be determined by computing for each handler, and then accumulating for all handlers, the differential value (from Class III) of the Class I, Class II, and Class III–A product pounds. The differential value is adjusted, when appropriate, for shrinkage and overage, inventory reclassification, receipts of other source milk allocated to Class I, receipts from unregulated supply plants, and location adjustments.

For the purpose of eliminating differences between handler and producer component values, the value of the Class I skim milk and the values of the protein and fluid carrier contained in the skim milk allocated to Class II and Class III will be added to, and the values of the protein and fluid carrier contained in all producer milk subtracted from, the differential pool. The difference in the somatic cell adjustment on the value of protein in Class II and Class III and on producers' value of protein also will be absorbed in the differential pool. The accumulated total for all handlers then will be adjusted by total producer location adjustments and one-half the unobligated balance in the producer-settlement fund. The resulting value then will be divided by the total pounds of producer milk in the pool, with an amount not less than six cents or more than seven cents per hundredweight deducted. The result is the producer price differential to be paid to producers on a per hundredweight basis.

It is possible for the producer price differential to be negative. A negative producer price differential can result for two reasons. Any one or more of the Class I, II, or III–A differential prices may be negative and/or the minus adjustments may be large enough to offset any positive contribution from the differential prices. A negative producer price differential would be equivalent to a uniform price less than the Class III price.

The Leprino panel testifying at the initial hearing session suggested that payment for protein be based on true protein rather than total Kjeldahl nitrogen because only true protein has real value to processors. In comments filed after the revised recommended decision, Leprino encouraged the Department to develop information concerning the testing for true protein in the future.

Testing for true protein may have considerable merit. However, the hearing record lacks sufficient discussion of the benefits of specifying testing for true protein versus total protein. Approved testing methods currently vary among states, and the orders at this time should not mandate specific protein tests. If more and more states begin to mandate specific types of protein testing, it may become necessary to specify such testing in the orders. When (or if) the industry does move to testing for true protein, this decision should not be viewed as a hindrance to that conversion. In no way does this decision mandate a specific testing procedure. At such time as a change to testing for true protein may occur, a change in the 1.32 factor may be necessary.

4. Somatic cell adjustment. The value of milk should reflect the level of somatic cells contained in that milk. The adjustment in value should be made by adjusting the protein price paid by handlers for Class II and Class III milk, and the protein price paid to producers, for the somatic cell count (SCC) of the milk. This decision modifies the revised recommended decision, in which a somatic cell count adjustment would have been made to protein prices paid to producers for all classes of milk. The somatic cell adjustment recommended is derived from the reduction in cheese yield as the somatic cell level goes from zero to 1,000,000, converted to a value per pound of protein.

Adjusting protein prices paid to producers by SCC was proposed during the initial hearing as part of a multiple component pricing system and was included in the recommended decision. Three fluid milk processors and a trade association for fluid milk processors filed exceptions to the recommended decision. Although this specific issue was outside the scope of the reopened hearing notice, two witnesses at the reopened hearing session testified against inclusion of a somatic cell adjustment in addition to filing exceptions to the recommended decision and briefs after the reopened hearing.

Each of these four parties opposed the recommended application of an SCC adjustment on milk used in Class I. Support for the SCC adjustment on Class I milk was stated in MMPA's post-hearing brief. Following is a summary of the initial hearing somatic cell testimony, exceptions to the original recommended decision, reopened hearing testimony, briefs filed after the reopened hearing, and exceptions to the revised recommended decision. Most of the exceptions, reopened hearing testimony, and briefs reiterated what was presented during the initial hearing and in post-hearing briefs. Unless specified, the following evidence was given at the initial hearing.

The director of milk sales for MMPA stated that the functional value of protein in the production of manufactured dairy products and its role in providing wholesome flavor and nutritional value in fluid milk products is affected by the SCC level of the raw milk supply. Therefore, the witness asserted, elevated SCC levels and raw bacteria counts diminish the functional value of all milk. According to the witness, the damage is irreversible and cannot be restored by a mechanical process at a dairy plant.

The MMPA witness testified that high SCC levels are accompanied by an increase in the amount of undesirable enzymes in milk as well as an increased susceptibility of the fat component to attack by these enzymes. The witness explained that the undesirable enzymes attack the fat in milk and release free fatty acids. The witness stressed that even at very low concentrations, free fatty acids are responsible for producing off-flavors in any dairy product that contains milkfat. The MMPA witness noted that research has shown that the free fatty acid content of raw milk with high SCCs is higher than that of raw milk with low SCCs. The witness also pointed out that the enzymes are able to survive normal pasteurization and continue the process of deterioration of the flavor of finished fluid products, thus reducing shelf life. Therefore, he testified, protein payments to producers should reflect the influence of somatic cells on the quality of all milk.

The director of member services and quality control for MMPA testified that mastitis, an inflammation of the mammary gland, is a reaction to a cow's immune system fighting off invading bacteria. The witness explained that white blood cells and epithelial cells known as somatic cells are secreted during the process to destroy the invading bacteria. The witness stated that the level of somatic cells indicates, and is proportionate to, the infection level of a cow's udder.

Another witness testified for MMPA that somatic cells seem to have an impact on milk quality through their ability to cause changes in the enzymatic characteristics of milk. The witness explained that the enzymes generated by somatic cells degrade the casein and change its functional attributes. He pointed out that some changes include higher losses in cheese yield, differences in flavor characteristics, and changes in other functional characteristics that may weaken the structure of curd in a curd formation when making a product. The witness stated that high SCCs in milk cause an increased rate of rancid off-

flavors, which produce a flavor that would be noticeable to a consumer. The witness explained that free fatty acids are one component that determines the shelf life of a fluid product and correlates to rancid off-flavors.

MMPA's witness went on to say that the enzyme which causes the damage is always present in an inactive form in milk. The active form of the enzyme, once it is produced in milk, is heat-stable and therefore unaffected by pasteurization or ultra-high temperature processing. The witness explained that most of the damage to protein occurs while milk is in the udder of the cow. However, if milk is cooled quickly and held at refrigeration temperature, further damage is minimized. The witness explained that producers can reduce the average somatic cell count of their milk through better management and proper adjustment and maintenance of milking equipment.

The MMPA quality control employee stated that SCC standards were adopted as a measure of milk quality and are included in the Pasteurized Milk Ordinance (PMO) because of the recognition of their public health significance in the milk supply. The witness explained that the condition of mastitis and the subsequent increase of somatic cell levels decrease the quality of milk by reducing the levels of butterfat, lactose, total casein and total solids in milk and increasing whey protein, chloride, and sodium levels.

The MMPA witness noted that SCCs have been included as a criterion within quality premium programs throughout the United States, including Michigan, for several years. The witness testified that all milk marketing cooperatives in Michigan use the Optical Somatic Cell Count (OSCC), an electronic method, for measuring levels of somatic cells. According to the witness, the OSCC method is the most accurate method available for testing somatic cells and is a method approved by the Association of Official Analytical Chemists (AOAC). Another MMPA witness stated that instruments are available and currently are being used to test a large number of samples on a reliable basis for both protein and somatic cell count.

The MMPA witness noted that the SCC standards under the PMO would be lowered from 1,000,000 to 750,000 on July 1, 1993. The witness pointed out that under the PMO, all Grade A producers are required to be tested a minimum of four times in six months for somatic cells. He explained that most producers whose milk is pooled under Federal Order 40 have been tested five times a month for the past several months, with test results reported to the producers. The witness stated that MMPA's average SCC for 1992 was 308,000, according to record data. However, he stated, this average is based upon one SCC test per farm per month. The witness explained that in comparing data collected for the past six months, one test per month versus five tests per month, the cooperative's average SCC could increase by as much as 50,000. Another MMPA representative testified that the proposed neutral zone had been reduced from the initial proposal to between 300,000 and 450,000 to better reflect current data with regard to average SCCs in Order 40.

According to an MMPA witness, an adequate number of times per month to test a herd for SCC would be the number of times currently used for butterfat, four or five times. The witness stated that the functional value of milk changes as soon as the SCC exceeds about 100,000. He stated that one of his research studies, which was conducted under ideal conditions, indicated that as SCCs change from zero to 1,300,000, cheese yields decline an additional two to three percent. The witness also stated that there is a maximum yield loss of about two percent when SCCs change from 100,000 to 750,000.

MMPA supported the SCC adjustment on all milk in a brief filed after the reopened hearing. The brief asserted that the recommended decision recognizes the impact that SCC levels have on the functional value of milk for both fluid and manufacturing processors. The brief noted that the difference in the Class I differentials between the Ohio and Indiana orders greatly exceed the four to six cents per hundredweight identified as the potential effect on a Class I handler's price resulting from the somatic cell adjustment.

The regional dairy director for National Farmers Organization (NFO) testified in opposition to the inclusion of a somatic cell adjustment. The witness stated that uniformity in the pricing provisions of Orders 40, 33, 36, and 49 is of overriding importance and urged the Secretary to adopt the same MCP programs for all orders. The witness argued that because of the degree of overlap in milksheds and sales between these orders, differences in order provisions will cause confusion and disorderly marketing conditions.

The NFO witness observed that SCC is only one of several factors in NFO's and other quality programs. The witness stated that the incorporation of an SCC adjustment would destroy the flexibility of voluntary quality programs. The NFO witness stated that adoption of an SCC adjustment would overstate the importance of SCC among other factors used in determining milk quality and elevate SCCs to a disproportionate role in determining the value of milk. He argued that this disproportionate emphasis on SCCs is exacerbated by the inherent vagaries of testing for SCCs.

The NFO representative stated that somatic cell count is one of the more volatile variables in the measurement of milk quality and can vary significantly within the same herd. The witness noted that a MMPA witness testified at the multiple component pricing hearing for Orders 33, 36, and 49 that tests for SCC are much less precise than tests for butterfat or protein. The NFO witness explained that the variations in SCC tests within a herd during a month are much greater than for butterfat or protein.

A Kraft witness stated at the initial hearing that Kraft supports the inclusion of somatic cell adjustments in any component pricing plan. The witness noted that testimony and evidence in previous hearings, as well as in this hearing, reveal that there is a reduction in cheese yield as somatic cell levels increase, thus lowering the value of protein in milk.

During the initial hearing, the witness for Country Fresh, a fluid milk and Class II processor in Order 40, supported an SCC adjustment on all classes of milk, but recommended that the size of the proposed adjustment be reduced substantially. Under his recommended changes to the proposal, the witness stated that based on the peak cheese prices during 1992, the maximum plus and minus somatic cell adjustments would have been 15 cents a hundredweight. He argued that combined, this would create a range of about 30 cents, as the most the market can bear without creating a disincentive against receiving high-quality milk.

The witness noted that effective July 1, 1993, the cap on the SCC for Grade A milk will be 750,000. The witness and Country Fresh's brief argued that the proposed neutral zone of 300,001 to 500,000 and MMPA's modified proposed neutral zone of 300,001 to 450,000 are too high. The witness testified that the average somatic cell count in the Southern Michigan marketing area is approximately 340,000, according to the market's largest cooperative. Therefore, the witness suggested that the appropriate neutral zone be 300,000 to 399,999 and the highest bracket 700,000 and up.

The witness continued by stating that if the somatic cell program is modified as suggested, Country Fresh could support its inclusion in the Southern

Michigan order. He testified that Country Fresh urges that the somatic cell program be tried in a moderate rather than a radical manner. Otherwise, the witness claimed, chaotic marketing conditions could be created which would result in a new hearing being held in the not-too-distant future to amend the order. Country Fresh's brief further noted testimony of MMPA, Leprino, and NFO which asserted that there are other factors involved in high quality milk besides SCC.

In an exception to the recommended decision, in testimony during the reopened hearing, and in a post-hearing brief, Country Fresh changed its position and expressed opposition to an SCC adjustment to milk used in Class I. During the reopened hearing and in a post-hearing brief, Country Fresh proposed to modify the recommended Southern Michigan somatic cell adjustment to be similar to the SCC adjustment on Class II, III, and producer milk adopted in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Indiana marketing orders. Country Fresh's brief filed after the reopened hearing stated that the handler currently does not adjust for SCC on the milk it purchases.

The Country Fresh witness testified that uniformity of pricing provisions across Federal orders is important because a substantial overlap in Class I sales and raw milk procurement exists between Indiana, Ohio, and Michigan. The witness stated that the SCC adjustment on Class I milk in the recommended decision does not apply in either the Indiana or the Ohio Valley Federal orders.

Country Fresh's brief asserted that implementing an SCC adjustment on Class I milk in Southern Michigan but not the surrounding areas would change the Class I price relationship between these orders. The brief stated that disruptive and inequitable marketing conditions would result for handlers regulated under the Southern Michigan order relative to handlers regulated under orders in which no SCC adjustment is made. The brief contended that evidence presented at either the initial or reopened hearing did not justify an increase in the cost of Class I milk in Southern Michigan relative to neighboring orders.

The Country Fresh witness estimated that on a total milk supply basis, the SCC adjustment for each Class I handler could potentially affect the Class I price from four to six cents per hundredweight. The witness stated that the impact of SCC has not been this great in the Indiana Federal order, where the adjustment is not based on the total milk supply as was recommended in Southern Michigan.

Country Fresh's exception and brief agreed that lower SCC levels have some value to fluid milk processors. However, both the exception and brief argued that no difference exists whether milk is processed in Michigan or in Indiana, thus no distinction should be made between these markets based on SCC pricing. In addition, the witness stated that it is not possible to relate somatic cell levels to a value on Class I milk or to the specific value adjustments recommended in the decision.

Witnesses for, and briefs and exceptions filed by, the Kroger Company (Kroger), Dean Foods, and the Milk Industry Foundation (MIF) opposed the inclusion of somatic cell counts as part of the pricing structure as it would relate to Class I fluid handlers. Kroger operates a pool distributing plant regulated under Order 40. Dean Foods has been marketing milk in the Southern Michigan market for over 30 years and operates a bottling plant known as Liberty Dairy in Evert, Michigan. MIF is a national trade association with 215 member companies located in all 50 states that process nearly 80 percent of all fluid milk products nationwide.

The division manager of milk procurement for Kroger argued that there is no economic justification to include a somatic cell adjustment on Class I sales or any Class II and III products such as raw fluid milk inventory, half and half, eggnog, Class III shrinkage, and sales of surplus cream. According to the witness, the price or product yields of these items are not influenced by the amount of protein in the raw milk used in their manufacture. Additionally, the witness argued, adoption of the MMPA proposal would make it impossible for processors to recover the cost of these products and would create inequitable and uncompetitive Class II and Class III market conditions for Order 40 processors compared to their competitors regulated under other orders.

The Kroger representative continued by stating that Kroger is not opposed to a proposal which introduces multiple component pricing with protein pricing and a somatic cell adjustment for milk processed in Class II and III used-to-produce products. The witness stated that if the MMPA proposal is modified accordingly the MCP plan combined with a somatic cell count adjustment would have a potential benefit to producers and processors. Kroger's opposition to an SCC adjustment on Class I milk was reiterated in an exception to the recommended decision.

The Kroger witness and MIF's brief argued that adoption of an SCC adjustment on milk used in Class I would result in disruptive and inequitable marketing conditions for Order 40 handlers versus their competitors in other markets where the provision does not exist. The Kroger witness and MIF noted that a somatic cell count adjustment would eliminate the advance knowledge fluid milk processors currently have of the Class I price and force handlers to estimate the value of somatic cells for the current month's price. The Kroger representative claimed that the proposal would influence the value of Class I milk based on the SCC level in raw milk.

MIF expressed concern that milk processors would incur increased costs from milk with low SCCs that they would be unable to recover from product sales because consumers are unable to differentiate between low and high SCC milk. MIF's exception also contended that increased costs from both procuring low SCC milk and more frequent product testing would lead to higher retail prices for milk and a decrease in fluid milk sales. Exceptions to the recommended decision, testimony during the reopened hearing, and post-hearing briefs filed by MIF reiterated these arguments opposing an SCC adjustment on Class I milk.

According to MIF's brief, there is no quantifiable scientific evidence that the level of somatic cells results in any appreciable difference in the attributes of fluid milk, particularly attributes which would be discernable by consumers. MIF described the testimony of MMPA as failing to make an absolute statement regarding quantifiable economic benefits to fluid milk use resulting from lower somatic cell counts. MIF stressed that there is no need to pay a premium for reduced SCCs when the permissible count is being reduced by regulations. In briefs, MIF and NFO questioned whether it is appropriate for the Federal order system to adopt a policy and administer practices which allocate economic advantages and disadvantages among certain segments of the dairy industry.

The witness for Dean Foods stated that there is no scientific evidence which shows that handlers or consumers benefit from lower somatic cell counts and that the inclusion of SCC adjustments in the pricing structure of producer milk within the Federal order system would ultimately be borne by the consumer. However, the witness stated, Dean Foods supports the

inclusion of SCC premiums in Class II or Class III producer milk where there is evidence of improved yields due to reduced levels of somatic cells.

Dean Foods' exception to the original recommended decision reiterated arguments made by Country Fresh and MIF. Additionally, Dean Foods' exception noted that a six cent per hundredweight adjustment in the Class I price would equal 0.005 cents per gallon and would amount to additional costs between $180,000 and $200,000 per year for the Liberty Dairy bottling plant. The exception stated that the plant, at which 85 to 90 percent of receipts are used in Class I, currently has a premium program which includes an SCC adjustment as one of the factors in pricing milk. Dean Foods noted, however, that SCC alone is not considered to be a quality enhancer for Class I products.

The Leprino panel that testified in the original hearing stated that Leprino supports the inclusion of SCC adjustments to value protein properly as long as other basic milk quality criteria are achieved, notably low psychrotrophic bacteria count and low raw bacteria count. Additionally, the panel also testified that Leprino opposes quality adjustments for Class I milk unless it can be clearly demonstrated that there is a discernable benefit to the Class I handler. The panel recommended that yield factors used to value somatic cell counts should be conservative, given the conflicting scientific evidence, and should be uniform across Federal orders.

According to testimony at the original hearing by the Leprino production manager, Leprino participates in milk quality programs based on several parameters, providing incentives for producers with high-quality milk and disincentives for inferior-quality milk. The witness noted that in the MCP hearing for Orders 33, 36, and 49, three studies were introduced into evidence and referenced in the recommended decision to justify adjusting the protein payment by SCCs. However, the witness argued that each study shows different yield impacts at different SCC levels in raw milk. The witness also noted a study which indicates that SCCs may affect yields, but day-to-day changes in milk composition obscure the effect. The witness pointed out that a study by one of the MMPA witnesses states that payment for milk quality should not rest solely on somatic cell counts.

The Leprino witness testified that scientific evidence indicates that the greatest yield benefits are at a level of 100,000 to 200,000 and greatest yield losses are above 500,000. The witness noted that the SCC limit under the PMO soon will be adjusted to 750,000. He stated that Leprino's proposal offers an adjustment of plus 20 cents to minus 20 cents for legal Grade A milk and includes a prerequisite of other milk quality conditions that can affect cheese yield. The witness recommended that USDA use a conservative approach given the Department's limited experience with mandated milk quality criteria for payment purposes. The witness urged that the adjustments be uniform between all Federal orders to ensure orderly marketing.

The Leprino quality assurance director testified that the two methods for testing for the level of SCC are direct microscopic cell count (DMSCC) and optical somatic cell count (OSCC). She stated that the DMSCC is a tedious method which takes extensive training and precision to perform and is used to calibrate electronic methods. She estimated that equipment for performing SCC tests by the DMSCC method costs about $4,000. According to the witness, the OSCC methods are easily performed, generally more precise, and are less labor intensive than the DMSCC. The witness stated that the unit cost for equipment is between $40,000 and $100,000 and, when combined with infra-red component testing systems, could range from $150,000 to $200,000.

The Leprino quality witness expressed opposition to the proposed order amendment which would allow no adjustment to a producer's protein price if an average SCC was not available for the month. The witness claimed that processors would not be able to reduce payments on high SCC milk if testing is not mandated. Therefore, the witness urged that testing be conducted no less than five times per month with at least one test per week. Furthermore, the witness recommended that if no tests are available, the handler should assume the milk falls in the highest adjustment category of 750,000 SCC per milliliter.

The quality witness for Leprino testified that in addition to SCC, raw bacterial count (SPC) and psychrotrophic bacteria also have a direct influence on milk quality and hence its value to a processor. The witness stated that SPC gives an indication of sanitary practices around milking, and the transfer and storage of milk. The witness claimed that SPC has been recognized and widely used as a basis for valuing milk. She added that psychrotrophic bacteria are those bacteria capable of appreciable growth under commercial refrigeration, regardless of the optimal growth temperature of the organisms. According to the witness, such bacteria degrade protein and fats, causing off-flavors, odors, slime formation, and reduction in cheese yields.

Leprino's exception to the recommended decision stated that the adoption of one quality attribute (SCC) as a requirement for milk payment purposes without consideration of the other raw milk quality attributes opposes all the market practices currently operating in the Southern Michigan order. The exception urged that if milk quality is to be regulated under the order, the adopted model should be similar to those currently used by almost all of the handlers. The exception asserted that this program would include multiple minimum raw milk quality attributes such as raw bacteria counts and psychrotrophic bacteria counts.

In a brief filed after the reopened hearing, NCI contended that a specific schedule of SCC adjustments, such as was included in the recommended decision, should not be included as part of the order. The brief suggested that the order provisions should include authority for handlers to submit individual plans for market administrator approval to pay premiums or make deductions based on SCC as long as the total payment to all producers reflects the monthly minimum pay price under the order. The brief contended that this system would permit individual handlers the option to use adjustments that reflect the effect of low or high SCC milk on manufactured product production without requiring a rigid schedule of order-specified adjustments in milk costs based on various levels of SCC.

Although there was little opposition to the incorporation of some form of somatic cell adjustment, a number of exceptions were filed in response to the revised recommended decision on this issue. The exceptions focused primarily on the effect the proposed somatic cell adjustment would have on fluid milk handlers. None of the comments filed in response to the revised recommended decision supported a somatic cell adjustment on Class I milk.

Dean Foods, NCI, Prairie Farms Dairy, Inc., and Kroger each opposed including any somatic cell adjustment within the Federal milk order program. Dean Foods contended that the quality of milk and milk products has been and should continue to be tested and enforced by other agencies through the PMO. However, Dean Foods did not oppose an adjustment on Class III milk, stating that if any segment of the dairy industry is able to promote a component in milk or enhance quality that will increase

profitability, that component or quality factor should be included in Federal milk orders.

Thirty of the 31 exceptions received to the revised recommended decision commented on the proposed somatic cell adjustment to protein prices paid to producers for all classes of milk. Six of the exceptors had participated in either or both of the hearings in this proceeding: Country Fresh and Parmalat (joint brief), Dean Foods, Kroger, Leprino, MIF, and NCI. Of the other 24 exceptions received, only one handler is located physically in the Southern Michigan marketing area. Most exceptions primarily addressed the issue of a proposed somatic cell adjustment on Class I milk.

Most exceptions regarding a somatic cell adjustment repeated opposition to a somatic cell adjustment on Class I milk as set forth by MIF in testimony, post-hearing brief, and exceptions to the revised recommended decision. The exceptors all gave the same six reasons for their opposition: 1) there was not enough scientific evidence at the hearing to support a somatic cell adjustment on Class I milk, 2) somatic cells are not the only quality factors that should be included, 3) a somatic cell adjustment on Class I milk would cause disruptive and inequitable marketing conditions for fluid handlers, both between and within marketing areas, 4) fluid handlers cannot recover the added cost of the somatic cell adjustment from the market place, 5) a somatic cell adjustment would eliminate advance Class I pricing, and 6) Federal orders should not be involved in quality issues.

Dean Foods' exception contended that placing a somatic cell adjustment on Class I milk does not conform to the Agricultural Marketing Agreement Act of 1937 because the price will not be ''uniform as to all handlers.'' Dean Foods claimed that including a somatic cell adjustment on all classes of milk would add to the profitability of manufacturing handlers but result in a loss of profitability to fluid milk handlers. This would occur, according to the exception, because while both types of handlers would be charged more for low SCC milk, the manufacturing handlers would be able to recover the cost (through increased yields) while the fluid milk handlers would not.

Regarding arguments that the advance nature of Class I price announcements would be eliminated, Dean Foods' exception disputed the revised recommended decision's comment that any change would be expected to be minimal. Dean Foods contended that any change that is unknown is not ''minimal'' when bidding for contracts.

Dean Foods' exception also contended that basing the somatic cell adjustment formula on cheese yields proves that fluid milk does not gain a quantifiable economic benefit from milk with low somatic cells.

Country Fresh and Parmalat's joint exception noted that under the revised recommended decision, the somatic cell adjustment on Class I milk would benefit producers by rewarding lower herd SCC. The brief contended that the somatic cell adjustment would give Class I handlers an incentive to procure lower quality, thus less costly, milk.

Sani-Dairy filed an exception to the somatic cell adjustment included in the revised recommended decision. This handler, partially regulated under the Eastern Ohio-Western Pennsylvania Federal milk order (Order 36), which adjusts the protein price for the somatic cell count in Class II and Class III milk, claimed that the somatic cell adjustment on Class II milk has increased Sani-Dairy's costs. The exception contended increased costs have occurred because 1) SCC levels in milk are improving due to higher milk standards, 2) the calculation tables for Order 36 are set to higher counts than the milkshed average, and 3) difficulty exists in recouping extra costs, particularly from cottage cheese, in a plant with mixed utilization of milk.

In addition to opposing a somatic cell adjustment on Class I milk, Anderson-Erickson also opposed a somatic cell adjustment on specific Class II products (dairy desserts and ice cream).

A somatic cell count adjustment should be adopted because it reflects the value of the level of somatic cells contained in milk. There was significant testimony during the initial hearing that elevated levels of somatic cells diminish the functional value of milk in all uses. A reduction in the yield of cheese and other curd-based manufactured products, an increased rate of off-flavors, and a reduction in the shelf-life of fluid products all result from elevated levels of somatic cells.

The recommended decision proposed that the adjustment be applied to protein prices received by producers for all producer milk, regardless of the class in which it is used. Such an application would have avoided including the difference between the handler and producer somatic cell adjustments in the computation of the producer price differential; a procedure that, during some months, could result in a significant adjustment in the producer price differential per hundredweight. The recommended application also would have assured that all handlers' obligations would reflect the quality of the milk they receive.

Although many of the objections to a somatic cell adjustment on all milk are not persuasive, as noted in the revised recommended decision, this decision has been changed to include an adjustment to the value of milk based on the level of somatic cells contained in all producer milk and in Class II and Class III. As a result, the somatic cell adjustment will be included in the pool computation, so handlers will have to report producer somatic cell count information for all producers with their reports of receipts and utilization.

The decision to omit application of a somatic cell adjustment on milk used in Class I is based on several factors. As observed by exceptors, the hearing record contained little if any testimony or evidence to quantify the economic effect of varying somatic cell levels on Class I milk, although there was considerable testimony as to the effect somatic cells have on shelf life, off flavors and rancidity in fluid milk products. Because no specific data about the value of using high-quality milk in fluid products was presented and opposition to the application of a somatic cell adjustment on Class I milk was so strong, the somatic cell adjustment will not be applied to milk used in Class I as a result of this proceeding.

The proponents' proposed neutral zone of 300,000 to 450,000 has been reduced to between 301,000 and 400,000 to better reflect the market's average somatic cell count and to correspond more closely with the multiple component pricing plan adopted for Orders 33, 36 and 49. Although increments of 100,000 were proposed, this decision breaks down somatic cell adjustments into increments of 50,000. Increments of 50,000 assure producers that if slight testing inaccuracies (which may be greater in the case of somatic cells than for butterfat or protein) cause their protein price to be adjusted to the next level, that adjustment will not represent the entire value of a 100,000 increment of SCC.

In addition, because of the reduction in the maximum permissible SCC, 750,000 and over will become the maximum increment for which protein prices will be adjusted for somatic cell content. It is possible that some Grade A producers may have an average SCC of 750,000 or more for a month without losing Grade A status because of differences between the market administrators and health departments in the number of leucocyte (somatic

cell) tests taken in a given period of time. In cases where a handler has not determined a monthly average SCC for a producer, it will be determined by the market administrator.

Because the value of milk has been shown to be affected by the level of somatic cells, appropriate adjustments must be determined to apply to the various levels of somatic cells. These adjustments will be used to adjust handlers' values of protein in Classes II and III and the protein prices paid to individual producers. The somatic cell adjustment to handlers' value of milk will be computed by multiplying the appropriate constant for each handler's weighted average somatic cell count by the monthly average 40-pound block cheese price at the National Cheese Exchange as published monthly by the Dairy Division. The resulting somatic cell adjustment applied to the protein in milk used in Class II and Class III will be combined with plus and minus somatic cell adjustments to the protein in producer milk. Because of the necessity of pooling the somatic cell adjustments in order to avoid affecting the Class I price of milk to handlers, it will be necessary for the somatic cell information for all producer milk to be reported with handlers' reports of receipts and utilization.

The inclusion of this somatic cell adjustment will tend to effectuate the declared policy of the Act by encouraging orderly marketing through the standardization of the basis for payment on the level of somatic cells in the milk and the standardization and checking of the testing and test procedures used for determining the somatic cell counts. Even though testimony indicated that there are other quality factors that are important in overall milk quality, there was no determination of their effect on milk quality or any attempt to compute a relevant associated value. Therefore, somatic cell count will be used as the quality adjustment factor in this decision.

The somatic cell adjustment to be used in determining protein prices paid to producers is derived from the reduction in cheese yield as the somatic cell level goes from zero to 1,000,000, converted to a value per pound of protein. The evidence contained in the hearing record shows that there is a one percent reduction in cheese yields as somatic cells increase to 100,000, and cheese yields decline an additional two to three percent as somatic cells increase from 100,000 to 1,000,000. There is also a maximum yield loss of about two percent as SCCs increase from 100,000 to 750,000. This decision reflects the proportional change in cheese yields as the SCC level changes.

The constant to be used for calculating somatic cell adjustments was computed by dividing the change in cheese yields attributable to changes in somatic cell counts by a representative protein test of producer milk (3.2 percent). As proposed, the adjustment to the producer protein price for somatic cell content would be computed by multiplying the cheese price by a factor that varies with the somatic cell level and dividing the result by the representative protein percent used in calculating the handler protein price.

MMPA's proposed factors varied from .20 for a somatic cell count below 100,001 to -.20 for a somatic cell count above 750,000. Leprino's proposed factors varied from .20 to -.25, and Country Fresh proposed factors varied from .128 to -.128. This decision includes factors that vary from .25 to -.25 and are based on the reduction in cheese yield associated with varying somatic cell counts. Although .20 was the maximum positive factor proposed, .25 should not overcompensate producers for producing the highest quality milk.

The factors adopted in this decision are similar to the ones proposed, with the largest difference occurring at SCC levels below 151,000 and above 500,000. Record testimony reveals that milk containing between 100,000 and 200,000 SCC yields the greatest benefits and milk containing more than 500,000 SCC yields the greatest losses in cheese production. Evidence also reveals that SCC per milliliter of milk typically ranges between 200,000 and 400,000. Therefore, it is logical to assume that the majority of Order 40 producers' SCCs will fall within the 200,000 to 400,000 range.

As shown in Table 1, the factors to be used in adjusting handler and producer protein prices for somatic cell content do not reflect a linear relationship between cheese yields and somatic cells because the relationship between these factors is not linear. Dividing these factors by a standard protein content of 3.2 yields the constants shown in Table 1 to be used for computing the somatic cell adjustment. Use of a constant substantially simplifies the computation of the somatic cell adjustment without changing the corresponding value. This result occurs because the protein percentage must change by a considerable amount before the adjustment will change. Therefore, the somatic cell adjustment will be calculated by multiplying the constant corresponding to each somatic cell count interval by the average price of 40-pound block cheese at the National Cheese Exchange as reported monthly by the Dairy Division.

As an example, using the 1993 average 40-pound NCE block cheese price of $1.2857 per pound, the adjustment results in an estimated range of 20 cents per pound of protein (or 64 cents per hundredweight of 3.2 percent protein milk). The range of the adjustment is from a somatic cell count of fewer than 50,000 (plus 10 cents per pound of protein) to a somatic cell count of 750,000 or above (minus 10 cents per pound of protein).

TABLE 1.—FACTORS AND CONSTANTS TO BE USED IN COMPUTING THE SOMATIC CELL ADJUSTMENT

Somatic cell counts	Factors	Constants for computing the somatic cell adjustment
1 to 50,000	.250	.078125
51,000 to 100,000	.200	.062500
101,000 to 150,000	.150	.046875
151,000 to 200,000	.100	.031250
201,000 to 250,000	.050	.015625
251,000 to 300,000	.025	.0078125
301,000 to 350,000	.000	.0000000
351,000 to 400,000	.000	.0000000
401,000 to 450,000	–.025	–.0078125
451,000 to 500,000	–.050	–.015625

TABLE 1.—FACTORS AND CONSTANTS TO BE USED IN COMPUTING THE SOMATIC CELL ADJUSTMENT—Continued

Somatic cell counts	Factors	Constants for computing the somatic cell adjustment
501,000 to 550,000	−.075	−.0234375
551,000 to 600,000	−.100	−.031250
601,000 to 650,000	−.125	−.0390625
651,000 to 700,000	−.150	−.046875
701,000 to 750,000	−.200	−.062500
751,000 to above	−.250	−.078125

Monitoring by the market administrator of somatic cell testing, which already clearly affects the payments made to most of the producers pooled under the Southern Michigan order, will assure as much uniformity and accuracy as possible in the testing procedures. Also, because over 50 percent of the milk pooled under this order is used in Classes II and III, application of a somatic cell adjustment to that proportion of the milk used by handlers will doubtless result in a favorable effect on the general quality of the milk in the marketing area.

The hearing evidence indicates that low SCC levels contribute to both increased yields of manufactured products and quality characteristics (taste and keeping) for milk and dairy products. In terms of yield, the economic benefits from low SCC levels are more tangible and measurable to manufacturing handlers than to fluid milk handlers. Placing a somatic cell adjustment on Class II and Class III milk is reasonable because milk quality will be reflected in product yields and manufacturing handlers will be better able to recover their costs than would fluid milk handlers.

The PMO states, ''Regulatory requirements have a fundamental purpose, protection of public health, and are not intended to and do not address microbiologic issues that relate to economic factors and consumer preference or acceptance of products such as cheese.'' The intent of placing an adjustment for somatic cell count under Federal milk order provisions is *not* to set standards for milk. Instead the intent is to recognize that the quality of milk, as measured by the SCC, is a factor in improving yields of cheese and other manufactured products and therefore is an indication of the economic value of the milk.

It should be remembered that as milk from farms is commingled, the SCC of the entire load will tend toward the average for the market. Over the course of a month, it is unlikely that the average producer milk receipts will vary more than 100,000 SCCs from the average for the market, even for handlers who make a concerted effort to attract a high-quality milk supply. The primary impact of the SCC adjustment would be felt by producers.

The argument that somatic cell counts have wider fluctuations than butterfat or protein tests is apparently valid. However, the hearing record does not contain evidence that any problems resulting from variability in testing outweighs the benefits of including SCC adjustments in the MCP plan. As specified in the Agricultural Marketing Agreement Act of 1937, one of the functions of the market administrator is ''Providing . . . for the verification of weights, sampling and testing of milk purchased from producers.'' 7 U.S.C. 608c(5)(E). Because the market administrator will now be verifying the sampling and testing of milk for somatic cells, the variation in somatic cell levels due to testing should be minimized much as the differences in butterfat tests due to testing variations were minimized when the Federal milk order program was first instituted.

The Agricultural Marketing Agreement Act of 1937 in 7 U.S.C. § 608c(5) authorizes the Secretary to adjust minimum prices paid to producers based upon the quality of the milk purchased. Therefore, the argument that somatic cells cannot be used as a criterion for adjusting a producer's pay price is invalid. Furthermore, the hearing record shows that the level and presence of somatic cells directly affect the quality and grade of milk in that SCCs above a certain level result in the loss of a producer's Grade A permit.

Record evidence indicates that SCC is only one of the factors that affect milk quality. However, there is not enough substantial evidence to include other factors, such as psychotrophic and raw bacteria count, as criteria used to determine milk quality for payment purposes. Testimony indicates that there may be merit in including other quality factors besides SCC in Federal milk order pricing, but further study of the role of such other factors in affecting the value of milk is needed. In any case, the inclusion of other quality factors in this proceeding goes beyond the scope of the hearing notice.

Because the NCI suggestion for individual handler SCC payment plans was made in a brief filed after the reopened hearing rather than being included in the notice for either the initial or the reopened hearing, interested persons had no opportunity for cross-examination. Therefore, the concept cannot be considered as an alternative to the proposed SCC adjustment schedule, as it is beyond the scope of the proceeding. It should be noted that adjusting the minimum producer milk price for SCC does not preclude other premiums paid by a handler.

In addition, although the Agricultural Marketing Agreement Act of 1937 in 7 U.S.C. 608c(5) does allow for adjustments to minimum pay prices on the basis of quality, such adjustments should be at a uniform rate for all producers in the market. Allowing each handler to have its own payment schedule as suggested by NCI would defeat the concept of uniform pricing to producers, eliminate the purpose of allowing quality adjustments under the order, and lead to disorderly marketing. Producers with identical milk shipping to different handlers within the same market could, and probably would, have different minimum order pay prices if each handler had its own quality or somatic cell payment plan.

5. Administrative assessment. The maximum allowable rate of assessment to be paid by handlers to cover the cost of administering the Southern Michigan order should be increased to 4 cents per hundredweight. The assessment would continue to be applied to the same milk to which the present assessment applies. The Act specifies that persons who are regulated shall pay the cost of operating the program through an assessment on the milk handled by regulated persons who are defined as

handlers under the order. The present 2-cent per hundredweight maximum allowable rate of assessment has been provided for the administration of Order 40 since the order became effective on December 1, 1960.

The 2-cent increase in the maximum allowable rate was proposed by MMPA. During the initial hearing, a witness for the cooperative association testified that the present ceiling on the deduction rate for administrative services does not adequately compensate the market administrator for all services rendered. In a post-hearing brief, MMPA stated that the market administrator should have the authority to collect revenue necessary to perform the duties required by regulations. There was no other testimony on this proposal at the hearing. NFO's brief expressed support for MMPA's proposal.

The Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan and Michigan Upper Peninsula orders (Orders 33, 36, 40 and 44) are administered under the supervision of a single market administrator, headquartered in Cleveland, Ohio. Prior to 1992, Federal Orders 33 and 36 were administered by another market administrator.

The Balance Sheets and Income and Expense Statements for the Administrative Fund are compiled by the market administrator and reported annually to regulated handlers as well as to other interested parties. Record data for the years 1990 and 1991 show that the administrative expenses associated with the operation of Orders 40 and 44 exceeded the income the market administrator received from assessments by $80,000. However, when the four markets were consolidated in 1992, income exceeded expenses by $400,000. The change indicates that Orders 33 and 36 are bearing some of the financial responsibilities of Orders 40 and 44.

The witness for MMPA stated that the current rates of assessment for Federal Orders 33 and 36 are higher than for Orders 40 and 44. Furthermore, the witness noted, the recent recommended decision for Orders 33 and 36 sets the maximum allowable deduction rate for administrative services at 4 cents per hundredweight.

Handlers and producers serving the market have jointly asked that a new multiple component pricing program be provided to adjust the value of milk used by regulated handlers and payments to producers. The implementation and administration of that pricing plan for Order 40 may require the purchase of some new laboratory equipment and the performance of additional administrative duties. Many of the testing expenses associated with the multiple component pricing plan would be paid for with money from the marketing service fund. However, because the value of milk used by handlers in Classes I, II and III would be established on the basis of the milk's butterfat, protein, fluid carrier, and somatic cell content, some of the expenses related to establishing the level of these factors in producer milk likely would be paid for with money from the administrative fund. Thus, there is no reason to expect the expenses of administering the order to decline.

Providing a higher maximum rate of assessment in the order does not mean that the higher rate will apply automatically when the amended order becomes effective. The amendment gives the market administrator the discretionary authority to set the rate at any level up to the maximum specified in the order. When the amended order becomes effective, the market administrator may decide that no change in the effective assessment rate is necessary or that some increase to a level less than the maximum allowed is warranted. Further, an increase in the maximum rate will assure that Order 40 will bear, with Orders 33 and 36, an equitable share of the cost of operating the market administrator's office.

6. Marketing service assessment. The maximum rate of deduction from payments to nonmember producers for the cost of providing marketing services such as butterfat, protein, somatic cell testing, and market information for nonmember producers should be increased to 7 cents per hundredweight under the Southern Michigan order. The increase is needed to assure sufficient revenue to cover the expenses incurred by the market administrator in providing such services to producers who are not members of a qualified cooperative association. Currently, the maximum allowable deduction for such services is 5 cents per hundredweight. Like the administrative assessment, this maximum rate has been effective since December 1, 1960.

During the initial hearing, MMPA proposed that the maximum allowable assessment rate for marketing services be increased to 7 cents per hundredweight. The MMPA representative testified that the market administrator provides services which involve verification of weights, samples and tests of milk received from producers, as well as providing market information to producers who are not members of a cooperative association. The witness and MMPA's post-hearing brief stated that in order for the market administrator to adequately perform the duties required by the order, he must be allowed to have the authority to collect the revenue necessary to provide those services. A post-hearing brief filed on behalf of NFO supported MMPA's proposal. There was no opposition to the proposal.

The Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan and Michigan Upper Peninsula orders (Orders 33, 36, 40 and 44) are administered under the supervision of a single market administrator, headquartered in Cleveland, Ohio. Prior to 1992, Federal Orders 33 and 36 were administered by another market administrator.

The Balance Sheets and Income and Expense Statements for the Marketing Service Fund are compiled by the market administrator and reported annually to nonmember producers as well as to other interested parties. Record data for the years 1990 and 1991 show that the expenses incurred by the market administrator in providing marketing services exceeded income by about $54,000. In 1992, when the statements for the four markets were combined, expenses exceeded income by approximately $116,000.

It is evident from the foregoing that the 5-cent deduction from producer payments for marketing services in the Southern Michigan order has been inadequate to cover the costs incurred in the performance of such duties by the market administrator. It also shows that the financial situation worsened when the statements were combined in 1992. The increase will align the maximum marketing service assessment rate of Order 40 with that recently adopted for Orders 33 and 36. In addition, the multiple component pricing plan recommended in this decision will require additional testing activities. Because not all handlers are equipped to make all of the determinations that will be required under the amended order, many of these duties will have to be performed by the market administrator responsible for administering the order.

The 7-cent maximum rate of deduction for marketing services proposed by MMPA should be provided in Order 40. The higher rate should give the market administrator the necessary flexibility to conduct effective marketing service programs, including any additional duties relating to the implementation and administration of the new pricing program that will be incorporated in the order.

Provision of a 7-cent maximum rate does not mean that the 7-cent rate will

become effective automatically. Maximum rather than fixed rates of deduction are specified in the orders because the relationship between income and expenses for the fund is subject to many variables. Changes in the pounds of nonmember milk marketed and the rate assessed on these marketings increase or decrease the income of the marketing service fund, while changes in order requirements and the expenses of providing marketing services result in changes in total outlays.

An increase in the maximum allowable assessment will give the market administrator the discretionary authority to set the rates of deduction for marketing services at levels necessary to cover the expense of providing marketing services. The market administrator may use his discretionary authority to determine if rates below the upper limits adopted in the amended order will provide sufficient funding to conduct an adequate program for nonmember producers.

9. Conforming changes. To accommodate multiple component pricing, a number of changes need to be made in the current order provisions of the Southern Michigan order. To compute a handler's obligation and the producer price differential, several prices need to be defined. The Class I differential price should be defined as the difference between the current month's Class I price and the current month's Class III price. The Class II differential price should be defined as the difference between the current month's Class II price and the current month's Class III price. The Class III–A differential price should be defined as the difference between the current month's Class III–A price and the current month's Class III price.

These differential prices should not be confused with the fixed values that are added to the M–W price for the second preceding month to arrive at the Class I and Class II prices for the current month. It should also be pointed out that these differential prices may be negative, which currently happens when the M–W price is greater than any of these prices.

The skim milk price will be calculated by subtracting from the Class III price the value determined by multiplying the butterfat differential by 35. The skim milk price will be expressed on a per hundredweight basis, rounded to the nearest full cent. Prices for butterfat, protein, and fluid carrier residual were defined previously within this decision.

Because producer location adjustments are not changed in this decision, the application of such adjustments to the producer price differential remains unchanged.

To enable the market administrator to compute the producer price differential, handlers will need to supply additional information on their monthly reports of receipts and utilization. In addition to the product pounds and butterfat currently reported, handlers will be required to report pounds of protein and somatic cell information. This information will be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as 9(c) handlers, and receipts of bulk milk received by transfer or diversion.

Handlers purchasing milk from cooperative pool plants will have their obligations for Class I milk computed at the Class I differential price plus the pounds of skim milk in Class I at the skim milk price plus the pounds of butterfat at the butterfat price; for Class II and Class III–A milk at the Class II and Class III–A differential prices, respectively, plus the pounds of protein at the protein price adjusted for somatic cell count, plus the hundredweight of fluid carrier at the fluid carrier price, plus the pounds of butterfat at the butterfat price; and for Class III milk the protein pounds times the protein price adjusted for somatic cell count, plus the hundredweight of fluid carrier at the fluid carrier price, plus the pounds of butterfat at the butterfat price. Payment for 9(c) milk will be based on the producer price differential adjusted for location at the plant of receipt plus the value of protein adjusted for somatic cell count, fluid carrier, and butterfat contained in the milk.

Because producers will be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers must reflect the basis for such payment. Therefore the handler will be required to supply the producer not only with the information currently supplied, but also with: (a) the pounds of butterfat, the pounds of protein, and the hundredweight of fluid carrier contained in the producer's milk, as well as the producer's average somatic cell count, and (b) the minimum rate that is required for payment for each pricing factor and, if a different rate is paid, the effective rate also.

A handler's value of milk will be determined by combining: (a) the pounds of producer milk in Class I times the Class I differential price, (b) the pounds of producer milk in Class II times the Class II differential price, (c) the value of overage, (d) the value of inventory reclassification, (e) the value, at the Class I minus Class III price difference, of other source receipts and receipts from unregulated supply plants allocated to Class I, (f) the value of handler location adjustments, (g) Class III–A credits, (h) the pounds of skim milk in Class I times the skim milk price, (i) the pounds of protein in Class II and Class III times the protein price adjusted for the average somatic cell count of the handler's producer milk receipts, and (j) the hundredweight of fluid carrier in Class II and Class III times the fluid carrier price.

The pounds of protein in Class II and Class III will be determined by multiplying the percent protein in the skim milk of the total producer milk received by the handler times the pounds of skim milk allocated to Class II and Class III. The hundredweight of fluid carrier in Class II and Class III will be determined by subtracting from the pounds of skim milk allocated to Class II and Class III the pounds of protein in Class II and Class III.

Handlers' obligations to the producer settlement fund will be determined by subtracting from the handler's value of milk the following: (a) the total pounds of each handler's producer milk times the producer price differential adjusted for location, (b) the total pounds of protein contained in the producer milk times the protein price, plus or minus the net somatic cell adjustment of producer milk received by the handler, (c) the total hundredweight of fluid carrier contained in the producer milk times the fluid carrier price, and (d) the value of other source milk at the producer price differential with any applicable location adjustment at the plant from which the milk was shipped deducted from the handler's value of milk.

The amendments to order language accompanying this decision are based on the current language of the Southern Michigan order, which includes any changes to the orders made necessary by the two national amendatory proceedings (Class II pricing and the M–W replacement) that were completed in March and April 1995.

NCI's exception requested that sufficient time be allowed following issuance of the final decision to implement the MCP plan. Although a similar request in the five midwest markets multiple component proceeding was responded to favorably, that request was made by a number of producer groups and handlers in those marketing areas. There were no Southern Michigan handlers or producer groups who indicated any need for a delay in the

implementation of the provisions proposed in this decision. Therefore, such a delay is not warranted in this proceeding.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Southern Michigan order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(d) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1040.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Southern Michigan marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register**.

Determination of Producer Approval and Representative Period

May 1995 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southern Michigan marketing area is approved or favored by producers, as defined under the terms of the order as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1040

Milk marketing orders.

Dated: August 11, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

Order Amending the Order Regulating the Handling of Milk in the Southern Michigan Marketing Area

This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, of 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1040.85.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the revised recommended decision issued by the Administrator, Agricultural Marketing Service, on December 2, 1994, and published in the **Federal Register** on December 14, 1994 (59 FR 64464), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following modifications:

a. A change in the application of the market administrator's discretion to modify supply plant shipping percentages has been made to § 1040.7(b) by removing (6)(iii) and adding (7).

b. Changes in the treatment of the somatic cell adjustment require modification of reporting requirements in § 1040.30(a).

c. Additional changes due to the treatment of the somatic cell adjustment have been made by adding § 1040.50(l), deleting § 1040.64, and modifying § 1040.60(a)(5).

d. Changes for the purpose of more easily accommodating Class III–A provisions have been made by adding §§ 1040.50(g) and 1040.60(a)(3) and deleting § 1040.61(a)(3).

e. A change for the purpose of conforming with amendments resulting from the Class II pricing proceeding has been made in § 1040.53(b).

f. Changes for the purpose of conforming with amendments resulting from the M-W replacement proceeding have been made in § 1040.74.

g. Changes for the purpose of correcting or clarifying order language have been made in the introductory text and paragraph (k) (formerly (j)) of § 1040.50, § 1040.60(a)(6), § 1040.61(a)(4) and (5), § 1040.62(e), § 1040.63(a), (c), and (d), § 1040.71(a)(2)(ii) and (a)(2)(iv), § 1040.73(b)(1)(ii) and (c), and § 1040.75(a)(1).

Accordingly, this decision proposes 7 CFR Chapter X be amended as follows:

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. The authority citation for 7 CFR Part 1040 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 1040.7 is amended by adding paragraphs (b)(5)(iii) and (b)(7) to read as follows:

§ 1040.7 Pool Plant.

* * * * *

(b) * * *

(5) * * *

(iii) Partially regulated distributing plants that are neither other order plants, producer-handler plants, nor exempt plants and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

* * * * *

(7) The shipping percentages determined pursuant to paragraphs (b)(1) or (b)(6) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that a revision of the shipping requirements might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and invite data, views, and arguments. Any request for revision of shipping percentages shall be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired to be effective.

* * * * *

3. Section 1040.30 is amended by revising paragraphs (a) and (c), and removing paragraph (d), to read as follows:

§ 1040.30 Reports of receipts and utilization.

* * * * *

(a) Each handler described in § 1040.9(a), (b), and (c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler, and

(ii) Receipts of milk from handlers described in § 1040.9(c).

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts by transfer or diversion of bulk fluid milk products;

(ii) Receipts of fluid milk products not included in (a)(1) or (a)(2)(i) of this section and bulk fluid cream products from any source;

(iii) Receipts of other source milk; and

(iv) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1040.40(b)(1).

(3) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and somatic cell information, as the market administrator may prescribe.

* * * * *

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

4. Section 1040.31 is amended by revising paragraph (a) to read as follows:

§ 1040.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1040.9(a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) The producer's name and address;

(2) The total pounds of milk received from such producer, with its protein and butterfat percentage;

(3) The total pounds of butterfat contained in the producer's milk;

(4) The total pounds of protein contained in the producer's milk;

(5) The somatic cell count of the producer's milk;

(6) The amount, or the rate per hundredweight, or rate per pound of component, the somatic cell adjustment to the protein price, the gross amount due, the amount and nature of any deductions, and the net amount paid.

* * * * *

5. Section 1040.41 is amended by revising the second sentence of paragraph (c) to read as follows:

§ 1040.41 Shrinkage.

* * * * *

(c) * * * If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined by farm bulk tank calibration, with protein and butterfat tests and somatic cell counts determined from farm bulk tank samples, the applicable percentage for the cooperative association shall be zero.

6. Section 1040.50 is amended by revising the section heading, introductory text and paragraph (a), and adding paragraphs (e) through (l), to read as follows:

§ 1040.50 Class and component prices.

Subject to the provisions of § 1040.52, the class prices per hundredweight of milk containing 3.5 percent butterfat

and the component prices per hundredweight or per pound for the month shall be as follows:

(a) Class I price. The Class I price shall be the basic formula price for the second preceding month plus $1.75.

* * * * *

(e) Class I differential price. The Class I differential price shall be the difference between the current month's Class I and Class III price (this price may be negative).

(f) Class II differential price. The Class II differential price shall be the difference between the current month's Class II and Class III price (this price may be negative).

(g) Class III–A differential price. The Class III–A differential price shall be the difference between the current month's Class III–A and Class III price (this price may be negative).

(h) Skim milk price. The skim milk price per hundredweight, rounded to the nearest cent, shall be the Class III price less an amount computed by multiplying the butterfat differential by 35.

(i) Butterfat price. The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the Class III price plus an amount computed by multiplying the butterfat differential by 965 and dividing the resulting amount by one hundred.

(j) Protein price. The protein price per pound, rounded to the nearest one-hundredth cent, shall be 1.32 times the average monthly price per pound for 40-pound block Cheddar cheese on the National Cheese Exchange as reported by the Department.

(k) Fluid carrier price. The fluid carrier price per hundredweight, rounded to the nearest whole cent, shall be the basic formula price at test less the average butterfat test of the basic formula price as reported by the Department times the butterfat price, less the average protein test of the basic formula price as reported by the Department for the month times the protein price (this price may be negative).

(l) Somatic cell adjustment. For each producer, an adjustment to the protein price for the somatic cell count of the producer's milk shall be determined by multiplying the constant associated with the appropriate somatic cell count interval in the following table by the simple average price for the month of 40-pound blocks of Cheddar cheese at the National Cheese Exchange as reported by the Department. If a handler has not determined a monthly average somatic cell count, it will be determined by the market administrator.

Somatic cell counts	Constants for computing the somatic cell adjustment
1 to 50,000	.078125
51,000 to 100,000	.062500
101,000 to 150,000	.046875
151,000 to 200,000	.031250
201,000 to 250,000	.015625
251,000 to 300,000	.0078125
301,000 to 350,000	.000000
351,000 to 400,000	.000000
401,000 to 450,000	–.0078125
451,000 to 500,000	–.015625
501,000 to 550,000	–.0234375
551,000 to 600,000	–.031250
601,000 to 650,000	–.0390625
651,000 to 700,000	–.046875
701,000 to 750,000	–.062500
751,000 and above	–.078125

7. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class and component prices.

On or before the 5th day of the month, the market administrator shall announce the following prices and any other price information deemed appropriate:

(a) The Class I price for the following month;

(b) The Class II price for the following month;

(c) The Class III price for the preceding month;

(d) The Class III–A price for the preceding month;

(e) The skim milk price for the preceding month;

(f) The butterfat price for the preceding month;

(g) The protein price for the preceding month;

(h) The fluid carrier price for the preceding month;

(i) The butterfat differential for the preceding month;

8. The section heading in § 1040.60 and the undesignated centerheading preceding it, the introductory text, and paragraphs (a) and (f) are revised to read as follows:

Producer Price Differential

§ 1040.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1040.9(b) and (c), as follows:

(a) Calculate the following values:

(1) Multiply the total hundredweight of producer milk in Class I as determined pursuant to § 1040.44(c) by the Class I differential price for the month;

(2) Add an amount obtained by multiplying the total hundredweight of producer milk in Class II as determined pursuant to § 1040.44(c) by the Class II differential price for the month;

(3) Add an amount obtained by multiplying the total hundredweight of producer milk eligible to be priced as Class III–A by the Class III–A differential price for the month;

(4) Add an amount obtained by multiplying the hundredweight of skim milk in Class I as determined pursuant to § 1040.44(a) by the skim milk price;

(5) Add an amount obtained by multiplying the pounds of skim milk in Class II and Class III as determined pursuant to § 1040.44(a) by the average protein content of producer skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price for the month computed pursuant to § 1040.50(j) and adjusted pursuant to § 1040.50(l) for the weighted average somatic cell content of the handler's receipts of milk; and

(6) Add a fluid carrier value calculated as follows: Subtract from the pounds of skim milk allocated to Class II and Class III pursuant to § 1040.44(a) the protein pounds contained therein, determined by multiplying the pounds of skim milk in Class II and Class III by the average protein content of producer skim milk received by the handler; then multiply the resulting pounds (in hundredweight) of fluid carrier by the fluid carrier price.

* * * * *

(f) Add an amount obtained from multiplying the Class I differential price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1040.43(e) and § 1040.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1040.44(a)(11) and the corresponding steps of § 1040.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

9. Section 1040.61, including the section heading, is revised to read as follows:

§ 1040.61 Producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight of milk received from producers as follows:

(a) Combine into one total for all handlers:

(1) The values computed pursuant to § 1040.60(a)(1), (a)(2), (a)(3) and (b) through (i) for all handlers who made reports pursuant to § 1040.30 for the month and who made payments pursuant to § 1040.71 for the preceding month;

(2) Add the values computed pursuant to § 1040.60(a)(4), (a)(5), and (a)(6); and subtract the values obtained by multiplying the handlers' total pounds of protein and total hundredweight of fluid carrier contained in such milk by their respective prices;

(3) Add an amount equal to the total value of the applicable location adjustments computed pursuant to § 1040.75(a)(1); and

(4) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund.

(b) Divide the aggregate value computed pursuant to paragraph (a) of this section by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1040.60(f).

(c) Subtract not less than 6 cents nor more than 7 cents per hundredweight. The result shall be the ''producer price differential.''

10. Section 1040.62 is revised to read as follows:

§ 1040.62 Announcement of producer prices.

On or before the 11th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The fluid carrier price;

(d) The butterfat price;

(e) The average butterfat content and protein content of producer milk; and

(f) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

11. A new section 1040.63 is added under the undesignated centerheading ''Producer Price Differential'' to read as follows:

Producer Price Differential

§ 1040.63 Value of producer milk.

The value of producer milk shall be the sum of:

(a) The producer price differential computed pursuant to § 1040.61 and adjusted for location pursuant to § 1040.75, multiplied by the total hundredweight of producer milk received from the producer;

(b) The butterfat price computed pursuant to § 1040.50(i), multiplied by the total pounds of butterfat contained in the producer milk received from the producer;

(c) The protein price computed pursuant to § 1040.50(j), adjusted for somatic cell count pursuant to § 1040.50(l), multiplied by the total pounds of protein contained in the producer milk received from the producer; and

(d) The fluid carrier price computed pursuant to § 1040.50(k), multiplied by the total hundredweight of fluid carrier contained in the producer milk received from the producer.

12. Section 1040.71 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 1040.71 Payments to the producer-settlement fund.

(a) * * *

(1) The total value of milk of the handler for such month as determined pursuant to § 1040.60.

(2) The sum of:

(i) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1040.44(c) by the producer price differential, excluding any applicable location adjustment pursuant to § 1040.75(a)(3);

(ii) An amount obtained by multiplying the total pounds of protein contained in producer milk by the protein price adjusted pursuant to § 1040.50(l) for the weighted average somatic cell content of the handler's receipts of milk;

(iii) An amount obtained by multiplying the total hundredweight of fluid carrier contained in producer milk by the fluid carrier price; and

(iv) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1040.60(f) by the producer price differential.

* * * * *

13. Section 1040.73 is amended by revising the first sentence of paragraph (a), paragraph (b)(1)(ii), and paragraph (c), to read as follows:

§ 1040.73 Payments to producers and to cooperative associations.

(a) Except as provided by paragraph (b) of this section, on or before the 15th day of each month, each handler (except a cooperative association) shall pay each producer for milk received from the producer during the preceding month not less than the value determined pursuant to § 1040.63 adjusted by the location differential pursuant to § 1040.75, less the payment made pursuant to paragraph (d) of this section. * * *

(b) * * *

(1) * * *

(ii) The total pounds of butterfat, total pounds of protein, and total pounds of fluid carrier contained in the producer's milk, and the average somatic cell count of the producer's milk;

* * * * *

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association which is a handler with respect to milk received by the handler from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.9(c), not less than an amount computed pursuant to § 1040.63.

* * * * *

14. Section 1040.74 is revised to read as follows:

§ 1040.74 Butterfat differential.

The butterfat differential, rounded to the nearest one-tenth cent, shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the ''base month'' series, adjusted pursuant to § 1040.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

15. Section 1040.75 is amended by revising paragraphs (a)(1) and (c), to read as follows:

§ 1040.75 Plant location adjustments for producers and on nonpool milk.

(a) * * *

(1) May deduct from the producer price differential the rate per hundredweight applicable pursuant to § 1040.52(a)(1) or (2) for the location of the plant at which the milk was first physically received.

* * * * *

(c) For purposes of computation pursuant to §§ 1040.71 and 1040.72, the statistical uniform price shall be

adjusted at the rates set forth in § 1040.52 applicable at the location of the nonpool plant from which the other source milk was received except that the statistical uniform price, so adjusted, shall not be less than the Class III price.

16. Section 1040.76 is amended by revising paragraph (a)(4) and the third sentence of paragraph (b)(1)(ii), to read as follows:

§ 1040.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(4) Multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

* * * * *

(b) * * *

(1) * * *

(ii) * * * Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1040.60 shall be priced at the statistical uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such statistical uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

* * * * *

§ 1040.85 [Amended]

17. In Section 1040.85 the introductory text is amended by removing the words ''2 cents'' and adding in their place the words ''4 cents''.

§ 1040.86 [Amended]

18. In Section 1040.86 paragraph (a) is amended by removing the words ''5 cents'' and adding in their place the words ''7 cents''.

Note: This marketing agreement will not appear in the Code of Federal Regulations.

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ 1040.1 to 1040.86, all inclusive, of the order regulating the handling of milk in the Southern Michigan marketing area (7 CFR PART 1040) which is annexed hereto; and

II. The following provisions: § 1040.87 Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of May 1995, _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ 1040.88 Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature

By (Name) _____

(Title) _____

(Address) _____

(Seal)

Attest

[FR Doc. 95–20347 Filed 8–17–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–56–AD]

Airworthiness Directives; Cessna Model 441, 500, 550, and 560 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Cessna Model 441, 500, 550, and 560 series airplanes. This proposal would require replacement of outflow/safety valves with serviceable valves. This proposal is prompted by a report of cracking and subsequent failure of outflow safety valves in the pressurization system. The actions specified by the proposed AD are intended to prevent such cracking and subsequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane.

DATES: Comments must be received by October 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Allied Signal, Inc., Controls and Accessories, 1110 North Oracle Road, Tucson, Arizona 85737–9588. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–56–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of the failure of a safety valve in the pressurization system on a Learjet Model 31A airplane. Failure of the valve resulted in depressurization of the cabin. Investigation revealed that the poppets of certain outflow/safety valves were cracked. These discrepant valves, including the safety valve installed on the incident airplane, had been manufactured since January 1, 1989. Certain valves manufactured since that date have been found to be susceptible to cracking due to an improper molding process. Cracking in the poppets of the outflow/safety valves in the pressurization system can result in an open valve with an effective flow area of 4.4 square inches; additionally, the valve may close and remain closed. This condition, if not corrected, could result in cracking and subsequent failure of the airflow/safety valves, which could lead to rapid decompression of the airplane.

On March 9, 1995, the FAA issued a proposed rule (Docket 94–NM–211–AD, 60 FR 14231, March 16, 1995), applicable to certain Learjet Model 24, 25, 31, 35, 36, and 55 series airplanes and Learjet Model 28 and 29 airplanes, to address the unsafe condition described previously. The outflow/safety valves installed on these airplanes are similar to the valves installed on Cessna Model 441, 500, 550, and 560 series airplanes. Therefore, the FAA has determined that the latter airplane models also are subject to the unsafe condition described previously.

The FAA has reviewed and approved the following Allied Signal Aerospace Service Bulletins:

1. Service Bulletin 103576–21–4054, dated January 30, 1995 (for Cessna Model 441 series airplanes);

2. Service Bulletin 103576–21–4056, dated January 30, 1995 (for Cessna Model 500 and 550 series airplanes); and

3. Service Bulletin 103648–21–4055, dated January 30, 1995 (for Cessna Model 560 series airplanes).

These service bulletins describe procedures for replacement of certain discrepant outflow/safety valves with serviceable valves.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacement of certain discrepant outflow/safety valves with serviceable valves. The actions would be required to be accomplished in accordance with the service bulletins described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 150 Cessna Model 441, 500, 550, and 560 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 120 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the inspection requirement of this proposal on U.S. operators is estimated to be $86,400, or $720 per airplane. However, the manufacturer has advised that it will provide replacement parts at no cost to the operator and will reimburse operators for the labor costs of the required removal and replacement.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

Cessna Aircraft Company: Docket 95–NM–56–AD.

Applicability: Model 441, 500, 550, and 560 series airplanes; equipped with Allied Signal outflow/safety valves; as identified in Allied Signal Aerospace Service Bulletins 103576–21–4054, 103576–21–4056, and 103648–21–4055, all dated January 30, 1995; 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 use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in

this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking and subsequent failure of the outflow/safety valves, which would result in rapid decompression of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the outflow/safety valve in accordance with Allied Signal Aerospace Service Bulletin 103576–21–4054 (for Model 441 series airplanes), 103576–21–4056 (for Model 500 and 550 series airplanes), or 103648–21–4055 (for Model 560 series airplanes), all dated January 30, 1995, as applicable.

(b) As of the effective date of this AD, no person shall install an outflow/safety valve, having a part number and serial number identified in Allied Signal Aerospace Service Bulletin 103576–21–4054 (for Model 441 series airplanes), 103576–21–4056 (for Model 500 and 550 series airplanes), or 103648–21–4055 (for Model 560 series airplanes), all dated January 30, 1995, on any airplane unless that valve is considered to be serviceable in accordance with the applicable service bulletin.

(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, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(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.

Issued in Renton, Washington, on August 14, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–20505 Filed 8–17–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310 and 341

[Docket No. 94N–0247]

RIN 0905–AA06

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Proposed Amendment of Monograph for OTC Bronchodilator Drug Products; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposal that appeared in the **Federal Register** of March 9, 1995 (60 FR 13014). That document proposed to amend the final monograph for over-the-counter (OTC) bronchodilator drug products to remove pressurized metered-dose aerosol container dosage forms for the ingredients epinephrine, epinephrine bitartrate, and racepinephrine hydrochloride. The document was published with two errors. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 95–5825, appearing on page 13014 in the **Federal Register** of March 8, 1995, the following corrections are made:

§ 310.545 [Corrected]

1. On page 13020, in the third column, in § 310.545 *Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses*, in paragraph (a)(6)(iv)(C), the words ''April 10, 1995'' are corrected to read ''(date 30 days after date of publication of the final rule)''; and in paragraph (d)(26), the words ''April 10, 1995'' are corrected to read ''(Date 30 days after date of publication of the final rule)''.

Dated: August 14, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95–20564 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–21–95]

RIN 1545–AT46

Definition of Personal Property for Purposes of the Straddle Rules; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the definition of personal property for purposes of the straddle rules.

DATES: The public hearing originally scheduled for Wednesday, August 30, 1995, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1092(d) of the Internal Revenue Code of 1986. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** for Tuesday, May 2, 1995 (60 FR 21482), announced that the public hearing on proposed regulations under section 1092(d) of the Internal Revenue Code of 1986 would be held on Wednesday, August 30, 1995, beginning at 10 a.m., in the IRS Auditorium Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Wednesday, August 30, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 95–20494 Filed 8–17–95; 8:45 am]

BILLING CODE 4830–01–P

26 CFR Part 301

[DL–21–94]

RIN 1545–AS52

Disclosure of Return Information to the U.S. Customs Service; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations which authorize the IRS to disclose certain return information to the U.S. Customs Service.

DATES: The public hearing originally scheduled for Thursday, August 24, 1995, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6103(l)(14) of the Internal Revenue Code of 1986. A notice of public hearing appearing in the **Federal Register** for Tuesday, July 18, 1995 (60 FR 36756), announced that the public hearing on proposed regulations under section 6103(l)(14) of the Internal Revenue Code of 1986 would be held on Thursday, August 24, 1995, beginning at 10 a.m., in the Commissioner's Conference room, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Thursday, August 24, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 95–20493 Filed 8–17–95; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 85

[FRL–5270–5]

Inspection/Maintenance Program Requirement—On-Board Diagnostic Checks

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes revisions to the motor vehicle Inspection/Maintenance (I/M) Program Requirements. The proposed revisions include additions and modifications regarding requirements that I/M inspectors check the on-board diagnostic system as part of the overall inspection. This rule proposes the minimum requirements for inspecting vehicles equipped with on-board diagnostic systems as part of the inspections required in basic and enhanced Inspection/Maintenance programs.

DATES: Written comments on this proposal must be received no later than September 18, 1995.

The Agency will hold a public hearing on this proposed amendment if one is requested on or before September 5, 1995.

If a public hearing is held, comments must be received within 30 days after the hearing.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–94–21. It is requested that a duplicate copy be submitted to Eugene J. Tierney at the address in the **FOR FURTHER INFORMATION CONTACT** section below. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall, 401 M. Street S.W., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4456.

SUPPLEMENTARY INFORMATION:

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II. Summary of Proposal

Motor vehicle inspection and maintenance (I/M) programs are an integral part of the effort to reduce mobile source air pollution. Despite being subject to the most rigorous vehicle pollution control program in the world, vehicles in the United States still create a substantial amount of carbon monoxide, hydrocarbons, nitrogen oxides, and other air pollutants. One reason for this is the fact that the number of vehicle miles traveled on U.S. roads has doubled in the last two decades to 2 trillion miles per year, partially offsetting the technological progress in vehicle emission control made during that time. Projections of continued growth in vehicle travel necessitate continued emission-reduction efforts so that air quality goals may be achieved.

Under the Clean Air Act as amended in 1990 (the Act), 42 U.S.C. 7401 *et. seq.*, the U.S. Environmental Protection Agency (EPA) is pursuing a three-point strategy for reducing emissions from transportation sources. The first two points involve the development and commercialization of cleaner vehicles and cleaner fuels. The third point focuses on in-use control to ensure that cars in customer use are properly maintained. I/M programs are intended to address this third point. The Act was prescriptive with respect to certain aspects of the I/M program design. In particular, section 202(m)(3) of the Act directs EPA to require on-board diagnostic (OBD) system checks as a component of I/M programs. In addition, section 182(a)(2)(B)(ii) of the Act requires that states revise their I/M programs within two years after promulgation of regulations under section 202(m)(3) to meet the requirements of those regulations.

EPA is proposing today to establish requirements for the inspection of on-board diagnostic systems as part of I/M programs. The purpose of this notice is to propose amendments to those sections of the Inspection/Maintenance Program Requirements in Subpart S, 40 CFR Part 51 (November 5, 1992) that were reserved for OBD requirements and elsewhere, as needed. Specifically, the reserved sections to be modified include § 51.351(c), § 51.352(c), § 51.357(a)(12), § 51.357(b)(4), and § 51.358(b)(4) of Part 51. This notice also proposes additions to sections of Subpart S pertaining to data collection and analysis as well as implementation deadlines. Specifically, these sections include § 51.365, § 51.366, and § 51.373. Finally, this notice proposes additions to Subpart W of 40 CFR Part 85 pertaining to test procedures, test equipment, and standards for failure for purposes of the emission control system performance warranty. These Subpart W changes will provide vehicles subject to the OBD test with emission control performance warranty coverage for OBD test failures.

III. Authority

Authority for the actions proposed in this notice is granted to EPA by sections 182(a)(2)(B)(ii), 182(c)(3), 202(m)(3),

207(b), and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7511a(a)(2)(B)(ii), 7511a(c)(3), 7521(m)(3), 7541(b), and 7601(a).

IV. Background of Proposed Rule

During the last two decades, there have been considerable emission control development efforts on the part of both vehicle manufacturers and the federal government. As a result, passenger cars and light-duty trucks produced in recent years emit significantly lower emissions than their predecessors, provided that they are properly operating.

A large body of evidence, however, demonstrates that current generation vehicles are not all operating properly during actual use. Moreover, they are often used under different temperature and driving conditions than are encountered in emission certification tests, and may emit significantly greater emissions when operating at those temperatures and conditions. As manufacturers have achieved significant reductions in the emissions of properly functioning, new vehicles, the lack of equivalent control over malfunctions and during non-standard conditions has become increasingly evident. Emission-related malfunctions do not always cause an outward indication of a problem (e.g., poor driveability or decreased fuel economy) and thus are sometimes difficult to detect and repair.

The Clean Air Act Amendments of 1990, signed into law on November 15, 1990, reflect a recognition of the problems encountered in identifying malfunctioning vehicles and contain several provisions aimed at reducing them. One of these is the requirement for incorporation and inspection of on-board diagnostic systems (OBD) in new vehicles. Section 207 of these amendments added paragraph (m) to section 202 of the Act, directing the EPA to promulgate regulations requiring the installation and inspection of OBD systems.

Section 202(m)(1) of the Act requires OBD systems to monitor emission-related components for malfunctions or deterioration which render vehicles incapable of complying with the emission standards established for such vehicles. On February 19, 1993, EPA promulgated requirements for OBD systems (hereafter, OBD rules) on 1994 and later model year light duty vehicles and light duty trucks (58 FR 9468, February 19, 1993). These regulations (40 CFR 86.094–17) require all vehicle manufacturers to install equipment and establish operating parameters for the purpose of detecting malfunctions or deterioration in performance that would be expected to cause a vehicle to fail federal emission standards. Specifically, the on-board diagnostic system must be capable of identifying catalyst deterioration, engine misfire, oxygen sensor deterioration, and any other deterioration or malfunction within the powertrain which could cause emission increases greater than or exceeding the threshold levels established in § 86.094–17.

A malfunction indicator light (MIL) located in the dashboard of the vehicle is required to be illuminated when the OBD system detects malfunctions. The purpose of the MIL is to inform the vehicle operator of the need for service when the vehicle is operating under potentially high emitting conditions. Once illuminated to indicate a malfunction, the MIL must remain illuminated during all periods of engine operation until the trouble codes stored in the on-board computer are cleared by a service technician or after repeated reevaluation by the OBD system fails to detect a reoccurrence of the problem. The regulations allow the OBD system to extinguish the MIL after three subsequent driving cycles of similar operation in which a system fault does not reoccur. Similar operating conditions are defined as being within ten (10) percent of the load condition and 375 rpm with the same engine warm-up status which existed when the malfunction was first determined (40 CFR 86.094–17).

Codes indicating the likely problem will be stored in the vehicle's on-board computer for ready access by technicians, enabling proper diagnosis and repair. Section 202(m)(4) of the Act requires that OBD system information be unrestricted and accessible to anyone via standardized connectors without requiring access codes or any device only available from the manufacturer. Further, the OBD system information must be usable without need for any unique decoding information or device. In accordance with this mandate, the OBD rules require codes to be standardized to follow the diagnostic trouble code definitions established in Society of Automotive Engineers (SAE) J2012, published in March 1992. EPA allows the computer-stored fault codes to be cleared after forty (40) engine warm-up cycles if the same fault is not reregistered. Anyone desiring more detailed information on the OBD system should refer to the OBD rules and the preamble promulgated on February 19, 1993, (58 FR 9468).

The Act also revised and strengthened EPA's authority to prescribe vehicle inspection and maintenance (I/M) programs for ozone nonattainment areas. Section 182 of the Act requires EPA to review, revise, and republish I/M program requirements, taking into consideration investigations and audits of I/M programs, and the I/M requirements established in the Act.

One of these program requirements is inspection of vehicle OBD systems. The Act requires that OBD inspections be incorporated into all basic and enhanced I/M programs once vehicles with mandated OBD systems become part of the fleet. Section 182(c)(3)(vii) requires that I/M programs include ''inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or systems deterioration identified by or affecting such diagnostic systems.'' Sections 182(a)(2) and 202(m)(3) require states to amend I/M program implementation plans to incorporate the inspection of on-board diagnostic systems within two years after promulgation of regulations requiring such inspection.

EPA's initial rule implementing section 182's I/M requirements (the I/M rule) was promulgated on November 5, 1992. It establishes performance standards and other requirements for basic and enhanced vehicle I/M programs. Several sections of the I/M rule were reserved for OBD requirements, since the OBD rules had not yet been promulgated. This proposed rule addresses those sections of the I/M rule reserved for OBD requirements.

OBD systems will allow an inspector to scan for stored malfunction codes at the time of the periodic I/M test by simply attaching a computerized scan tool to the standardized plug provided on all OBD equipped vehicles. The presence of one or more emissions-related codes in a vehicle's OBD system will indicate current or recent existence of a malfunction with the potential to cause high emissions. Furthermore, current emissions problems are also indicated if the MIL is commanded to be illuminated by the OBD system. Thus, EPA proposes that if the MIL is commanded to be illuminated and an emissions-related code is present, the vehicle shall fail the OBD inspection and be required to obtain the repairs indicated by the malfunction code.

On-board diagnostic system inspections are intended to improve the accuracy of I/M programs, thus enhancing air quality benefits. The short emission tests used in I/M programs allow some vehicles that need repair to nevertheless ''pass'' the test. In addition, visual inspections of emission control devices can only determine presence and possibly proper connection but do not necessarily establish that the devices are functioning properly.

Interrogation of the OBD system provides another means of identifying vehicles in need of repair. It also enables more accurate and efficient repairs by identifying vehicle components responsible for emission increases.

A vehicle's failure to pass an approved I/M test may provide the basis for a warranty claim under the Act. Section 207(b) of the Act requires vehicle manufacturers to bear the cost of repairing a failing vehicle such that it passes the I/M test, if: (1) Such vehicle is maintained and operated in accordance with manufacturer instructions; (2) the vehicle fails the test during the appropriate warranty period; and (3) if such nonconformity results in the owner having to bear any penalty or other sanction under state or Federal law. Section 207(b) establishes a mechanism to provide emission control performance warranty coverage for motor vehicles subject to such tests under the circumstance enumerated in the previous sentence (40 CFR Part 85, Subpart V). Section 207(b) requires the Administrator to establish, by regulation, I/M short test procedures to be used for determining whether in-use vehicles comply with Federal emission standards if the Administrator determines that the following three conditions have been met: (1) The short test methods and procedures are ''available'' (i.e., that the necessary equipment may be readily obtained and that the procedure is reasonably expected to serve its function); (2) the procedures are consistent with good engineering practices; and (3) the results are reasonably capable of being correlated with tests conducted under § 206(a)(1), the tests used to certify new vehicles.

The OBD inspection meets these three conditions. Therefore, the Act requires promulgation of regulations to implement the performance warranty for vehicles that fail the OBD inspection. EPA is therefore proposing to incorporate the OBD test procedures, equipment, and standards for failure into its emission warranty short test regulations, Subpart W of Part 85 of Title 40 of the Code of Federal Regulations, in order to extend warranty coverage to failure of the OBD test.

OBD equipped vehicles will not constitute a significant portion of the fleet for several years and existing I/M tests will be identifying malfunctioning vehicles during that time. Therefore, EPA does not attribute substantial air quality benefits to OBD until the year 2005. At this point, EPA believes it is too early to determine whether existing or newly established I/M test procedures may be replaced by OBD or how long it will take to refine the OBD technology to the point where it could substitute for other I/M test procedures. The Agency plans to evaluate the effectiveness of OBD checks to determine whether they can substitute for all or some of the I/M tests otherwise being performed on OBD equipped vehicles. Nevertheless, as long as a significant fraction of the fleet is not OBD equipped, the high-technology I/M tests established in the federal I/M rule will continue to be needed.

V. Discussion of Major Issues

A. Components of the OBD Inspection

1. Test Procedure

When a vehicle arrives at the I/M lane, the inspector must determine whether that vehicle is equipped with an OBD system consistent with § 86.094–17 in order to determine whether an OBD check will be performed during the inspection. In accordance with section 202(m) of the Act, case-by-case waivers are available to any manufacturer that is unable to meet these requirements in 1994 or 1995 model years. Thus, the OBD inspection will apply to all 1996 and later light-duty vehicles and light-duty trucks. Subpart S requires the inspector to determine the model year of the vehicle when inputting other vehicle identification parameters.

After establishing that the vehicle is subject to OBD system requirements, the inspector will perform several steps to complete the test. First, the inspector must locate the vehicle connector (the data link connector) and attach the inspection computer to it. The OBD rules require that the vehicle connector's location, accessibility, design, and function be consistent with SAE J1962 ''Diagnostic Connector,'' published in June 1992.

The connector is required to be located in the passenger compartment in the area bounded by the driver's end of the instrument panel to 300 mm beyond the vehicle centerline. It is to be attached to the instrument panel and accessible from the driver's seat.

The vehicle connector is required to be readily accessible. Removal of the instrument panel cover, connector cover, or any other barriers must not require the use of a tool. The vehicle connector should allow the inspector to employ a one-handed/blind insertion of the mating test equipment connector.

After the test system is connected to the vehicle, EPA proposes that the test system employ the procedure for retrieving codes specified in SAE J1979 ''E/E Diagnostic Test Modes,'' (DEC91), cited in the OBD rules. This involves two steps. Initially, the test system should send to the OBD computer a request to retrieve and record whether the MIL is commanded to be illuminated. Following this, the test equipment should send a request to retrieve and record the specific codes that are stored.

EPA proposes that the State establish in its test procedure the condition the vehicle shall be in during the OBD inspection: ''key-on/engine-off'' (KOEO) or ''key-on/engine-running'' (KOER). This must be clearly specified in the State's test procedure to allow for consistency among all State test sites.

Finally, this proposal does not specify whether the OBD inspection should take place before or after the other I/M tests. EPA is allowing the states to determine the placement of the OBD test within the I/M lane. In addition, EPA is seeking comments on the feasibility of conducting OBD inspections while the IM240 test is being conducted, and thus seeks information on manufacturer specifications for accessing OBD systems. Individuals with information relevant to this inquiry are requested to submit such information during the public comment period.

2. Anti-Tampering Provisions

In addition to providing data pertaining to stored OBD codes, the information provided by the test equipment's initial request provides a safeguard against any tampering with the OBD system immediately prior to the test. The OBD rules require that a readiness code be stored in the on-board computer to indicate when the diagnostic system has completed all monitoring checks and determined that all monitored systems are functioning properly. This will enable I/M inspectors to be certain that malfunction codes have not merely been cleared, without actual repair of the malfunction, since the last OBD check of the vehicle's emission-related control systems. If the vehicle's OBD system indicates that the on-board diagnostic evaluation of any module is incomplete, EPA proposes that the information contained in the OBD system be considered void and the driver instructed to return after the vehicle has been run long enough to allow the test cycle of all supported modules to be completed.

B. Standards for Failure of the OBD Inspection

Inspection of the OBD system requires the presence of a properly functioning vehicle connector. Therefore, if the inspector has determined that the

vehicle is subject to OBD inspections but the vehicle connector is missing or has been tampered with, EPA proposes that the vehicle shall fail the inspection.

Section 202(m)(4) of the CAAA requires that OBD system information be unrestricted and accessible via standardized connectors and not dependent on access codes or any device provided only by the manufacturer. The information obtained from the OBD system must be usable without need for any unique decoding information or device.

To satisfy these mandates, EPA requires manufacturers to conform to uniform industry standards adopted through the Society of Automotive Engineers (SAE). The OBD rules require that diagnostic trouble codes be consistent with SAE J2012 ''Recommended Format and Messages for Diagnostic Trouble Code Definitions,'' published in March 1992.

The standardization of diagnostic codes allows failing codes to be specifically identified in this proposal. EPA has developed a list of all emission-related powertrain diagnostic trouble codes which will result in failure of the OBD test if present when the MIL is commanded to be illuminated. Thus, EPA is proposing that the vehicle shall fail inspection if the vehicle's MIL is commanded to be illuminated as a result of a failure related to the emission control system. Emission-related failures are determined by the presence of an emission-related trouble code.

Trouble codes may be present due to temporary, reversible conditions. As discussed above, EPA regulations require trouble codes to continue to be stored, once registered, unless 40 engine warm-ups occur without the fault of being redetected, while the regulations allow the MIL to be extinguished after three driving cycles of similar operation in which the fault does not reoccur. EPA is proposing to limit the potential for false I/M failures by proposing that vehicles fail the OBD inspection only if both (1) emission-related failure codes are present and (2) the MIL is commanded to be illuminated.

Furthermore, if the MIL is commanded to be illuminated, EPA proposes that the inspector visually inspect the MIL. EPA proposes that the vehicle also fail the OBD inspection if the MIL is commanded to be illuminated and is not illuminated.

Note that the list generated for the purpose of this rule does not define what constitutes ''emission-related'' for the purpose of any other regulation. This list defines what constitutes I/M failures. EPA's proposed list of codes resulting in I/M failure includes all codes related to fuel and air metering, the ignition system or misfire, auxiliary emission controls, and the computer and output circuits. Some of the codes related to the transmission are also included. For example, power steering codes are included because power steering affects fuel and air management during certain vehicle operations, such as turning right or left. However, codes pertaining to air conditioning and cruise control are not included.

The OBD rule in § 86.094–17(h)(2) specifically requires fault codes to be consistent with SAE J2012, Part C, of March 1992. However, the proposed list of codes was generated using the March 1994 version of J2012. This version is currently on the ballot for SAE approval. If it is not approved, the final rule will use the March 1992 version.

SAE is likely to continue to update J2012, primarily in response to changes in automotive technology and industry needs. Therefore, EPA shall make revisions to this rule as SAE J2012 is revised. As the list of diagnostic trouble code definitions is updated by SAE and EPA through rulemaking, EPA expects states to revise the list of codes used to determine vehicle pass/fail status.

C. OBD Component of the Performance Standard

Since OBD inspections are an element of the I/M performance standard as established in the rule promulgated on November 5, 1992 and a specifically required component of the program, OBD inspections do not generate emission reduction surpluses relative to the performance standard, i.e., they are not substitutes for achieving required emissions reductions but rather required supplements. However, while including OBD inspections does not generate additional credit toward the I/M performance standard, it may generate additional benefit. The actual magnitude of benefits were estimated in the OBD rule itself (58 FR 9482–9483). EPA will be assessing the contribution the OBD inspection actually makes once testing starts and will revise future revisions of the MOBILE emissions model to account for these benefits. Due to the timing of this requirement, OBD checks will play no significant role in attaining 15% reductions by 1996.

D. Administrative Program Requirements

1. Data Collection and Analysis

The proposed regulations included in today's action set out specific requirements for data collection and analysis to include information which will enable an analysis of OBD's role in the I/M program.

Inconsistent data collection has often hampered analysis of program operation: some programs have been unable to calculate basic statistics such as the number of vehicles tested and failed because of incomplete data collection. Even in programs where data collection has occurred, data analysis has not been used extensively in program evaluation. Subpart S establishes specific data collection requirements for I/M programs. This action proposes additional data collection and analysis requirements for vehicles subject to OBD inspection. This will allow the results of the OBD check to be compared with those of the emission test. Specifically, these data include the number of vehicles that fail the OBD test and pass the emission test and the number of vehicles which pass the OBD test and fail the emission test. This action also proposes that the number of vehicles which have consistent test results (i.e., fail or pass both tests) be reported.

EPA is also proposing the collection and analysis of data pertaining to the MIL. Specifically, these data include the number of vehicles whose MIL is commanded to be illuminated but who have no codes stored and the number of vehicles whose MIL is not commanded to be illuminated but who have codes stored. This action also proposes that data collection include the number of vehicles whose MIL is commanded to be illuminated and who have OBD codes stored, and the number of vehicles whose MIL is not commanded to be illuminated and who have no OBD codes stored.

OBD inspections can be viewed as a supplement to the inspection regime which improves its effectiveness in finding high emitting vehicles, but also as a possible long-term replacement to the other tests for identifying high emitting vehicles. The analysis of the estimated emission reductions associated with OBD assumes that OBD will ultimately identify and cause to be repaired those vehicles in all I/M areas which are capable of being identified by an enhanced I/M test, specifically the IM240, purge and pressure tests. This will be verified by data collection and analysis during the initial years of OBD implementation. Thus, this information is essential to evaluating the present and future role of IM240, purge, pressure, and OBD tests in I/M programs.

E. State Implementation Plan (SIP) Submissions

Section 202(m)(3) of the Act requires states to amend I/M program

implementation plans to incorporate the inspection of on-board diagnostic systems within two years after promulgation of regulations requiring such inspection. Thus, in order to be considered complete and fully approvable, I/M SIP submittals must include OBD inspections within two years after final promulgation of this rule.

F. Implementation Deadlines

The incorporation of OBD inspections into both basic and enhanced I/M programs should be implemented as expeditiously as possible. This action proposes that OBD requirements for I/M programs be fully implemented with respect to all administrative details by January 1, 1998. However, there will be some variation depending upon model year coverage of the local I/M program.

VI. Economic Costs and Benefits

Code inspections will not add significantly to the time or cost for an inspection due to the rapid connection and data transfer capabilities which have been developed by industry and are required by EPA's OBD rule. Each I/M lane will need to purchase the equipment necessary for OBD interrogation. However, this equipment is relatively inexpensive and these costs may be distributed over thousands of tests. For enhanced I/M programs, the capital and maintenance costs associated with conducting OBD tests have been calculated to be $0.05 per test. The OBD cost for basic centralized I/M programs is only $0.025 per test due to the higher volume of cars that can be inspected in these lanes. The total cost of incorporating OBD inspections into enhanced and basic centralized programs nationwide has been calculated to be about $1.7 million.

Very few states continue to operate decentralized test-and-repair I/M programs. Assuming that 1200 tests will be conducted with every scan tool, the incorporation of OBD inspections into test-and-repair programs has been calculated to be about $2 million. Thus, the total cost of incorporating OBD inspections into all I/M programs is $3.7 million.

In addition to improving the identification of high emitting vehicles in an I/M program, OBD systems will also be of great utility in the repair of vehicles which fail the inspection, including the exhaust emission test. OBD will speed identification of the responsible component, and help avoid trial and error replacement of components.

In addition to providing information about malfunctions which result in excess emissions, OBD code inspections will provide information about other faulty vehicle components. EPA recommends that this information be provided to the vehicle owner even if the vehicle passes the OBD test, enabling the owner to more efficiently repair any malfunctioning components.

VII. Public Participation

A. Comments and the Public Docket

EPA desires full public participation in arriving at final decisions in this Rulemaking action. EPA solicits comments on all aspects of this proposal from all interested parties. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the Air Docket, Docket No. A–94–21.

Commenters are especially encouraged to provide information on manufacturer specifications for accessing OBD systems. Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by—

- Labeling proprietary information ''Confidential Business Information'' and
- Sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket.

This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis of the final rule, then a nonconfidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

Anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-serve basis to follow the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advance copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–94–21 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VIII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 [58 **Federal Register** 51,735 (October 4, 1993)], the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Any impacts associated with these requirements do not exceed the impacts that were dealt with in the I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950). This regulation is not expected to be controversial. This regulation does not raise any of the issues associated with ''significant regulatory actions.'' It does not create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. The total cost of incorporating OBD inspections into all I/M programs nationwide has been calculated to be less than $4 million. It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues. Accordingly, it is appropriate to consider this a ''non-significant'' or ''minor'' rule action and it should be exempt from OMB review.

B. Reporting and Record Keeping Requirement

This proposal only marginally increases the existing burden through the addition of requirements to electronically capture and store one additional data element (existing diagnostic trouble codes) and to provide EPA with eight additional summary statistics based on this information. The existing collection has been approved (OMB no. 2060–0252) through February 28, 1996. This additional burden will not be imposed until after the current Information Collection Request has been renewed. When the current Information Collection Request is renewed, any modifications necessary to incorporate OBD inspection data collection will be made. These few additional elements will not add a measurable amount to the existing estimated burden of 85 hours.

Send comments regarding the burden estimate or any other aspect of this collection information, including suggestions for reducing this burden to Chief, Information Policy Branch, EPA, 401 M. Street S.W. (Mail Code 2136), Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this proposal will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government entity or jurisdiction. A small government jurisdiction is defined as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' This certification is based on the fact that the I/M areas impacted by the proposed rulemaking do not meet the definition of a small government jurisdiction, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.''

List of Subjects

40 CFR Part 51

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

40 CFR Part 85

Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: July 25, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 51 and 85 of title 40 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7602. Q04

2. Section 51.351 is proposed to be amended by adding text to paragraph (c) to read as follows:

§ 51.351 Enhanced I/M performance standard.

* * * * *

(c) *On-board diagnostics (OBD).* The performance standard shall include inspection of all 1996 and newer light duty vehicles and light duty trucks equipped with certified on-board diagnostic systems pursuant to 40 CFR 86.094–17, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in 40 CFR 51.357.

* * * * *

3. Section 51.352 is proposed to be amended by adding text to paragraph (c) to read as follows:

§ 51.352 Basic I/M performance standard.

* * * * *

(c) *On-board diagnostics (OBD).* The performance standard shall include inspection of all 1996 and newer light duty vehicles and light duty trucks equipped with certified OBD systems pursuant to 40 CFR 86.094–17, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in 40 CFR 51.357.

* * * * *

4. Section 51.357 is proposed to be amended by adding text to paragraphs (a)(12) and (b)(4) to read as follows:

§ 51.357 Test Procedures and Standards.

(a) * * *

(12) *On-board diagnostic checks.* Inspection of the on-board diagnostic system shall be according to the procedure described in 40 CFR 85.2223, at a minimum.

* * * * *

(b) * * *

(4) *On-board diagnostics test standards.* Vehicles shall fail if the vehicle connector has been tampered with, or if the malfunction indicator light is commanded to be illuminated and any of the diagnostic trouble codes listed in 40 CFR 85.2207 are present, at a minimum.

* * * * *

5. Section 51.358 is proposed to be amended by adding text to paragraph (b)(4) to read as follows:

§ 51.358 Test Equipment.

* * * * *

(b) * * *

(4) *On-board diagnostic test equipment requirements.* The test equipment used to perform on-board diagnostic inspections shall function as specified in 40 CFR 85.2231.

* * * * *

6. Section 51.365 is proposed to be amended by adding (a)(25) as follows:

§ 51.365 Data collection.

(a) * * *

(25) Results of the on-board diagnostic check expressed as a pass or fail along with the diagnostic trouble codes revealed.

* * * * *

7. Section 51.366 is proposed to be amended by adding (a)(2)(xi) through (xviii) to read as follows:

§ 51.366 Data Analysis and Reporting.

* * * * *

(a) * * *

(2) * * *

(xi) Passing the on-board diagnostic check and failing the I/M emission tests.

(xii) Failing the on-board diagnostic check and passing the I/M emission tests.

(xiii) Passing both the on-board diagnostic check and I/M emission tests.

(xiv) Failing both the on-board diagnostic check and I/M emission tests.

(xv) MIL is commanded on and no codes are stored.

(xvi) MIL is not commanded on and codes are stored.

(xvii) MIL is commanded on and codes are stored.

(xviii) MIL is not commanded on and codes are not stored.

* * * * *

8. Section 51.372 is proposed to be amended by revising paragraph (b)(3) to read as follows:

§ 51.372 State implementation plan submissions.

* * * * *

(b) * * *

(3) States shall revise SIPs as EPA develops further regulations. Revisions to incorporate on-board diagnostic checks in the I/M program shall be submitted by (two years after publication of final rule).

* * * * *

9. Section 51.373 is proposed to be amended by adding paragraph (f) as follows:

§ 51.373 Implementation Deadlines.

* * * * *

(f) On-board diagnostic checks shall be implemented as part of I/M programs by January 1, 1998.

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

10. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7507, 7522, 7524, 7525, 7541, 7542, 7543, 7547, 7601(a), unless otherwise noted.

11–12. A new § 85.2207 is proposed to be added to subpart W to read as follows:

§ 85.2207 On-Board Diagnostics Test Standards.

(a) A vehicle shall fail the on-board diagnostics test if it is a 1996 or newer vehicle and the vehicle connector is missing or has been tampered with.

(b) A vehicle shall fail the on-board diagnostics test if the malfunction indicator light is commanded to be illuminated and it is not illuminated.

(c) A vehicle shall fail the on-board diagnostics test if the malfunction indicator light is commanded to be illuminated and any of the following OBD codes, as defined by SAE J2012 ''Recommended Format and Messages for Diagnostic Trouble Code Definitions,'' (MAR94) Part C, are present (where X refers to any digit). Copies of SAE J2012 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001:

(1) Any PX1XX Fuel and Air Metering codes.

(2) Any PX2XX Fuel and Air Metering codes.

(3) Any PX3XX Ignition System or Misfire codes.

(4) Any PX4XX Auxiliary Emission Controls codes.

(5) P0500 Vehicle Speed Sensor Malfunction.

(6) P0501 Vehicle Speed Sensor Range/Malfunction.

(7) P0502 Vehicle Speed Sensor Circuit Low Input.

(8) P0503 Vehicle Speed Sensor Intermittent/Erratic/High.

(9) P0505 Idle Control System Malfunction.

(10) P0506 Idle Control System RPM Lower Than Expected.

(11) P0507 Idle Control System RPM Higher Than Expected.

(12) P0510 Closed Throttle Position Switch Malfunction.

(13) P0550 Power Steering Pressure Sensor Circuit Malfunction.

(14) P0551 Power Steering Pressure Sensor Circuit Malfunction.

(15) P0552 Power Steering Pressure Sensor Circuit Low Input.

(16) P0553 Power Steering Pressure Sensor Circuit Intermittent.

(17) P0554 Power Steering Pressure Sensor Circuit Intermittent.

(18) P0560 System Voltage Malfunction.

(19) P0561 System Voltage Unstable.

(20) P0562 System Voltage Low.

(21) P0563 System Voltage High.

(22) Any PX6XX Computer and Output Circuits codes.

(23) P0703 Brake Switch Input Malfunction.

(24) P0705 Transmission Range Sensor Circuit Malfunction (PRNDL Input).

(25) P0706 Transmission Range Sensor Circuit. Range/Performance.

(26) P0707 Transmission Range Sensor Circuit Low Input.

(27) P0708 Transmission Range Sensor Circuit High Input.

(28) P0709 Transmission Range Sensor Circuit Intermittent.

(29) P0719 Torque Converter/Brake Switch ''B'' Circuit Low.

(30) P0720 Output Speed Sensor Circuit Malfunction.

(31) P0721 Output Speed Sensor Circuit Range/Performance.

(32) P0722 Output Speed Sensor Circuit No Signal.

(33) P0723 Output Speed Sensor Circuit Intermittent.

(34) P0724 Torque Converter/Brake Switch ''B'' Circuit High.

(35) P0725 Engine Speed Input Circuit Malfunction.

(36) P0726 Engine Speed Input Circuit Range/Performance.

(37) P0727 Engine Speed Input Circuit No Signal.

(38) P0728 Engine Speed Input Circuit Intermittent.

(39) P0740 Torque Converter Clutch System Malfunction.

(40) P0741 Torque Converter System Performance or Stuck Off.

(41) P0742 Torque Converter Clutch System Stuck On.

(42) P0743 Torque Converter Clutch System Electrical.

(43) P0744 Torque Converter Clutch Circuit Intermittent.

(d) The list of codes shall be updated with future revisions of this rule, in conjunction with changes to 40 CFR 86.094–17(h) (3).

13. A new § 85.2223 is proposed to be added to subpart W to read as follows:

§ 85.2223 On-Board Diagnostic Test Procedures.

(a) The test sequence for the inspection of on-board diagnostic systems on 1996 and newer light-duty vehicles and light-duty trucks shall consist of the following steps:

(1) The on-board diagnostic inspection shall be conducted either with key-on/engine-off or key-on/engine-running.

(2) The inspector shall locate the vehicle connector and plug the test system into the connector.

(3) The test system shall send a Mode $01, PID $01 request to determine the evaluation status of the vehicle's on-board diagnostic system. The vehicle shall be automatically rejected from testing if Data B, Data C, and Data D indicate that the evaluation is not complete for any module supported by on-board diagnostic evaluation. The customer shall be instructed to return

after the vehicle has been run long enough to allow the testing of all supported modules to be completed. If Data B, Data C, and Data D again indicate that the vehicle should be rejected when it returns, the vehicle shall be failed.

(4) If Data B, Data C, and Data D indicate that the vehicle's on-board diagnostic evaluation is complete, the test system shall determine the status of the MIL illumination bit and record status information in the vehicle test record.

(i) If the malfunction indicator light bit is commanded to be illuminated and any of the codes listed at 40 CFR 85.2207(c) are present, the test system shall retrieve and record the codes in the vehicle test record. The vehicle shall fail the on-board diagnostic inspection.

(ii) If the malfunction indicator light bit is not commanded to be illuminated and any of the codes listed at 40 CFR 85.2207(c) are present, the test system shall retrieve and record the codes in the vehicle test record. The vehicle shall pass the on-board diagnostic inspection.

(iii) If the malfunction indicator light bit is commanded to be illuminated, the inspector shall inspect the MIL to determine if it is illuminated. The status of the MIL shall be recorded in the vehicle test record. If the MIL is commanded to be illuminated but is not, the vehicle shall fail the on-board diagnostic inspection.

(5) The motorist shall be provided with the on-board diagnostic test results, including the codes retrieved, the status of the MIL illumination command, and the pass or fail result.

14. A new § 85.2231 is proposed to be added to subpart W to read as follows:

§ 85.2231 On-board diagnostic test equipment requirements.

(a) The test system interface to the vehicle shall include a plug that conforms to SAE J1962 ''Diagnostic Connector.''

(b) The test system shall meet all vehicle electrical/electronic compatibility requirements for ''OBD II Scan Tools'' as specified in SAE J1978 and J2201, including the length of the electrical cable between the vehicle and the test system.

(c) The test system shall be capable of performing all communication functions as specified in SAE J1978, J1979, and J2205. Specifically, the system shall be capable of checking for the systems supported by the on-board diagnostic system and the evaluation status of supported systems (test complete/test not complete) in Mode $01 PID $01, as well as be able to request the codes, as specified in SAE J1979. In addition, the system shall have the capability to include bi-directional communication, when such features are available, and allow for non-intrusive pressure and purge checks. Copies of all of the SAE documents cited above may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001.

(d) The test system shall automatically make a pass, fail, or reject decision, as specified in the test procedure in 40 CFR 85.2223(a).

[FR Doc. 95–20539 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[PA62–1–7023b; FRL–5272–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County: USX Clairton Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a State implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision requires the availability and maintenance of certain air pollution control equipment at the USX Corporation's Clairton Works in Allegheny County, Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 18, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and, Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: 215 597–9781.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County: USX Clairton Works'', which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 25, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 95–20485 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IN48–1–6761b; FRL–5279–2]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Indiana for its Federally Enforceable State Operating Permits (FESOP) regulation and an Enhanced New Source Review (NSR) regulation. The USEPA made a finding of completeness in a letter dated November 25, 1994. The USEPA proposes to approve Indiana's FESOP regulation as an acceptable mechanism for establishing federally enforceable State operating permits for the purpose of creating

federally enforceable limitations on the potential to emit of certain pollutants regulated under the Clean Air Act. The USEPA proposes to approve Indiana's Enhanced NSR regulation as an acceptable mechanism to merge requirements of NSR and title V into one permitting process. Sources subject to the State construction permit rule will have the opportunity to satisfy its operating permit requirements by opting into this preconstruction rule. In the final rules section of this **Federal Register**, the USEPA is approving these actions as a direct final rule without prior proposal because USEPA views these as noncontroversial actions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. The USEPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before September 18, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulatory Development Section, Regulatory Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulatory Development Section, Regulatory Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Permits and Grants Section, Regulatory Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: July 20, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–20483 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA 146–1–7134b; FRL–5272–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Nonattainment Area, Transportation Control Measure Replacement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) for ozone which concern a transportation control measure (TCM) to be implemented in the San Joaquin Valley ozone nonattainment area.

The intended effect of proposing approval of this SIP revision is to control emissions of ozone precursors and carbon monoxide in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this action as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by September 18, 1995.

ADDRESSES: Written comments on this action should be addressed to: Deborah Schechter, Mobile Source Section (A–2–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the SIP revision and EPA's evaluation of the SIP are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted SIP revision are also available for inspection at the following locations:

California Air Resources Board, 2020 ''L'' Street, Sacramento, CA 92123

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolomne Street, Suite #200, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT: Deborah Schechter, Mobile Source Section, A–2–1, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1227.

SUPPLEMENTARY INFORMATION: This document concerns a revision to the California SIP to implement the ''Railroad Grade Separations'' TCM in the San Joaquin Valley ozone nonattainment area which replaces a TCM that was never implemented from the 1982 California ozone and CO SIP for San Joaquin County. Because the design of the ''Railroad Grade Separations'' project is nearly complete, because the funding will be available and has been committed by the required agencies, and because the State submitted a fully approvable SIP revision, the EPA has decided to take direct final action approving the submittal in to the California SIP. For further details, please see the information provided in the direct final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 26, 1995.

Jeff Zelikson,

Acting Regional Administrator.

[FR Doc. 95–20448 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[LA–22–1–6870; FRL–5280–9]

Approval and Promulgation of Section 182(f) Exemption to the Nitrogen Oxides (NO_X) Control Requirements for the Baton Rouge Ozone Nonattainment Area; Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA proposes to approve a petition from the State of Louisiana requesting that the Baton Rouge ozone nonattainment area be exempt from NO_X control requirements of section 182(f) of the Clean Air Act (CAA) as amended in 1990. The State of Louisiana bases its request for Baton Rouge upon a demonstration that additional NO_X reductions would not contribute to ozone attainment in the nonattainment area.

DATES: Comments on this proposed action must be received in writing on or before September 18, 1995.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne McDaniels or Mr. Quang Nguyen, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

Background

NO_X are precursors to ground level (tropospheric) ozone, or urban ''smog.'' When released into the atmosphere, NO_X will react with volatile organic compounds (VOC) in the presence of sunlight to form ozone. Tropospheric ozone is an important factor in the nation's urban air pollution problem.

The 1990 Clean Air Act Amendments (CAAA) made significant changes to the air quality planning requirements for areas that do not meet the ozone NAAQS. Subparts 1 and 2 of part D, title I of the CAA as amended in 1990 contain the air quality planning requirements for ozone nonattainment areas. Title I includes new requirements to control NO_X emissions in certain ozone nonattainment areas and ozone transport regions. Section 182(f) requires States to apply the same requirements to major stationary sources of NO_X as are applied to major stationary sources of VOC. The new NO_X requirements are reasonably available control technology (RACT) and new source review (NSR). These provisions are explained more fully in the EPA's NO_X Supplement to the General Preamble published in the **Federal Register** (FR) on November 25, 1992 (see 57 FR 55620). In addition, the general and transportation conformity rules required by section 176(c) (see 58 FR 63214 and 58 FR 62188), and the vehicle inspection and maintenance (I/M) rules required by section 182(c)(3) (see 57 FR 52989) also contain new NO_X requirements.

Baton Rouge, Louisiana, was designated nonattainment for ozone and classified as serious pursuant to sections 107(d)(4) and 181(a) of the CAA. The Baton Rouge nonattainment area consists of the following parishes: East Baton Rouge, West Baton Rouge, Pointe Coupee, Livingston, Iberville, and Ascension. Under section 181(a), serious areas must attain the ozone NAAQS by 1999. Please reference 56 FR 56694 (November 6, 1991, codified for Louisiana at 40 Code of Federal Regulations 81.319).

Applicable EPA Guidance

The CAA specifies in section 182(f) that if one of the conditions listed below is met, the new NO_X requirements would not apply:

1. In any area, the net air quality benefits are greater without NO_X reductions from the sources concerned;
2. In a nontransport region, additional NO_X reductions would not contribute to ozone attainment in the nonattainment area; or
3. In a transport region, additional NO_X reductions would not produce net ozone benefits in the transport region.

In addition, section 182(f)(2) states that the application of the new NO_X requirements may be limited to the extent that any portion of those reductions are demonstrated to result in ''excess reductions'' of NO_X. The NO_X provisions of the conformity requirements would also not apply in an area that is granted a section 182(f) exemption (see 58 FR 63214 and 58 FR 62188). In addition, certain NO_X provisions of the I/M requirements would not apply in an area that is granted a section 182(f) exemption (see 57 FR 52989).

The EPA's *Guideline for Determining the Applicability of Nitrogen Oxides Requirements under Section 182(f)* (December 1993) describes how the EPA will interpret the NO_X exemption provisions of section 182(f). In addition, a memorandum signed by John S. Seitz, Director of the EPA Office of Air Quality Planning and Standards, dated May 27, 1994, and subsequent modifications to that memorandum, describe certain revisions to the process the EPA currently intends to follow for granting exemptions from NO_X control requirements.

As described more fully in the Seitz memorandum, petitions submitted under section 182(f)(3) are not required to be submitted as State Implementation Plan (SIP) revisions. Consequently, the State is not required under the CAA to hold a public hearing in order to petition for an areawide NO_X exemption determination. Similarly, it is not necessary to have the Governor submit the petition.

Although the May 27, 1994, Seitz memorandum includes, among the exemptions that may be submitted under section 182(f)(3), the NO_X requirements of both the general conformity rule (see 58 FR 63214) and the transportation conformity rule (see 58 FR 62188), the EPA is currently in the process of revising the transportation conformity rule to ensure consistency with section 176(c)(3). This impending rule revision will require areas subject to section 182(b)(1) (i.e., moderate, serious, severe, and extreme ozone nonattainment areas) to submit transportation conformity NO_X exemption requests as revisions to the SIP. All other NO_X exemptions (i.e., NO_X NSR, NO_X RACT, general conformity NO_X requirements, and I/M NO_X requirements) may still be submitted under section 182(f)(3). In this notice, the EPA is not proposing to approve an exemption from the transportation conformity NO_X requirements. Rather, this will be accomplished through subsequent rulemaking on a future SIP revision submitted by the State.

State Submittal

On November 17, 1994, the Louisiana Department of Environmental Quality (LDEQ) submitted to the EPA a petition pursuant to section 182(f) which requests that the Baton Rouge nonattainment area be exempted by the EPA from the NO_X control requirements of section 182(f) of the CAA.

The State bases its petition on an urban airshed modeling (UAM) demonstration that additional NO_X reductions would not contribute to attainment in the area. This modeling demonstrates, consistent with the EPA's December 1993 section 182(f) guidance, that decreases in ozone concentrations resulting from VOC reductions alone are equal to or greater than decreases obtained from NO_X reductions or a combination of VOC and NO_X reductions. The State's submission includes a letter from Gustave Von Bodungen, Assistant Secretary of the LDEQ, to Jane N. Saginaw, Regional Administrator of the EPA Region 6, requesting exemption from NO_X RACT and transportation conformity requirements for NO_X in the Baton Rouge ozone nonattainment area, along with a summary of modeling results.

The State of Louisiana also provided supplemental technical reports based on the modeling demonstration in the Baton Rouge post-1996 rate-of-progress (ROP) plan submitted to the EPA on November 15, 1994, pursuant to the requirements of section 182(c)(2)(B) of the CAA. These reports contained the following: base case model inputs, base case performance evaluation, 1999 emissions report, and attainment modeling report. These additional technical reports provided supplemental detail and documentation on the modeling information provided to the EPA in the State's petition. In addition, the State submitted follow-up letters to the petition to (1) provide revisions to several tables contained in the original petition and (2) broaden the scope of the original request to also include exemptions under section 182(f) for NO_X NSR, general conformity, and I/M NO_X requirements.

Analysis of State Submission

The following items are the basis for the EPA's action proposing to approve the State of Louisiana's section 182(f) NO_X exemption petition for the Baton Rouge ozone nonattainment area. Please refer to the EPA's Technical Support Document and the State's submittal for more detailed information.

A. Consistency With EPA Section 182(f) Guidance

Chapter 4 of the EPA's December 1993 section 182(f) guidance requires that photochemical grid modeling be used to simulate conditions resulting from three emission reduction scenarios: (1) Substantial VOC reductions; (2) substantial NO_X reductions; and (3) both VOC and NO_X reductions. To demonstrate that NO_X reductions would not contribute to attainment, the areawide predicted maximum 1-hour ozone concentration for each day modeled under scenario (1) must be less than or equal to that from scenarios (2) and (3) for the same day. Chapter 7 specifies that the application of UAM should be consistent with the techniques specified in the EPA ''Guideline on Air Quality Models (Revised),'' and ''Guideline for Regulator Application of the UAM (July 1991).'' In addition, Chapter 8 of the EPA's December 1993 section 182(f) guidance requires that the modeling simulating conditions from the NO_X emission reduction scenarios include NO_X emission increases after November 15, 1992, due to new or modified stationary sources of NO_X. (Many of these sources would be subject to the best available control technology requirement through the prevention of significant deterioration program, but not to NSR offsets.) As discussed in the next section, the State has met these requirements by using the UAM consistent with the EPA's guidance.

B. UAM Modeling Analysis

The LDEQ used UAM version IV, an EPA-approved photochemical grid model, to develop the attainment demonstration for the Baton Rouge area. The State's modeling activities were performed as outlined in the UAM modeling protocols, according to the EPA's ''Guideline for Regulatory Application of the Urban Airshed Model.'' A specific modeling protocol was developed by the State for its modeling activities. The State's modeling protocol was reviewed and approved by the EPA. The discussion below summarizes the EPA's analysis of how the State's modeling demonstrations complied with the EPA's guidance. Please refer to the EPA's Technical Support Document for more detailed information.

1. Episode Selection

The State used the EPA ''Guideline For Regulatory Application of The Urban Airshed Model'' to select episodes for use in the Baton Rouge UAM modeling exercises. Data from 1987 through 1991 were examined for episodes which cover at least 48 consecutive hours and the worst-case meteorological conditions. Three episodes were selected for the UAM analysis for the area.

2. Model Domain and Meteorological Input

The LDEQ used a sufficiently large modeling domain for Baton Rouge to ensure that the model captures the movement of ozone episodes as a result of the VOC and NO_X emissions emitted from the surface sources. Meteorological data were collected from numerous monitoring stations in the area. The LDEQ followed the methods described in the UAM user's guides to develop model inputs for wind field data, mixing heights, temperature, and meteorological scalars for the areas.

3. Emissions Inventory

The Baton Rouge modeling exercises were conducted using VOC and NO_X emission inventories compiled by survey and direct measurement by the LDEQ. The modeling emissions inventories are composed of point source, area, on-road mobile, off-road mobile, and biogenic emissions. Where applicable, emissions were adjusted for pertinent conditions related to the episode day to be modeled, thus producing day-specific emissions. The State followed the EPA's procedures for developing episode-specific emission inventories.

The EPA's section 182(f) guidance explains that, in general, the purpose of the section 182(f) requirements for NO_X is related to attainment of the ozone standard, which suggests that an analysis be focussed on the time that attainment of that standard is required. For the purpose of a section 182(f) modeling demonstration, this means that the projected emissions inventory for the attainment year should be used.

For Baton Rouge, the 1999 attainment year modeling inventory was developed from the 1990 base year emission inventory and adjusted to reflect the projected conditions for the attainment year. Demographic and econometric forecasting methods were employed to project activities levels to 1999, which, in turn, were used to develop a projected emissions inventory for 1999. The State then applied the VOC emission reductions that are projected to be realized through 1996 from the control regulations contained in the Baton Rouge 15 percent ROP SIP submitted to the EPA on November 15, 1994, and the NO_X controls implemented between 1990 and 1994 due to facilities' voluntary participation in the early NO_X reduction program. The 1999 inventories did not incorporate any additional NO_X emission reductions that would have been achieved through implementation of the NO_X RACT, NSR, general conformity, or NO_X-related I/M provisions.

4. Model Performance

For Baton Rouge, both graphical and statistical performance measures were used to evaluate the model. Using these analyses, the predicted results from the model were compared to the observed results for each episode. These analyses indicated that, overall, the model performed satisfactorily for the three episodes used for the UAM demonstration.

5. Section 182(f) Demonstration

The EPA's section 182(f) guidance requires the State to model three emission reduction scenarios to evaluate the benefits of NO_X reductions: (1) Substantial VOC reductions; (2) substantial NO_X reductions; and (3) both VOC and NO_X reductions.

For the section 182(f) demonstration, the LDEQ modeled the three emission reduction scenarios for all three episodes using the 1999 projected emission inventory, which includes the voluntary early (1990–1994) point

source NO_X reductions and the VOC emission controls to be implemented through 1996 (i.e., 15 percent ROP). The LDEQ modeled the scenarios using across-the-board reductions in the projected VOC and NO_X point source emission inventories. The State first modeled substantial NO_X and VOC emission reductions as follows: a 100 percent reduction in point source VOC emissions alone; a 100 percent reduction in point source NO_X emissions alone; and a 100 percent reduction in both VOC and NO_X emissions combined. This reduction represents approximately 46 percent of the total projected anthropogenic VOC emissions and approximately 57% of the total projected NO_X emissions. The State also modeled smaller across-the-board reductions in the projected VOC and NO_X point source emissions of 25%, 50%, and 75% separately and then combined in order to more accurately characterize near-term VOC and NO_X control scenarios.

As explained in the EPA's section 182(f) guidance, the EPA believes it is appropriate to focus this analysis on the areawide maximum 1-hour predicted ozone concentration, since this value is critical for the attainment demonstration. For all three episodes, the controlling day showed that the domain-wide predicted maximum ozone concentrations are lowest when only VOC reductions are modeled. In contrast, further NO_X reductions increase the domain-wide maximum ozone concentrations. Please refer to the EPA's Technical Support Document for more detailed information.

Proposed Rulemaking Action

In this action, the EPA proposes to approve the section 182(f) NO_X exemption petition submitted by the State of Louisiana for the Baton Rouge ozone nonattainment area. If finally approved, the exemption would stop the mandatory sanctions clock started on July 1, 1994, under section 179(a), as a result of the EPA's finding of failure to submit the NO_X RACT SIP. Pursuant to section 179(a), if within 18 months after the finding of failure to submit, the State has not made a complete submittal or received full approval for a section 182(f) NO_X exemption, the EPA would be required to impose the requirement to provide two-to-one NSR offsets. If the State has not corrected its deficiency within six months after imposing the offset sanction, the EPA would impose a second sanction, on highway funding. Any sanction the EPA imposes must remain in place until the EPA determines that the State has corrected the deficiency. In addition, the finding of failure to submit triggered the 24-month clock for the EPA to impose a Federal Implementation Plan as provided under section 110(c)(1) of the CAA. It should be noted that, if finally approved, the section 182(f) exemption would not affect any other sanctions clocks that might be running at that time for findings issued for other mandatory submittals.

The EPA believes that all section 182(f) exemptions that are approved should be approved only on a contingent basis. As described in the EPA's NO_X Supplement to the General Preamble (57 FR 55628, November 25, 1992), the EPA would rescind a NO_X exemption in cases where NO_X reductions were later found to be beneficial in the area's attainment plan. That is, a modeling based exemption would last for only as long as the area's modeling continued to demonstrate attainment without the additional NO_X reductions required by section 182(f).

If the EPA later determines that NO_X reductions are beneficial based on new photochemical grid modeling in an area initially exempted, the area would be removed from exempt status and would be required to adopt NO_X RACT and the NO_X provisions of the NSR, I/M, and general conformity rules except to the extent that modeling shows NO_X reductions to be ''excess reductions.'' In the rulemaking action which removes the exempt status, the EPA would specify a schedule for States to adopt the NO_X RACT and NSR rules and for sources to comply with the NO_X RACT emission limits.

In summary, the UAM modeling results for the Baton Rouge nonattainment area indicate that additional NO_X reductions as well as NSR control of any NO_X increases related to expected growth would not contribute to attainment of the ozone standard by 1999. The EPA therefore proposes to approve a NO_X exemption for the Baton Rouge area. This exemption will remain effective for only as long as modeling continues to show that NO_X control activities would not contribute to attainment in the Baton Rouge nonattainment area.

Request for Public Comments

The EPA requests comments on all aspects of this proposal. As indicated at the outset of this action, the EPA will consider any comments received by September 18, 1995.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Approvals of NO_X exemption petitions under section 182(f) of the CAA do not create any new requirements. Therefore, because the Federal approval of the petition does not impose any new requirements, the EPA certifies that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIP's on such grounds [*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2)].

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

EPA's proposed action would relieve requirements otherwise imposed under the CAA and, hence, would not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. This action also would not impose a mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector.

Executive Order 12866

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 14, 1995.

Carol M. Browner,

Administrator.

40 CFR part 52 is proposed to be amended as follows:

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

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. Section 52.992 is proposed to be amended by adding paragraph (b) to read as follows:

§ 52.992 Area-wide nitrogen oxides (NO_X) exemptions.

* * * * *

(b) The LDEQ submitted to the EPA on November 17, 1994, a petition requesting that the Baton Rouge ozone nonattainment area be exempted from the NO_X control requirements of section 182(f) of the CAA. In addition, supplemental information was submitted to the EPA by the LDEQ on January 26, 1995, June 6, 1995, and June 16, 1995. The Baton Rouge nonattainment area consists of East Baton Rouge, West Baton Rouge, Point Coupee, Livingston, Iberville, and Ascension parishes. The exemption request was based on photochemical grid modeling which shows that reductions in NO_X would not contribute to attainment in the nonattainment area. On (insert date 60 days after date of final approval), the EPA approved the State's request for an areawide exemption from the following requirements: NO_X new source review, NO_X reasonable available control technology, NO_X general conformity, NO_X inspection and maintenance requirements.

[FR Doc. 95–20526 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[LA–24–1–7026b; FRL–5277–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plans for the Parishes of Beauregard, Grant, Lafayette, Lafourche, and St. Mary; Redesignation of these Ozone Nonattainment Areas to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On March 27, 1995, December 12, 1994, October 21, 1994, November 18, 1994, and November 23, 1994, the State of Louisiana submitted revised maintenance plans and requests to redesignate the ozone nonattainment areas of Beauregard, Grant, Lafayette, Lafourche, and St. Mary Parishes to attainment. These maintenance plans and redesignation requests were initially submitted to the EPA during the Summer of 1993. Although the EPA deemed these initial submittals complete, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has revised its submissions. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is proposing to approve Louisiana's redesignation requests because they meet the maintenance plan and redesignation requirements set forth in the CAA and EPA is proposing to approve the 1990 base year emissions inventory. The approved maintenance plans will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

In the Final Rules Section of this **Federal Register**, the EPA is approving these redesignation requests in a direct final rulemaking without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by September 18, 1995.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6T-AP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Office of Air Quality, P.O. Box 82135, Baton Rouge, Louisiana 70884–2135.

Anyone wishing to review this petition at the EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Planning Section (6T–AP), EPA Region 6, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National parks, Reporting and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 21, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6A).

[FR Doc. 95–20190 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[TN 141–1–6986b; FRL–5277–8]

Clean Air Act Approval and Promulgation of Redesignation of the Rossville Area of Fayette County, Tennessee, to Attainment for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Tennessee for the purpose of redesignating the Fayette County area to attainment for lead. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rational for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule

based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do at this time.

DATES: To be considered, comments must be received by September 18, 1995.

ADDRESSES: Written comments should be addressed to: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 401 Church Street, L & C Annex, 9th Floor, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is (404) 347–3555 extension 4195.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: August 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–20192 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[WT Docket No. 95–131; FCC 95–318]

Allow Interactive Video and Data Service (IUDS) Licensees to Eliminate the One-year Construction ''Build-out'' Requirement

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has proposed rules to allow Interactive Video and Data Service (IUDS) licensees to eliminate the one-year construction ''build-out'' requirement. This action was initiated on our own motion in response to requests by several IUDS licensees that participated in the IUDS auction. Originally crafted in the context of awarding licenses by lottery, the one-year construction benchmark now appears unnecessary. Licensees have sufficient economic incentives to provide service as quickly as possible; eliminating this one-year benchmark will provide licensees with greater flexibility in making financial, equipment, and other construction-related decisions.

DATES: Comments must be submitted on or before September 20, 1995 and reply comments must be filed on or before October 5, 1995.

ADDRESSES: Federal Communication Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Donna Kinin at (202) 418–0680, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* WT Docket 95–131, FCC 95–318, adopted July 31, 1995, and released August 14, 1995. The full text of this *Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, telephone (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. In response to requests by several IUDS licensees that were awarded licenses as a result of the IUDS auction, the Commission initiated a rule making to amend part 95 of its Rules, 47 CFR part 95, to eliminate the one-year construction ''build-out'' requirement. The IUDS service rules, crafted in 1992 in the context of awarding licenses by lottery, were intended to reduce speculation and spectrum warehousing. The Commission believes that the one-year construction benchmark is no longer necessary when licenses are awarded by auction.

2. The Commission proposes to amend § 95.833(a) of its rules to permit IUDS licensees to eliminate the one-year construction requirement, but not alter the three- and five-year benchmarks. Licensees argue that the IUDS equipment market is in early development and the one-year rule will hinder the industry's technological development. The Commission believes that with auction-awarded licenses, licensees have sufficient economic incentive to provide service as quickly as possible. In addition, it is in the public interest to provide licensees with greater flexibility in making financial, equipment and other construction-related decisions. Finally, leaving the three- and five-year benchmarks in tact, ensures timely service to the public.

3. The Commission seeks specific comments concerning the proposed rule amendment.

Initial Regulatory Flexibility Analysis

Reason for Action

The Commission proposes to amend part 95 of its rules to eliminate the one-year ''build-out'' construction requirement in the Interactive Video and Data Service (IUDS). Section 95.833(a) was crafted in the context of lotteries, but with auctions, speculation and spectrum warehousing are not issues.

Objectives

This change will provide greater opportunity for IUDS technological development and give licensees greater flexibility in their equipment/business decisions.

Legal Basis

The proposed action is authorized under sections 4(i), 303(r) and 309(j) of the Communications Act, 47 U.S.C. 154(i), 303(r) and 309(j).

Report, Recordkeeping and Other Compliance Requirements

None.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules

None.

Description, Potential Impact, and Small Entities Involved

The proposed rule change would benefit IUDS licensees by allowing more flexibility in their construction decisions, while offering service in the intended time frame. Most IUDS licensees are expected to be small entities.

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

None.

List of Subjects in 47 CFR Part 95

Interactive Video and Data Service (IUDS), Radio.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 95–20504 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[I.D. 060195E]

RIN 0648–AH98

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawling Activities; Additional Turtle Excluder Device Requirements Within Certain Fishery Statistical Zones

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

ACTION: Withdrawal of proposed rule.

SUMMARY: NMFS is withdrawing a proposed rule that would require additional restrictions on shrimp trawlers fishing in waters off Texas. NMFS is withdrawing the rule due to voluntary adoption of gear restrictions, increased law enforcement, and the late re-opening of Texas waters to shrimping.

DATES: This withdrawal of proposed rule is withdrawn on August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Phil Williams, 301–713–1401.

SUPPLEMENTARY INFORMATION: The waters off Texas were closed to shrimp fishing on May 15, 1995, for the annual closure which is coordinated by State and Federal fisheries managers to allow shrimp to grow larger and therefore more valuable. The closure period is usually marked by low levels of sea turtle strandings, and during the 8 weeks of the 1995 Texas closure, only 15 sea turtle strandings including 2 Kemp's ridleys were reported on offshore Texas beaches. Due to historical stranding data, however, NMFS anticipated an increase in sea turtle strandings on offshore Texas beaches in the weeks following the re-opening of Texas waters to shrimping. In 1994, 9 dead sea turtles stranded in Texas during the 4 weeks prior to opening, while 99 dead turtles stranded in the 4 weeks following opening. Over the last 5 years, the stranding data indicate that, on average, an eight-fold increase in sea turtle strandings follows the opening of Texas waters to shrimping.

NMFS therefore issued a proposed rule to implement the gear restrictions identified under the Shrimp Fishery/Emergency Response Plan (60 FR 19885, April 21, 1995) in offshore Texas waters out to 10 nm (18.5 km) for a 30-day period after the opening. The proposed rule was published June 16, 1995 (60 FR 31696), with a 2 week-comment period. Three public hearings were held in Texas (June 19, 20, and 26). Over 100 people attended the public hearings, including 29 that gave public testimony. Written comments were received through July 6, 1995. All but four of the comments received during the comment period were in opposition to the proposed rule.

Taking these comments into account, on July 6, 1995, NMFS decided not to implement a final rule in Texas for three reasons: (1) The apparent willingness of some segments of the industry to voluntarily adopt gear restrictions to reduce sea turtle strandings; (2) the deployment of a special turtle excluder device (TED) law enforcement team and specially trained Coast Guard groups; and (3) the late opening (at least a week later than any opening in the last 5 years) of Texas waters to shrimping, which is anticipated to result in better shrimp catches farther offshore. A news bulletin announcing this decision and asking shrimpers to voluntarily use small try nets and top-opening hard-grid TEDs was widely circulated by NMFS on July 14, 1995.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: August 15, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–20544 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 683

[Docket No. 950803202–5202–01; I.D. 070395C]

RIN 0648–AH48

Western Pacific Bottomfish Fisheries; Enforcement of Permit Requirements

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would make minor changes to regulations implementing the Fishery Management Plan for the Bottomfish Fisheries of the Western Pacific Region. In addition to some technical changes, operators of bottomfish vessels would be required to display their official number to enhance enforcement, and fish dealers would be required to make available to authorized officers records that are required by state law regarding sales of fish to facilitate monitoring of the fishery. These changes are intended to make existing regulations clearer and more effective.

DATES: Comments will be accepted until October 16, 1995.

ADDRESSES: Comments should be sent to Ms. Hilda Diaz-Soltero, Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James Morgan, 310–980–4036; or Alvin Z. Katekaru, 808–973–2985.

SUPPLEMENTARY INFORMATION: At the September 1994 meeting of the Western Pacific Fishery Management Council (Council), the NMFS Office of Enforcement, Southwest Region, recommended changes to the regulations for the bottomfish fisheries for the purpose of clarifying the requirements. The Council approved those changes and recommended that NMFS amend the existing regulations. The proposed changes are as follows:

1. List in the prohibitions section of the regulations that fishing without a permit in the Mau Zone of the Northwestern Hawaiian Islands is unlawful. A permit is required for both the Ho'omalu and Mau zones; however, only the Ho'omalu Zone is mentioned in the prohibitions section at § 683.6. Mentioning the Mau Zone in the prohibitions section would correct an oversight. 2. Require operators of bottomfish vessels to display their official numbers. Operators of vessels fishing in the crustacean and pelagic fisheries of the western Pacific are required to display their official numbers; however, this requirement was overlooked in the bottomfish fishery. Displaying the official number would help enforcement officers to identify fishing vessels, thereby minimizing radio contact and time on scene by air or ship while enforcing the regulations.

3. Require any person, such as fish dealers, to make available to authorized officers records that are required by state law regarding sales of fish. Current regulations at § 683.4(c) require fishermen and fish dealers to submit to

the appropriate state agency all reports required by that state. A new paragraph is proposed to be added that would require fish dealers to make state reports available to authorized officers for inspection. This would facilitate monitoring of the fishery.

4. Several editorial changes to the regulations would also be made for the purposes of clarity.

Classification

This action is taken under authority of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*. This action has been determined to be not significant for the purposes of E.O. 12866. The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The only costs are minimal costs of allowing access to fish reports required by the State, and a small additional cost to fishermen related to the requirement to paint the official number on each vessel. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 683

Administrative practice and procedure, Fisheries, Reporting and recordkeeping requirements.

Dated: August 11, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 683 is proposed to be amended as follows:

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for part 683 continues to read as follows:

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

2. In § 683.2, the definition of ''Council'' is revised to read as follows:

§ 683.2 Definitions.

* * * * *

Council means the Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813, 808–522–8220.

* * * * *

3. In § 683.4, paragraph (d) is added to read as follows:

§ 683.4 Recordkeeping and reporting.

* * * * *

(d) Any person who is required by State laws and regulations to maintain records of landings and sales for vessels regulated by this part, shall make those records immediately available for Federal inspection and copying upon request by an authorized officer.

4. In § 683.6, paragraphs (i) and (j) are amended by removing the word ''fishing'' and replacing it with the word ''fish''; and paragraphs (f) through (k) are redesignated as paragraphs (g) through (l), respectively, and paragraphs (f), (m), and (n) are added to read as follows:

§ 683.6 Prohibitions.

* * * * *

(f) Fish for bottomfish in the Mau Zone without a permit issued under § 683.21.

* * * * *

(m) Fail to affix and maintain vessel markings, as required by § 683.9.

(n) Refuse to make available to an authorized officer for inspection any records that must be made available in accordance with § 681.4.

5. Sections 683.9 and 683.10 are redesignated as §§ 683.10 and 683.11, respectively, and a new § 683.9 is added as follows:

§ 683.9 Vessel identification.

(a) *Official number*. Each fishing vessel subject to this part must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numerals*. In each of the three locations specified in paragraph (a), the official number must appear in block Arabic numerals at least 18 inches (45.7 cm) in height for fishing vessels of 65 feet (19.8 m) in length or longer, and at least 10 inches (25.4 cm) in height for other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator*. The operator of each fishing vessel subject to this part must—

(1) Keep the displayed official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 683.29 [Amended]

6. In § 683.29, paragraph (a) is amended by removing the telephone number ''808–955–8831'' and adding, in its place ''808–973–2939''.

[FR Doc. 95–20554 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 160
Friday, August 18, 1995

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee To Review the Government in the Sunshine Act

ACTION: Notice of public meeting; location announcement.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice was published on August 8, 1995 (60 FR 40342) of a notice of public hearing to be convened by the Special Committee to Review the Government in the Sunshine Act of the Administrative Conference of the United States. This notice announces the location of the hearing.

DATES: Tuesday, September 12, 1995, 9:00 am.

LOCATION: Occupational Safety and Health Review Commission Hearing Room, 1120 20th Street, NW., South Lobby, 9th Floor, Washington, DC.

FOR FURTHER INFORMATION: Jeffrey S. Lubbers,mm Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Special Committee to Review the Government in the Sunshine Act will hold a public hearing on September 12 to hear testimony on the operation of the Act.

See 60 FR 40342 (August 8, 1995) or more information about the scope of the public hearing and how to participate.

Dated: August 15, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–20559 Filed 8–17–95; 8:45 am]

BILLING CODE 6110–01–P

Adoption of Recommendations

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Administrative Conference of the United States (ACUS) adopted five recommendations at its Fifty-Second Plenary Session. The recommendations concern: (1) Review of Existing Agency Regulations; (2) Streamlined Processes for Noncontroversial and Expedited Rulemaking; (3) Resolution of Government Contract Bid Protest Disputes; (4) Alternative Dispute Resolution Confidentiality and the Freedom of Information Act; and (5) Use of Mediation under the Americans with Disabilities Act.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Lubbers, 202–254 7020.

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 591–596. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 594(1)). At its Fifty-Second Plenary Session, held June 15–16, 1995, the Assembly of the Administrative Conference of the United States adopted five recommendations.

Recommendation 95–3, ''Review of Existing Agency Rules,'' proposes that agencies develop processes for systematically reviewing their rules. Such processes should be designed by and tailored to the individual agencies. Agencies should set priorities for rule review, and provide for public input into the priority-setting process. The petition for rulemaking process should be strengthened to ensure adequate agency response, but should not be allowed to dominate an agency's agenda. Agencies should devote adequate attention and resources to the task of reviewing their existing rules.

Recommendation 95–4, ''Procedures for Noncontroversial and Expedited Rulemaking,'' endorses two rulemaking procedures that can expedite rules in appropriate cases. Direct final rulemaking is appropriate where a rule is expected to generate no significant adverse comment, and allows an agency to avoid publishing both a proposed and final rule. The Recommendation also proposes that agencies using interim final rulemaking should always provide for post-promulgation comment, and should always respond to the comments and make any necessary modifications. Such post-promulgation procedures should be used in all rules where prepromulgation comment is excused under the ''good-cause'' exemption of 5 U.S.C. 553(b)(3)(B) as ''impracticable'' or ''contrary to the public interest.''

Recommendation 95–5, ''Government Contract Bid Protests,'' proposes reexamination of the current jurisdictional arrangements for hearing the protests of disappointed seekers of government contracts. The recommendation urges that jurisdiction over bid protests, now available in four different forums (including the General Accounting Office, the General Services Board of Contract Appeals (for contracts involving information technology), the federal district courts, and the Court of Federal Claims) be streamlined by providing that all protests be heard initially in an administrative forum, with judicial review available exclusively in the U.S. Court of Appeals for the Federal Circuit. Should Congress not wish to consider exclusive appellate-level jurisdiction, the Conference alternatively proposes eliminating district court jurisdiction in favor of consolidated jurisdiction in the Court of Federal Claims. In addition, Recommendation 95–5 urges Congress to mandate empirical testing of the effect of the bid protest process to analyze the costs and benefits of that process and to determine whether it has improved the quality or reduced the cost of public procurement; the recommendation suggests several different approaches to such a study, among them a pilot study under which an agency or agencies would be permitted to conduct some or all procurement free of protest controls for a period of years, with the results to be compared to procurement conducted under protest controls.

Recommendation 95–6, ''ADR Confidentiality and the Freedom of

Information Act,'' seeks to deal with a difficulty raised by the 1990 Administrative Dispute Resolution Act concerning the need for confidentiality of some documents generated by ADR proceedings (e.g., mediator's notes) and their availability under FOIA. This recommendation, based in large part, on a study by Professor Mark Grunewald that describes the state of the law and evaluates the need for change, calls on Congress to amend the ADR Act's confidentiality provisions to make clear that they constitute an exemption from disclosure under the FOIA.

Recommendation 95–7, ''Use of Mediation under the Americans with Disabilities Act,'' urges that federal agencies with enforcement responsibilities under the Act cooperate to establish a coordinated program for voluntary mediation of ADA cases under all titles. The recommendation suggests establishing a joint committee to develop the program. Use of a common group of trained mediators is suggested to handle a variety of disputes arising under the Act, and several criteria are listed for evaluating the program.

The full texts of the recommendations are set out in the Appendix below. The recommendations will be transmitted to the affected agencies and to appropriate committees of the United States Congress. The Administrative Conference has advisory powers only, and the decision on whether to implement the recommendations must be made by the affected agencies or by Congress.

Recommendations and statements of the Administrative Conference are published in full text in the **Federal Register**. In past years Conference recommendations and statements of continuing interest were also published in full text in the *Code of Federal Regulations* (1 CFR Parts 305 and 310). Budget constraints have required a suspension of this practice in 1994. However, a complete listing of past recommendations and statements is published in the *Code of Federal Regulations*. Copies of all past Conference recommendations and statements, and the research reports on which they are based, may be obtained from the Office of the Chairman of the Administrative Conference. Requests for single copies of such documents will be filled without charge to the extent that supplies on hand permit (see 1 CFR § 304.2).

The transcript of the Plenary Session is available for public inspection at the Conference's offices at Suite 500, 2120 L Street NW., Washington, DC.

Dated: August 15, 1995.

Jeffrey S. Lubbers,

Research Director.

Appendix—Recommendations of the Administrative Conference of the United States

The following recommendations were adopted by the Assembly of the Administrative Conference on Thursday, June 15, 1995.

Recommendation 95–3, Review of Existing Agency Regulations

Federal agencies generally have systems in place to develop new regulations. Once those regulations have been promulgated, the agency's attention usually shifts to its next unaddressed issue. There is increasing recognition, however, of the need to review regulations already adopted to ensure that they remain current, effective and appropriate. Although there have been instances where agencies have been required to review their regulations to determine whether any should be modified or revoked, there is no general process for ensuring review of agency regulations.

The Administrative Conference believes that agencies have an obligation to develop systematic processes for reviewing existing rules, regulations and regulatory programs on an ongoing basis. If Congress determines that such a review program should be mandated, it should allow the President and agencies maximum flexibility to design processes that are sensitive to individual agency situations and types of regulations. Thus, such legislation should assign to the President the responsibility for overseeing agency compliance through general guidelines that take into account agency resources and other responsibilities. The obligation to review existing regulations should be made applicable to all agencies, whether independent or in the executive branch.

Given the difference among agencies, however, processes for review of existing regulations should not be ''one-size-fits-all,'' but should be tailored to meet agencies' individual needs. Thus, the President, as well as Congress, should avoid mandating standardized or detailed requirements. Moreover, the review should focus on the most important regulations and offer sufficient time and resources to ensure meaningful analysis. Tight time frames or review requirements applicable to *all* regulations, regardless of their narrow or limited impact, may prevent agencies from being able to engage in a meaningful effort. It is important that priority-setting processes be developed that allow agencies, in consultation with the Office of Management and Budget and the public (including but not limited to the regulated communities), to determine where their efforts should be directed.

Public input into the review process is critical. The Administrative Procedure Act already provides in section 553(e) for petitions for rulemaking, which allow the public to seek modifications or revocation of existing regulations as well as ask for new rules. The Administrative Conference has in the past suggested some improvements in the ways agencies administer and respond to such petitions. See Recommendation 86–6, ''Petitions for Rulemaking.'' It suggests, among other things, that agencies establish deadlines for responding to petitions. The Conference reiterates that recommendation and proposes that, if necessary, the President by executive order or the Congress should mandate that petitions be acted upon within a specified time, for example 12–18 months.

Although petitions for rulemaking are a useful method for the public to recommend to agencies changes it believes are important, such petitions should not be allowed to dominate the agency's agenda. Agencies have a broad responsibility to respond to the needs of the public at large and not all members of the public are equally equipped or motivated to file rulemaking petitions. Thus, the petition process should be a part, but only a part, of the process for determining agency rulemaking priorities, both with respect to the need for new regulations and to review of existing regulations. Agencies should also develop other mechanisms for public input on the priorities for review of regulations, as well as on the impact and effectiveness of those regulations.

Properly done, reviewing existing regulations is not a simple task. It may require resources and information that are not readily available. Each agency faces different circumstances, depending on the number of its regulations, their type and complexity, other responsibilities, and available resources. These processes must be designed so that they take into account the need for ongoing review, the agency's overall statutory responsibilities, including mandates to issue new regulations, and other demands on agency resources. Because there are relatively few successful well-developed models available and no widely accepted methodologies, the Conference recommends that agencies experiment with various methods. Such programs might explore different

approaches with the aim of finding one (or several) that functions effectively for the particular agency. Agencies may want to look to activities at the state level, as well as the limited federal-level experience.

Review of existing regulations is primarily a management issue. As such, agency discretion must be recognized as important and judicial review should be limited. Agency denials of petitions for rulemaking under the APA are subject to judicial review, but courts have properly limited their scope of review in this context. There is no warrant for Congress to change current review standards, nor should any regularized or systematic program for review of existing regulations be subject to greater judicial scrutiny.

Recommendation

I. Review Requirements

All agencies (executive branch or ''independent'') should develop processes for systematic review of existing regulations to determine whether such regulations should be retained, modified or revoked. If Congress decides to mandate such programs, it should limit that requirement to a broad review, assign to the President the responsibility for overseeing the review process, and specify that each agency design its own program.

II. Focus of Regulation Review

Systematic review processes should be tailored to meet the needs of each agency, focus on the most important regulations, and provide for a periodic, ongoing review. The nature and scope of the review should be determined by, among other things, the agency's other responsibilities and demands on its resources. Sufficient time should be provided to allow meaningful information-gathering and analysis.

III. Setting Priorities

Agencies should establish priorities for which regulations are reviewed when developing their annual regulatory programs or plans,[1] and in consultation with OMB and the public. In setting such priorities, the following should be considered:

A. whether the purpose, impact and effectiveness of the regulations have been impaired by changes in conditions;[2]

B. whether the public or the regulated community views modification or revocation of the regulations as important;

C. whether the regulatory function could be accomplished by the private sector or another level of government more effectively and at a lower cost; and

D. whether the regulations overlap or are inconsistent with regulations of the same or another agency.

Agencies should not exclude from their review those regulations for which statutory amendment might be required to achieve desired change. Agencies should notify Congress of such regulations and the relevant statutory provisions.

IV. Public Input

A. Agencies should provide adequate opportunity for public involvement in both the priority-setting and review processes. In addition to reliance on requests for comment or other recognized means such as agency ombudsmen [3] and formally established advisory committees, agencies should also consider other means of soliciting public input. These include issuing press releases and public notices, convening roundtable discussions with interested members of the public, and requesting comments through electronic bulletin boards or other means of electronic communication.

B. The provisions of 5 U.S.C. § 553(e) authorizing petitions for rulemaking also provide a method for reviewing existing regulations. These provisions should be strengthened to ensure adequate and timely agency responses. [4] Agencies should establish deadlines for their responses to petitions; if necessary, the President by executive order or Congress should mandate that petitions be acted upon within a specified time. Congress should not modify the current limited judicial review standard applicable to petitions for rulemaking.

V. Agency Implementation of Regulatory Review Processes

A. Agencies should provide adequate resources to and ensure senior level management participation in the review of existing regulations.

B. As part of the review process, agencies should review information in their files as well as other available information on the impact and the effectiveness of regulations and, where appropriate, should engage in risk assessment and cost-benefit analysis of specific regulations.

C. In developing processes for reviewing existing regulations, agencies should consider:

1. Frequency of review: Regulations could be reviewed on a pre-set schedule (e.g., regulations reviewed every [x] years; a review date set at the time a new regulation is issued; regulations subject to ''sunset'' dates) or according to a flexible priority list.

2. Categories of regulations to be reviewed: Regulations could be reviewed by age, by subject, by affected group, by agencies individually or on a multi-agency basis.

D. Agencies should consider experimenting with partial programs and evaluate their effectiveness.

Recommendation 95–4, Procedures for Noncontroversial and Expedited Rulemaking

Rulemaking has been the subject of considerable debate and review in recent times. Concern has been expressed that rulemaking processes provide adequate opportunity for meaningful public input while allowing agencies, in appropriate circumstances, to expedite the implementation of rules when they either are needed immediately or are routine or noncontroversial. Agencies have experimented with procedures to achieve these objectives. Two of these procedures, ''direct final rulemaking,'' and ''post-promulgation comment'' rules (also called ''interim final rulemaking'') are discussed here.

Direct Final Rulemaking

Direct final rulemaking is a technique for expediting the issuance of noncontroversial rules. It involves agency publication of a rule in the **Federal Register** with a statement that, unless an adverse comment is received on the rule within a specified time period, the rule will become effective as a final rule on a particular date (at least 30 days after the end of the comment period). However, if an adverse comment is filed, the rule is withdrawn, and the agency may publish the rule as a proposed rule under normal notice-and-comment procedures.[1]

The process generally has been used where an agency believes that the rule is noncontroversial and adverse comments will not be received. It allows the agency to issue the rule without having to go through the review process twice (i.e., at the proposed and final rule

[1] See Executive Orders 12,498 (''Regulatory Program'' required by President Reagan) and 12,866 (''Regulatory Plan'' required by President Clinton).

[2] See (V)(B), infra.

[3] See ''The Ombudsman in Federal Agencies,'' ACUS Recommendation 90–2.

[4] See Recommendation 86–6, ''Petitions for Rulemaking.''

[1] When an agency believes that it can incorporate the adverse comment in a subsequent direct final rulemaking, it may use the direct final rulemaking process again.

stages),[2] while at the same time offering the public the opportunity to challenge the agency's view that the rule is noncontroversial.

Under current law, direct final rulemaking is supported by two rationales. First, it is justified by the Administrative Procedure Act's ''good cause'' exemption from notice-and-comment procedures where they are found to be ''unnecessary.'' The agency's solicitation of public comment does not undercut this argument, but rather is used to validate the agency's initial determination. Alternatively, direct final rulemaking also complies with the basic notice-and-comment requirements in section 553 of the APA. The agency provides notice and opportunity to comment on the rule through its **Federal Register** notice; the publication requirements are met, although the information has been published earlier in the process than normal; and the requisite advance notice of the effective date required by the APA is provided.[3]

Because the process protects public comment and expedites routine rulemaking, the Administrative Conference recommends that agencies use direct final rulemaking in all cases where the ''unnecessary'' prong of the good cause exemption is available, unless the agency determines that the process would not expedite issuance of such rules. The Conference further recommends that agencies explain when and how they will employ direct final rulemaking. Such a policy should be issued as a procedural rule or a policy statement.[4]

The Conference recommends that agencies publish in the notice of the direct final rulemaking the full text of the rule and the statement of basis and purpose, including all the material that would be required in the preamble to a final rule. The Conference also recommends that the public be afforded adequate time for comment.[5]

The direct final rulemaking process is based upon the notion that receipt of ''significant adverse'' comment will prevent the rule from automatically becoming final. Agencies have taken different approaches in defining ''adverse'' comments for this purpose. Some have said that a mere notice of intent to file an adverse comment is sufficient. Others have required that the comment either state that the rule should not be adopted or suggest a change to the rule; proposals simply to expand the scope of the rule would not be considered adverse. Some have said that a recommended change in the rule would not in and of itself be treated as adverse unless the comment states that the rule would be inappropriate as published. The Conference recommends that a significant adverse comment be defined as one where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, agencies should consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process.

To assure public notice of whether and when a direct final rule becomes effective, agencies should include in their initial **Federal Register** notices a statement that, unless the agency publishes a **Federal Register** notice withdrawing the rule by a specified date, it will become effective no less than 30 days after such specified date. Alternatively, an agency should publish a separate ''confirmation notice'' after the close of the comment period stating that no adverse comments were received and setting forth an effective date at least 30 days in the future. The effective date of the rule should be at least 30 days after the public has been given notice that the agency does not intend to withdraw the rule, unless the rule ''grants or recognizes an exemption or relieves a restriction,'' 5 U.S.C. § 553(d)(1), or is otherwise exempted from the delayed effective date of section 553(d) of the APA. The fact that a rule has proved noncontroversial is not itself an appropriate basis for dispensing with the delay in the effective date.

Agencies may also wish to consider using direct final rulemaking procedures in some cases where the text of the rule has been developed through the use of negotiated rulemaking. Where the course of the negotiations suggests that the result will be noncontroversial, the direct final rulemaking process offers the opportunity for expedited rulemaking while at the same time ensuring that the opportunity for comment is not foreclosed.

Although direct final rulemaking is viewed by the Conference as permissible under the APA as currently written, Congress may wish to expressly authorize the process. Authorization would alleviate any uncertainty and reduce the potential for litigation.

Post-Promulgation Comment Procedures (''Interim Final Rulemaking'')

Agencies have increasingly used a post-promulgation comment process commonly referred to as ''interim final rulemaking'' to describe the issuance of a final rule without prior notice and comment, but with a post-promulgation opportunity for comment. By inviting comment, the agency is indicating that it may revise the rule in the future based on the comments it receives—thus leading to the label of an ''interim-final'' rule.

Although the process has been used in a variety of contexts, it is used most frequently where an agency finds that the ''good cause'' exemption of the APA justifies dispensing with prepromulgation notice and comment. Recognizing the value of public comment, however, the agency offers an opportunity for comment after the final rule has been published.[6] This allows the agency both to issue the rule quickly where necessary and provide opportunity for some public comment. On the other hand, prepromulgation comment is generally considered preferable because agencies are perceived by commenters as more likely to accept changes in a rule that has not been promulgated as a final rule—and potential commenters are more likely to file comments in advance of the agency's ''final'' determination.

Under current law, agencies must be able to justify use of the good cause or other exemptions from notice-and-comment procedures under the APA if they are providing only post

[2] Rules are generally reviewed both by the agency and by the Office of Information and Regulatory Affairs. Internal agency review is often time-consuming. Under current practice, review of direct final rules by OIRA would be uncommon, since, under E.O. 12,866, only rules deemed to be ''significant'' are subject to review. Should this policy be changed, the Conference urges that agency rules issued through the direct final rulemaking process be subject to no more than one OIRA review.

[3] A separate Federal Register notice stating that no adverse comment has been received and that the rule will be effective on a date at least 30 days in the future can also be used to further alleviate any concern regarding proper advance notice to the public.

[4] The Conference has previously suggested that notice-and-comment procedures be used for procedural rules where feasible. See Recommendation 92–1, ''The Procedural and Practice Rule Exemption From APA Notice-and Comment Rulemaking Requirements.''

[5] The Conference has previously recommended that the APA be amended to ensure that at least 30 days be allowed for public comment, while encouraging longer comment periods. Recommendation 93–4, ''Improving the Environment for Agency Rulemaking,'' ¶IV and Preamble at p. 5.

[6] The Administrative Conference has recommended such post-promulgation comment opportunity.

See Recommendation 83–2, ''The 'Good Cause' Exemption from APA Rulemaking Requirements.''

promulgation comment opportunity. Courts generally have not allowed post-promulgation comment as an alternative to the prepromulgation notice-and-comment process in situations where no exemption is justified. Where a rule is exempt from notice-and comment requirements, however, it is still advantageous to provide such procedures, even if offered after the rule has been promulgated. Public comment can provide both useful information to the agency and enhanced public acceptance of the rule.[7]

The Conference therefore recommends that, where an agency invokes the good cause exemption because notice and comment are ''impracticable'' or ''contrary to the public interest,'' it should provide an opportunity for post-promulgation comment.[8] This recommendation does not apply to temporary rules, i.e., those that address a temporary emergency or expire by their own terms within a relatively brief period, such as rules that close waterways for boat races or airspace for air shows.

When using post-promulgation comment procedures in this context, agencies should implement the following processes. The agency should include in the notice of the rule a request for public comment as well as a statement that it will publish in the Federal Register a response to significant adverse comments received along with modifications to the interim rule, if any. The Conference also suggests that an agency generally put a cross-reference notice in the ''Proposed Rules'' section of the **Federal Register** to ensure that the public is notified of the request for comment. The agency should then, and as expeditiously as possible, respond to any significant adverse comments and make any changes that it determines are appropriate. Agencies should consider including in the initial notice either a deadline by which they will respond to comments and make any appropriate changes or a ''sunset'' or termination date for the rule's effectiveness.

The Conference addresses these recommendations in the first instance to the agencies. If they do not implement these proposals, the Conference recommends that the President issue an appropriate executive order mandating use of post-promulgation comment procedures for rules issued under the good cause exemption (except those invoking the ''unnecessary'' clause). If necessary, or when the APA is otherwise reviewed, Congress should amend the APA to include such a requirement.

The Conference also suggests that agencies consider using similar procedures for other rules issued initially without notice and comment, such as interpretive rules, procedural rules, or rules relating to grants, benefits, contracts, public property, or military or foreign affairs functions.[9] Only for those rules where notice and comment are considered unnecessary should such processes not be used; in such cases, agencies should consider direct final rulemaking.

Where an agency has used post-promulgation comment procedures, responded to significant adverse comments and ratified or modified the rule as appropriate, the Conference suggests that a reviewing court generally should not set aside that ratified or modified rule solely on the basis that adequate good cause did not exist to support invoking the exemption initially. At this stage, the agency's initial flawed finding of good cause should normally be treated as harmless error with respect to the validity of the ratified or modified rule.

Recommendation

I. Direct Final Rulemaking

A. In order to expedite the promulgation of noncontroversial rules, agencies should develop a direct final rulemaking process for issuing rules that are unlikely to result in significant adverse comment. Agencies should define ''significant adverse comment'' as a comment which explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. Procedures governing the direct final rulemaking process should be established and published by each agency.

B. Direct final rulemaking should provide for the following minimum procedures:

1. The text of the rule and a notice of opportunity for public comment should be published in the final rule section of the **Federal Register**,[10] with a cross-reference in the proposed rule section that advises the public of the comment opportunity.

2. The notice should contain a statement of basis and purpose for the rule which discusses the issues the agency has considered and states that the agency believes that the rule is noncontroversial and will elicit no significant adverse comment.

3. The public should be afforded adequate time (at least 30 days) to comment on the rule.

4. The agency's initial **Federal Register** notice should state which of the following procedures will be used if no significant adverse comments are received: (a) the agency will issue a notice confirming that the rule will go into effect no less than 30 days after such notice; or (b) that unless the agency publishes a notice withdrawing the rule by a specified date, the rule will become effective no less than 30 days after the specified date.[11]

5. Where significant adverse comments are received or the rule is otherwise withdrawn, the agency should publish a notice in the **Federal Register** stating that the direct final rulemaking proceeding has been terminated.[12]

C. Agencies should also consider whether to use direct final rulemaking following development of a proposed rule through negotiated rulemaking.

D. If legislation proves necessary to remove any uncertainty that direct final rulemaking is permissible under the APA, Congress should amend the APA to confirm that direct final rulemaking is authorized.

II. Post-Promulgation Comment Procedures (Interim-Final Rulemaking)

A. Agencies should use post-promulgation comment procedures (so-called ''interim final rulemaking'') for all legislative rules that are issued without prepromulgation notice and comment because such procedures are either ''impracticable'' or ''contrary to the public interest.''[13] 5 U.S.C. § 553(b)(3)(B) (''good cause

[7] See also Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–2 (to be codified at 2 U.S.C. 1532) (requirement for preparing analysis in connection with ''general notice of proposed rulemaking'' for rules resulting in non-federal expenditures of $100,000,000 or more).

[8] This is consistent with the Conference's long-standing position that such opportunity for comment should be offered. See n. 6, supra, See also Recommendation 90–8, ''Rulemaking and Policymaking in the Medicaid Program,'' ¶A(2).

[9] Recommendation 76–5, ''Interpretive Rules of General Applicability and Statements of General Policy.'' *Cf.* Recommendation 92–1, ''The Procedural and Practice Rule Exemption From APA Notice-and-Comment Rulemaking Requirements.''

[10] Agencies should also consider other mechanisms for providing public notice.

[11] 5 U.S.C. 553(d) provides for exemption from the 30-day advance notice where, for example, the rule ''grants or recognizes an exemption or relieves a restriction.''

[12] At that point, of course, the agency may proceed with usual notice-and comment rulemaking, or if the agency believes it can easily address the comment(s), it may proceed with another direct final rulemaking.

[13] This recommendation does not apply to temporary rules, meaning those that expire by their own terms within a relatively brief period.

exemption''.[14] If necessary, the President should issue an appropriate executive order or Congress should amend the APA to include such a requirement.

B. When using post-promulgation comment procedures, agencies should:

1. publish the rule and a request for public comment in the final rules section of the **Federal Register**, and, in general, provide a cross-reference in the proposed rules section that advises the public that comments are being sought.

2. include a statement in the **Federal Register** notice that, although the rule is final, the agency will, if it receives significant adverse comments, consider those comments and publish a response along with necessary modifications to the rule, if any.

3. consider whether to include in the **Federal Register** notice a commitment to act on any significant adverse comments within a fixed period of time or to provide for a sunset date for the rule.

C. Where an agency has used post-promulgation comment procedures (i.e., appropriate agency ratification or modification of the rule following review of and response to post-promulgation comments), courts are encouraged not to set aside such ratified or modified rule solely on the basis that inadequate good cause existed originally to dispense with prepromulgation notice and comment procedures.

D. Agencies should consider using post-promulgation comment procedures for all rules that are issued without prepromulgation notice and comment, including interpretive rules, procedural rules, rules relating to contracts, grants etc., or military or foreign affairs functions.[15]

Recommendation 95–5, Government Contract Bid Protests

In contrast to the private contracting system, which relies mainly on profit maximization and reputation to constrain the discretion of private purchasers in dealing with potential sellers, United States law provides a variety of opportunities for disappointed seekers of government contracts to air their grievances against the contracting process and its results. In addition to pursuing redress within the purchasing agency, a disappointed offeror can challenge the government's conduct in one of four protest forums: the General Accounting Office (GAO), the General Services Board of Contract Appeals (GSBCA) (for contracts involving automated data processing and telecommunications equipment), the federal district courts, and the Court of Federal Claims. In no other area of public administration have Congress and the courts provided so large and diverse an array of avenues for challenging the decisions of government officials.

This complex system evolved in a number of steps over the last 75 years. Soon after its creation in 1921, GAO began accepting bid protests under its authority to settle and adjust claims involving the United States and to issue advisory decisions concerning questions of payment by the government. In a series of court opinions from the mid-1950's to 1970 [most notably the 1970 decision in *Scanwell Laboratories, Inc.* v. *Shaffer,* 424 F.2d 859 (D.C. Cir. 1970)], the federal district courts took on an expanded role in oversight of bid protests, and Congress extended authority to grant equitable relief in pre-award bid protest cases to the Claims Court (now the Court of Federal Claims) in the Federal Courts Improvement Act of 1982. The Competition in Contracting Act of 1984 (CICA) completed the foundation for the modern bid protest structure. CICA reflected a strong congressional presumption that government purchasing agencies should use competitive procurement techniques to increase opportunities for firms to compete for contract awards. It bolstered the bid protest mechanism and increased the ability of complaining offerors to gain access to information about the government's decisionmaking process.

The eleven years that have passed since enactment of that legislation provide a basis for reexamination of the Act's premises and its impact. In addition, the government procurement process has been the subject of much recent study by scholars, professional associations, and blue ribbon commissions including the Acquisition Law Advisory Panel and the National Performance Review. Congress has also given extensive recent consideration to procurement reform. Severe budget pressures have inspired several congressional committees to consider statutory changes that would reduce procurement transaction costs and induce a broader array of firms to compete for government contracts. The Federal Acquisition Streamlining Act of 1994, enacted last fall, changed many features of procurement regulation and signaled a new congressional receptivity to proposals for restructuring the procurement process, although it did not significantly change the structure of the bid protest process. Legislation introduced this spring and supported by the Clinton Administration would, among other things, establish a uniform arbitrary-and-capricious standard of review for all bid protests and eliminate the jurisdiction of the federal district courts. Other legislative initiatives are in development.

Proposals for reorganizing the bid protest process have been numerous and varied, including suggestions for a single administrative bid protest forum (one of the existing forums or a new entity), as well as for different combinations of existing or new forums. Issues such as the appropriate standard of review, available discovery, formality of procedure, and availability of a stay of the procurement pending the proceedings have also prompted widely varying suggested alternatives. Although much attention has been devoted to the bid protest process, however, it has been largely theoretical. Without additional, currently unavailable empirical information, the Administrative Conference does not believe it can recommend a specific design for an ideal forum or combination of forums to process bid protests.

Certain streamlining modifications to the existing system of alternatives, however, seem clearly appropriate without further study. In particular, the Conference sees no persuasive justification for preserving direct court jurisdiction over bid protests. The administrative options for hearing bid protests today are considerably more substantial than those that existed when Scanwell was decided or when Congress granted protest jurisdiction to the Court of Federal Claims. Moreover, the factual and legal issues involved in these cases are well within the competence of an administrative forum. Provision for direct judicial review of administrative protest decisions in the Court of Appeals for the Federal Circuit should adequately protect the rights of litigants (provided that the administrative decision includes clearly stated reasons, so that there will be a record adequate for judicial review) and promote the development of a consistent body of law related to protests.

Even if Congress decides to preserve direct recourse to the courts, there is no longer a need for initial district court jurisdiction. The Court of Federal Claims provides a satisfactory forum for court consideration of these cases. The caseload in question is not large enough to burden that court unduly, and through travel and, when appropriate,

[14] The Conference does not recommend a change in the coverage of the ''good cause'' exemption, but does not oppose a change if such a change is understood simply as a codification of existing practice.

[15] However, this recommendation does not apply to rules issued under the ''unnecessary'' clause of the good cause exemption; in such cases, agencies should consider using direct final rulemaking. See Part I, above.

telecommunications, the Court of Federal Claims adequately meets the needs of litigants outside of Washington, DC.

To make wise decisions about the exact type of administrative forum (or forums) that should hear bid protests, however, requires empirical data on the impact of bid protests on government procurement that is not now available. Moreover, these issues raise questions about the basic premises underlying the bid protest system. Current law, and many of the debates about the number and nature of forums for review of bid protests, assume that a robust protest mechanism improves government procurement performance by spurring savings-generating competition for government contracts and by monitoring the performance of government officials who may not exercise discretion to the benefit of taxpayers. But there is scant empirical evidence for judging whether public purchasing officials are more prone to shirk their responsibility to maximize taxpayer interests than private purchasing officials are to shirk their responsibility to maximize shareholder interests, or what net effect the modern system of protest controls, including CICA and related protest reforms, has had on procurement outcomes.

Fundamental questions about the bid protest process—whether it is effective in increasing the efficiency and fairness of government procurement, what remedies it should provide to disappointed offerors, or what standard of review oversight tribunals (regardless of their number or location) should apply—are being debated in this empirical void. The Administrative Conference believes that informed decisions on these issues require a foundation of detailed empirical research that cannot adequately be conducted without Congressional authorization. In particular, Congress might pass legislation allowing selected government purchasing agencies to conduct business free from protest oversight for a period of time, with the results to be compared with those at agencies operating under traditional protest controls.[1] Additional avenues of research, including comparison of pre- and post-Competition in Contracting Act agency procurement, detailed study of the impact of GAO or GSBCA review on specific agency procurement, examination of state and local approaches to procurement and bid protests, or comparison of the procurement activity and results of a major government purchasing agency and a major private company purchasing department, would be aided significantly by legislative authorization to collect data and funding support. With the successful completion of such research, Congress and other policy makers would be able to make better informed judgments about the need for extensive protest oversight of government procurement activity and the proper forum and standard of review for any such protest oversight.

Recommendation

I. Initial Jurisdiction to Review Bid Protests

Congress should streamline the system for handling bid protests by reducing the alternatives available for initial jurisdiction over bid protests.

A. All bid protests should be heard initially in some administrative forum independent of the agency office conducting the procurement.[2] To achieve this end, Congress should eliminate the direct jurisdiction of the Court of Federal Claims and of the federal district courts over bid protests. The United States Court of Appeals for the Federal Circuit should be given exclusive jurisdiction over all appeals from administrative bid protest decisions.

B. If Congress decides, notwithstanding Recommendation I(A), that the courts should retain direct jurisdiction over bid protests, then such initial court jurisdiction should be consolidated in the Court of Federal Claims for both pre-award and post-award protests.

II. Testing Bid Protest Systems

Congress should mandate empirical testing of the effect of the bid protest process to analyze the costs and benefits of that process and to determine whether it has improved the quality or reduced the cost of public procurement. This analysis should include evaluation of the impact of the bid protest process (and any alternatives under consideration) on existing and prospective bidders for government contracts as well as on the government. It should involve consideration of the potential impact of adjustments to the bid protest process (such as application of different standards of review of agency procurement decisions and imposition of sanctions for the filing of frivolous bid protests) as well as examination of the premises underlying the bid protest system as a whole. Specific approaches Congress should consider supporting include:

A. Cross-agency comparison—a pilot study in which one or more federal agencies that conduct a substantial amount of procurement activity would be permitted to conduct procurement with respect to some discrete type or types of contracts (e.g., computer or telephone equipment contracts) free of most or all bid protest controls for a specific period of years (e.g., five years), with the agencies' performance to be compared with their own performance before the beginning of the pilot and/or on bid protest-controlled contracts during the pilot period and with that of agencies continuing to operate under the existing bid protest system;

B. Competition in Contracting Act comparison—a comparison of the pre- and post-Competition in Contracting Act procurement experience of major government purchasing agencies to identify changes in agency behavior and procurement results;

C. GAO/GSBCA comparison—an examination of specific major procurement to determine whether GAO and GSBCA bid protest determinations (including the specific procedures available and standards of review applied in these forums) have produced desirable outcomes in particular procurement and to assess the impact of GAO and GSBCA rulings on purchasing agency conduct;

D. Government/private sector comparison—a comparison between the procurement experience of a major government purchasing organization and that of a major private company purchasing department to determine differences in the outcomes of efforts to purchase comparable goods or services over time;

E. Federal/state comparison—a comparison of federal government procurement experience with that of state and local governments that may employ procurement oversight

[1] The pending legislation would authorize the Administrator of the Office of Federal Procurement Policy to ''waive any provision of law, rule or regulation necessary'' to assist agencies in conducting test programs to evaluate specific changes in acquisition policies or procedures. S.669, Title V, Section 5001, amending section 15 of the Office of Federal Procurement Policy Act (41 USC § 413). This broad provision might be read to include authority to waive laws requiring the availability of protest mechanisms.

[2] The Administrative Conference takes no position in this recommendation on the preferred structure of, or standard of review tobe applied by, such administrative forum(s). The Conference notes, however, that if GAO continues to be involved in handling bid protests and such cases are directly reviewable in the Court of Appeals for the Federal Circuit, the reviewing court would effectively review the contracting agency's decision on the procurement, as informed by the GAO opinion; to facilitate this process, agencies should conclude action on a procurement that has been reviewed by the GAO by issuing a clear statement of the agency's final determination and the reasons for it.

mechanisms different in kind or degree from those at the federal level.

In pursuing any of these options or other studies of the procurement system, Congress should assign responsibility for research and evaluation to an independent body that is not directly involved in conducting major procurement or resolving bid protests. In the case of a pilot study, Congress should provide for regular collection of appropriate data during the pilot period to permit adequate evaluation.

Recommendation 95–6, ADR Confidentiality and the Freedom of Information Act

The Administrative Dispute Resolution Act (ADRA) accords a substantial measure of confidentiality to oral or written communications made in a covered dispute resolution proceeding. This protection was based upon Administrative Conference Recommendation 88–11, which recognized that in promoting the use of alternative dispute resolution (ADR) in federal agencies ''a careful balance must be struck between the openness required for the legitimacy of many agency agreements and the confidentiality that is critical if sensitive negotiations are to yield agreements.''

The confidentiality section of the ADRA, 5 U.S.C. 574, consists of a detailed set of standards reflecting generally the balance proposed in Recommendation 88–11. It is narrow in scope in that it is limited to communications prepared for the purposes of a dispute resolution proceeding. It does not protect an agreement to enter into a dispute resolution proceeding or the agreement or award reached in such a proceeding. It does not prevent the discovery or admissibility of otherwise discoverable evidence merely because the evidence was presented in a dispute resolution proceeding. It does not have any effect on the information and data necessary to document or justify an agreement reached in a dispute resolution proceeding. It also permits disclosure of a dispute resolution communication in special circumstances where all parties to the proceeding consent; where the communication has already been made public or is required by statute to be made public; or where a court determines disclosure is, on balance, necessary to prevent a manifest injustice, help establish a violation of law, or prevent harm to the public health and safety sufficient to justify disclosure.

In the final stages of the legislative process leading to the passage of the ADRA, a question arose as to the relationship between the confidentiality section and the Freedom of Information Act (FOIA). With the understanding that the importance of passing the dispute resolution bill without delay justified an interim solution, a provision, subsection 574(j), was added on the Senate floor [1] providing that the confidentiality section would not be considered an Exemption 3 statute under FOIA.[2]

This last minute addition has created a narrow, but significant, problem in accomplishing fully the purposes of the ADRA. In those circumstances in which dispute resolution communications become ''agency records'' within the meaning of FOIA, the confidentiality of the records is determined not by the provisions of section 574, but rather by the terms of the exemptions to FOIA. For users of ADR, the trumping effect of FOIA in this class of cases means that confidentiality is not governed by the careful balance struck in section 574 but rather by the complex body of FOIA law which accords no special protection for dispute resolution communications on the basis of the process needs of ADR. While some dispute resolution communications that become agency records—for example because they come under the control of a government-employee neutral—may be exempt from mandatory disclosure under FOIA, the scope of the exemptions and possible gaps in coverage create uncertainty as to the confidentiality of such records.

This uncertainty, in turn, has become a disincentive to the use of ADR.[3] Even though the ADRA has been in place for only four years, concern about the impact of FOIA on confidentiality has had a chilling effect on the use of ADR. This effect could become even more substantial if a case arose in which expected confidentiality was undermined by a FOIA claim. To accomplish the objectives of Recommendation 88–11, the confidentiality standards of section 574 should be given effect with respect to all covered dispute resolution communications, even where those communications become agency records under FOIA.[4]

Recommendation

1. The confidentiality section of the Administrative Dispute Resolution Act, 5 U.S.C. 574, should be amended to provide that records confidential under that section and generated by or initially submitted to the government in a dispute resolution proceeding are exempt from disclosure under the Freedom of Information Act, Exemption 3, 5 U.S.C. 552(b)(3).

2. Any alternative confidentiality procedures agreed to by the parties and neutral under subsection 574(d) should not, for purposes of Exemption 3, be construed to provide broader confidentiality than is otherwise available under section 574.

3. The words ''any information concerning'' should be deleted from section 574 (a) and (b).

The following recommendation was adopted by the Assembly of the Administrative Conference on Friday, June 16, 1995.

Recommendation 95–7, Use of Mediation under the Americans with Disabilities Act

Despite the efforts of the agencies charged with enforcing the Americans with Disabilities Act (ADA), there are substantial backlogs of cases at the investigation stage at many agencies, creating unusually lengthy delays in enforcement. Because of enforcement delays, many individuals are not obtaining needed relief in a timely manner and respondents are not relieved of the burden of pending non-meritorious charges. In this era of shrinking government, an influx of significant additional public resources for investigation and litigation seems unlikely. The Equal Employment Opportunity Commission (EEOC) and the Department of Justice have each begun to experiment with alternative dispute resolution (ADR) as one approach to reducing backlogs and

[1] During this colloquy, Senator Levin summarized as follows: I am pleased that we were able, for the purposes of passing this bill this year and getting the ADR process rolling, to temporarily resolve the confidentiality issue. As the Administrative Conference of the United States wrote in its recommendation on this subject, * * * since settlements are essential to administrative agencies, a careful balance must be struck between the openness required for the legitimacy of many agency agreements and the confidentiality that is critical if sensitive negotiations are to yield agreements. ts. The provisions in this bill, as amended, do not as yet achieve that balance, and I am pleased that Senators Grassley and Leahy have agreed to address this issue more completely next year. 136 Cong. Rec. at S18088 (daily ed. Oct. 24,1990).

[2] Under Exemption 3, the FOIA disclosure requirements do not apply to matters that are ''specifically exempted from disclosure by statute . . . provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.''

[3] Some added uncertainty has been raised by the ADRA's protection of ''any information concerning'' a dispute resolution communication. The recommendation calls for dropping this language.

[4] This recommendation pertains solely to the provisions of the ADRA. The Conference recognizes that agencies, in some circumstances, conduct similar processes under other authority.

achieving compliance with the statute.[1] The Conference believes that mediation is the ADR technique that offers greatest immediate promise for resolving ADA cases more quickly and to the satisfaction of the parties involved, and that agencies with enforcement responsibilities under the ADA should offer the opportunity for mediation in appropriate cases. Mediation has the potential to preserve relationships between the parties and to empower them to take greater responsibility in resolving their disputes. In addition compliance with mediated settlements is generally high because of the parties' participation in developing the solution.

This recommendation is intended to encourage additional efforts to implement the use of mediation and to provide guidance on undertaking and evaluating a joint program.[2] The mediation program proposed in this recommendation expands on prior agency pilot mediation programs by including additional types of cases, and also provides a coordinated framework for mediation of ADA cases under all four titles of the statute.

Because several agencies are charged with enforcement of the various titles of the ADA (EEOC, Department of Justice, Department of Transportation, and Federal Communications Commission), it is important that they jointly participate in designing the recommended mediation program. This collaborative effort will minimize costs and maximize benefits by using a common group of trained mediators to mediate a variety of ADA cases, selected for referral to mediation based on criteria established by the agencies. The joint effort should also develop sources of mediators who can serve at low cost or pro bono, at least at the inception of the program, and should consider ways to finance the costs of using mediators where such arrangements cannot be made.

Extensive evaluation of the program pursuant to criteria established as part of the program design will enable the agencies to gather the information necessary to refine the program so that it is used most effectively to resolve disputes at a low cost, in a manner that is fair to the parties and consistent with the statute. The evaluation should include analysis of the comparative costs of mediation, the effectiveness of mediation for different types of disputes, the satisfaction level of the participants, the impact on the case backlog, the effect on processing time of cases, the impact on systemic litigation, consistency of mediated results with the statute, and whether mediation disadvantages individuals with disabilities or other historically disadvantaged groups.

Analysis of the program results, along with the results of EEOC and Department of Justice pilot mediation programs, should provide the information necessary to ensure that mediation is furthering the goal of elimination of discrimination against the individuals with disabilities. The contemplated evaluation will permit the agencies to focus future mediation efforts on those cases where mediation is most effective. Additionally, successful experience with agency-sponsored mediation may encourage and empower actual or potential parties to use private mediation or even negotiation without neutral assistance to resolve future disputes, further conserving government and private resources.

Recommendation

Coordinated Mediation Program

1. The Americans with Disabilities Act (ADA) enforcement agencies[3] should establish a joint committee composed of representatives of each of the agencies to develop a program for voluntary mediation of ADA cases under all titles, in order to achieve the rapid, mutually agreeable resolution of disputes over compliance with the requirements of the ADA.[4] This committee also could serve the purpose of improving consistency in enforcement of the statute among the agencies. In order to assist the joint committee in creating a mediation program that will attract participants and meet their needs, the agencies should appoint an advisory committee pursuant to the Federal Advisory Committee Act, composed of representatives of potential participants, such as businesses, state and local government entities, representatives of organizations whose purpose is to represent persons with disabilities, and civil rights and labor organizations, to provide advice in program design.

2. The mediation program should follow the broad outlines set forth herein, as refined by the agencies' joint committee after consultation with the advisory committee. The program should utilize a common group of trained mediators to mediate a variety of disputes arising under the ADA. The joint committee should determine the criteria for mediator participation in the program, considering the pilot projects already established, which include mediator training, and the training previously conducted by the EEOC and the Department of Justice. If the number of trained mediators is insufficient, the agencies should jointly conduct or sponsor any necessary training. Mediators must also have sufficient knowledge of the various titles of the ADA, familiarity with resources for ADA compliance, and knowledge of the impact of various disabilities. The joint committee should identify potential sources of mediators who are willing to serve pro bono or at low cost, at least at the inception of the program, as well as sources of technical expertise[5] to assist in mediation.

3. The agencies should engage in extensive educational efforts to encourage use of the mediation process in a variety of cases and to enable unrepresented parties to participate effectively. The educational efforts should focus on informing parties and potential parties about the process to increase both participation rates and the effectiveness of participation.

4. The agencies should determine the selection criteria for referral of cases to mediation, refining and modifying the criteria based on evaluation of effectiveness. The agencies should consider combining mediation with an early assessment program which will assist in determining allocation of resources for investigative processes.

[1] The ADA, 42 U.S.C. § 12212, explicitly encourages the use of ADR, where appropriate and authorized by law, to resolve disputes arising under its provisions. General authority for use of ADR may also be found in the Administrative Dispute Resolution Act, 5 U.S.C. § 572.

[2] Though mediation currently appears to be the most promising ADR technique for disputes arising under the ADA, the Conference encourages examination and experimentation with other ADR techniques. See Recommendation 86–3, ''Agencies' Use of Alternative Means of Dispute Resolution.''

[3] The primary enforcement agencies should be involved in establishing the program. These include the Department of Justice, Equal Employment Opportunity Commission, Department of Transportation, and Federal Communications Commission. Other agencies that could provide input into the process, refer cases to the program, and participate in the educational effort are the Federal Mediation and Conciliation Service and the Title II investigative agencies designated in 28 C.F.R. § 35.190: the Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, the Interior, and Labor.

[4] Since there have been few cases under Title IV, which amends the Communications Act to ensure the availability of communication by wire or radio for individuals with speech or hearing disabilities, there may also be less opportunity to use mediation. Also, the FCC's enforcement process differs from those of the other ADA enforcement agencies. Nevertheless, efforts should be made to include appropriate Title IV cases in the mediation program to enable the best possible assessment of mediation's effectiveness.

[5] For example, architects, engineers, or vocational rehabilitation experts may be able to serve as mediators, or to act as advisers to inform parties of available technical options to help resolve disputes.

Review and Evaluation

5. The mediation program should incorporate an after-the-fact agency review of settlements reached in mediation to examine their enforceability, consistency with the ADA, and whether the process reduces the time needed to resolve individual cases (both elapsed time and person-hours). This review should not result in overturning individual mediated settlements, nor should it impair the confidentiality of the mediation process or otherwise discourage participation in it.

6. In designing the program, the joint committee should establish program objectives, evaluation criteria, and a system for collecting the data necessary for evaluation. The evaluation process should be designed to provide data and analysis that will enable (i) a determination of the circumstances under which mediation is appropriate and effective for resolving ADA cases and (ii) the identification of any systemic problems that are not addressed by mediated settlements. The following issues should be included in the evaluation:

(a) in what types of cases is mediation most effective?

(b) at what point in the investigative process is mediation most effective, taking into account the costs of any investigation that precedes mediation?

(c) does mediation reduce the cost of processing cases for the parties and/or the government?

(d) what is the effect of mediation on processing time of cases, including whether mediation adds to processing time where it is unsuccessful?

(e) what is the impact of mediation on the investigation and case backlog?

(f) what is the satisfaction level of the participants in mediation, including separate measures of satisfaction for complainants (charging parties) and respondents?

(g) what are the best sources of qualified mediators?

(h) is the use of a common group of mediators for various types of cases effective, taking into account costs, settlement rates, settlement results, and mediator performance?

(i) how are the costs of using mediators to be financed?

(j) are the results of mediated settlements, settlements reached through other processes, and litigation in similar cases comparable?

(k) does the mediation program impact systemic litigation?

(l) is agency review of mediated settlements effective and necessary?

(m) is the process equally fair and effective for represented and unrepresented parties?

(n) are individuals with disabilities disadvantaged in mediation?

(o) does availability of technical expertise affect settlement rates?

(p) what is the rate of compliance with mediated settlements?

Additional criteria deemed necessary and appropriate should be added by the joint committee designing the program.

7. The joint committee should review the mediation program regularly pursuant to the evaluation criteria and in consultation with the advisory committee, modifying the program as suggested by the results of the evaluation to ensure its continued effectiveness and consistency with statutory goals.

Consideration of Other ADR Techniques

8. The ADA enforcement agencies should jointly continue to study and evaluate other alternative dispute resolution techniques for disputes arising under the ADA.[6]

[FR Doc. 95–20560 Filed 8–17–95; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on September 7 and September 8, 1995 at the Oregon Institute of Technology, 3201 Campus Drive, Klamath Falls, Oregon. The meeting will begin at 10:30 a.m. on September 7 and adjourn at 5:00 p.m. The meeting will reconvene at 8:00 a.m. on September 8 and continue until 3:00 p.m. Agenda items to be covered include: (1) forest health and salvage opportunities in the Province; (2) coordination with other existing groups within the Province; (3) research and monitoring opportunities for coordination; and (4) a public comment period. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Jim Anderson, USDA, Klamath National Forest, at 1312 Fairlane Road, Yreka, California 96097; telephone 916–842–6131, (FTS) 700–467–1300.

[6] See Recommendation 86–3, ''Agencies' Use of Alternative Means of Dispute Resolution,'' and the ADA, 42 U.S.C. § 12212.

Dated: August 11, 1995.

Robert J. Anderson,

Land Management Planning Staff Officer.

[FR Doc. 95–20506 Filed 8–17–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation – 1996 Panel.

Form Number(s): SIPP–16003.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 105,800 hours.

Number of Respondents: 105,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Bureau of the Census conducts the Survey of Income and Program Participation (SIPP) to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in–kind benefits. SIPP data are used by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture. The SIPP is a longitudinal survey, in that households in the ''panel'' are interviewed at regular intervals or ''waves'' over a number of years. The survey is molded around a central ''core'' of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of a panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is periodically supplemented with additional questions or ''topical modules'' designed to answer specific needs. This request is for clearance of the Core questions and the topical modules for Waves 1 & 2 of the 1996 Panel. Topical modules for waves 3 through 13 will be cleared later. The topical modules for Wave 1 are Recipiency History and Employment History. Wave 1 interviews will be conducted from February through May 1996. Wave 2 topical modules are Work Disability History, Fertility History, Education and Training History, Marital

History, Migration History, and Household Relationships. Wave 2 interviews will be conducted from June through September 1996. The 1996 Panel introduces some significant changes to the SIPP. The SIPP was previously conducted using pen and paper. Data collection is now handled via computer assisted personal interviewing (CAPI). Pretesting has shown that CAPI will reduce respondent burden because skip patterns are preprogrammed into the automated questionnaire and information obtained in earlier interviews can be fed back to the respondent rather than the respondent having to recall the information. The 1996 and subsequent Panels will remain in effect for 4 years. Households in the 1996 Panel will be interviewed 13 times at 4 month intervals over the 4 year period. A new panel will be introduced in the year 2000. This contrasts with previous procedures where a new panel was introduced each year and households remained in the survey for approximately 3 years, participating in 9 interviews at 4 month intervals.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 14, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–20498 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of the Census.

Title: Quarterly Financial Report (QFR).

Form Number(s): QFR–101(MG Long), 101A(MG Short), 102(TR Long), 103(NB).

Agency Approval Number: 0607–0432.

Type of Request: Extension of a currently approved collection.

Burden: 192,060 hours.

Number of Respondents: 13,700.

Avg Hours Per Response: 4 hours and 45 minutes.

Needs and Uses: The QFR program is a principal economic indicator that also provides financial data essential to calculation of key government measures of national economic performance. The QFR program provides timely, accurate data on business financial conditions for gauging quarterly performance of the nonregulated, domestic corporate sector for use by government and private–sector organizations and individuals. Primary users of QFR data are governmental organizations charged with economic policy–making responsibilities. Other data users include foreign countries, universities, financial analysts, unions, trade associations, public libraries, banking institutions, and U.S. and foreign corporations.

Affected Public: Businesses or other for–profit.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 14, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–20497 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of the Census.

Title: Annual Survey of Government Employment.

Form Number(s): E–1, E–2, E–3, E–4, E–6, E–7, E–9.

Agency Approval Number: 0607–0452.

Type of Request: Extension of a currently approved collection.

Burden: 21,234 hours.

Number of Respondents: 13,639.

Avg Hours Per Response: 1 hour and 4 minutes.

Needs and Uses: The Census Bureau requests a three year extension of the current OMB approval of seven data collection forms used in the Annual Survey of Government Employment. In this survey data are collected on state and local government employment and wages. Each form is tailored to the particular size and type of government to be surveyed. The Bureau of Economic Analysis uses these data to develop the public sector components of the gross domestic product and national income accounts and to develop personal income statistics. The Department of Housing and Urban Development determines the allocation of operating subsidies to local housing authorities based on this survey. The Bureau of Labor Statistics uses data from this survey to assist in the benchmarking of state and local government components of its monthly employment and earnings statistics. In addition, state and local government officials, public interest groups, and professional organizations use these data for analysis and study.

Affected Public: State, local or local government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 14, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–20496 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[A–588–814]

Polyethylene Terephthalate Film, Sheet, and Strip From Japan; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

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

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order.

SUMMARY: On June 5, 1991, the Department of Commerce (the Department) published an antidumping duty order on polyethylene terephthalate film, sheet, and strip from Japan. On July 7, 1995, E.I. Du Pont de Nemours & Company, Hoechst Celanese Corporation and ICI Americas Inc., (together, the petitioners in this proceeding), submitted a request for a changed circumstances administrative review and revocation of the order on the basis that the order no longer is of interest to the petitioners. Based on the fact that this order is no longer of interest to petitioners, we intend, preliminarily, to revoke this order.

EFFECTIVE DATE: August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–6312/3814.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1991, the Department published in the **Federal Register** (59 FR 9960) an antidumping duty order on polyethylene terephthalate film, sheet, and strip from Japan.

On July 7, 1995, the petitioners submitted a request for a changed circumstances administrative review and revocation of the order on the basis that the order no longer is of interest to the petitioners.

Scope of the Review

Imports covered by the review are shipments of all gauges of raw, pretreated, or primed PET film, sheet, and strip, whether extruded or coextruded. The films excluded from the scope of this order are metallized films and other finished films that have had a least one of their surfaces modified by the application of performance-enhancing resin or inorganic layer more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film from Japan is currently classifiable under Harmonized Tariff Schedule (HTS) item number 3920.62.0000. The HTS item numbers are provided for convenience and for Customs purposes only. The written descriptions remain dispositive.

This changed circumstance administrative review covers all manufacturers/exporters of pet film from Japan.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department may revoke an antidumping duty order if the Department determines, based on a review under section 751(b)(1) of the Act, that changed circumstances exist sufficient to warrant revocation. Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

19 CFR 353.25(d)(2) permits the Department to conduct an administrative review under § 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 353.25(d)(1)(i) further provides that, if the Department determines that the order under review is no longer of interest to domestic interested parties, the Department may revoke the antidumping duty order. In addition, in the event the Department concludes that expedited action is warranted, § 353.22(f)(4) of the regulations permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(b) (1) and (c) of the Act and 19 CFR 353.25(d) and 353.22(f), based on an affirmative statement of no interest in the proceeding by the petitioners, the Department is initiating this changed circumstances administrative review. Further, based on the representation made by petitioners that other U.S. producers and potential producers of this merchandise have no interest in the order, we have determined that expedited action is warranted, and we have preliminarily determined that the order no longer is of interest to domestic interested parties. Because the Department concludes that expedited action is warranted, the Department is combining these notices of initiation and preliminary results. The Department determines that there is a reasonable basis to believe that the requirement for revocation based on the changed circumstance that the order no longer is of interest to domestic interested parties has been met. Therefore, we are hereby notifying the public of our intent to revoke the antidumping duty order on pet film from Japan.

In the event that this revocation becomes final, the effective date of revocation will be June 1, 1992, which is the beginning of the currently pending second administrative review.

If final revocation occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties and to refund any estimated antidumping duties collected for all unliquidated entries of subject merchandise made on or after the above effective date of revocation, in accordance with 19 CFR 353.25(d)(5). We will also instruct Customs to refund with interest estimated antidumping duties collected for entries made on or after June 1, 1992, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Public Comment

Any interested party may request a hearing within 10 days of the date of publication of this notice. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances

review including the results of its analysis of issues raised in any written comments.

This notice is in accordance with §§ 751(b) (1) and (c) of the Act and sections 353.22(a)(5), 353.22(f) and 353.25(d) of the Department's regulations.

Dated: August 11, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–20556 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 081195B]

Small Takes of Marine Mammals Incidental to Specified Activities; McDonnell Douglas Aerospace Delta II Vehicles at Vandenberg Air Force Base, CA

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Air Force for authorization to take small numbers of harbor seals by harassment incidental to launches of McDonnell Douglas Aerospace (MDA) Delta II (Delta II) vehicles at Space Launch Complex 2W (SLC–2W), Vandenberg Air Force Base, CA (Vandenberg). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the Air Force to incidentally take, by harassment, small numbers of harbor seals, California sea lions and northern elephant seals in the vicinity of Vandenberg for a period of 1 year.

DATES: Comments and information must be received no later than September 18, 1995.

ADDRESSES: Comments on the application should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application, a list of the references used in this document, or the programmatic environmental assessment (EA), may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Craig Wingert, Southwest Regional Office at 310–980–4021.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 30, 1994, the President signed Public Law 103–238, The Marine Mammal Protection Act Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to one year. The MMPA defines ''harassment'' as:

> ...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On July 12, 1995, NMFS received an application from the U.S. Air Force requesting an authorization for the harassment of small numbers of harbor seals and potentially for other pinniped species incidental to launches of Delta II vehicles at SLC–2W, Vandenberg. These launches would place Department of Defense, National Aeronautics and Space Administration (NASA), and commercial medium-weight payloads into polar or near-polar orbits. MDA/NASA intends to launch four to five Delta IIs during the period of this proposed 1-year authorization.

Because SLC–2W is located north of most other launch complexes at Vandenberg, and because there are oil production platforms located off the coast to the south of SLC–2W, missions flown from SLC–2W cannot fly directly on their final southward course. The normal trajectory for a SLC–2W launch is 259.5 degrees west for the first 90 seconds, then a 41–second dog-leg maneuver to bring the vehicle on its southward course of 196 degrees. This trajectory takes the launch vehicle away from the coast and nearly 30 miles (mi) west of San Miguel Island (SMI), the westernmost Channel Island (Air Force, 1995b)[1].

As a result of the noise associated with the launch itself, there is a potential to cause a startle response to those harbor seals and other pinnipeds that may haul out on the coastline of Vandenberg. Launch noise would be expected to occur over the coastal habitats in the vicinity of SLC–2W while low-level sonic booms could be heard over the water in the area west of the Channel Islands.

Description of Habitat and Marine Mammals Affected by Delta IIs

The Southern California Bight (SCB) including the Channel Islands, support a diverse assemblage of pinnipeds (seals and sea lions). California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*) and northern fur seals (*Callorhinus ursinus*) breed there, with the largest rookeries on SMI and San Nicolas Island (SNI) (Stewart et al., in press). More detailed descriptions of the SCB and its associated marine mammals can be found elsewhere (56 FR 1606, January 16, 1991).

Until 1977, a small rookery of Steller sea lions (*Eumetopias jubatus*) existed on SMI. However, there has been no breeding there since 1981 and no sightings since 1984. Guadalupe fur seals (*Arctocephalus townsendi*) breed only on Isla de Guadalupe offshore Baja California, Mexico, and although some are occasionally seen on the Channel Islands, none are expected to be harassed by either launch noise or sonic booms since they are not known to come ashore on Vandenberg.

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[1] A list of references used in this document can be obtained by writing to the address provided above (see **ADDRESSES**).

A small breeding population of California sea lions occurs on Vandenberg and both sea lions and northern elephant seals are regular visitors to the shoreline near SLC–2W. A small population of harbor seals are normal residents of Purisima Point adjacent to SLC–2W and southern sea otters (*Enhydra lutra*) were censused there during the spring of 1995[2].

Harbor Seals

The Pacific harbor seal, which ranges from Baja California to the eastern Aleutian Islands, is the marine mammal most likely to be incidentally harassed by Delta II launches from Vandenberg, and therefore needs to be discussed in some detail. Harbor seals are considered abundant throughout most of their range and have increased substantially in the last 20 years. Hanan and Beeson (1994) reported 21,462 seals counted on the mainland coast and islands of California during May and June, 1994. Using that count and Huber et al.'s (1993) correction factor (1.61 times the count) for animals not hauled out, gives a best population estimate of 34,554 harbor seals in CA (NMFS, in press).

On the coastlines of Vandenberg, harbor seals are noted near Purisima Point, Point Arguello, at the mouth of Oil Well Canyon, in the area surrounding Rocky Point and near the Boathouse Breakwater (Air Force, 1995a, 1995b). The largest aggregations occur during the spring and early summer. Hanan et al. (1992) reported that 35 harbor seals were at Purisima Point while another 79 were found just south of Purisima Point. This is consistent with earlier estimates of approximately 100 harbor seals in the vicinity of SLC–2W. In 1986, 500 harbor seals were censused at the sites along North and South Vandenberg (Hanan et al., 1987). In the spring, approximately 70 harbor seals may be found at Rocky Point (Air Force, 1995a).

On SMI during the breeding season, the population is estimated to be 1,000 to 1,200 harbor seals (Hanan et al., 1993). Numbers are lowest in December, increase gradually from February to June, then sharply decrease again to a minimum in December. Pups are born from February through May. Pups nurse for about 4 weeks; nursing extends to at least the end of May. Breeding activities occur from mid-April to mid-June.

Harbor seals (and other pinnipeds) haul out onto dry land for various biological reasons, including sleep (Krieber and Barrette, 1984), predator avoidance and thermoregulation (Barnett, 1992). As harbor seals spend most of the evening and nighttime hours in the ocean (Bowles and Stewart, 1980), hauled-out seals spend much of their daytime hours in apparent sleep (Krieber and Barrette, 1984; Terhune, 1985). In addition to sleep, seals need to leave the ocean to avoid aquatic predators and excessive heat loss to the sea water (Barnett, 1992).

However, the advantages of hauling out are counterbalanced by dangers of the terrestrial environment including predators. In general, because of these opposing biological forces, haulout groups are temporary, unstable aggregations (Sullivan, 1982). The size of the haulout group is thought to be an anti-predator strategy (da Silva and Terhune, 1988). By increasing their numbers at a haulout site, harbor seals optimize the opportunities for sleep by minimizing the requirement for individual vigilance against predators (Krieber and Barrette, 1984). This relationship between seals and their predators is thought to have represented a strong selection pressure for startle behavior patterns (da Silva and Terhune, 1988). As a result, harbor seals, which have been subjected to extensive predation or hunting, rush into the water at the slightest alarm. Startle response in harbor seals can vary from a temporary state of agitation by a few individuals to the complete abandonment of the beach area by the entire colony. Normally, when harbor seals are frightened by noise, or the approach of a boat, plane, human, or other potential predator, they will move rapidly to the relative safety of the water. Depending upon the severity of the disturbance, seals may return to the original haulout site immediately, stay in the water for some length of time before hauling out, or haul out in a different area. When disturbances occur late in the day, harbor seals may not haul out again until the next day.

Disturbances have the potential to cause a more serious effect when seals and sea lion herds are pupping or nursing, when aggregations are dense, and during the molting season. However, evidence to date has not indicated that anthropogenic disturbances have resulted in increased mortality. Bowles and Stewart (1980) for example, found that harbor seals' tendency to flee, and the length of time before returning to the beach, decreased during the pupping season. They also found that mother-pup separations in crowded colonies are considered frequent, natural occurrences that can result from several causes, including normal female-female or male-female interactions. Both factors apparently give some protection to young seals from the startle response of the herd.

California Sea Lions

The three subspecies of the California sea lion inhabit the Pacific Ocean from the Galapagos Islands to Baja California to British Columbia. The California population breeds along the Channel Islands and oceanic islands off Mexico. A steady increase in the California sea lion population has occurred in the last two decades. From 1970 to 1989, the total population increased from an estimated 10,000 to 87,000 in the SCB. Based upon 1994 counts, the U.S. population is now estimated to be over 160,000 (NMFS, in press).

The two major California sea lion rookeries in the Channel Islands are on SMI and SNI. Stewart et al. (in press) estimated about 95 percent of the 16 to 17 thousand pups born in the Channel Islands in 1986 were from these two rookeries. Adult males arrive at the rookeries from March to May and breeding extends from May to July, with most births from mid-June to mid-July. Females nurse pups on an 8-day on/2-day off schedule for 4 to 8 months, with the ''off days'' spent foraging at sea (Heath et al., 1991). After the breeding season, adult males from the SCB migrate north from August through September and winter as far north as British Columbia. However, they are replaced by adult males from Baja California, in Mexico, that migrate to the Channel Islands to molt in December and January (Reeves et al., 1992). Seasonal movements of females are unknown; they may remain near the rookeries year round. California sea lions of all age-classes can be expected to forage in the offshore SCB during all seasons, with periods of peak at-sea abundance in late summer and autumn.

Northern Elephant Seal

The northern elephant seal, which is found on offshore islands from central Baja California north to Point Reyes, CA, north of San Francisco, has made a remarkable recovery in its population numbers. In 1892, it was estimated that only 100 elephant seals remained, and they inhabited Guadalupe Island, Mexico. The total population now is about 144,000 animals with an estimated 60,000 in the United States and 84,000 in Mexico.

Population estimates in the SCB increased from 28,000 in 1975–78 to 50,800 in 1989–90 with annual growth estimated at 14 percent for 1964–81 (Cooper and Stewart, 1983), and 10 percent for 1981–85 (Stewart et al., in

[2] Sea otters are under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) and not NMFS. Discussions between the applicant and the USFWS have taken place. Please contact those agencies for additional information.

press). A projection of these figures indicates that the 1994 U.S. population could be nearly 87,000.

Northern elephant seals forage at sea for 8 to 10 months each year during which time they make two migrations between breeding and molting sites in the Channel Islands and pelagic foraging grounds in the eastern North Pacific (Stewart and DeLong, 1993). Major rookeries are established annually on SMI and SNI. Adult males and females are ashore simultaneously only during breeding; females typically for 34 days continuously, and adult males for 30 to 90 days (Stewart and DeLong, 1993). Adult males maintain breeding territories on rookery beaches from early December through early March. Females arrive at rookeries from late December through February, with most births in January (Sydeman et al., 1991). Pups are weaned and abandoned when about 1 month old and go to sea 1 to 3 months later. Females and juveniles return to the Channel Islands to molt in April and May and adult males return in July and August.

Elephant seals travel north between breeding and molting seasons and disperse widely in the eastern North Pacific to forage on squid and other mesopelagic prey. Adult males migrate to the Gulf of Alaska and Aleutian Islands, while females and juveniles migrate as far as Oregon and Washington (Reeves et al., 1992). Both sexes dive continuously while at sea; females are submerged about 91 percent and males about 88 percent of the time while at sea (Stewart and DeLong, 1993). During foraging dives, seals descend rapidly to a specific depth, remain there for several minutes, and then ascend rapidly to the surface (Stewart and DeLong, 1993). On average, female dives were to about 1,640 ft (499.87 m) depth and lasted 24 minutes, with 2 minute inter-dive surface intervals; male dives were to about 1,198 ft (365.15 m) depth and lasted 23 minutes, with 3 minute inter-dive surface intervals. Overall, dives for both sexes were between 492 - 2,625 ft (149.96 to 800.1 m) deep.

All age-classes of northern elephant seals can be expected to forage in the offshore SCB, with periods of peak abundance just after breeding (late February-early March) and molting (April-May for females; July-August for males) periods.

Potential Effects of Delta II Launches on Marine Mammals

The effect on pinnipeds, particularly harbor seals, would be disturbance by sound, which is anticipated to result in a negligible short-term impact to small numbers of harbor seals and other pinnipeds that may be hauled out along the coast near SLC–2W at the time of Delta II launches. There is no scientific evidence that any marine mammals, other than those onshore at the time of launch, would be subject to harassment by launch noises, although the potential does exist that other marine mammal species may hear either the launch noise or the sonic boom. However, simply hearing the noise does not necessarily mean that the animals have been harassed.

At North Vandenberg, launch noises are expected to impact mostly harbor seals, as other pinniped species (California sea lions and northern elephant seals) are known to haul out at these sites only infrequently and in smaller numbers. The launch noise associated with the Delta II under typical conditions is predicted to be about 115 dBA (129 dB) at the nearest potential harbor seal haulout (3,000 ft (914.4 m) from launch site) and 110 dBA (125 dB) at Purisima Point (5,000 ft (1,524 m) from launch site) and last for less than 1 minute (U.S. Air Force, 1995b). As a result of the launch of a Taurus rocket (slightly smaller in size to the Delta II) in March 1994 at SLC–2W, Stewart et al. (1994) observed that 20 of 23 harbor seals on Purisima Point fled into the water. The A-weighted sound exposure level at Purisima Point for that launch was 108.1 dB (127.5 dB unweighted). Therefore, it can be predicted that most, if not all, pinnipeds onshore near SLC–2W will leave the shore as a result of launchings of Delta IIs. Harbor seals hauled out at Point Arguello and Rocky Point may alert to the launch noise but are not expected to flee to the water, because of the distance and the resultant attenuation of launch noise at that distance (approximately 15 mi (24.1 km)).

As part of the small take authorization for Titan IV launches at SLC–4, the U.S. Air Force monitored the effects of launch noises on harbor seals hauled out at Rocky Point (4.8 mi (7.7 km)) south of SLC–4) (Stewart and Francine, 1992; Stewart et al., 1992 and 1993). For four monitored launches, the sound exposure level ranged from 98.7 - 101.8 dBA (145 dB) (Stewart et al., 1993). During the 1992 and 1993 Titan IV launches, all or almost all, harbor seals that were ashore (1992 23 of 28; 1993 41 of 41) at the time fled into the water in response to the noise. In 1993, about 75 percent of those seals returned ashore later that day, most within 90 minutes of the disturbance (Stewart et al., 1993). No mortalities were reported at South Vandenberg as a result of any of the four monitored launches.

On SMI, time-lapse photographic monitoring (Jehl and Cooper, 1982) shows that in response to a specific stimulus, large numbers of pinnipeds move suddenly from the shoreline to the water. These events occur at a frequency of about 24 to 36 times per year for sea lions and seals other than harbor seals, and about 48 to 60 times annually for harbor seals. Visual stimuli, such as humans and low-flying aircraft, are much more likely to elicit this response than strictly auditory stimuli, such as boat noise or sonic booms. Observations indicated that it is rare for mass movement to take place in a panic, and no resulting pup or adult mortality has been observed under these circumstances. Also, Stewart (1982) exposed breeding California sea lions and northern elephant seals on SNI to loud implosive noises created by a carbide pest control cannon. Sound pressure levels varied from 125.7 to 146.9 dB. While behavioral responses of each species varied by sex, age, and season, Stewart found that habitat use, population growth, and pup survival of both species appeared unaffected by periodic exposure to the noise.

Launch noises are not expected to significantly impact marine mammals offshore, although pinnipeds in the nearshore waters around SLC–2W may alert to the noise. In order to be detectable by a marine mammal, airborne noise needs to be greater than ambient within the same frequency as the animal's hearing range. For harbor seals, recent research (Terhune, 1988; Turnbull and Terhune, 1989; Terhune, 1991; Turnbull, 1994) indicates that harbor seals have relatively poor hearing capacity in the frequencies of sound that dominate the noise produced by a rocket launch. At the lowest frequency measured (100 Hz), the threshold was between 65 dB and 75 dB. Terhune (1991) indicated that the critical ratio at the lowest frequency measured (250 Hz) was 24 dB. Thus, noise would need to be roughly 24 dB or more above background to be even perceived by a harbor seal. With launch noises expected to quickly attenuate offshore, and with ambient noise level expected to range between 56 and 96 dBA (Air Force, 1995a), there is at present no evidence that any marine mammals, other than pinnipeds onshore at the time of launch, would be subject to harassment by launch noises, although, as stated previously, the potential does exist that other marine mammal species may hear the launch noise.

Northern Channel Islands

Sonic booms resulting from launches of the Delta II vary with the vehicle

trajectory and the specific ground location. Sonic booms are not expected to intersect with the ocean surface until the vehicle changes its launch trajectory. This location will be well offshore.

Depending upon the intensity and location of a sonic boom, pinnipeds on SMI could exhibit an alert response or stampede into the water. However, while it is highly probable that a sonic boom from the Delta II would occur over SMI, maximum overpressures of these sonic booms are estimated to be 1.0 lb/ft^2 (psf) over SMI (Air Force, 1995c). A sonic boom with an overpressure of 1.0 psf or less is not considered significant (equivalent to hearing two hands clapped together at a distance of one foot). Also, the maximum overall sound pressure level is not expected to exceed 78 dBA (112 dB) (Air Force, 1995c). A sonic boom of this magnitude is unlikely to be distinguishable from background noises caused by wind and surf (Air Force, 1995a).

Monitoring of the effects of noise generated from Titan IV launches on SMI pinnipeds in 1991, Stewart et al. (1992) demonstrated that noise levels from a sonic boom of 133 dB (111.7 dBA) caused an alert response by small numbers of California sea lions, but no response from other pinniped species present (including harbor seals). In 1993, an explosion of a Titan IV created a sonic boom-like pressure wave and caused approximately 45 percent of the California sea lions (approximately 23,400, including 14 to 15 thousand 1-month old pups, were hauled out on SMI during the launch) and 2 percent of the northern fur seals to enter the surf zone. Although approximately 15 percent of the sea lion pups were temporarily abandoned when their mothers fled into the surf, no injuries or mortalities were observed. Most animals were returning to shore within 2 hours of the disturbance (Stewart et al., 1993).

Since the noise level from Delta II launches is expected to be well below both these levels and the threshold criteria of 101 dBA identified by Stewart et al. (1993), no incidental harassment takings are anticipated to occur on the northern Channel Islands.

Cetaceans and pinnipeds in the water should also be unaffected by the sonic booms, although, depending upon location and ambient noise levels, some species may be able to hear the sonic boom. While the maximum magnitude of sonic booms from launches of the Delta II is presently unknown, because of its similarity in size and weight to the Lockheed launch vehicles (LLV) (see 60 FR 38308, July 26, 1995), the sonic boom signature from the largest of those vehicles (LLV–3—3.5 psf/125.6 dB), can be used to predict the impact by the Delta II. Pressure levels of this magnitude would be less than those measured for other launch vehicles, such as the Titan IV and the Space Shuttle (10 psf), for which small take authorizations for harassment have been issued previously (see 56 FR 41628, August 22, 1991 and 51 FR 11737, April 7, 1986).

Although rough seas may provide some surfaces, at the proper angle, for sound to penetrate the water surface (Richardson et al., 1991), sound entering a water surface at an angle greater than 13 degrees from the vertical has been shown to be largely deflected at the surface, with very little sound entering the water (Chappell, 1980; Richardson et al., 1991). Chappell (1980) believes that a sonic boom would need to have a peak overpressure in the range of 138 to 169 dB to cause a temporary hearing threshold shift (TTS) in marine mammals, lasting at most a few minutes. Therefore, with only a remote likelihood that a marine mammal will be almost directly under the line of flight of the Delta II, and with the Delta II having overpressures below the threshold for potentially causing TTS in marine mammals, NMFS believes that sonic booms are not likely to result in the harassment of cetacean or pinniped populations in offshore waters of the SCB.

Mitigation

Unless constrained by other factors including, but not limited to, human safety, national security or launch trajectories, efforts to ensure minimum negligible impacts of Delta II launches on harbor seals and other pinnipeds are proposed for inclusion in the Incidental Harassment Authorization. These proposals include:

1. Avoidance whenever possible of launches during the harbor seal pupping season of February through May; and

2. Preference for night launches during the period of the year when harbor seals are hauled out in any numbers along the coast of North Vandenberg.

Monitoring

NMFS proposes that the holder of the Incidental Harassment Authorization would monitor the impact of Delta II launches on the harbor seal haulouts in the vicinity of Purisima Point or, in the absence of pinnipeds at that location, at a nearby haulout. A report on this monitoring program would be required to be submitted prior to next year's authorization request.

National Environmental Policy Act (NEPA)

On December 21, 1990, NMFS published an EA on the proposed authorization to the Air Force to incidentally take marine mammals during launches of the Titan IV space vehicle from Vandenberg. The finding of that EA was that the issuance of the authorization would not significantly affect the quality of the human environment and, therefore, an environmental impact statement (EIS) was not necessary. Because the Delta II rocket is 73 percent smaller than the Titan IV, and because the noise generated by launches and sonic booms of the Delta II is significantly less than the Titan IV, additional NEPA documentation is not warranted.

In addition, each proposed incidental harassment authorization is reviewed by NMFS to determine its impact on the human environment, in particular marine mammals—as was the Air Force application. NMFS believes that, because the finding required for incidental harassment authorizations is that the taking (by harassment) will have a negligible impact on marine mammals and their habitat, the majority of the incidental harassment authorizations should be ''categorically excluded'' (as defined in 40 CFR 1508.4) from the preparation of either an EIS or an EA under NEPA and section 6.02.c.3(i) of NOAA Administrative Order 216–6 for Environmental Review Procedures (published August 6, 1991). A programmatic EA on issuing incidental harassment authorizations under section 101(a)(5)(D) of the MMPA is available for public review and comment until October 16, 1995 (see **ADDRESSES**).

Conclusions

The short-term impact of the launching of Delta II rockets is expected to result at worst, in a temporary reduction in utilization of the haulout as seals or sea lions leave the beach for the safety of the water. Launchings are not expected to result in any reduction in the number of pinnipeds, and they are expected to continue to occupy the same area. In addition, there will not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on pinnipeds at Vandenberg and the northern Channel Islands are unlikely.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization for 1 year for launches of the Delta II rocket at SLC–

2W, provided the above-mentioned monitoring and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed launches of the Delta II at SLC–2W would result in the harassment taking of only small numbers of harbor seals and possibly other pinniped species, will have a negligible impact on pinniped stocks in the SCB and will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: August 15, 1995.

Patricia A. Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–20545 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 081095B]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee (SSC), Squid, Mackerel, and Butterfish Committee, and its Large Pelagic/Sharks Committee will hold public meetings.

DATES: The meetings will be held on September 5–6, 1995.

ADDRESSES: The meetings will be held at the Days Inn Philadelphia Airport, 4101 Island Avenue, Philadelphia, PA, telephone 216–492–0400.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: On September 5, the Scientific and Statistical Committee will meet from 10:00 a.m. to 3:00 p.m. On September 6, the Squid, Mackerel, and Butterfish Committee will meet from 10:00 a.m. until noon, and the Large Pelagic/Sharks Committee will meet from 1:00–3:00 p.m.

The purpose of these meetings is to discuss surf clam and ocean quahog overfishing definitions, review staff recommendations for 1996 specifications for Atlantic mackerel, squid, and butterfish, review SSC and industry comments, and consider shark and swordfish limited entry.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at (302) 674–2331 at least 5 days prior to the meeting dates.

Dated: August 14, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–20468 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 080295D]

Marine Mammals

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

ACTION: Receipt of application to modify permit no. 836 (P79F).

SUMMARY: Notice is hereby given that the Institute of Marine Science, University of California, Santa Cruz, (Principal Investigators: Dr. Burney J. Le Boeuf, Dr. C. Leo Ortiz, Dr. Daniel P. Costa) has requested a modification to permit No. 836.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits Division, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject modification to permit No. 836, issued on May 12, 1993, as amended on June 29, 1994, is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 836 authorizes the permit holder to incidentally harass up to 69,950 elephant seals (*Mirounga angustirostris*) while conducting a variety of scientific studies such as tagging, capture/release, marking, weighing, measuring and sampling, attaching electronic instruments, translocation, and energetics experiments.

The permit holder requests authorization to: (1) Obtain biopsy samples from juvenile elephant seals for examination of muscle structure as it relates to aerobic capacity; (2) change release site from Point Sur to up to 5 miles (8 km) from Pioneer Seamount, approximately 70 miles (112 km) west of Half Moon Bay for studies of the effect of low frequency sound on translocated seals; and (3) import up to 300 adult female, 300 weaned pup and 50 adult male southern elephant seal tissue samples from Peninsula Valdez, Patagonia, Argentia.

Dated: August 14, 1995.

Gary Barone,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–20543 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 080895A]

Marine Mammals and Endangered Species; Permits

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

ACTION: Issuance of modification to scientific research permit no. 866 (P537).

SUMMARY: Notice is hereby given that Mr. Fred Sharpe, Department of Biological Sciences, Simon Fraser University, Burnaby, B.C., Canada V5A 1S6 has been issued a modification to permit no. 866.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

SUPPLEMENTARY INFORMATION: On June 15, 1995, notice was published in the **Federal Register** (60 FR 31450) that a request for a permit modification had been submitted by the above-named individual.

The modification was issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing endangered species permits (50 CFR parts 217–227).

Issuance of this modification as required by the ESA of 1973 was based on a finding that such modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 14, 1995.

Gary M. Barone,

Acting Chief, Permits & Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–20542 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–22–F

National Technical Information Service

Notice of Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 C.F.R. 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States of America, Australia and Canada to practice the invention embodied in the following patents and patent application: U.S. Patent No. 5,279,745 (Ser. No. 7–429,236), Australian Patent No. 627630 and Canadian Patent Application No. 2,044,167–4 to Harrison-Western Environmental Services, Inc., having a place of business in Lakewood, Colorado. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 C.F.R. 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 C.F.R. 404.7.

The invention expressed in the patents and patent application cited above describe polymer beads which are prepared containing an immobilized extractant for sorbing metal contaminants at concentrations of less than 1 mg/L in dilute aqueous solutions. A preferred polymer in polysulfone and the extractant can be a synthetic chemical compound sorbed into activated carbon. The polymer beads are prepared by dissolving the polymer in an organic solvent to form a solution, adding the extractant to the solution to form a mixture and injecting the mixture through a nozzle into water to form the beads.

The availability of the invention for licensing was published in the **Federal Register** of July 18, 1990, Vol. 55, No. 138, p. 29255. Copies of the instant U.S. patent are available from the Commissioner of Patents and Trademarks, Box 9, Washington, D.C. at a cost of $3.00 each.

Any inquiries and comments relating to the contemplated license must be submitted to Neil L. Mark, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, Virginia 22151. Properly filed competing license applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Director, Office of Federal Patent Licensing.

[FR Doc. 95–20532 Filed 8–17–95; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

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

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: September 18, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 31 and June 30, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 F.R. 16625 and 34235) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Bottle, Prescription
6530–01–414–5242
6530–01–414–5243
6530–01–414–5244

Services

Switchboard Operation, Department of Veterans Affairs Medical Center, 801 South Marion Street, Lake City, Florida

Switchboard Operation, Department of Veterans Affairs Outpatient Clinic, Beaumont, Texas

Switchboard Operation, Department of Veterans Affairs Outpatient Clinic, Lufkin, Texas

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–20548 Filed 8–17–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions and Deletions

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

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 18, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Tablecloth, Disposable
7210–01–395–7912
7210–01–395–7914
7210–01–395–7915
7210–01–395–7916
7210–01–395–7917
7210–01–395–9192
NPA: East Texas Lighthouse for the Blind, Tyler, Texas

Cap, Water Canteen
8465–00–930–2077
NPA: The Lighthouse for the Blind, Inc., Seattle, Washington

Cover, Water Canteen
8465–00–860–0256
(Additional 25% of the Government's requirement)
NPA: Human Technologies Corporation, Utica, New York

Paprika, Ground
8950–01–079–6942
NPA: Continuing Developmental Services, Inc., Fairport, New York

Services

Janitorial/Custodial, Pentagon Building, Third Floor, and all secure spaces on all floors, excluding the Fourth Floor, Washington, DC
NPA: Didlake, Inc., Manassas, Virginia

POV Overseas Export/Import Processing, Norfolk Naval Base, Building CEP–57, Norfolk, Virginia
NPA: Diversified Industrial Concepts, Inc., Virginia Beach, Virginia

Deletions

If the Committee approves the proposed deletions, all entities of the Federal Government will no longer be required to procure the services listed below from nonprofit agencies employing people who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

The following services have been proposed for deletion from the Procurement List:

Commissary Shelf Stocking and Custodial, Mare Island Naval Shipyard, Vallejo, California
Commissary Shelf Stocking and Custodial, Naval Support Activity, Sand Point, Seattle, Washington
Janitorial/Custodial, Naval Intelligence Command Building I, Suitland, Maryland
Janitorial/Custodial, U.S. Army Reserve Center, 2100 Quaker Point Road, Quakerstown, Pennsylvania
Janitorial/Elevator Operator, Southeast Federal Center, Building 167, Washington, DC

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–20549 Filed 8–17–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Supplemental Record of Decision (ROD) for the Disposal and Reuse of Williams Air Force Base (AFB), AZ

On August 8, 1995, the Air Force signed the Supplemental Record of Decision (ROD) for the Disposal and Reuse of Williams Air Force Base (AFB). The decisions included in this Supplemental ROD have been made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) for the Disposal and Reuse of Williams AFB, filed with the Environmental Protection Agency on June 3, 1994.

Williams AFB closed on September 30, 1993, pursuant to the Defense Base Closure and Realignment Act of 1990 (DBCRA), (Pub. L. 101–510), and recommendations of the Defense Base Closure and Realignment Commission. This Supplemental ROD documents modifications to certain previous disposal decisions made by the Air

Force in the ROD executed on February 17, 1995.

The decision in this Supplemental ROD is to withdraw the previous determination of excess on approximately 4 acres. This parcel is retained within the Department of Defense (DoD) for continued military use by the U.S. Army Reserve Command.

Approximately 4 acres previously made available for negotiated or public sale will be assigned to the Department of Education (DOE) to be further conveyed to Arizona State University (ASU) for educational purposes. In the previous ROD, 40.37 acres were under review by the Department of Health and Human Services (HHS). HHS found approximately 10 acres approvable for homeless assistance purposes and found the remaining 30.37 acres unapprovable. Consistent with the decision in the previous ROD, this property will be assigned to DOE to be conveyed to ASU for educational purposes. An additional 0.76 acre parcel will be assigned to HHS to be conveyed to the Flood Control District of Maricopa County for storm water management and the protection of public health. Approximately 645 acres previously made available for negotiated or public sale, or land exchange is being made available for conveyance to the Williams Gateway Airport Authority for public airport purposes.

The FAA has jurisdiction by law regarding reuse of the runways and associated facilities as a civilian airport. A decision, if any, by the FAA to approve an airport layout plan will be announced by a separate ROD issued by the FAA based on the analysis in the FEIS and any additional FAA analysis that may be required. In all other respects, previous disposal decisions are unchanged.

The implementation of the closure and reuse action and associated mitigation measures will proceed with minimal adverse impact to the environment. This action conforms with applicable Federal, State and local statutes and regulations, and all reasonable and practicable efforts have been incorporated to minimize harm to the local public and the environment.

Any questions regarding this matter should be directed to Mr. John E. B. Smith or Ms. De Carlo Ciccel at (703) 696–5540. Correspondence should be sent to: AFBCA/SP, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2802.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–20536 Filed 8–17–95; 8:45 am]

BILLING CODE 3910–01–P

USAF Scientific Advisory Board Meeting

The Aircraft & Propulsion Panel of the USAF Scientific Advisory Board will meet on 26–28 September 1995 at Colorado Springs, CO from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather data in support of the New World Study.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–20534 Filed 8–17–95; 8:45 am]

BILLING CODE 3910–01–P

USAF Scientific Advisory Board Meeting

The Materials Panel of the USAF Scientific Advisory Board will meet on 14–15 September 1995 at Wright Patterson AFB, OH from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather data in support of the 1995 Study on New World Vistas.

The meeting will be opened to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–20535 Filed 8–17–95; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF THE ARMY

Performance Review Boards Membership

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the Performance Review Boards for the Department of the Army.

EFFECTIVE DATE: August 1, 1994.

FOR FURTHER INFORMATION CONTACT: David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310–0111.

SUMMARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the U.S. Army Materiel Command (AMC) are:

1. BG Stewart W. Gerald, Deputy Chief of Staff for Acquisition, U.S. Army Materiel Command
2. BG David R. Gust, Program Executive Officer, Communications Systems, Army Acquisition Executive
3. BG James R. Snider, Comanche program Manager, program Executive Office, Aviation, Army Acquisition Executive
4. Mr. Paul Bogosian, Executive Director, Acquisition Center, U.S. Army Aviation and Troop Command, AMC
5. Dr. Rudolph G. Buser, Director, Night Vision and Electronic Sensors Directorate, U.S. Army Communications-Electronics Command, AMC
6. Mr. Jerry L. Chapin, Deputy Program Executive Officer, Armored Systems Modernization
7. Mr. Walter W. Clifford, Chief, Air Warfare Division, U.S. Army Materiel systems Analysis Activity, AMC
8. Dr. Andrew Crowson, Director, Materials Science Division, U.S. Army Research Office, AMC
9. Dr. Larry O. Daniel, Director, Systems Engineering and Production, U.S. Army Missile Command, AMC
10. Mr. Edward G. Elgart, Director, C31 Acquisition Center, U.S. Army Communications-Electronics Command, AMC
11. Dr. Herbert K. Fallin, Jr., Director for Assessment and Evaluation, Office of the Assistant Secretary of the Army (Research, Development and Acquisition)
12. Mr. Eugene Famolari, Jr., Associate Technical Director, CECOM Research, Development and Engineering Center, U.S. Army Communications-Electronics Command
13. Mr. Frank E. Fiorilli, Comptroller, U.S. Army Communications-Electronics Command, AMC
14. Mr. Michael F. Fisette, Principal Deputy for Technology, U.S. Army Materiel Command
15. Mr. James L. Flinn III, Director, Integrated Materiel Management Center, U.S. Army Missile Command, AMC

16. Mr. Bruce M. Fonoroff, Associate Director, Plans, Programs, and Budget, U.S. Army Research Laboratory, AMC
17. Dr. John T. Frasier, Associate Director for Science and Technology, U.S. Army Research Laboratory, AMC
18. Mr. John F. Gehbauer, Deputy Director, Armament Research, Development and Engineering Center, AMC
19. Mr. John F. Gehrig, Director, Test and Evaluation Management Agency, Office of the Under Secretary of the Army
20. Mr. Larry D. Holcomb, Deputy Program Executive, Program Executive Office, Aviation, Army Acquisition Executive
21. Mr. Walter W. Hollis, Deputy Under Secretary of the Army (Operations Research) Office of the Secretary of the Army
22. Mr. Gary L. Holloway, Director for Test and Assessment, U.S. Army Test and Evaluation Command, AMC
23. Mr. Thomas L. House, Executive Director, Aviation Research, Development and Engineering Center, U.S. Army Aviation and Troop Command, AMC
24. Mr. Larry H. Johnson, Director, Redstone Technical Test Center, U.S. Test and Evaluation Command, AMC
25. Mr. Arthur R. Keltz, Principal Deputy for Logistics, U.S. Army Materiel Command
26. Dr. Michael J. Lavan, Director, Advanced Technology Directorate, U.S. Army Space and Strategic Defense Command
27. Dr. Ingo W. May, Acting Director, Weapons Technology Directorate, U.S. Army Research Laboratory, AMC
28. Mr. Douglas R. Newberry, Director, Resource Management, U.S. Army Tank-Automotive Command, AMC
29. Mr. Raymond G. Pollard III, Technical Director, U.S. Army Test and Evaluation Command, AMC
30. Mr. Rex B. Powell, Director, Advanced Sensors, U.S. Army Missile Command, AMC
31. Ms. Renata F. Price, Associate Technical Director, Armament Research, Development and Engineering Center, AMC
32. Dr. Bhakta Rath, Associate Director of Research, Materials Science and Component Technology Directorate, Navy Research Laboratory
33. Mr. Arend H. Reid, Chief, Combat Support Division, U.S. Army Materiel Systems and Analysis Activity, AMC
34. Mr. Daniel J. Rubery, Executive Director, Integrated Materiel Management Center, U.S. Army Aviation Systems Command, AMC
35. Mr. Carmine Spinelli, Acting Technical Director, U.S. Army Armament Research, Development and Engineering Center, U.S. Army Tank-Automotive Command, AMC
36. Mr. Gary A. Tull, Acting Principal Deputy for Acquisition, U.S. Army Materiel Command
37. Mr. Joseph J. Vervier, Acting Technical Director, Edgewood Research, Development and Engineering Center, U.S. Army Chemical and biological Defense Command, AMC
38. Dr. Horst Wittman, Director, Physics Electronics Directorate, Air Force Office of Scientific Research

The members of the Performance Review Board for the Office of the Chief of Staff, Army are:

1. Mr. Mark J. O'Konski, Executive Director, Strategic Logistics Agency, Deputy Chief of Staff for Logistics (DCSLOG)
2. Mr. Frank S. Besson, Director for Security Assistance, DCSLOG
3. MG William N. Farmen, Assistant Deputy Chief of Staff for Logistics, DCSLOG
4. BG Boyd E. King, Director, Transportation, Energy & Troop Support, DCSLOG
5. MG Eric K. Shinseki, Assistant Deputy Chief of Staff for Operations and Plans (DCSOPS)
6. Mr. John A. Riente, Technical Advisor to the DCSOPS
7. Dr. Shelba J. Proffitt, Director, Sensors Directorate, U.S. Army Space and Strategic Defense Command (SSDC)
8. Dr. James R. Fisher, Executive Director, SSDC
9. Dr. Edgar Johnson, Director, U.S. Army Research Institute, Deputy Chief of Staff for Personnel (DCSPER)
10. Dr. Jack Hiller, Director of MANPRINT, DCSPER
11. MG Thomas Sikora, Director of Military Personnel Management, DCSPER
12. MG John Thompson, Commander, U.S. Total Army Personnel Command, DCSPER
13. Mr. James Davis, Assistant Deputy Chief of Staff for Intelligence
14. BG Claudia Kennedy, Assistant Deputy Chief of Staff for Intelligence
15. Dr. Henry C. Dubin, Technical Director, U.S. Army Operational Test & Evaluation Command
16. Mr. Edgar B. Vandiver III, Director, US Army Concepts and Analysis Agency

The members of the Performance Review Board for the Consolidated Commands are:

1. Mr. Robert H. Moore, Deputy Chief of Staff for Operations, Military Traffic Management Command (MTMC)
2. Mr. Thomas D. Collinsworth, Director, MTMC Transportation Engineering Agency
3. BG Trent N. Thomas, Commanding General, US Army Intelligence and Security Command (INSCOM)
4. Mr. William S. Rich, Jr., Deputy/Technical Director, National Ground Intelligence Center, INSCOM
5. Mr. Thomas Edwards, Deputy to the Commanding General, US Army Combined Arms Support Command
6. MG Joe N. Ballard, Chief of Staff, U.S. Army Training and Doctrine Command (TRADOC)
7. Mrs. Toni B. Wainwright, Assistant Deputy Chief of Staff for Base Operation Support, TRADOC
8. BG C.G. Sutten, Commander, 5th Signal Command
9. BG R. Nabers, Director, Single Agency Manager, U.S. Army Information Systems Command (ISC)
10. Mr. James Macinko, Director, Resource Management, ISC
11. Dr. Michael Gentry, Technical Director/Chief Engineer, ISC
12. MG F.E. Vollrath, Deputy Chief of Staff for Personnel, U.S. Army, Europe (USAREUR)
13. Mr. Leland Goeke, Assistant Deputy Chief of Staff for Personnel (Civilian Personnel) USAREUR

The members of the Performance Review Board for the U.S. Army Acquisition Executive are:

1. Mr. Dale Adams, Program Executive Officer, Armaments
2. Mr. George G. Williams, Program Executive Officer, Tactical Missiles
3. Mr. Maurice R. Donnelly, Assistant Deputy for Plans and Programs, Office, Assistant Secretary of the Army (Research, Development and Acquisition)
4. Mr. Bennett R. Hart, Program Executive Officer, Command & Control Systems
5. Mr. Charles L. Austin, Program Executive Officer, Standard Army Management Information Systems
6. MG William H. Campbell, Program Executive Officer, Command & Control Systems
7. Mr. Larry D. Holcomb, Deputy Program Executive Officer, Aviation

The members of the Performance Review Board for the Office of the Secretary of the Army are:

1. Mr. David Borland, Vice Director to the Director of Information Systems for Command, Control, Communications and Computers (DISC4)
2. MG David E. White, Director of Plans and Programs, DISC4
3. Mr. Maurice R. Donnelly, Assistant Deputy for Plans and Programs,

Office, Assistant Secretary of the Army (Research, Development and Acquisition) (ASA{RDA})
4. Dr. Bennie H. Pickley, Deputy Director, Acquisition Career Management, ASA (RDA)
5. Mr. Ernest Gregory, Deputy Assistant Secretary of the Army (Financial Operations), Assistant Secretary of the Army (Financial Management and Comptroller) ASA{FMC})
6. Mr. Robert Young, Deputy for Cost Analysis, ASA(FMC)
7. Ms. Alma Moore, Principal Deputy Assistant Secretary of the Army (Installations, Logistics and Environment) (ASA{ILE})
8. Mr. Paul Johnson, Deputy Assistant Secretary of the Army (Installations and Housing), ASA(ILE)
9. Mr. Eric Orsini, Deputy Assistant Secretary of the Army (Logistics), ASA(ILE)
10. Mr. Anthony Gamboa, Deputy General Counsel (Acquisition)
11. Mr. Thomas Taylor, Deputy General Counsel (Installations and Operations)
12. Mr. Steven Dola, Deputy Assistant Secretary of the Army (Management and Budget), Office of the Assistant Secretary of the Army (Civil Works)
13. Mr. Francis Reardon, The Auditor General
14. Mr. Charles Arigo, Director, Logistical & Financial Audits, Army Audit Agency
15. Ms. Carol Smith, Deputy Assistant Secretary of the Army (Civilian Personnel Policy/Director of Civilian Personnel), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA{MRA})
16. Mr. Todd Weiler, Deputy Assistant Secretary of the Army (Training and Education), ASA(MRA)
17. Mr. William Takakoshi, Special Assistant, Office of the Secretary of the Army
18. Ms. John Langston, Director, U.S. Army Model Improvement & Study Management Agency
19. Mr. Walter Hollis, Deputy Under Secretary of the Army (Operations Research)

The members of the Performance Review Board for the United States Army, Corps of Engineers (USACE) are:

1. MG Pat M. Stevens, Deputy Chief of Engineers, Office of the Chief of Engineers
2. Mr. John F. Wallace, Director, Resource Management, USACE
3. Jimmy F. Bates, Deputy Director, USACE Directorate of Civil Works
4. Dr. W. F. Marcuson III, Director, Geotechnical Laboratory, USACE US Army Engineer Waterways Experiment Station
5. Mr. C. Cary Jones, Chief, Environmental Restoration Division, USACE Directorate of Military Programs
6. Mr. Paul D. Barber, Chief, Engineering Division, USACE Directorate of Civil Works
7. BG Miltion Hunter, Commanding General United States Army Engineer Division, North Atlantic
8. Mr. Kisuk Chenug, Director of Programs Management, USACE Pacific Ocean Division
9. Mr. Earl H. Stockdale, Deputy General Counsel (Environment & Civil Works), Office of the General Counsel, Office of the Secretary of the Army
10. Mr. Charles R. Schroer, Chief, Construction Division, USACE Directorate of Military Programs
11. Mr. John Velehradsky, Director of Engineering and Technical Services, USACE North Pacific Division
12. Dr. William E. Roper, Assistant Director for Research & Development (Civil Works Programs), USACE Directorate of Research & Development

The members of the Performance Review Board for the United States Army, Office of the Surgeon General are:

1. MG Lelslie M. Burger, Assistant Surgeon General, Health Services, Operations, and Logistics, Office of the Surgeon General
2. MG Ronald H. Blanck, Commander, Walter Reed Army Medical Center
3. Dr. Bhupendra P. Doctor, Director, Division of Biochemistry, Walter Reed Army Institute of Research
4. BG Nancy R. Adams, Assistant Surgeon General, Personnel and Resources Management; Commander U.S. Army Center for Health Promotion and Preventative Medicine; and Chief, Army Nurse Corps, Office of the Surgeon General
5. Dr. Kamal G. Ishak, Chairman, Department of Hepatic Pathology, Armed Forces Institute of Pathology
6. Dr. Arthur D. Mason, Chief, Laboratories Division, U.S. Army Instituter for Surgical Research
7. Dr. Melvin H. Heiffer, Chief, Department of Pharmacology, Walter Reed Army Institute of Research
8. Dr. Donald E. Sweet, Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology
9. Dr. Renu Vermani, Chairman, Department of Cardiovascular Pathology, Armed Forces Institute of Pathology
10. Dr. Nelson H. Irey, Chairman, Department of Environmental and Drug-Induced Pathology, Armed Forces Institute of Pathology.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–20501 Filed 8–17–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Joint Draft Supplemental Environmental Impact Statement/ Supplemental Draft Environmental Impact Report (DSEIS/SDEIR) American River Watershed Project, California

AGENCY: Army Corps of Engineers, Sacramento District (Federal); The Reclamation Board (State), Sacramento Area Flood Control Agency (Local).

ACTION: Notice of availability.

SUMMARY: This DSEIS/SDEIR analyzes the potential environmental and related impacts associated with three candidate plans to increase flood protection to the Sacramento area. The Folsom Modification Plan would reduce the probability of flooding to less than 1 chance in 180 in any given year by increasing the seasonal flood storage in Folsom Reservoir to a space varying from 475,000 to 720,000 acre-feet, constructing 24 miles of seepage cutoff in the levees along the lower American River, and raising and stabilizing 12 miles of Sacramento River levees in Natomas. This plan would reduce water-supply capacity and hydropower production at Folsom Reservoir as a result of the permanent increase in seasonal flood storage space. Some environmental resources at the reservoir and along the lower American River would be adversely affected. The Folsom Stepped Release Plan would reduce the probability of flooding to less than 1 chance in 230 in any given year by continuing the variable seasonal flood storage reservation at Folsom Reservoir of 400,000 to 670,000 acre-feet, constructing 2 miles of new levees and 2 miles of floodwall, 26 miles of seepage cutoff in the levees along lower American River; raising and stabilizing 12 miles of Sacramento River levees in Natomas; widening the Sacramento Bypass 1,000 feet; and modifying 52 miles of levees along the Yolo Bypass. The Detention Dam Plan would reduce the probability of flooding to less than 1 chance in 500 in any given year. This plan consists of constructing a 508-foot high concrete dam that could

temporarily impound a total of 894,000 acre-foot of water near Auburn, constructing 24 miles of seepage cutoff in the levees along the lower American River, and raising and stabilizing 12 miles of Sacramento River levees in Natomas. About 1,533 acres of vegetation would be lost due to construction and operation of this plan.

This DSEIS/SDEIR has been prepared to fulfill the requirements of the National Environmental Policy Act and the California Environmental Quality Act. The overall analysis considered an array of alternative plans developed to meet the primary planning objective of improving flood protection for the City of Sacramento while avoiding or minimizing adverse environmental and related impacts to the maximum extent practicable. This document does not recommend a plan. The State and SAFCA will identify their Recommended Plan following receipt of comments on this document.

PUBLIC HEARINGS: The following public hearings have been scheduled to receive comment and testimony on the DSEIS/SDEIR.

- September 26, 1995, 6 p.m. at the Grand, 1215 J Street, Sacramento.
- September 27, 1995. 6 p.m. at Folsom Community Center, 52 Natoma Street, Folsom.
- September 28, 1995, 6 p.m. at Multi-Purpose Senior Center (Burbank Hall), 11586 D Street, Auburn.

FOR FURTHER INFORMATION CONTACT: Comments concerning the DSEIS/SDEIR should be received by October 2, 1995 and should be addressed to: U.S. Army Corps of Engineers, Sacramento District (Attn: Mr. Michael Welsh, CESPK–PD–R), 1325 J Street, Sacramento, California 95814–2922, (916) 557–6718.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–20229 Filed 8–17–95; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: September 20, 1995, 1:00 p.m.–5:00 p.m.; September 21, 1995, 9:00 a.m.–5:00 p.m.; September 22, 1995, 9:00 a.m. to the conclusion of business, approximately 2:00 p.m.

ADDRESSES: 555 New Jersey Avenue NW., Room 326, Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400J, Washington, D.C. 20208–7575, telephone: (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under Section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. In addition, ACES is required to advise the Commissioner of NCES and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of educational progress (NAEP). The meeting of the Council is open to the public.

The proposed agenda includes the following:

- An orientation for new members of NCES's data collection program.
- A discussion of draft ACES guidelines on standards-based reporting.
- NCES's adjudication process.
- An overview of the National Assessment Governing Board's role and responsibilities.
- Council operations including the establishment of subcommittees.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., Room 400J, Washington, D.C. 20208–7575.

Sharon P. Robinson,

Assistant Secretary for Education Research and Improvement.

[FR Doc. 95–20470 Filed 8–17–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of General Counsel

Final Consent Order With Occidental Petroleum Corporation

AGENCY: Department of Energy.

ACTION: Final action on proposed consent order.

SUMMARY: The Department of Energy (DOE) has determined that a proposed Consent Order between the DOE and Occidental Petroleum Corporation, including its wholly owned subsidiary OXY USA Inc. which was formerly Cities Service Oil and Gas Corporation, successor in interest to Cities Service Company (collectively, Occidental), shall be made a final order of the DOE as proposed. The Consent Order resolves matters relating to Occidental's compliance with the federal petroleum price and allocation regulations administered and enforced by DOE during the period October 1, 1979 through January 27, 1981. The Consent Order requires Occidental to pay $100,000,000 to the DOE within thirty (30) days of the effective date of the Consent Order, and five annual payments of $35,000,000 plus interest on the installment balances of 7.6% per annum. Persons claiming to have been harmed by Occidental's overcharges will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA). The decision to make the Occidental Consent Order final was made after a full review of written comments from the public.

FOR FURTHER INFORMATION CONTACT: Diana D. Clark, Office of General Counsel, Mail Code GC–33, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 523–3045.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 6, 1995, DOE issued a Notice announcing a proposed Consent Order between DOE and Occidental which would resolve matters relating to Occidental's compliance with the federal petroleum price and allocation regulations during the period October 1, 1979 through January 27, 1981. 60 FR 35186. That Notice summarized the proposed Consent Order, which requires Occidental to pay a total principal amount of $275,000,000, plus interest on five annual installment payments.

The July 6 Notice supplied information regarding Occidental's potential liability for violations of the Crude Oil Entitlements Program

reporting regulations. These issues are pending before the OHA in Case No. LRO–0003, in which the DOE is seeking nearly $254 million plus prejudgment interest of $915 million.

The Notice also enumerated the considerations which underlay DOE's preliminary view that the settlement is favorable to the government and in the public interest. The Notice solicited written comments from the public relating to the terms and conditions of the settlement and whether the settlement should be made final.

II. Comments Received

Seven written comments were received, three of which, by the terms of their submission, were not considered.[1] The California Attorney General and the Governor of Oklahoma both expressed the view that the proposed settlement was in the public interest and urged DOE to effect the Consent Order as proposed. The American Petroleum Institute provided no specific comment on the proposed Consent Order with Occidental, but generally endorsed the resolution by such agreeable means as settlement of the cases arising out of the price and allocation regulatory controls.

The fourth comment, submitted by various states, expressed no view on the bases of the proposed settlement or the adequacy of the settlement amount. Rather, those particular states pointed out that the settlement would principally resolve alleged violations related to crude oil transactions and therefore, under the Final Settlement Agreement in the *Stripper Well Exemption Litigation,* M.D.L. No. 378 (D. Kan.), 40% of the moneys received from Occidental must be paid to the 56 states, territories and insular possessions pursuant to that 1986 agreement.

The Consent Order requires that the Office of General Counsel petition the OHA to implement a proceeding under 10 CFR Part 205, Subpart V, with regard to all the funds received from Occidental pursuant to the settlement. That disposition is consistent with the Final Settlement Agreement, under which DOE issued a Modified Restitutionary Policy Statement. 51 FR 27899 (August 4, 1986). The settlement with Occidental contemplates application of the 1986 policy statement inasmuch as the Consent Order calls for a Subpart V proceeding for the disposition of the funds, which are recognized by DOE to be crude oil-related.[2] Accordingly, it appears the expressed concern is appropriately addressed by the Consent Order.

The written comments did not afford any information that would warrant consideration of modification or rejection of the proposed Consent Order with Occidental.

Accordingly, DOE concludes that the Consent Order is in the public interest and should be made final.

IV. Decision

By this Notice, and pursuant to 10 CFR 205.199J, the proposed Consent Order between Occidental and DOE, executed on June 27, 1995, is made a final order of the Department of Energy, effective the date of publication of this Notice in the **Federal Register**.

Issued in Washington, D.C., on August 14, 1995.

Eric J. Fygi,

Deputy General Counsel.

[FR Doc. 95–20555 Filed 8–17–95; 8:45 am]

BILLING CODE 6450–01–P

[1] A group of utilities, transporters and manufacturers (UTM) commented upon the prospective settlement in a July 17, 1995 letter sent to DOE, and that letter was treated as a comment responsive to the July 6 Notice seeking comment on the proposed settlement with Occidental. Occidental thereafter submitted a reply addressing the points raised by UTM. UTM then requested that its correspondence be ''withdrawn from the Consent Order file.'' Although UTM's letter, along with a copy of Occidental's reply to UTM, will remain available to the public, consistent with UTM's request DOE has not considered it in determining whether to make the Consent Order final. As Occidental requested that DOE consider its reply to UTM only if UTM's letter was considered in determining final action on the proposed Consent Order, neither has DOE considered Occidental's reply to UTM.

[2] Moreover, since the 1986 Final Settlement Agreement, all moneys recovered by DOE in connection with resolution of alleged petroleum overcharges have been subject to the Subpart V process, and in every instance of crude oil-related recoveries the states have received 40% of the recovered moneys.

Golden Field Office; Notice of Federal Assistance Award to University of Wisconsin

AGENCY: Department of Energy.

ACTION: Notice of Financial Assistance Award in response to an Unsolicited Financial Assistance Application.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14, and under authority of section 2104 of the Energy Policy Act of 1992, 42 U.S.C. 13454, is announcing its intention to enter into a cooperative agreement with the University of Wisconsin (UW), to perform the research necessary for the construction and testing of a fully integrated pilot-scale polyoxometalate bleaching facility. The UW project represents an innovative, commercially viable technology that will result in waste reduction and decreased energy usage.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: John Motz, Contract Specialist. The telephone number is 303–275–4737.

SUPPLEMENTARY INFORMATION: The DOE has evaluated the unsolicited application according to paragraphs 600.14 of the DOE Assistance Regulations, 10 CFR 600, and the criteria for selection in paragraph 600.14 (e)(1). Based on this evaluation, it is recommended that the unsolicited application for Federal Assistance entitled, ''Polyoxometalate Bleaching: An Efficient, Oxygen-Based, Closed Mill Technology,'' submitted by UW, be accepted for support. This award will not be made for at least 14 days, to allow for public comment.

Under this cooperative agreement, UW will seek to duplicate the action of the selective agents used by wood rotting fungi to degrade lignin. The fungi use highly selective enzymes which rely on oxygen as the primary oxidant. The key to success in the UW program has been the identification of a class of agents, the polyoxometalates, which can be as selective as the enzymes with respect to their oxidative action, but which are also robust enough to use at elevated temperatures so that industrially feasible rates of reaction can be achieved. Furthermore, since they consist of metal oxides in their highest oxidation states, they possess the stability that is prerequisite for the use of catalytic systems in industrial processes. Finally, and perhaps most importantly, the spent polyoxometalate agents, which have been reduced during the bleaching stage, can be reoxidized with oxygen in a separate stage operated under conditions aggressive enough to completely mineralize all of the organic materials solubilized during bleaching. This would allow UW to achieve a primary goal of the pulp and paper industry, an effluent-free mill.

The proposal has been found to be meritorious, and it is recommended that the unsolicited application be accepted for support. The UW program represents an innovative, commercially viable technology that will result in waste reduction and decreased energy usage. UW has demonstrated capabilities in the technologies directly related to the proposed project and personnel that should provide a basis for a successful project. The proposed project is not

eligible for financial assistance under a recent, current, or planned solicitation.

The project cost over five years is estimated to be $4,174,880 total, with the DOE share being $2,499,880.

Issued in Golden, Colorado, on August 10, 1995.

Matthew A. Barron,

Acting Chief, Procurement, GO.

[FR Doc. 95–20552 Filed 8–17–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–1452–000, et al.]

Northern States Power Company (Minnesota), et al.; Electric Rate and Corporate Regulation Filings

August 11, 1995.

Take notice that the following filings have been made with the Commission:

1. Northern States Power Company (Minnesota)

[Docket No. ER95–1452–000]

Take notice that on July 31, 1995, Northern States Power Company (Minnesota)(NSP), tendered for filing Supplement No. 1 to the original Interconnection and Interchange Agreement between NSP and the Central Minnesota Municipal Power Agency (CMMPA). This Supplement will allow the City of Kenyon to become a member of CMMPA effective August 1, 1995.

NSP requests that the Commission accept for filing this Supplement No. 1 effective as of August 1, 1995, and requests waiver of Commission's notice requirements in order for the Supplement to be accepted for filing on that date. NSP requests that this filing be accepted as a supplement to Rate Schedule No. 470, the rate schedule for previously filed agreements between NSP and CMMPA.

Comment date: August 25, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Electric Company

[Docket No. ER95–1453–000]

Take notice that on July 31, 1995, Commonwealth Electric Company (Commonwealth) tendered for filing a Network Integration Service Transmission Tariff. Commonwealth proposes that the tariff become effective on September 29, 1995.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Pennsylvania Power & Light Company

[Docket No. ER95–1454–000]

Take notice that on July 31, 1995, Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission eight Service Agreements (the Agreements) between PP&L and 1) Public Service Electric & Gas Company, dated July 13, 1995; 2) Atlantic City Electric Company, dated July 18, 1995; and 3) GPU Service Corporation, acting as agent for and on behalf of its operating affiliates Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company, dated July 25, 1995.

The Agreements supplement a Short Term Capacity and Energy Sales umbrella tariff approved by the Commission in Docket No. ER95–782–000 on June 21, 1995.

In accordance with the policy announced in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified and reh'g granted in part and denied in part*, 65 FERC ¶ 61,081 (1993), PP&L requests the Commission to make the Agreement effective as of the date of execution of each, because service will be provided under an umbrella tariff and each service agreement is filed within 30 days after the commencement of service. In accordance with 18 CFR 35.11, PP&L has requested waiver of the sixty-day notice period in 18 CFR 35.2(e). PP&L has also requested waiver of certain filing requirements for information previously filed with the Commission in Docket No. ER95–782–000.

PP&L states that a copy of its filing was provided to the customers involved and to the Pennsylvania Public Utility Commission.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Long Island Lighting Company

[Docket No. ER95–1455–000]

Take notice that on July 31, 1995, Long Island Lighting Company (LILCO), tendered for filing a service agreement with Aguila Power Corporation (Aguila) under LILCO's FERC Tariff.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Tucson Electric Power Company

[Docket No. ER95–1456–000]

Take notice that on July 31, 1995, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of July 10, 1995 with National Electric Associates Limited Partnership (National). The Agreement provides for the sale by Tucson to National of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1417–000. Tucson requests an effective date of July 10, 1995, and therefore requests all applicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Tucson Electric Power Company

[Docket No. ER95–1458–000]

Take notice that on July 31, 1995, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of July 26, 1995 with Citizens Lehman Power Sales (Citizens Lehman). The Agreement provides for the sale by Tucson to Citizens Lehman of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1437–000. Tucson requests an effective date of July 26, 1995, and therefore requests all applicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Western States Power Providers, Inc.

[Docket No. ER95–1459–000]

Take notice that on July 31, 1995, Western States Power Providers, Inc. (WSPP) petitioned the Commission for acceptance of WSPP Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electric power at market-based rates, and the waiver of certain Commission Regulations. WSPP is not affiliated with any entity which owns, operates, or controls electric power generating or transmission facilities, or that has a franchised electric power service area.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Boston Edison Company

[Docket No. ER95–1460–000]

Take notice that on August 1, 1995, Boston Edison Company (Boston Edison), tendered for filing a Fifth

Extension Agreement between Boston Edison and New England Power Company (NEP) regarding the provision of sub-transmission service for NEP under Boston Edison's FERC Rate Schedule No. 46. The Fifth Extension Agreement extends the date of termination of service from September 30, 1995 to March 31, 1995 and has been executed only by Boston Edison. Boston Edison requests an effective date of October 1, 1995.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service Company

[Docket No. ER95–1461–000]

Take notice that on August 1, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement and a Certificate of Concurrence with the Vermont Marble Power Division of OMYA, Inc. (VMPD) under the NU System Companies System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to VMPD.

NUSCO requests that the Service Agreement become effective on August 1, 1995.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of Colorado

[Docket No. ER95–1462–000]

Take notice that on August 1, 1995, Public Service Company of Colorado (Company), tendered for filing a proposed amendment to its Power Purchase Agreement (Agreement) with the City of Burlington, Colorado (Burlington), as contained in the Company's Rate Schedule FERC No. 44. This proposed amendment will have no impact on the rates or revenues collected for service under this rate schedule.

The Company requests an effective date of August 1, 1995, for the proposed amendment.

Copies of the filing were served upon Burlington and the state jurisdictional regulator (The Public Utilities Commission of the State of Colorado).

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Industrial Energy Applications, Inc.

[Docket No. ER95–1465–000]

Take notice that on August 1, 1995, Industrial Energy Applications, Inc. (IEA) petitioned the Commission for acceptance of IEA FERC Rate Schedule No. 1, which provides for authority to sell electricity at market-based rates, for the granting of certain waivers of Commission regulations, and for blanket approval of issuance of securities or assumptions of liabilities under section 204 of the Federal Power Act.

IEA is a subsidiary of IES Industries, Inc., the parent corporation of IES Utilities Inc. and Whiting Petroleum Company.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Pool

[Docket No. ER95–1466–000]

Take notice that on August 1, 1995, the New England Power Pool (NEPOOL), Executive Committee filed an amendment to the NEPOOL Agreement, dated as of July 1, 1995, (AMENDMENT) which changes the provisions of the NEPOOL Agreement (NEPOOL FPC No. 2) dated as of September 1, 1971, as previously amended by twenty-nine amendments.

The NEPOOL Executive Committee states that the AMENDMENT is intended to permit buy-sell transactions in which the buyer purchases only energy and the seller retains the related capacity credit for purposes of meeting its capacity requirements under the NEPOOL Agreement.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Boston Edison Company

[Docket No. ER95–1467–000]

Take notice that on August 1, 1995, Boston Edison Company (Boston Edison), tendered for filing a letter agreement between Boston Edison and Cambridge Electric Light Company (CEL). The tendered letter agreement extends the terms and conditions of the Substation 402 Agreement to and including December 31, 1995. The Substation 402 Agreement is designated as Boston Edison's FERC Rate Schedule No. 149. Boston Edison requests an effective date of October 1, 1995.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Southern Company Services, Inc.

[Docket No. ER95–1468–000]

Take notice that on August 1, 1995, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a Network Integration Service Transmission Tariff and a Point-to-Point (Firm and Non-Firm) Transmission Service Tariff. Southern Companies state that the Tariffs are consistent with the *pro forma* tariffs set forth in the Notice of Proposed Rulemaking, in Docket No. RM95–8–000. Southern Companies submitted workpapers in support of the Tariffs.

Comment date: August 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Citizens Utilities Company

[Docket No. ES95–36–000]

Take notice that on August 9, 1995, Citizens Utilities Company (Citizens Utilities) filed an application under § 204 of the Federal Power Act seeking authorization for the issuance of securities in support of or to guarantee securities issued by governmental or quasi-governmental bodies for the benefit of Citizens Utilities over a two-year period.

Citizens Utilities specifically seeks authorization for its execution and delivery of promissory notes, loan, purchase, depositary, tender, remarketing, repurchase, sales and similar agreements, inducement letters and related assumptions of obligations and liabilities (Obligations) in respect of indebtedness in an amount up to a total aggregate principal amount of not more than $189.5 million with final maturities of not more than 50 years. The Obligations would be security for the issuance and payment of industrial development revenue bonds, special purpose revenue bonds and environmental control revenue bonds by various governmental issuers in the same aggregate principal amounts and bearing other similar terms as the Obligations.

Citizens Utilities further requests that the issuance of securities and assumptions of obligations and liabilities be exempted from the Commission's competitive bidding requirements.

Comment date: September 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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 18 CFR 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 this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20486 Filed 8–17–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket Nos. ST95–2935–000 et al.]

Louisiana Intrastate Gas Co.; Notice of Self-Implementing Transactions

August 11, 1995.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act.[1]

The ''Recipient'' column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The ''Part 284 Subpart'' column in the following table indicates the type of transaction.

A ''B'' indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to section 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A ''C'' indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to section 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A ''D'' indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to Section 284.147(d) of the Commission's Regulations.

An ''E'' indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to Section 284.163 of the Commission's regulations and section 312 of the NGPA.

A ''G'' indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.222 and a blanket certificate issued under section 284.221 of the Commission's regulations.

A ''G–I'' indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under Section 284.227 of the Commission's regulations.

A ''G–S'' indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to Section 284.223 and a blanket certificate issued under section 284.221 of the Commission's regulations.

A ''G–LT'' or ''G–LS'' indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under section 284.224 of the Commission's regulations.

A ''G–HT'' or ''G–HS'' indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under section 284.224 of the Commission's regulations.

A ''K'' indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to section 284.303 of the Commission's regulations.

A ''K–S'' indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to section 284.303 of the Commission's regulations.

Linwood A. Watson, Jr.,

Acting Secretary.

ST95–2935	LOUISIANA INTRASTATE GAS CO. LLC.	ANR PIPELINE CO., ET AL.	07–03–95	C	50,000	N	I	03–01–95	03–01–96
ST95–2936	LOUISIANA INTRASTATE GAS CO. LLC.	ANR PIPELINE CO., ET AL.	07–03–95	C	50,000	N	I	11–01–94	11–01–95
ST95–2937	LOUISIANA INTRASTATE GAS CO. LLC.	ANR PIPELINE CO., ET AL.	07–03–95	C	10,000	N	I	10–01–94	10–01–96
ST95–2938	LOUISIANA INTRASTATE GAS CO. LLC.	COLUMBIA GULF TRANS. CO., ET AL.	07–03–95	C	1,000	N	I	04–01–94	03–01–96
ST95–2939	SOUTHERN NATURAL GAS CO.	CITY OF VIENNA.	07–05–95	G–S	212	N	F	06–19–95	10–31–95
ST95–2940	SOUTHERN NATURAL GAS CO.	CITY OF ADAIRSVILLE.	07–05–95	G–S	596	N	F	06–03–95	10–31–95
ST95–2941	TRUNKLINE GAS CO.	TORCH GAS, L.C.	07–05–95	G–S	10,350	N	I	06–23–95	INDEF.
ST95–2942	PACIFIC GAS TRANSMISSION CO.	VECTOR ENERGY INC.	07–03–95	G–S	16,707	N	F	06–23–95	10–31–23
ST95–2943	PACIFIC GAS TRANSMISSION CO.	INLAND PACIFIC ENERGY SERVICES LTD.	07–03–95	G–S	100,000	N	I	06–18–95	INDEF.
ST95–2944	PACIFIC GAS TRANSMISSION CO.	PARAMOUNT RESOURCES U.S. INC.	07–03–95	G–S	19,592	N	F	06–19–95	10–31–23

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

ST95–2945	PACIFIC GAS TRANS-MISSION CO.	CONTINENTAL ENERGY MARKETING LTD.	07–03–95	G–S	25,000	N	I	06–03–95	INDEF.
ST95–2946	NATURAL GAS P/L CO. OF AMERICA.	IOWA–ILLINOIS GAS AND ELECTRIC CO.	07–03–95	G–S	40,000	N	F	05–01–95	11–30–99
ST95–2947	NATURAL GAS P/L CO. OF AMERICA.	IOWA–ILLINOIS GAS AND ELECTRIC CO.	07–03–95	G–S	40,000	N	F	05–01–95	11–30–00
ST95–2948	MISSISSIPPI RIVER TRANS. CORP.	FINA NATURAL GAS CO.	07–03–95	G–S	20,000	Y	F	06–01–95	12–31–02
ST95–2949	MISSISSIPPI RIVER TRANS. CORP.	TIDE WEST TRADING & TRANSPORT CO.	07–03–95	G–S	20,000	Y	F	06–01–95	10–31–99
ST95–2950	MISSISSIPPI RIVER TRANS. CORP.	MRT ENERGY MARKETING CO.	07–03–95	G–S	1,306	A	F	06–01–95	INDEF.
ST95–2951	MISSISSIPPI RIVER TRANS. CORP.	MRT ENERGY MARKETING CO.	07–03–95	G–S	363	A	F	06–01–95	INDEF.
ST95–2952	MISSISSIPPI RIVER TRANS. CORP.	NGC TRANS-PORTATION, INC.	07–03–95	G–S	50,000	Y	F	06–01–95	12–31–02
ST95–2953	MISSISSIPPI RIVER TRANS. CORP.	CATEX VITOL GAS, INC.	07–03–95	G–S	30,000	Y	F	06–01–95	12–31–02
ST95–2954	MISSISSIPPI RIVER TRANS. CORP.	MRT ENERGY MARKETING CO.	07–03–95	G–S	3,000	A	F	06–01–95	INDEF.
ST95–2955	NATIONAL FUEL GAS SUPPLY CORP.	NORTH AMER-ICAN EN-ERGY, INC.	07–06–95	G–S	10,000	N	I	06–28–95	06–28–15
ST95–2956	COLUMBIA GULF TRANS-MISSION CO.	MOBIL NATU-RAL GAS, INC.	07–07–95	G–S	60,000	N	I	06–23–95	INDEF.
ST95–2957	COLUMBIA GULF TRANS-MISSION CO.	NATIONAL GAS RESOURCES LIMITED.	07–07–95	G–S	120,000	N	I	06–23–95	INDEF.
ST95–2958	COLUMBIA GULF TRANS-MISSION CO.	NORTH CANA-DIAN MAR-KETING CORP.	07–07–95	G–S	150,000	N	I	06–22–95	INDEF.
ST95–2959	COLUMBIA GULF TRANS-MISSION CO.	NORTHEAST OHIO GAS MARKETING, INC.	07–07–95	G–S	40,000	N	I	06–22–95	INDEF.
ST95–2960	COLUMBIA GULF TRANS-MISSION CO.	ORYX GAS MARKETING LIMITED PART.	07–07–95	G–S	70,000	N	I	06–23–95	INDEF.
ST95–2961	WILLISTON BASIN INTER. P/L CO.	ASSOCIATED GAS SERV-ICES, INC.	07–07–95	G–S	50,000	A	I	06–09–95	04–30–97
ST95–2962	NORAM GAS TRANS-MISSION CO.	ARKANSAS POWER & LIGHT CO.	07–07–95	G–S	30,000	N	F	07–01–95	09–30–95
ST95–2963	NORAM GAS TRANS-MISSION CO.	TECO GAS MARKETING CO.	07–07–95	G–S	80,000	N	F	05–01–95	08–31–95
ST95–2964	NORAM GAS TRANS-MISSION CO.	AQUILA EN-ERGY MAR-KETING CORP.	07–07–95	G–S	15,000	N	F	06–01–95	04–30–96
ST95–2965	NORTHERN NATURAL GAS CO.	VALERO GAS MARKETING, L.P.	07–07–95	G–S	250,000	N	I	05–08–95	INDEF.
ST95–2966	NORTHERN NATURAL GAS CO.	COLORADO INTERSTATE GAS CO.	07–07–95	G–S	75,000	N	I	05–01–95	INDEF.
ST95–2967	NORTHERN NATURAL GAS CO.	NATIONAL GAS & ELECTRIC L.P.	07–07–95	G–S	4,700	N	F	04–01–95	04–30–95

ST95–2968	NORTHERN NATURAL GAS CO.	HUTCHINSON UTILITIES COMMISSION.	07–07–95	B/G–S	39,000	N	F	03–18–95	03–31–95
ST95–2969	NORTHERN NATURAL GAS CO.	OASIS PIPE LINE CO.	07–07–95	B	5,000	N	F	04–01–95	04–30–95
ST95–2970	NORTHERN NATURAL GAS CO.	TRANSWESTERN PIPELINE CO.	07–07–95	G–S	150,000	Y	I	04–01–95	INDEF.
ST95–2971	NORTHERN NATURAL GAS CO.	HIGHLANDS GAS CORP.	07–07–95	G–S	4,000	N	F	04–01–95	04–30–95
ST95–2972	NORTHERN NATURAL GAS CO.	NGC TRANSPORTATION, INC.	07–07–95	G–S	2,340	N	F	04–05–95	04–30–95
ST95–2973	NORTHERN NATURAL GAS CO.	WESTERN GAS UTILITIES.	07–07–95	G–S	10,000	N	I	04–04–95	INDEF.
ST95–2974	NORTHERN NATURAL GAS CO.	ENERGY TRANSPORTATION MANAGEMENT.	07–07–95	G–S	5,000	N	I	04–01–95	04–08–95
ST95–2975	NORTHERN NATURAL GAS CO.	ENRON CAPITAL & TRADE RESOURCES.	07–07–95	G–S	20,000	N	F	05–27–95	05–31–95
ST95–2976	TRAILBLAZER PIPELINE CO.	INTERENERGY GAS SERVICES CORP.	07–07–95	G–S	11,000	N	F	07–01–95	07–31–95
ST95–2977	KOCH GATEWAY PIPELINE CO.	ENTEX, A DIV. OF NORAM ENERGY CORP.	07–07–95	B	N/A	N	I	06–25–95	INDEF.
ST95–2978	KOCH GATEWAY PIPELINE CO.	LONE STAR GAS CO.	07–07–95	B	N/A	N	I	07–01–95	INDEF.
ST95–2979	KOCH GATEWAY PIPELINE CO.	GM HYDROCARBON, LTD.	07–07–95	G–S	N/A	N	I	06–29–95	INDEF.
ST95–2980	QUESTAR PIPELINE CO.	VESGAS CO	07–10–95	G–S	4,000	N	I	06–07–95	12–01–97
ST95–2981	TEXAS EASTERN TRANSMISSION CORP.	TEJAS POWER CORP.	07–10–95	G–S	271,000	N	I	07–02–95	INDEF.
ST95–2982	COLUMBIA GULF TRANSMISSION CO.	NESTE TRADING USA INC.	07–11–95	G–S	300,000	N	I	06–23–95	INDEF.
ST95–2983	TENNESSEE GAS PIPELINE CO.	TEJAS GAS MARKETING CO.	07–11–95	G–S	4	N	F	07–01–95	INDEF.
ST95–2984	TENNESSEE GAS PIPELINE CO.	RESOURCE ENERGY SERVICES CO.	07–11–95	G–S	17,000	N	I	07–03–95	INDEF.
ST95–2985	TENNESSEE GAS PIPELINE CO.	WOODWARD MARKETING L.C.C.	07–11–95	G–S	4	N	F	07–01–95	INDEF.
ST95–2986	WILLIAMS NATURAL GAS CO.	KAISER FRANCIS OIL CO.	07–11–95	G–S	5,000	N	I	06–07–95	06–01–96
ST95–2987	WILLIAMS NATURAL GAS CO.	UTILICORP UNITED.	07–11–95	G–S	2,273	N	F	07–01–95	INDEF.
ST95–2988	WILLIAMS NATURAL GAS CO.	CITY OF ORONOGO.	07–11–95	G–S	130	N	F	07–01–95	INDEF.
ST95–2989	WILLIAMS NATURAL GAS CO.	CITY OF IOLA ...	07–11–95	G–S	5,100	N	F	07–04–95	INDEF.
ST95–2990	WILLIAMS NATURAL GAS CO.	GROVE MUNICIPAL SERVICES AUTHORITY.	07–11–95	G–S	5,196	N	F	07–01–95	INDEF.
ST95–2991	WILLIAMS NATURAL GAS CO.	KANSAS MUNICIPAL GAS AGENCY.	07–11–95	G–S	13,022	N	F	07–01–95	INDEF.

ST95–2992	ALGONQUIN GAS TRANSMISSION CO.	BOSTON EDISON CO.	07–11–95	B	100	N	F	07–01–95	07–31–95
ST95–2993	ALGONQUIN GAS TRANSMISSION CO.	TEXAS EASTERN TRANSMISSION CORP.	07–11–95	G	625,000	N	F	07–04–95	INDEF.
ST95–2994	EL PASO NATURAL GAS CO.	HIGHLANDS GAS CORP.	07–11–95	G–S	51,500	N	I	06–14–95	INDEF.
ST95–2995	EL PASO NATURAL GAS CO.	PHILLIPS GAS MARKETING CO.	07–11–95	G–S	10,300	N	I	06–22–95	INDEF.
ST95–2996	EL PASO NATURAL GAS CO.	OASIS PIPE LINE CO.	07–11–95	B	100,000	N	I	06–21–95	INDEF.
ST95–2997	TRANSOK, INC .	ANR PIPELINE CO., ET AL.	07–11–95	C	80,000	N	I	03–01–95	INDEF.
ST95–2998	TRANSOK, INC .	ANR PIPELINE CO., ET AL.	07–11–95	C	15,000	N	I	06–29–95	INDEF.
ST95–2999	TENNESSEE GAS PIPELINE CO.	SOUTHERN CONNECTICUT GAS CO.	07–12–95	G–S	1,025	N	F	06–01–95	INDEF.
ST95–3000	TENNESSEE GAS PIPELINE CO.	LOUISIANA LAND AND EXPLORATION CO.	07–12–95	G–S	4	N	F	07–01–95	INDEF.
ST95–3001	TENNESSEE GAS PIPELINE CO.	LONG ISLAND LIGHTING CO.	07–12–95	G–S	10,250	N	F	06–01–95	INDEF.
ST95–3002	DELHI GAS PIPELINE CORP.	ANR PIPELINE CO., ET AL.	07–12–95	C	2,000	N	I	06–19–95	INDEF.
ST95–3003	NORTHERN NATURAL GAS CO.	NORTHWESTERN PUBLIC SERVICE CO.	07–13–95	G–S	33,289	N	F	11–01–94	11–02–03
ST95–3004	NORTHERN NATURAL GAS CO.	VIROQUA GAS CO.	07–13–95	G–S	1,150	N	F	12–01–93	INDEF.
ST95–3005	NORTHERN NATURAL GAS CO.	INTERSTATE POWER CO.	07–13–95	G–S	21,644	N	F	01–01–94	INDEF.
ST95–3006	NORTHERN NATURAL GAS CO.	IOWA ELECTRIC LIGHT AND POWER CO.	07–13–95	G–S	98,600	N	F	01–01–94	INDEF.
ST95–3007	TRAILBLAZER PIPELINE CO.	UNIVERSAL RESOURCES CORP.	07–13–95	G–S	10,000	N	F	07–01–95	07–31–95
ST95–3008	TRAILBLAZER PIPELINE CO.	KN GAS MARKETING, INC.	07–13–95	G–S	3,500	N	F	07–01–95	07–31–95
ST95–3009	TRAILBLAZER PIPELINE CO.	CHEVRON USA, INC.	07–13–95	G–S	500	N	F	07–07–95	08–31–95
ST95–3010	ANR PIPELINE CO.	IOWA–ILLINOIS GAS AND ELECTRIC CO.	07–14–95	G–S	50,000	Y	F	06–01–95	05–31–98
ST95–3011	ANR PIPELINE CO.	TECO GAS MARKETING CO.	07–14–95	G–S	N/A	N	F	06–01–95	INDEF.
ST95–3012	ANR PIPELINE CO.	NORSTAR ENERGY LTD PARTNERSHIP.	07–14–95	G–S	N/A	N	F	06–01–95	INDEF.
ST95–3013	TRANSTEXAS GAS CORP.	FLORIDA GAS TRANSMISSION CO., ET AL..	07–17–95	C	40,000	N	I	03–01–94	INDEF.
ST95–3014	LONE STAR PIPELINE CO.	EL PASO NATURAL GAS CO., ET AL.	07–17–95	C	47,500	N	I	05–01–95	INDEF.
ST95–3015	LONE STAR PIPELINE CO.	EL PASO NATURAL GAS CO., ET AL.	07–17–95	C	10,000	N	I	05–01–95	INDEF.
ST95–3016	MOJAVE PIPELINE CO.	U.S. GYPSUM ...	07–17–95	G–S	100,000	N	I	06–27–95	03–19–96
ST95–3017	TRANSWESTERN PIPELINE CO.	DELHI GAS PIPELINE CORP.	07–17–95	G–S	100,000	N	I	06–28–95	06–27–96

ST95–3018	TRANSWESTERN PIPELINE CO.	MOBIL NATURAL GAS INC.	07–17–95	G–S	75,000	N	I	06–28–95	01–31–97
ST95–3019	TRANSWESTERN PIPELINE CO.	KCS ENERGY MARKETING, INC.	07–17–95	G–S	3,447	N	F	06–15–95	06–30–95
ST95–3020	TRANSWESTERN PIPELINE CO.	NGC TRANSPORTATION, INC.	07–17–95	G–S	5,000	N	F	06–18–95	06–30–95
ST95–3021	TEXAS GAS TRANSMISSION CORP.	ALATENN ENERGY MARKETING CO., INC.	07–17–95	G–S	50,000	N	I	10–25–94	INDEF.
ST95–3022	TRANSCONTINENTAL GAS P/L CORP.	MOBIL NATURAL GAS INC.	07–18–95	G–S	15,000	N	F	07–01–95	07–31–04
ST95–3023	COLUMBIA GAS TRANSMISSION CORP.	H & N GAS	07–18–95	G–S	N/A	N	I	06–29–95	INDEF.
ST95–3024	COLUMBIA GAS TRANSMISSION CORP.	WALD MANUFACTURING CO., INC.	07–18–95	G–S	31	N	F	07–01–95	INDEF.
ST95–3025	EAST TEXAS GAS SYSTEMS.	ARKLA ENERGY CO.	07–19–95	C	50,000	N	I	06–01–95	INDEF.
ST95–3026	TENNESSEE GAS PIPELINE CO.	COLONIAL GAS CO.	07–19–95	G–S	16,083	N	F	06–01–95	INDEF.
ST95–3027	TENNESSEE GAS PIPELINE CO.	ENERGYNORTH NATURAL GAS INC.	07–19–95	G–S	9,039	N	F	06–01–95	INDEF.
ST95–3028	WILLIAMS NATURAL GAS CO.	ASSOCIATED GAS SERVICES, INC.	07–20–95	G–S	50,000	N	I	04–11–95	INDEF.
ST95–3029	SABINE PIPE LINE CO.	MIDCOAST ENERGY RESOURCES, INC.	07–20–95	B	60,000	N	F	07–01–95	INDEF.
ST95–3030	TENNESSEE GAS PIPELINE CO.	TECO GAS MARKETING CO.	07–21–95	G–S	1,000	N	I	06–28–95	INDEF.
ST95–3031	NORAM GAS TRANSMISSION CO.	SEAGULL MARKETING SERVICES, INC.	07–21–95	G–S	10,000	N	F	07–01–95	07–31–95
ST95–3032	NORAM GAS TRANSMISSION CO.	ARKANSAS POWER & LIGHT CO.	07–21–95	G–S	30,000	N	F	07–01–95	09–30–95
ST95–3033	NORAM GAS TRANSMISSION CO.	ASSOCIATED GAS SERVICES INC.	07–21–95	G–S	5,000	N	F	07–01–95	07–31–95
ST95–3034	NORAM GAS TRANSMISSION CO.	TEXACO NATURAL GAS INC.	07–21–95	G–S	11,000	N	F	07–01–95	07–31–95
ST95–3035	NORAM GAS TRANSMISSION CO.	COASTAL GAS MARKETING CO.	07–21–95	G–S	15,000	N	F	07–01–95	07–31–95
ST95–3036	NORAM GAS TRANSMISSION CO.	NORAM ENERGY SERVICES INC.	07–21–95	G–S	10,500	Y	F	07–01–95	07–31–95
ST95–3037	NORAM GAS TRANSMISSION CO.	OLIN CORP	07–21–95	G–S	1,000	N	F	05–01–95	04–30–96
ST95–3038	NORAM GAS TRANSMISSION CO.	VESTA ENERGY CO.	07–21–95	G–S	10,000	N	F	06–01–95	06–30–95
ST95–3039	NORAM GAS TRANSMISSION CO.	PENNUNION ENERGY SERVICES, L.L.C.	07–21–95	G–S	1,300	N	F	07–01–95	07–31–95

ST95–3040	NORAM GAS TRANSMISSION CO.	TIDEWEST TRADING & TRANSPORT CO.	07–21–95	G–S	10,000	N	F	07–01–95	07–31–95
ST95–3041	SOUTHERN NATURAL GAS CO.	CITY OF NASHVILLE.	07–21–95	G–S	207	N	F	07–01–95	10–31–95
ST95–3042	SOUTHERN NATURAL GAS CO.	CATEX ENERGY INC.	07–21–95	G–S	50,000	N	I	07–11–95	INDEF.
ST95–3043	COLUMBIA GAS TRANSMISSION CORP.	SPRAGUE ENERGY CORP.	07–21–95	G–S	N/A	N	I	07–11–95	INDEF.
ST95–3044	COLUMBIA GAS TRANSMISSION CORP.	WESTCOAST GAS SERVICES USA, INC.	07–21–95	G–S	N/A	N	I	07–11–95	INDEF.
ST95–3045	CNG TRANSMISSION CORP.	WILLAMETTE INDUSTRIES.	07–21–95	G–S	5,700	N	F	07–01–95	07–31–95
ST95–3046	CNG TRANSMISSION CORP.	OWEN–ILLINOIS, INC.	07–21–95	G–S	3,070	N	F	07–01–95	06–30–98
ST95–3047	CNG TRANSMISSION CORP.	SEITEL GAS & ENERGY CORP.	07–21–95	G–S	5,000	N	I	07–01–95	08–31–95
ST95–3048	CNG TRANSMISSION CORP.	NORTH AMERICAN ENERGY, INC.	07–21–95	G–S	10,000	N	I	07–01–95	08–31–95
ST95–3049	CNG TRANSMISSION CORP.	HOPE GAS, INC	07–21–95	G–S	1,000	N	I	07–15–95	08–31–95
ST95–3050	TEJAS GAS CORP.	TEXAS EASTERN PIPELINE CO.	07–24–95	C	10,000	Y	I	05–01–95	INDEF.
ST95–3051	VALERO TRANSMISSION, L.P..	NATURAL GAS P/L CO. OF AMERICA.	07–24–95	C	5,000	N	I	07–01–95	INDEF.
ST95–3052	VALERO TRANSMISSION, L.P.	EL PASO NATURAL GAS CO.	07–24–95	C	40,000	N	I	07–01–95	INDEF.
ST95–3053	VALERO TRANSMISSION, L.P.	NORTHERN NATURAL GAS CO., ET AL.	07–24–95	C	50,000	N	I	07–01–95	INDEF.
ST95–3054	DELHI GAS PIPELINE CORP.	NATURAL GAS P/L CO. OF AMERICA.	07–24–95	C	30,000	N	I	07–01–95	02–01–98
ST95–3055	DELHI GAS PIPELINE CORP.	ANR PIPELINE CO., ET AL.	07–24–95	C	20,000	N	I	07–01–95	INDEF.
ST95–3056	NORAM GAS TRANSMISSION CO.	KOCH GATEWAY PIPELINE CO.	07–24–95	G–S	125	N	F	07–01–95	03–31–99
ST95–3057	NORAM GAS TRANSMISSION CO.	ALUMAX COATED PRODUCTS, INC.	07–24–95	G–S	150	N	F	07–01–95	INDEF.
ST95–3058	TRUNKLINE GAS CO.	VALERO GAS MARKETING, L.P.	07–25–95	G–S	207,000	N	I	07–08–95	INDEF.
ST95–3059	TRUNKLINE GAS CO.	CONTINENTAL ENERGY MARKETING, INC.	07–25–95	G–S	50,000	N	I	07–02–95	INDEF.
ST95–3060	TRUNKLINE GAS CO.	LIG CHEMICAL CO.	07–25–95	G–S	100,000	N	I	07–01–95	INDEF.
ST95–3061	PANHANDLE EASTERN PIPE LINE CO.	ARAMARK	07–25–95	G–S	80	N	F	07–01–95	10–31–95
ST95–3062	PANHANDLE EASTERN PIPE LINE CO.	ANADARKO PETROLEUM CORP.	07–25–95	G–S	35,000	N	F	07–01–95	07–31–95
ST95–3063	PANHANDLE EASTERN PIPE LINE CO.	HOWARD ENERGY CO., INC.	07–25–95	G–S	50,000	N	I	07–01–95	06–21–97

ST95–3064	PANHANDLE EASTERN PIPE LINE CO.	TYLEX, INC	07–25–95	G–S	1,000	N	F	07–01–95	06–30–96
ST95–3065	ANR PIPELINE CO.	VASTAR GAS MARKETING, INC.	07–25–95	G–S	N/A	N	I	07–09–95	INDEF.
ST95–3066	ANR PIPELINE CO.	UTILICORP UNITED INC.	07–25–95	G–S	41,702	N	F	07–01–95	INDEF.
ST95–3067	ANR PIPELINE CO.	POCO PETROLEUMS LTD.	07–25–95	G–S	2,660	N	F	07–01–95	06–30–96
ST95–3068	LONE STAR PIPELINE CO.	EL PASO NATURAL GAS CO., ET AL.	07–26–95	C	25,000	N	I	07–01–95	INDEF.
ST95–3069	ONG TRANSMISSION CO.	PHILLIPS GAS PIPELINE CO.	07–26–95	C	15,000	N	I	06–28–95	INDEF.
ST95–3070	COLORADO INTERSTATE GAS CO.	BARRETT RESOURCES CORP.	07–26–95	G–S	10,000	N	F	07–01–95	12–13–04
ST95–3071	COLORADO INTERSTATE GAS CO.	ASSOCIATED GAS SERVICES, INC.	07–26–95	G–S	6,400	N	F	07–01–95	06–30–97
ST95–3072	EL PASO NATURAL GAS CO.	OASIS PIPE LINE CO.	07–27–95	B	41,200	N	I	07–01–95	INDEF.
ST95–3073	GREAT LAKES GAS TRANSMISSION L.P.	MICHIGAN CONSOLIDATED GAS CO.	07–28–95	G–S	2,000	N	F	07–01–95	10–31–03
ST95–3074	EAST TENNESSEE NATURAL GAS CO.	WILLAMETTE INDUSTRIES, INC.	07–28–95	G–S	100	N	F	07–01–95	INDEF.
ST95–3075	EAST TENNESSEE NATURAL GAS CO.	WILLAMETTE INDUSTRIES, INC.	07–28–95	G–S	1,500	N	I	07–01–95	07–31–95
ST95–3076	PANHANDLE EASTERN PIPE LINE CO.	CONTINENTAL ENERGY MARKETING, INC.	07–28–95	G–S	100,000	N	I	07–06–95	05–31–97
ST95–3077	TRAILBLAZER PIPELINE CO.	WESTERN GAS RESOURCES, INC.	07–28–95	G–S	5,000	N	F	07–01–95	07–31–95
ST95–3078	NATURAL GAS P/L CO. OF AMERICA.	ENRON CAPITAL & TRADE RES. CORP.	07–28–95	G–S	25,000	N	F	07–01–95	06–30–96
ST95–3079	NATURAL GAS P/L CO. OF AMERICA.	CHEVRON U.S.A., INC.	07–28–95	G–S	20,000	N	F	07–01–95	06–30–98
ST95–3080	IROQUOIS GAS TRANSMISSION SYSTEM.	AIG TRADING CORP.	07–28–95	G–S	12,000	N	I	07–03–95	INDEF.
ST95–3081	IROQUOIS GAS TRANSMISSION SYSTEM.	CATEX VITOL GAS INC.	07–28–95	G–S	10,000	N	F	07–01–95	07–01–96
ST95–3082	IROQUOIS GAS TRANSMISSION SYSTEM.	SONAT MARKETING CO.	07–28–95	G–S	50,000	N	I	07–19–95	INDEF.
ST95–3083	NORTHERN NATURAL GAS CO.	ASSOCIATED GAS SERVICES, INC.	07–28–95	G–S	20,000	N	F	07–01–95	07–31–95
ST95–3084	NORTHERN NATURAL GAS CO.	TENASKA MARKETING VENTURES.	07–28–95	G–S	5,000	N	F	07–01–95	07–31–95
ST95–3085	NORTHERN NATURAL GAS CO.	K N MARKETING, L.P.	07–28–95	G–S	10,000	N	F	07–01–95	07–31–95
ST95–3086	NORTHERN NATURAL GAS CO.	TENNECO GAS MARKETING CO.	07–28–95	G–S	5,000	N	F	07–01–95	07–31–95
ST95–3087	NORTHERN NATURAL GAS CO.	CIBOLA CORP ..	07–28–95	G–S	5,000	N	F	07–01–95	07–31–95

ST95–3088	NORTHERN NATURAL GAS CO.	LONE STAR GAS CO.	07–28–95	B	13,000	N	F	07–01–95	07–31–95
ST95–3089	NORTHERN NATURAL GAS CO.	CIBOLA CORP ..	07–28–95	G–S	5,000	N	F	07–01–95	07–31–95
ST95–3090	NORTHERN NATURAL GAS CO.	TENASKA MARKETING VENTURES.	07–28–95	G–S	10,000	N	F	07–01–95	07–31–95
ST95–3091	NORTHERN NATURAL GAS CO.	NORAM ENERGY SERVICES, INC.	07–28–95	G–S	4,000	N	F	07–01–95	07–31–95
ST95–3092	NORTHERN NATURAL GAS CO.	KOCH GAS SERVICES CO.	07–28–95	G–S	4,000	N	F	07–01–95	07–31–95
ST95–3093	NORTHERN NATURAL GAS CO.	CIBOLA CORP ..	07–28–95	G–S	15,000	N	F	07–01–95	07–31–95
ST95–3094	NORTHERN NATURAL GAS CO.	TWISTER TRANSMISSION CO.	07–28–95	G–S	20,000	N	F	07–01–95	07–31–95
ST95–3095	NORTHERN NATURAL GAS CO.	NORAM ENERGY SERVICES, INC.	07–28–95	G–S	11,000	N	F	07–01–95	07–31–95
ST95–3096	NORTHERN NATURAL GAS CO.	NORAM ENERGY SERVICES, INC.	07–28–95	G–S	26,000	N	F	07–01–95	07–31–95
ST95–3097	NORTHERN NATURAL GAS CO.	MOBIL NATURAL GAS, INC.	07–28–95	G–S	20,000	N	F	07–01–95	07–31–95
ST95–3098	NORTHERN NATURAL GAS CO.	MOBIL NATURAL GAS, INC.	07–28–95	G–S	20,000	N	F	07–01–95	07–31–95
ST95–3099	NORTHERN NATURAL GAS CO.	MOBIL NATURAL GAS, INC.	07–28–95	G–S	3,106	N	F	07–01–95	07–31–95
ST95–3100	NORTHERN NATURAL GAS CO.	NGC TRANSPORTATION INC.	07–28–95	G–S	19,730	N	F	07–01–95	07–31–95
ST95–3101	NORTHERN NATURAL GAS CO.	NGC TRANSPORTATION INC.	07–28–95	G–S	30,270	N	F	07–01–95	07–31–95
ST95–3102	NORTHERN NATURAL GAS CO.	KOCH GAS SERVICES CO.	07–28–95	G–S	12,000	N	F	07–01–95	09–30–95
ST95–3103	NORTHERN NATURAL GAS CO.	CONTINENTAL NATURAL GAS, INC.	07–28–95	G–S	10,000	N	F	04–01–95	04–30–95
ST95–3104	NORTHERN NATURAL GAS CO.	IOWA–ILLINOIS GAS AND ELECTRIC CO.	07–28–95	G–S	1,000,000	N	I	05–24–95	INDEF.
ST95–3105	EL PASO NATURAL GAS CO.	AMERICAN HUNTER EXPLORATION LTD.	07–28–95	G–S	30,000	N	I	06–02–95	INDEF.
ST95–3106	EL PASO NATURAL GAS CO.	NATIONAL GAS & ELECTRIC, L.P.	07–28–95	G–S	103,000	N	I	07–01–95	INDEF.
ST95–3107	WYOMING INTERSTATE CO.	ASSOCIATED GAS SERVICES, INC.	07–28–95	G–S	2,500	N	F	07–01–95	10–31–95
ST95–3108	WYOMING INTERSTATE CO.	UNIVERSAL RESOURCES CORP.	07–28–95	G–S	10,000	N	F	07–01–95	10–31–95
ST95–3109	WYOMING INTERSTATE CO.	MIDCON GAS SERVICES CORP.	07–28–95	G–S	10,000	N	F	07–01–95	10–31–95
ST95–3110	WYOMING INTERSTATE CO.	WESTERN GAS RESOURCES, INC.	07–28–95	G–S	13,000	N	F	07–01–95	10–31–95
ST95–3111	WYOMING INTERSTATE CO.	AMOCO ENERGY TRADING CORP.	07–28–95	G–S	45,000	N	F	07–01–95	10–31–95
ST95–3112	WYOMING INTERSTATE CO.	INTERENERGY RESOURCES CORP.	07–28–95	G–S	2,346	N	I	07–01–95	INDEF.

ST95–3113	WYOMING INTERSTATE CO.	INTERENERGY RESOURCES CORP.	07–28–95	G–S	2,500	N	F	07–01–95	07–30–95
ST95–3114	COLORADO INTERSTATE GAS CO.	ASSOCIATED GAS SERVICES, INC.	07–28–95	G–S	6,400	N	F	07–01–95	06–30–97
ST95–3115	NORTHWEST PIPELINE CORP.	AMOCO ENERGY TRADING CORP.	07–28–95	G–S	21,000	N	F	07–01–95	INDEF.
ST95–3116	ENOGEX INC	ANR PIPELINE CO., ET AL.	07–31–95	C	20,000	N	I	07–01–95	INDEF.
ST95–3117	MIDCON TEXAS PIPELINE CORP.	KOCH GATEWAY PIPELINE CO.	07–31–95	C	20,000	N	I	07–01–95	06–30–97
ST95–3118	MOJAVE PIPELINE CO.	NORAM ENERGY SERVICES, INC.	07–31–95	G–S	100,000	N	I	07–22–95	06–27–96
ST95–3119	WILLISTON BASIN INTER. P/L CO.	KOCH GAS SERVICES CO.	07–31–95	G–S	20,000	A	I	07–01–95	05–31–97
ST95–3120	TENNESSEE GAS PIPELINE CO.	TEHAS POWER CORP.	07–31–95	G–S	1	N	F	07–01–95	INDEF.
ST95–3121	TENNESSEE GAS PIPELINE CO.	ENCINA GAS MARKETING.	07–31–95	G–S	4	N	F	07–01–95	INDEF.
ST95–3122	TENNESSEE GAS PIPELINE CO.	WILLAMETTE INDUSTRIES, INC.	07–31–95	G–S	82	N	F	07–01–95	INDEF.
ST95–3123	TENNESSEE GAS PIPELINE CO.	MG NATURAL GAS CORP.	07–31–95	G–S	4	N	F	07–20–95	INDEF.
ST95–3124	MIDWESTER GAS TRANSMISSION CO.	SOUTHERN INDIANA GAS & ELECTRIC.	07–31–95	G–S	14,925	N	F	07–01–95	INDEF.
ST95–3125	PACIFIC GAS TRANSMISSION CO.	SACRAMENTO MUNICIPAL UTILITY DIST.	07–31–95	G–S	22,500	N	I	07–01–95	INDEF.
ST95–3126	PACIFIC GAS TRANSMISSION CO.	ENRON CAPITAL & TRADE RESOURCES.	07–31–95	G–S	101,550	N	I	07–01–95	INDEF.
ST95–3127	PACIFIC GAS TRANSMISSION CO.	CHEVRON U.S.A. INC.	07–31–95	G–S	155,000	N	I	06–29–95	INDEF.
ST95–3128	COLUMBIA GULF TRANSMISSION CO.	TEJAS GAS MARKETING CO.	07–31–95	G–S	50,000	N	I	07–01–95	INDEF.
ST95–3129	COLUMBIA GULF TRANSMISSION CO.	TECO GAS MARKETING CO.	07–31–95	G–S	100,000	N	I	07–18–95	INDEF.
ST95–3130	COLUMBIA GULF TRANSMISSION CO.	SPRAGUE ENERGY CORP.	07–31–95	G–S	2,500	N	F	07–01–95	INDEF.
ST95–3131	COLUMBIA GULF TRANSMISSION CO.	SPRAGUE ENERGY CORP.	07–31–95	G–S	100,000	N	I	07–01–95	INDEF.
ST95–3132	COLUMBIA GULF TRANSMISSION CO.	SPRAGUE ENERGY CORP.	07–31–95	G–S	2,500	N	F	07–01–95	INDEF.
ST95–3133	COLUMBIA GULF TRANSMISSION CO.	SPI	07–31–95	G–S	5,300	N	I	07–01–95	INDEF.
ST95–3134	COLUMBIA GULF TRANSMISSION CO.	PHIBRO, DIVISION OF SALOMON, INC.	07–31–95	G–S	250,000	N	I	07–01–95	INDEF.
ST95–3135	COLUMBIA GULF TRANSMISSION CO.	OXY USA, INC ..	07–31–95	G–S	40,000	N	I	07–01–95	INDEF.
ST95–3136	COLUMBIA GULF TRANSMISSION CO.	OLYMPIC FUELS CO.	07–31–95	G–S	10,000	N	I	07–01–95	INDEF.
ST95–3137	COLUMBIA GULF TRANSMISSION CO.	GLOBAL PETROLEUM CORP.	07–31–95	G–S	10,000	N	I	07–01–95	INDEF.

ST95–3138	COLUMBIA GULF TRANSMISSION CO.	ASSOCIATED GAS SERVICES, INC.	07–31–95	G–S	150,000	N	I	07–01–95	INDEF.
ST95–3139	TRANSCONTINENTAL GAS P/L CORP.	COMSTOCK RESOURCES, INC.	07–31–95	G–S	10,000	N	I	07–01–95	INDEF.
ST95–3140	TRANSCONTINENTAL GAS P/L CORP.	BNG, INC	07–31–95	G–S	100,000	N	I	07–01–95	INDEF.
ST95–3141	TRANSCONTINENTAL GAS P/L CORP.	CNG ENERGY SERVICES CORP.	07–31–95	G–S	750,000	N	I	07–01–95	INDEF.
ST95–3142	TRANSCONTINENTAL GAS P/L CORP.	GM HYDROCARBONS, LTD.	07–31–95	G–S	135,000	N	I	07–01–95	INDEF.
ST95–3143	TRANSCONTINENTAL GAS P/L CORP.	UNION CAMP CORP.	07–31–95	G–S	20,000	N	I	07–01–95	INDEF.
ST95–3144	TRANSCONTINENTAL GAS P/L CORP.	ASSOCIATED NATURAL GAS, INC.	07–31–95	G–S	300,000	N	I	07–01–95	INDEF.
ST95–3145	MISSISSIPPI RIVER TRANS. CORP.	MRT ENERGY MARKETING CO.	07–31–95	G–S	75	A	F	07–01–95	INDEF.
ST95–3146	MISSISSIPPI RIVER TRANS. CORP.	MRT ENERGY MARKETING CO.	07–31–95	G–S	47	A	F	07–01–95	INDEF.
ST95–3147	MISSISSIPPI RIVER TRANS. CORP.	MRT ENERGY MARKETING CO.	07–31–95	G–S	13	A	F	07–01–95	INDEF.

*NOTICE OF TRANSACTIONS DOES NOT CONSTITUTE A DETERMINATION THAT FILINGS COMPLY WITH COMMISSION REGULATIONS IN ACCORDANCE WITH ORDER NO. 436 (FINAL RULE AND NOTICE REQUESTING SUPPLEMENTAL COMMENTS, 50 FR 42,372, 10/10/85).

**ESTIMATED MAXIMUM DAILY VOLUMES INCLUDES VOLUMES REPORTED BY THE FILING COMPANY IN MMBTU, MCF AND DT.

***AFFILIATION OF REPORTING COMPANY TO ENTITIES INVOLVED IN THE TRANSACTION. A ''Y'' INDICATES AFFILIATION, AN ''A'' INDICATES MARKETING AFFILIATION, AND A ''N'' INDICATES NO AFFILIATION.

[FR Doc. 95–20458 Filed 8–17–95; 8:45 am]
BILLING CODE 6717–01–P

[Docket No. CP95–639–000, et al.]

Shell Offshore Inc., et al.; Natural Gas Certificate Filings

August 11, 1995.

Take notice that the following filings have been made with the Commission:

1. Shell Offshore Inc.

[Docket No. CP95–639–000]

Take notice that on July 24, 1995, Shell Offshore Inc. (SOI), P.O. Box 576, Houston, Texas 77079, filed in Docket No. CP95–639–000 a petition pursuant to Section 16 of the Natural Gas Act (NGA) and Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207 (a)(2)), for a declaratory order disclaiming Commission jurisdiction over a certain facility and the services provided through it, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.[1]

SOI requests a declaratory order from the Commission finding that the acquisition, ownership and operation by SOI of a natural gas meter facility presently owned by Transcontinental Gas Pipe Line Company (Transco) and Florida Gas Transmission Company (FGT) will not subject SOI, or any portion of its facilities or services to the Commission's jurisdiction under the Natural Gas Act (NGA) or the Commission's Regulations thereunder. Restated, SOI seeks an order finding that (1) the meter facility would be exempt from Commission jurisdiction pursuant to the ''production and gathering exemption'' in Section 1(b) of the NGA, and (2) SOI would not become a ''natural gas company'' pursuant to Section 2 of the NGA by virtue of the proposed acquisition, ownership and operation of the facility. SOI states that it is a wholly owned indirect subsidiary of Shell Oil Company, and is engaged primarily in the business of exploring for and producing oil and natural gas in the Gulf of Mexico.

SOI states that it has entered into an agreement with Transco and FGT whereby it would purchase the natural gas meter facility located at the tailgate of its Yellowhammer gas treatment plant near Coden in Mobile County, Alabama. SOI states that the meter facility is currently used to measure residue gas leaving the tailgate of the Yellowhammer plant for delivery into the Mobile Bay area jurisdictional transportation facilities of Transco and FGT (the Onshore Mobile Bay Pipeline).

SOI advises that the meter facility is classified by Transco for jurisdictional ratemaking purposes as a gathering facility, and shippers moving gas through Transco's capacity in the meter facility must pay Transco's separately stated gathering charge under its transportation rate schedules. Further, SOI advises that FGT does not have a separately stated gathering charge for services rendered through the meter

[1] SOI indicates that a related application was being filed concurrently in Docket No. CP95–640–000 by Transco and FGT, requesting authorization to abandon the facilities by sale to SOI.

facility. SOI states that, upon acquisition by SOI, the meter facility would become part of SOI's Yellowhammer gas treatment plant facilities. SOI advises that thereafter shippers on the Transco system would no longer be required to pay Transco's separately stated gathering charge for transportation service from the plant.

Comment date: September 1, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation and Florida Gas Transmission Company

[Docket No. CP95–640–000]

Take notice that on July 25, 1995, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Florida Gas Transmission Company (Florida) (Transco and Florida are referred to jointly as Applicants), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP95–640–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a jointly owned meter facility which was authorized in Docket No. CP88–570, *et al.*,[2] all as more fully set forth in the application on file with the Commission and open to public inspection.[3]

Applicants propose to abandon by sale to Shell Offshore Inc. (SOI) the Yellowhammer Meter Station located just downstream (0.20 mile) of SOI's gas treatment facility, located near Coden in Mobile County, Alabama. It is indicated that the meter is used to measure natural gas treated by SOI and delivered into the Mobile Bay Lateral (also known as the Onshore Mobile Bay Pipeline). Applicants state that SOI has agreed to pay the net book value of the facility as of the closing of the purchase and sale. Applicants advise that the estimated net book value of the meter facility is $318,612 as of August 31, 1995.

Applicants explain that the meter facility is currently classified for rate purposes on Transco's system as a gathering facility, and, therefore, shippers moving gas through Transco's capacity in the meter facility must pay Transco's separately stated gathering charge under its transportation rate schedules. (Florida does not have a separately stated gathering charge for services rendered through the meter facility.) It is stated that, by transferring ownership of the meter facility to SOI, the meter facilities would be considered as part of SOI's gas treatment operations and, as a result, Transco's shippers no longer would incur Transco's separately stated gathering charge for transportation service from the plant.

Comment date: September 1, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. K N Interstate Gas Transmission Company

[Docket No. CP95–671–000]

Take notice that on August 8, 1995, K N Interstate Gas Transmission Co. (K N Interstate), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP95–671–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate a new delivery tap under K N Interstate's blanket certificate issued in Docket No. CP83–140–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

K N Interstate proposes to install and operate a new delivery tap in Dawes County, Nebraska. This tap will be added as a delivery point under an existing transportation agreement between K N Interstate and K N Energy Inc. (K N) and will be used by K N to facilitate the delivery of natural gas to a direct retail customer.

Comment date: September 25, 1995, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP95–672–000]

Take notice that on August 8, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP95–672–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) and under its blanket authority issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, for authorization to upgrade an existing delivery point for its customer, the Hardeman-Fayette Utility District (Hardeman-Fayette), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to upgrade the Hardeman-Fayette delivery point located at Tennessee's M.P. 70–4+10.17 in Hardeman County, Tennessee, by replacing an existing check valve and approximately 165 feet of 1-inch interconnecting pipe with 2-inch pipe, running from the 2-inch tap valve on Tennessee's 100–4 Line to the Hardeman-Fayette Meter. Additionally, Tennessee will replace the pipe within the meter station from 1-inch to 2-inch.

Tennessee states that the total quantities to be delivered to Hardeman-Fayette will not exceed the total quantities authorized. Finally, Tennessee asserts that the upgrade of this facility is not prohibited by its tariff, and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to any of Tennessee's other customers.

Tennessee states that the estimated cost for installation of the facilities is $29,800.

Comment date: September 25, 1995, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP95–674–000]

Take notice that on August 8, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP95–647–000 a request pursuant to Sections 157.205, 157.216, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216, and 157.211) for permission and approval to abandon certain facilities and authorization to construct and operate replacement facilities, under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Northwest proposes to modify the Redmond Meter Station in King County, Washington, to more efficiently accommodate existing firm maximum daily delivery obligations at this delivery point to Washington Natural Gas Company. Northwest states that the proposed facility replacement will increase the maximum design capacity of the meter station from 43,333 Dth per day to approximately 50,331 Dth per day. The total cost of the proposed facility modification at the Redmond Station is estimated to be approximately $107,650.

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[2] The meter facility was constructed by Transco as part of the Mobile Bay Lateral pursuant to the certificate of public convenience and necessity granted by order issued June 4, 1991, in Docket Nos. CP88–570, *et al.*, 55 FERC ¶61,358 (1991). Florida acquired its 37.22% ownership interest in the Mobile Bay Lateral pursuant to the authorizations granted in Docket Nos. CP92–182, *et al. See Florida Gas Transmission Co., et al.*, 62 FERC ¶61,024 (1993); 63 FERC ¶61,093 (1993); and 66 FERC ¶61,160 (1994).

[3] It is indicated that SOI filed a related petition in Docket No. CP95–639–000 for an order from the Commission declaring the metering facilities non-jurisdictional upon their acquisition by SOI.

Comment date: September 25, 1995, in accordance with Standard Paragraph G at the end of this notice.

6. Williston Basin Interstate Pipeline Company

[Docket No. CP95–675–000]

Take notice that on August 8, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP95–675–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to install a meter and regulator at an existing tap site to effectuate natural gas transportation deliveries to Montana-Dakota Utilities Co. (Montana-Dakota), a local distribution company, under Williston Basin's blanket certificate issued in Docket No. CP83–1–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin proposes to install a meter and regulator at an existing tap site located in Lawrence County, South Dakota to enable it to provide natural gas deliveries to Montana-Dakota for ultimate delivery to approximately twenty-six additional residential customers. Williston Basin states that it would provide up to 5 Mcf per day additional service to Montana-Dakota under its Rate Schedules FT–1 and/or IT–1 and that such volume is within the certificated entitlements of the customer. Williston Basin further states that the proposed service will have no significant effect on its peak day or annual requirements.

Williston Basin states that the total cost to install the meter and regulator is approximately $2,250 and that the actual cost of the facilities is 100% reimbursable by Montana-Dakota.

Comment date: September 25, 1995, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Eastern Transmission Corporation

[Docket No. CP95–681–000]

Take notice that on August 10, 1995, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–681–000 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity for authorization to construct, install, own, operate and maintain an additional 700 horsepower of compression facilities at its existing Gas City Compressor Station on the Lebanon Lateral, and to revise, restate and reduce its currently effective Part 284 rates for Rate Schedules LLFT and LLIT services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern proposes to upgrade by 700 horsepower its existing reciprocating compressor unit at Gas City, Grant County, Indiana from the current 2,700 horsepower up to a total of 3,400 horsepower to increase natural gas transportation capacity on the Lebanon Lateral by approximately 29,944 dt equivalent on natural gas per day. To accomplish this increase, Texas Eastern states that it would construct and install two additional power cylinders and modify the turbocharger at the existing 2,700 horsepower Gas City unit. After installation of the facilities proposed herein, Texas Eastern states that the maximum operational capacity of the Lebanon Lateral would be 359,220 dt equivalent per day. Texas Eastern states that the estimated total capital cost of the proposed facilities is approximately $224,000, to be financed initially with funds on hand. Texas Eastern also states that the proposed facilities would be located entirely within the existing Gas City compressor station building.

Texas Eastern also requests authorization herein to file a limited rate proceeding under Section 4 of the Natural Gas Act after receipt of the certificate authorization requested herein and prior to the in-service date of the proposed facilities to revise and restate the rates applicable to Texas Eastern's Part 284, open-access Rate Schedules LLFT and LLIT.

Texas Eastern submits that the revised and restated rates for Rate Schedules LLFT and LLIT result in a 15 percent reduction of the maximum rates. It is indicated that Texas Eastern's *pro forma* tariff sheet for Rate Schedules LLFT and LLIT illustrates the revised and restated rates resulting in a Reservation Charge of $4.552 per dt equivalent on natural gas per day. It is stated that on a 100 percent load factor basis, the revised and restated rate is equivalent to $0.1504 per dt equivalent of natural gas. Texas Eastern also states that the revised and restated rates are based on the cost of service and allocation methodology filed and approved in Texas Eastern's compliance filing in Docket Nos. CP92–459, *et al.*, as adjusted to include the cost of service associated with the additional facilities proposed in this application. It is stated that the cost of service underlying Texas Eastern's current Rate Schedules LLFT and LLIT rates and revised cost of service reflected in Exhibit P of the filing are based on Texas Eastern's cost of service factors approved in Docket Nos. RP90–119, *et al.*

Texas Eastern states that the additional facilities would enable it to make additional firm and interruptible transportation on the Lebanon Lateral. Texas Eastern also states that this service would benefit natural gas transportation customers who desire to access additional Gulf Coast gas supplies by transporting such gas quantities through Trunkline Gas Company and other interstate pipelines to interconnections with Panhandle Eastern Pipe Line Company for further downstream transportation on Texas Eastern and other interstate pipelines to Mid-Atlantic and Northeast markets. In addition, it is indicated that, after Texas Eastern's revised and restated rates are placed into effect, all Rate Schedule LLFT and LLIT customers would enjoy maximum rates for such services that would be 15 percent lower than current maximum rates.

It is also indicated that Texas Eastern had previously received authorization to construct and operate the 700 horsepower of compression but, because of postponements of the Liberty Pipeline Project, Texas Eastern allowed the authorization to lapse.

Comment date: August 25, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of

Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20487 Filed 8–17–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–676–000]

Richfield Gas Storage System; Notice of Request Under Blanket Authorization

August 14, 1995.

Take notice that on August 8, 1995, Richfield Gas Storage System (Richfield), 2 Warren Place, 6120 S. Yale, Suite 1200, Tulsa, Oklahoma 74136, filed in Docket No. CP95–676–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.212) for approval to operate an existing tap and side valve as a new delivery point located in Stevens County, Kansas for delivery of natural gas to Associated Gas Services, Inc. (AGS) [1] to interconnect to facilities to be constructed by Utilicorp United (Utilicorp), a local distribution company, for ultimate consumption by Utilicorp's end-user customers, under the blanket certificate issued in Docket No. CP93–679–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Richfield indicates that the quantity of natural gas it will deliver through the proposed delivery point is 1,000 Mcf on a peak day, and 150,000 Mcf annually, respectively. Richfield further indicates that the new delivery point will also serve as an interconnect between the Richfield system and a lateral, no greater than four inches, to be constructed by Utilicorp, through which AGS will delivery gas to Utilicorp for ultimate consumption by Utilicorp's end-user customers. Richfield states that it is not proposing to construct any facilities.

Richfield states that its tariff does not prohibit the addition of new delivery points. It is indicated that Richfield will provide service to AGS pursuant to the terms and conditions of its FERC Gas Tariff, Rate Schedule FSS–1 and Rate Schedule ISS–1. Richfield further states that the operation of the subject delivery point will not result in an increase in the total daily or annual quantities Richfield is presently authorized to store for AGS. Richfield indicates that it has capacity to operate the proposed delivery point without adversely impacting its other storage customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20488 Filed 8–17–95; 8:45 am]

BILLING CODE 6717–01–M

[1] AGS is the successor-in-interest to Grant Valley Gas Company.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4725–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 03, 1995 Through July 07, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (60 FR 19047).

Draft EISs

ERP No. D–AFS–J65236–MT Rating EC2, North Fork Decision Area Fire Recovery Project, Timber Salvage, Implementation, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns about the potential impacts of the proposed action on the watershed of the North Fork of Big Creek where the majority of activities are proposed. Peak stream flow thresholds are already being exceeded here and EPA suggested additional information be supplied to fully assess and mitigate all potential environmental impacts.

ERP No. D–AFS–K65170–AZ Rating EO2, Pocket/Baker Ecosystem and Land Management Plan, Implementation, Mogollen Rim, Coconino National Forest, Coconino County, AZ.

Summary: EPA expressed environmental objections to the components of the preferred alternative which exceed management activity thresholds in the draft Mexican Spotted Owl (MOS) Recovery Plan and dispersal habitat guidelines. The draft EIS does not adequately evaluate potential impacts to water quality and air quality.

ERP No. D–AFS–L65244–ID Rating EC2, Fall Creek Post-Fire Project, Harvesting Fire-Killed and Damage Trees, Implementation, McCall Ranger District, Payette National Forest, Valley County, ID.

Summary: EPA expressed environmental concerns based on potential effects on water quality from timber salvage and road construction. Additional information is needed on watershed effects, water supply, water quality/fish habitat effectiveness

monitoring and documentation for environmental effect predictions.

ERP No. D–GSA–K80036–CA Rating EC2, Fresno—United States Courthouse, Site Selection and Construction, City of Fresno, Fresno County, CA.

Summary: EPA expressed environmental concerns regarding potential Clean Air Act conformity issues, hazardous waste issues and energy efficiency/water conservation issues. EPA recommended that these issues be clarified in the final document.

ERP No. D–IBR–K34010–AZ Rating EO2, Tucson Aqueduct System Reliability Investigation (TASRI), Central Arizona Project, Surface Storage Reservoir Construction, COE Section 404 Permit, Gila River, City of Tucson, Pima County, AZ.

Summary: EPA expressed environmental objections over potential impact to the proposed action in light of recent Tucson reevaluation of use of CAP water. EPA also requested additional information concerning the habitat for the Pima pineapple cactus and would incur other biological and water quality impacts.

ERP No. D–NPS–K61137–AZ Rating EO2, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan Implementation, Portion of the Sonoran Desert, Pima County, AZ.

Summary: EPA expressed environmental objections based on the lack of an analysis of a full range of alternatives and that there is inadequate discussion of impacts to the resources and respective mitigation measures.

ERP No. D–NPS–L61201–WA Rating EC2, Mountain Goat Management Within Olympic National Park, Implementation, Clallan, Grays Harbor, Jefferson and Mason Counties, WA.

Summary: EPA expressed environmental concerns with the lack of coordination of goat management efforts in and outside the park. The final EIS should define overall ecosystem management objections including minimizing impacts associated with control programs, further addressing mitigation of impacts from helicopter overflights and alternatives to using helicopters, and better defining the evaluation criteria.

Final EISs

ERP No. F–AFS–K65168–CA, Falls Road Realignment and Reconstruction, Permit Approval, San Bernardino National Forest, San Bernardino County, CA.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–L40189–WA, WA–525/Paine Field Boulevard Project, Improvements, between WA–99 to WA–526, Funding and COE Section 404 Permit, City of Mukitteo, Snohomish County, WA.

Summary: EPA had no objection to the project as proposed.

ERP No. F–HUD–J81007–UT, Guadalupe Neighborhood Project, Demolition, Rehabilitation, Construction and Development, Funding, Salt Lake City, Salt Lake City County, UT.

Summary: EPA had no objection to the action as proposed.

ERP No. FS–FHW–K40105–CA, Devil's Slide Bypass Improvements, CA–1 To Half Moon Bay Airport to Linda Mar Boulevard, Funding and COE Section 404 Permit, Pacifica and San Mateo Counties, CA.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Regulations

ERP No. R–BIA–A99203–00, Notice of Proposed Revised Procedures Implementing the National Environmental Policy Act (NEPA) for the Bureau of Indian Affairs.

Summary: EPA commented that BIA should seek the cooperation of the EPA in NEPA review of commercial waste disposal facilities on Indian lands, and recommended that BIA should define its categorical exclusions more narrowly.

Dated: August 15, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–20572 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–U

[ER-FRL–4725–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed August 07, 1995 Through August 19, 1995 Pursuant to 40 CFR 1506.9.

EIS NO. 950361, Final, NCS, MO, IA, East Fork of the Grand River Watershed Plan, Implementation, Watershed Protection and Flood Prevention, Funding, Ringgold and Union Counties, IA and Harrison and Worth Counties, MO, Due: September 18, 1995, Contact: Russell C. Mills (314) 876–0901.

EIS No. 950362, Final EIS, NPS, OR, Fort Clatsop National Memorial General Management and Development Concept Plans, Implementation, Astroia, Clatsop County, OR, Due: September 18, 1995, Contact: Cynithia Orlando (503) 861–2471.

EIS No. 950363, Draft EIS, AFS, AK, Northwest Baranof Timber Sale (s), Implementation, NPDES, Coast Guard Bridge, COE Section 10 and 404 Permits, Tongass National Forest, Sitka Ranger District, Baranof Island, AK, Due: October 02, 1995, Contact: James M. Thomas (907) 747–6671.

EIS No. 950364, Draft EIS, BLM, AZ, Cyprus Bagdad Copper Mine, Mill Tailings and Waste Rock Storage Expansion, Plan of Operation, NPDES and COE Section 404 Permits, Yavapai County, AZ, Due: October 17, 1995, Contact: Mary Johnson (602) 780–8090.

EIS No. 950365, Final EIS, DOE, ME, Bangor Hydro-Electric Second 345-kV Transmission Tie Line Interconnection to New Brunswick, Construction and Operation, Presidential Permit, COE Section 10 and 404 Permits, ME, Due: September 18, 1995, Contact: Anthony Como (202) 586–5935.

EIS No. 950366, Draft EIS, BLM, MT, Zortman and Landusky Mines Reclamation Plan Modifications and Mine Life Extensions, Approval of Mine Operation, Mine Reclamation and COE Section 404 Permits, Little Rocky Mountains, Phillip County, MT, Due: October 17, 1995, Contact: David L. Mari (406) 538–7461.

EIS No. 950367, Draft EIS, AFS, NV, Dash Open Pit and Underground Mining Project, Implementation, Expanding existing Gold Mining Operations at the Jerritt Canyon Project, Plan of Operation Approval and COE Section 404 Permit, Humboldt Toiyabe National Forest, Independence Mountain Range, Elko County, NV, Due: October 02, 1995, Contact: Mary Beth Marks (702) 738–5171.

EIS No. 950368, Draft EIS, UAF, CA, March Air Force Base, Disposal of Portions, NPDES and COE Section 404 Permits, Riverside County, CA, Due: November 02, 1995, Contact: Jonathan D. Farthing (210) 536–3668.

EIS No. 950369, Final Supplement, UAF, NH, ME, Pease Air Force Base (AFB) Disposal and Reuse, Implementation, Portsmouth, Newington, Greenland, Rye, Dover, Durham, Madburg, Rochester, NH and Kittery, Eliot and Berwicks, ME, Due: September 18, 1995, Contact: Jonathan D. Farthing (210) 536–3787.

EIS No. 950370, Draft EIS, FHW, MO, Mo–141 Relocation Highway Project, Improvements, South of MO-HH to 1.1 miles south of MO–100 (Job No. J6U0804) and 1.1 miles south of MO–100 to 0.8 miles North of I–44 (Job No. J6U0804B), Funding and COE Section 404 Permit, St. Louis County, MO, Due: October 10, 1995, Contact: Donald Neumann (314) 636–7104.

EIS No. 950371, Draft EIS, BLM, MT, WY, Express Crude Oil Pipeline Project, Construction, Operation and Maintenance, Issuance of Right-of-Way Grant, Hill, Chouteau, Fergus, Judith, Basin, Wheatland, Golden Valley, Stillwater and Carbon Counties, MT and Bighorn, Washakies, Hot Springs, Freemont and Watrona Counties, WY, Due: October 17, 1995, Contact: Don Ogaard (307) 347–9871.

EIS No. 950372, Draft EIS, USN, WA, Ohio Class and Los Angeles Class Naval Reactor Plants, Disposal of Decommissioned and Defueled Cruiser, Site Selection, Hanford Site, Benton, Franklin and Grant Counties, WA, Due: October 10, 1995, Contact: John Gordon (360) 476–7111.

EIS No. 950373, Final EIS, USN, CA, Long Beach Naval Hospital Base Disposal and Reuse, Implementation and NPDES Permit, City of Long Beach, CA, Due: September 18, 1995, Contact: Jo Ellen Anderson (619) 623–3912.

EIS No. 950374, Draft EIS, FRC, MT, Kerr Hydroelectric Project (FERC NO. 5–021), Issuing License Modification to Existing License, Flathead River, Flathead and Lake Counties, MT, Due: October 02, 1995, Contact: Robert Grieve (202) 219–2655.

Amended Notices

EIS No. 950340, Draft EIS, AFS, WA, First Creek Basin Restoration Project, Implementation, Wenatchee National Forest, Chelan Ranger District, Chelan County, WA, Due: September 18, 1995, Contact: Al Murphy (509) 682–2576.

Published FR 08–04–95—EIS was erroneously filed. The official filed EIS #950322 was in the **FEDERAL REGISTER** on 07–28–95.

EIS No. 950359, Draft EIS, AFS, MT, Rock Creek Underground Copper/Silver Mine Project, Construction and Operation, COE Section 404 Permit, Kootenai National Forest, Sander County, MT, Due: October 02, 1995, Contact: Paul Kaiser (406) 293–6211.

Published FR 08–11–95—Officially Withdrawn by Preparing Agency.

Dated: August 15, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–20571 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5281–3]

Science Advisory Board; Notification of Public Advisory Committee Meeting

September 11–13, 1995.

Under the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's Waste Incineration Subcommittee of the Science Advisory Board's Environmental Engineering Committee (EEC), will meet September 11–13, 1995 at the Environmental Research Center Auditorium, 86 T.W. Alexander Drive (at the corner of Highway 54), Research Triangle Park, N.C. The meeting will begin each day at 8:30 a.m. and end no later than 4:00 p.m. on September 13. The meeting may run into the evening hours and will include a tour of the research facility.

The Subcommittee will consider hazardous and municipal waste incineration research program of the Environmental Protection Agency. This program includes the following elements: (1) Understanding the formation, destruction, and control of dioxins; (2) evaluation of metal behaviors and the use of sorbents for metal aerosol size distribution control; (3) identification of products of incomplete combustion (PIC) formation, measurement, and control; and (4) studying solid fuel combustion. Documents describing the research program can be obtained by calling Dr. Robert Hall at (919) 541–2477.

The tentative charge for the Subcommittee's review follows:

(1) Review the importance of the issues identified for work in the future, namely formation, control, and monitoring of PICS, including dioxins; metal transformation and control; and waste combustion and emission characterization.

(2) Review the integration of the program in terms of past work and plans for future work which will address the issues stated above and obtain the needed research information.

(3) Evaluate the efficacy of in-house research on short-term and long-term issues and needs.

Any member of the public wishing further information, such as a proposed agenda should contact Mrs. Dorothy Clark, Staff Secretary, Science Advisory Board (1400F), U.S. EPA, Washington, DC 20460, telephone (202) 260–6552 or fax (202) 260–7118. Written comments of any length (at least 35 copies) may be provided up until the meeting. Members of the public who wish to participate in the facility tour or make a brief oral presentation should contact the Designated Federal Official, Mrs. Kathleen Conway by phone (202) 260–2558, or internet

CONWAY.KATHLEEN@epamail.epa.gov

no later than noon (eastern time) Wednesday September 6 in order to have time reserved on the agenda.

Dated: August 4, 1995.

A. Robert Flack,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–20538 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5281–1]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency (U.S. EPA).

ACTION: Notice; Request for public comment.

SUMMARY: Notice is hereby given that a proposed prospective purchaser agreement associated with the Denver Radium Superfund Site Operable Units IV & IX, the Robinson Brick Company property (the ''ORBCO Site'') located in DENVER, Colorado, was executed by the Agency on July 26, 1995 and is subject to final approval by the United States Department of Justice. The Prospective Purchaser Agreement would resolve certain potential EPA claims under Sections 107 and 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), against Home Depot U.S.A., Inc., the prospective purchaser (''the purchaser''). The settlement would require the purchaser to conduct a portion of the remedial action for Operable Unit IX, to implement all future operation and maintenance for Operable Unit IX, to implement and maintain institutional controls, and to provide EPA and the State access to the ROBCO Site.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating

to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202.

DATES: Comments must be submitted on or before September 18, 1995.

AVAILABILITY: The proposed agreement is available for public inspection at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202. A copy of the proposed agreement may be obtained from Rebecca Thomas (8HWM–SR), Remedial Project Manager, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202, (303) 293–1529. Comments should reference the ''Denver Radium Superfund Site Operable Units IV & IX Prospective Purchaser Agreement'' and should be forwarded to Rebecca Thomas at the above address.

FOR FURTHER INFORMATION CONTACT: Richard L. Sisk (8RC), Assistant Regional Counsel, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202, (303) 294–7582.

Dated: August 1, 1995.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency Region VIII.

[FR Doc. 95–20540 Filed 8–17–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2091]

Petition for Reconsideration of Actions in Rulemaking Proceedings

August 15, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed September 5, 1995. 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 has expired.

Subject: Implementation of Section 9 of the Communications Act—Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year. (MD Docket No. 94–19)

Number of Petition Filed: 1.

Subject: Assessment and Collection of Regulatory Fees for the 1995 Fiscal Year—Price Cap Treatment of Regulatory Fees Imposed by Section 9 of the Act. (MD Docket No. 95–3).

Number of Petition Filed: 1.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 95–20469 Filed 8–17–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1062–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1062–DR), dated August 10, 1995, and related determinations.

EFFECTIVE DATE: August 11, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida dated August 10, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 10, 1995:

The counties of Bay, Santa Rosa, and Walton for Individual Assistance (already designated for Hazard Mitigation Assistance, and Debris Removal (Category A) under Public Assistance).

The notice of a major disaster is also amended to include Category E under Public Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 10, 1995:

The counties of Brevard, Escambia, and Okaloosa for Category E under Public Assistance (already designated for Individual Assistance, Hazard Mitigation Assistance, and Debris Removal (Category A) under Public Assistance).

The counties of Bay, Santa Rosa, and Walton for Category E under Public Assistance (already designated for Hazard Mitigation Assistance, and Debris Removal (Category A) under Public Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–20528 Filed 8–17–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–3116–EM]

Florida; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency disaster for the State of Florida, (FEMA–3116–EM), dated August 3, 1995, and related determinations.

EFFECTIVE DATE: August 11, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Florida dated August 3, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 3, 1995:

Hernando, Hillsborough, Indian River, Manatee, Pasco, and Pinellas for emergency assistance as defined in the declaration letter of August 3, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–20529 Filed 8–17–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1062–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1062–DR), dated August 10, 1995, and related determinations.

EFFECTIVE DATE: August 10, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 10, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Florida, resulting from Hurricane Erin on August 2–3, 1995 is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation Assistance in the designated areas. Further, you are authorized to provide reimbursement for debris removal under the Public Assistance program. Other assistance under Public Assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael J. Polny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Brevard, Escambia and Okaloosa Counties for Individual Assistance.

Bay, Brevard, Escambia, Okaloosa, Santa Rosa and Walton Counties for reimbursement for debris removal under the Public Assistance program.

Bay, Brevard, Escambia, Okaloosa, Santa Rosa and Walton Counties for Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dated: August 14, 1995.

James L. Witt,

Director.

[FR Doc. 95–20527 Filed 8–17–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Reissuance of License

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission 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 freight forwarders, 46 CFR Part 510.

License No.	Name/address	Date reissued
3893	Global Shipping and Trade Services, Inc., 2050 S. Oneida Street, Suite 116, Denver, CO 80224.	Aug. 3, 1995.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–20522 Filed 8–17–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Edward Norman Barol; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than September 1, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Edward Norman Barol, Narberth, Pennsylvania; as Trustee of Cherry Hill Travel Agency, Inc., d/b/a Travel One and as Trustee of the Irrevocable Trust of Sherri Shaffer, Amy Harrow, Karen Tarte, and Lynn Roseman; to acquire an additional 24.3 percent, for a total of 31.5 percent, of the voting shares of First Bank of Philadelphia, Philadelphia, Pennsylvania.

Board of Governors of the Federal Reserve System, August 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20515 Filed 8–17–95; 8:45 am]

BILLING CODE 6210–01–F

Community First Bankshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 1, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Community First Bankshares, Inc., Denver, Colorado; to engage *de novo* in Community First Bankshares, Inc., Denver, Colorado, in making, acquiring, and servicing loans or other extensions of credit for the company's account or the account of others, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20516 Filed 8–17–95; 8:45 am]

BILLING CODE 6210–01–F

Premier Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than September 11, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Premier Bancorp, Inc., Baton Rouge, Louisiana; to merge with HNB Corporation, Homer, Louisiana, and thereby indirectly acquire Homer National Bank, Homer, Louisiana.

Board of Governors of the Federal Reserve System, August 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20517 Filed 8–17–95; 8:45 am]

BILLING CODE 6210–01–F

Stichting Prioriteit ABN AMRO Holding, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 1, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Stichting Prioriteit ABN AMRO Holding, Amsterdam Zuid-Ooost, The Netherlands; Stichting Administratiekantoor ABN AMRO Holding, Amsterdam Zuid-Ooost, The Netherlands; ABN AMRO Holding N.V., Amsterdam Zuid-Ooost, The Netherlands; ABN AMRO Bank N.V., Amsterdam Zuid-Ooost, The Netherlands; and MeesPierson N.V., Amsterdam and Rotterdam, The Netherlands, to acquire LINC Financial Services, Inc., Chicago, Illinois, and thereby engage in arranging for the purchase of, and servicing the collection of healthcare receivables and engage in certain fiduciary activities with respect to the receivables, pursuant to § 225.25(b)(1) and 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Houston Bancshares, Inc., Houston, Texas; to acquire through its subsidiary, First Houston Financial Services, Inc., Houston, Texas d/b/a Altair Corp., Austin, Texas, and thereby acquire 40 percent of Vision Software, Inc., Austin, Texas, and thereby engage in the development, sale, and servicing of medical payment services and software; provide data processing services for all aspects surrounding the payment of medical claims, pursuant to *Banc One Corporation*, 80 Federal Reserve Bulletin 139 (1994).

Board of Governors of the Federal Reserve System, August 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20518 Filed 8–17–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Notice of Meeting

Establishment of the National Nutrition Advisory Committee.

SUMMARY: The Administration on Aging (AoA) is announcing the establishment of the National Nutrition Advisory Council and date and location of the first meeting.

DATES: The National Nutrition Advisory Council is established effective July 19, 1995. The first meeting will be held on September 12–13, 1995, at the Doubletree Hotel, beginning at 8:30 a.m. The location is 300 Army Navy Drive, Arlington, Virginia. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Jean L. Lloyd, Nutrition Officer, Administration on Aging, Office of State and Community Programs, 330 Independence Avenue S.W., Washington, D.C. 20201, 202–619–0011.

SUPPLEMENTARY INFORMATION:

National Nutrition Advisory Council

As a result of the Older Americans Act Amendments of 1992, Public Law 102–375, section 206(g)(2)(A)(i) of the Older Americans Act, 42 U.S.C. 3017(g)(2)(A)(i), mandates the establishment of an advisory council to develop recommendations for guidelines on efficiency and quality in furnishing nutrition services under Title III, Part C of the Act and to assist and advise the Assistant Secretary for Aging.

The charter signed by Secretary Donna E. Shalala states the functions of the National Nutrition Advisory Council as follows:

1. To develop recommendations for guidelines on the efficiency and quality in furnishing nutrition services provided under Title III, Part C of the Older Americans Act;
2. To review and revise these recommendations as needed;
3. To assist and advise the Assistant Secretary for Aging in the areas of nutrition and aging, health, malnutrition, nutrition and home and community-based care, hunger, food security/insecurity, food, community nutrition services, and service delivery, prevention and intervention strategies, special needs of minority elderly, nutrition policy and other matters which affect older individuals;
4. To assist and advise the Assistant Secretary for Aging regarding the Older Americans Act as it relates to nutrition;
5. To provide a public forum for discussion of concerns regarding nutrition and the elderly;
6. To provide a structure for communication and cooperation between the Assistant Secretary for Aging and organizations with an interest in nutrition and aging.

The members of the National Nutrition Advisory Council were selected from nominations submitted by interested organizations and the public. They are as follows:

Name	City/state	Term of office
Ronni Chernoff	Little Rock, AK	7/99
Mary Ann Keeffe	Alexandria, VA	7/97
Patricia Watson	Ottawa, KS	7/97
Mary Podrabsky	Seattle, WA	7/99
Javier Garza	Austin, TX	7/97
Rita Barreras	Denver, Co	7/97
Arthur Collins	Kansas City, KS	7/99
Carolyn Rackard	Atmore, AL	7/99
Alan Balsam	Boston, MA	7/99
Kathryn Bishirjian	Pittsburgh, PA	7/99
Camille Brewer	Washington, D.C.	7/97
Elsa Ramirez Brisson.	Salinas, CA	7/99
Audry C. Burkartt	New Brunswick, NJ.	7/99
Janice Davis	Cleveland, OH	7/97
Robert Heaney, M.D.	Omaha, NB	7/97
Emma Luten	Batltimore, MD	7/99
Sudha Reddy	Altanta, GA	7/99
Carol Scroggins	Oklahoma, OK	7/97
Vera Thompson	Detroit, MI	7/97
Nancy Wellman	Miami, FL	7/97

The National Nutrition Advisory Council will meet at a minimum two times a year. A notice of each meeting will be placed in the **Federal Register**. Each meeting will be open to the public.

The first meeting will be held on September 12–13, 1995 beginning at 8:30 a.m., at the Doubletree Hotel. The location of the meeting is 300 Army Navy Drive, Arlington, Virginia. The meeting is open to the public.

An annual report of the National Nutrition Advisory Council shall be submitted to the Secretary and the Assistant Secretary for Aging.

This notice is issued under the Federal Advisory Committees Act (5 U.S.C. Appendix 2) and 21 CFR Part 14 relating to advisory committees

Fernando M. Torres-Gil,

Assitant Secretary for Aging.

[FR Doc. 95–20537 Filed 8–17–95; 8:45 am]

BILLING CODE 4150–04–M

Administration for Children and Families

Intent to Reallot Part C—Protection and Advocacy Funds to States for Developmental Disabilities Expenditures

AGENCY: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of Intent to Reallot Fiscal Year 1995 Funds, pursuant to section 125 and section 142 of the Developmental Disabilities Assistance and Bill of Rights Act, as amended (Act).

SUMMARY: The Administration on Developmental Disabilities herein gives notice of intent to reallot funds which were set aside in accordance with section 142(c)(5) of the Act. Of the $806,682 which was set aside for technical assistance and Indian Consortiums, $417,180 was utilized for technical assistance and $136,161 was awarded to an Indian Consortium. Therefore, the balance of $253,341 was released for reallotment.

Any State or Territory which wishes to release funds or cannot use the additional funds under Part C—Protection and Advocacy program for Fiscal Year 1995 should notify Bettye J. Mobley, Chief, Family Support Branch, Office of Financial Management, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, in writing within thirty (30) days of the date of this promulgation. This notice is hereby given in accordance with Sections 125 and 142 of the Act.

FOR FURTHER INFORMATION CONTACT: Bettye J. Mobley on (202) 401–6955.

The proposed reallotment for Part C—Protection and Advocacy program are set forth below:

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES, FISCAL YEAR 1995 REALLOTMENT

	Protection & advocacy	Reallotment	Revised allotment
Total	$26,047,479*	$253,341	$26,300,820
Alabama	443,251	4,311	447,562
Alaska	254,508	2,475	256,983
Arizona	335,949	3,267	339,216
Arkansas	258,562	2,515	261,077
California	2,149,978	20,921	2,170,899
Colorado	271,993	2,645	274,638

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES, FISCAL YEAR 1995 REALLOTMENT—Continued

	Protection & advocacy	Reallotment	Revised allotment
Connecticut	258,610	2,515	261,125
Delaware	254,508	2,475	256,983
Dist. of Columbia	254,508	2,475	256,983
Florida	1,051,765	10,230	1,061,995
Georgia	594,291	5,780	600,071
Hawaii	254,508	2,475	256,983
Idaho	254,508	2,475	256,983
Illinois	911,643	8,867	920,510
Indiana	511,800	4,978	516,778
Iowa	266,337	2,590	268,927
Kansas	254,508	2,475	256,983
Kentucky	405,930	3,948	409,878
Louisiana	467,884	4,551	472,435
Maine	254,508	2,475	256,983
Maryland	337,036	3,278	340,314
Massachusetts	444,313	4,321	448,634
Michigan	845,248	8,221	853,469
Minnesota	358,455	3,486	361,941
Mississippi	317,379	3,087	320,466
Missouri	463,445	4,508	467,953
Montana	254,508	2,475	256,983
Nebraska	254,508	2,475	256,983
Nevada	254,508	2,475	256,983
New Hampshire	254,508	2,475	256,983
New Jersey	509,869	4,959	514,828
New Mexico	254,508	2,475	256,983
New York	1,387,387	13,494	1,400,881
North Carolina	635,915	6,185	642,100
North Dakota	254,508	2,475	256,983
Ohio	1,003,767	9,763	1,013,530
Oklahoma	306,350	2,980	309,330
Oregon	262,627	2,554	265,181
Pennsylvania	1,054,394	10,255	1,064,649
Rhode Island	254,508	2,475	256,983
South Carolina	364,760	3,548	368,308
South Dakota	254,508	2,475	256,983
Tennessee	496,219	4,826	501,045
Texas	1,497,963	14,569	1,512,532
Utah	254,508	2,475	256,983
Vermont	254,508	2,475	256,983
Virginia	497,694	4,841	502,535
Washington	384,506	3,740	388,246
West Virginia	275,658	2,681	278,339
Wisconsin	453,037	4,406	457,443
Wyoming	254,508	2,475	256,983
American Samoa	136,161	1,324	137,485
Guam	136,161	1,324	137,485
Puerto Rico	825,354	8,027	833,381
Virgin Islands	136,161	1,324	137,485
Northern Mariana Islands	136,161	1,324	137,485
Palau	136,161	1,324	137,485
AZ DNA People's Legal Services	136,161	1,324	137,485

*Includes the award of $136,161 to an Indian Consortium in accordance with Section 142(b).

Dated: August 9, 1995.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 95–20466 Filed 8–17–95; 8:45 am]

BILLING CODE 4184–01–P

Centers for Disease Control and Prevention

[INFO–95–02]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request study materials on the proposed project, call the CDC Reports Clearance Officer on (404) 639–3453.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

proposed 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 for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Evaluation of the NCCDPHP-Produced Chronic Disease Prevention (CDP) File—New—The proposed research is a customer- satisfaction survey related to NCCDPHP's Chronic Disease Prevention (CDP) file. This is an information database constructed and maintained by the Technical Information Services Branch in NCCDPHP, and made available to a variety of health education and promotion specialists primarily in CD-ROM format. The study is designed to assess the current utilization of and satisfaction with the CDP file and its support services. It will focus on three discrete target audiences, each of which is seen as a primary user and/or gateway to such: State/territorial site coordinators, and cooperative agreement recipients from the two CDC divisions (the Division of Cancer Prevention and Control (DCPC) and the Division of Adolescent School Health (DASH)). The first group consists of individuals identified to serve as the resident host for the CDP file within each state and territory, which includes promoting knowledge of and access to the CDP file. There are 56 such persons. The second audience receives free copies of the CD-ROM as part of their cooperative agreements with NCCDPHP. The survey will be conducted via telephone with the project coordinators at each of the cooperative agreements and with the state/territorial site coordinators. The survey assesses issues related to level of knowledge about the CDP file, level of use, relative value of the file, relative value/timeliness of user support, and technological capacity.

Findings will be used to refine the product and the distribution activities of CDC in relation to the CDP file.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
State/territorial site coordinators	56	1	0.357
Cooperative agreement recipients from DCPC and DASH	188	1	.08

2. Variability of Respiratory Tract Dust Deposition in Workers—New—Adverse respiratory health effects in workers exposed to hazardous airborne materials can be prevented by reducing the concentration of the implicated agents below a threshold level. However, the actual ''safe'' work site concentration is determined by the airborne particulates that are actually deposited and retained in the worker's respiratory tract. The proportion deposited is in turn affected by the volume and flow rates of the worker's breathing patterns.

Only a few previous studies have measured respiratory tract deposition using standardized, breathing patterns, under controlled conditions, and in relatively healthy young men. Despite the relatively small numbers of subjects (3 to 26) and large variability in aerosol deposition, an algebraic mode has been proposed to estimate mean deposition for specified tidal volumes, inspiratory flow rates, and particle sizes. Deposition predicted by this algebraic model may not be valid for those tidal volumes and inspiratory flow rates representative of realistic work conditions or for a diverse workforce.

The goals of this investigation are to: (1) Develop a database of information related to workers' ventilatory patterns during performance of elemental industrial and commercial job activities, as well as specific dust-exposed work activities; (2) define expected variation in particle size-dependent respiratory tract dust deposition related to breathing patterns representative of different job tasks; (3) investigate residual intersubject variability in respiratory tract dust deposition with explanatory variables such as height, gender, age, smoking status, effective airway diameter, nasal geometry, and preexisting respiratory tract abnormalities.

This investigation should improve the understanding of the actual deposition of toxic substances in the lungs and help to validate or modify the existing models of human aerosol deposition.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Volunteer Subjects	29	2	4.5
Workers	342	2	5.5

3. Evaluation of TB Outreach Worker Activities—(0920–0361) Extension—This data collection will generate descriptive data from those directly involved and responsible for providing outreach to identified TB patients to gain an understanding of outreach activities, how they occur, and their level of effectiveness. Three interview guides have been developed for use with TB outreach workers, their supervisors and a small number of outreach patients. This effort will result in a more comprehensive picture of effective and efficient TB outreach activities. The major product of this effort will be a descriptive analytical report detailing the ''lessons learned''.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Outreach Workers	36	1	0.75
Outreach Workers' Supervisors	36	1	0.75
TB Patients	72	1	0.33

4. End Stage Renal Disease Study—(0923–0011) Reinstatement—Kidney disease is one of the priority health conditions ATSDR has identified for epidemiologic studies. Contaminants such as heavy metals and solvents are commonly found at hazardous waste sites and have been linked to end-stage renal disease in occupational studies. A case-control study of end-stage renal disease and residential proximity to hazardous waste sites conducted in New York State under the previous clearance suggested an increased risk for this association. An expansion of this original study is now planned in California to determine whether these findings can be replicated. The cases of end-stage renal disease will be identified from the records of the Health Care Financing Administration. Controls will be recruited by random digit dialing and frequency matched to cases on age, sex, and race. All participants will be interviewed by telephone to obtain residential histories and other information on exposures, demographics, and health. The plan is

to interview 600 cases (300 with diabetes and 300 without) and 600 controls. Each participant will only be interviewed once for approximately 45 minutes. Information on the proximity of residences to hazardous waste sites will be obtained from the California Department of Health.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Diabetes Patients	300	1	0.75
Persons without Diabetes	300	1	0.75
Control	600	1	0.75

5. Evaluation of ''Diabetes Today'' Course Effectiveness—New—''Diabetes Today'' is a training course for health care professionals that consists of two distinct course offerings for different audiences. This training course provides technical assistance to state chronic disease programs in accord with the mission of CDC's National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP). NCCDPHP, through the CDC's Office of Health Communication, is in the process of assessing the effectiveness of the technical assistance activities provided to State Diabetes Control Programs (DCPs) who are implementing ''Diabetes Today''.

CDC plans to conduct telephone interviews with DCP staff members and other staff from Diabetes programs in 61 entities (states and territories). The interviews will gather information to evaluate the effectiveness of the services delivered to assist states in implementing their diabetes control programs. Data will also be collected from state program staff who have not yet attended the course, in order to assess their need and desire for training and technical assistance. Respondents will be broken into three categories: Staff who have completed the ''Diabetes Today'' training; staff who plan to take, but have not yet taken, the ''Diabetes Today'' training; and staff who do not plan to take the training. Three versions of the survey will be administered the three categories of respondents.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
DCP Staff Who Have Completed the ''Diabetes Today'' Training	38	1	1
Staff Who Plan to Take, but Have Not Attended Training	13	1	0.5
Staff Who Do Not Plan to Take Training	8	1	0.25

6. Evaluation of the Efficacy of Back Belts for the Prevention of Low Back Injury— New—This study will provide information concerning the efficacy of a back supporting belt in preventing first and recurrent low back injuries. The research will be conducted with a major retail merchandise company, using selected company workers (those with highest lifting exposures) in selected stores. NIOSH will obtain much higher quality information on the value of back belts in prevention of injuries in the workplace than is currently available, and the Institute will be able to make scientifically justified recommendations regarding their use as personal protective equipment to industry and the public.

This study proposes to enroll approximately 8,000 workers in 160 retail merchandise stores and 6–8 distribution centers in the eastern U.S. Current company policy is to require the use of belts in all stores. Back injury rates over a two-year period, in three groups of stores will be compared. In the first group, belts will be withheld for one year. In the second group, belts will be withheld for two years, and in the third group, belts will not be withheld. Injury rates will then be compared between belt and non-belt periods after adjustment for back injury risk factors.

Workers will respond to questions concerning job history, physical activity, smoking history, history of injury and back pain, psychosocial variables in the workplace, tasks performed on the job, and belt-wearing behavior on the job. Only data necessary for the purposes of this study will be collected, and the questionnaires will be group administered at the workplace.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Company workers	8,000	2	0.649

7. National Home and Hospice Survey—(0920–0298) Reinstatement—The National Home and Hospice Care Survey (NHHCS) was conducted in 1992, 1993, and 1994. It is part of the Long-Term Care component of the National Health Care Survey. Section 306 of the Public Health Service Act states that the National Center for Health Statistics ''shall collect statistics on health resources * * * [and] utilization of health care, including utilization of * * * services of hospitals, extended care facilities, home health agencies, and other institutions.'' NHHCS data are used to examine this most rapidly expanding sector of the health care industry. Data from the NHHCS are widely used by the health care industry and policy makers for such diverse analyses as the need for various medical supplies; minority access to health care; and planning for the health care needs of the elderly. The NHHCS also reveals detailed information on utilization patterns, as needed to make accurate assessments of the need for and costs associated with such care. Data from earlier NHHCS collections have been used by the Congressional Budget Office, the Bureau of Health Professionals, the Maryland Health Resources Planning Commission, the National Association for Home Care, and by several newspapers and journals. Additional uses are expected to be similar to the uses of the National Nursing Home Study. NHHCS data cover: Baseline data on the characteristics of hospices and home health agencies in relation to their patients and staff, Medicare and Medicaid certification, costs to patients, sources of payment, patients' functional status and diagnoses, and categories of staff employees. Data collection is planned for the period July-October, 1996. Survey design is in process now.

Sample selection and preparation of layout forms will precede the data collection by several months.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Facility	1200	1	0.333

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Current Patients	8400	1	0.19
Discharged Patients	8400	1	0.214

8. National Hospital Discharge Survey—(0920–0212) Extension—The National Hospital Discharge Survey (NHDS), which has been conducted continuously by the National Center for Health Statistics, CDC, since 1965, is the principal source of data on inpatient utilization of short-stay, non-Federal hospitals and is the only annual source of nationally representative estimates on the characteristics of discharges, the lengths of stay, diagnoses, surgical and non-surgical procedures, and the patterns of use of care in hospitals in various regions of the country. It is the benchmark against which special programmatic data sources are compared. Data collected through the NHDS are essential for evaluating health status of the population, for the planning of programs and policy to elevate the health status of the Nation, for studying morbidity trends, and for research activities in the health field. NHDS data have been used extensively in the production of goals for the Year 2000 Health Objectives and the subsequent monitoring of these goals. In addition, NHDS data provide annual updates for numerous tables in the Congressionally-mandated NCHS report, Health, United States. Data from the NHDS are collected annually on approximately 250,000 discharges from a nationally representative sample of noninstitutional hospitals exclusive of Federal hospitals. The data items collected are the basic core of variables contained in the Uniform Hospital Discharge Data Set (UHDDS). Data for approximately half of the responding hospitals are abstracted from medical records while the remainder of the hospitals supply data through commercial abstract service organizations, state data systems, in-house tapes or printouts.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Primary Procedure Hospitals	77	251	0.083
Alternate Procedure Hospitals	136	250	0.016
Update (Abstract Service Hospitals)	150	2	0.033
Quality Control Forms (Hospitals)	50	40	0.016
Induction Forms (Hospitals)	40	1	2

9. Cost and Impact of Illnesses and Injuries Associated with Child Care Attendance—New—This is a longitudinal follow-up telephone survey of parents of children attending large (>15 children/center) day care centers and family day care homes (<7 children) in order to (1) determine the extent to which the size of day care centers are associated with the rates of illnesses and injuries for children attending day care; (2) to estimate the costs of illnesses and injuries for children attending small and large day care centers; (3) to compare the health of the family members of children attending small versus large day care centers; and, (4) to estimate the costs of illnesses for the family members of children attending small versus large day care centers. The analyses of the proposed survey data will allow CDC to evaluate the relative costs and benefits of attending small as opposed to large day care centers. The information will provide timely and valuable data to policy makers, medical professionals and scientists. The total burden will be 693 hours; there will be 272 respondents, and 12 interviews per respondent (one 35-minute interview and eleven 10-minute interviews). The study is proposed to last one year.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Parents (Monthly)	272	11	0.167
Parents (Annual)	272	1	0.583

Dated: August 14, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–20550 Filed 8–17–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 91N–0450]

Guideline for Quality Assurance in Blood Establishments; Availability; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 14, 1995 (60 FR 36290). The document announced the availability of a guideline entitled ''Guideline for Quality Assurance in Blood Establishments.'' The guideline is intended to assist manufacturers of blood and blood components in developing quality assurance (QA) programs that are consistent with recognized principles of QA and current good manufacturing practice. The document was published with some errors. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration,1401 Rockville Pike, Rockville, MD 20852, 301–594–3074.

In FR Doc. 95–17346, appearing on page 36290 in the **Federal Register** of Friday, July 14, 1995, the following corrections are made:

On page 36290, in the second column, under the **ADDRESSES** caption, in lines 25 and 34, ''CDV2.CBER.FDA.GOV'' is corrected to read ''CDVS2.CDER.FDA.GOV'', and on the same page, in the third column, under the **SUPPLEMENTARY INFORMATION** caption, in line 23, ''July 14, 1995,'' is corrected to read ''July 11, 1995''.

Dated: August 14, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95–20565 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95C–0211]

Pilkington Barnes Hind; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Pilkington Barnes Hind has filed a petition proposing that the color additive regulations be amended to provide for the safe use of 2-[[2,5-diethoxy-4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol to tint soft (hydrophilic) contact lenses.

DATES: Written comments on the petitioner's environmental assessment by September 18, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(b)(5) (21 U.S.C. 379e(b)(5))), notice is given that a color additive petition (CAP 5C0246) has been filed by Pilkington Barnes Hind, 810 Kifer Rd., Sunnyvale, CA 94086–5200. The petition proposes to amend the color additive regulations in § 73.3115 *2-[[2,5-Diethoxy- 4-[(4-methylphenyl)thio]phenyl]azo]-1,3,5-benzenetriol* (21 CFR 73.3115) to provide for the safe use of the color additive to tint soft (hydrophilic) contact lenses.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before September 18, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 7, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–20562 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0201]

Huls Aktiengesellschaft (Huls AG); Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Huls Aktiengesellschaft (Huls AG), has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly-(trimethylhexamethylene terephthalamide) as components of articles intended for food-contact use.

DATES: Written comments on the petitioner's environmental assessment by September 18, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec.409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2B4328) has been filed by Huls Aktiengesellschaft (Huls AG), Marl, Germany. The petition proposes to amend the food additive regulations in § 177.1500 *Nylon resins* (21 CFR 177.1500), to provide for the safe use of poly-(trimethylhexamethylene terephthalamide) as components of articles intended for food-contact use.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before September 18, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 4, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–20563 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0210]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the expanded use of 2,2′-(2,5-thiophenediyl)-bis(5-*tert*-butylbenzoxazole) as an optical brightener in all polymers and adhesives intended for contact with food.

DATES: Written comments on the petitioner's environmental assessment by September 18, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4471) has been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532–2188. The petition proposes that the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 2,2′-(2,5-thiophenediyl)-bis(5-*tert*-butylbenzoxazole) in all polymers intended for use in food packaging and in adhesives complying with § 175.105 *Adhesives* (21 CFR 175.105) and § 175.125 *Pressure-sensitive adhesives* (21 CFR 175.125).

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before September 18, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 7, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–20567 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95G–0208]

Solvay Enzymes, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Solvay Enzymes, Inc., has filed a petition (GRASP 5G0415), proposing that pullulanase enzyme preparation derived from *Bacillus licheniformis* containing the pullulanase gene from *B. deramificans* be affirmed as generally recognized as safe (GRAS) for use as a direct human food ingredient.

DATES: Written comments by November 1, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Dennis M. Keefe, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3102.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409(b)(5) (21 U.S.C. 321(s) and 348(b)(5)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Solvay Enzymes, Inc., P.O. Box 4226, Elkhart, IN 46514–0226, has filed a petition (GRASP 5G0415) proposing that a pullulanase enzyme preparation derived from *B. licheniformis* containing the pullulanase gene from *B. deramificans* be affirmed as GRAS for use in food as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 (21 CFR 170.30) and 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before November 1, 1995, review the petition and/or file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–20566 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates,

can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. September 8, 1995, 8 a.m., Corporate Bldg., rm. 20B, 9200 Corporate Blvd., Rockville, MD. A limited number of overnight accommodations have been reserved at the Marriott Washingtonian Hotel, 9751 Washingtonian Blvd., Gaithersburg, MD. Attendees requiring overnight accommodations may contact the hotel at 301–590–0044 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Ed Rugenstein, Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Closed committee deliberations, 8 a.m. to 9 a.m.; open public hearing, 9 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 4:30 p.m.; Michael Bazaral, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609, or the FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Anesthesiology and Respiratory Therapy Devices Panel, code 12624.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before August 29, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will hear presentations and discuss a draft guidance document for data to support premarket notification submissions for ventilators, including both conventional positive pressure ventilators and positive pressure ventilators which function using a continually open exhalation port associated with the patient mask or other patient connection.

Single copies of the draft guidance document are available from the contact person for this meeting. Copies may also be obtained through the Division of Small Manufacturer's Assistance; requests should reference document 500. For delivery by mail, fax requests to Les Grams at 301–443–8818 (include mailing address). Copies are available from Facts on Demand (1–800–899–0311) and are available from the Electronic Docket via terminal or personal computer (1–800–252–1366); to receive detailed instructions for requesting electronic transmission (including fax), fax a request for !BP__DSMA.FAX to Geoffrey Clark at 301–443–8818.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding present and future FDA issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances.

Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: August 10, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–20460 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Availability of Funds for Grants to Provide Health Care for Individuals With Hansen's Disease

AGENCY: Health Resources and Services Administration.

ACTION: Notice of available funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that it anticipates approximately $2.0 million will be available in fiscal year (FY) 1996, based on the President's budget, for awards under section 320 of the Public Health Service (PHS) Act to provide outpatient medical care and treatment for individuals with Hansen's Disease.

This program announcement is subject to the appropriation of funds. Applicants are advised that this application announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Hansen's Disease Program is related to the priority areas for health promotion and disease prevention services. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report: Stock No.017–001–00474–0) or *Healthy People 2000* (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9323 (Telephone (202) 783–3238).

PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

DUE DATE: Applications are due by October 16, 1995. Applications will be considered as having met the deadline if they are: (1) Received on or before the established deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants must obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service in lieu of a postmark. Private metered postmarks are not acceptable as proof of timely mailing. Late applications will be returned to the sender.

ADDRESSES: Application kits (Form PHS 5161–1 with revised face sheet DHHS form 424, as approved by the OMB under control number 0937–0189) may be obtained from, and completed applications sent to: Bureau of Primary Health Care, c/o Houston Associates, Inc., 1010 Wayne Avenue, Suite 1200, Silver Spring, Maryland 20910. The telephone number is (800) 523–2192. The Fax number is (800) 523–2193.

FOR FURTHER INFORMATION CONTACT: Information or technical assistance regarding business management issues should be directed to Pam Hilton, Office of Grants Management, Bureau of Primary Health Care, 4350 East-West Highway, Bethesda, Maryland 20814. The telephone number is (301) 594–4255. The Fax number is (301) 594–4073. Her internet address is: philton@hrsa.ssw.dhhs.gov.

Technical and/or programmatic information should be directed to Irma E. Guerra, Ambulatory Care Program, Gillis W. Long Hansen's Disease Center, 5445 Point Clair Road, Carville, Louisiana 70721. The telephone number is (800) 642–2477.

SUPPLEMENTARY INFORMATION: Hansen's Disease (HD) affects the skin, peripheral nerves, anterior part of the eyes, and the nasal area. Patients are in the age range of 20–77, have a male to female ratio of 2:1, and consist primarily of Hispanic and Asian populations. The Division of National Hansen's Disease Programs (DNHDP) provides outpatient HD medical care and services to patients in the United States (U.S.) and Puerto Rico through the Ambulatory Care Program at the Gillis W. Long Hansen's Disease Center in Carville, Louisiana. Currently and historically, services have been offered in California, Florida, Illinois, Massachusetts, New York, Puerto Rico, Texas, and the State of Washington.

Patients are admitted to the Gillis W. Long Hansen's Disease Center only as authorized by medical staff at the Center.

Grants will range from $25,000 to $400,000 depending on the number of HD patients to be served by each entity. No more than 10 grants to entities serving 100 or more HD patients at $100,000 to $400,000 and no more than 4 grants to entities serving 50–100 HD

patients at $25,000 to $100,000 will be awarded. Budget periods will be for 12 months, and project periods may be for up to 5 years.

Eligible Applicants: Any public or private nonprofit entity is eligible to apply to provide HD services.

Project Objectives: The purpose of this program is to support HD outreach and outpatient health care services delivery in areas with HD patient concentrations and to enable this patient population to access these services.

The central goal of this program is to prevent disability through early diagnosis and treatment of HD. Grantees must be able to provide or arrange for the provision of the following services:

1. Outpatient HD Medical Care
   a. Diagnostic tests;
   b. Laboratory monitoring of HD chemotherapy and disease status;
   c. Nursing assessment through HD monitors (visual assessment of eyes, hands, and feet) at each patient visit;
   d. Hand and foot screens;
   e. HD contact exams for any person who has lived in the same household with a new patient in the 3 year period prior to the diagnosis and beginning of treatment of the index case;
   f. Ancillary services such as ophthalmology, ENT, occupational therapy, neurology, orthopedics, orthotics, physical therapy, and podiatry; and
   g. HD medications.
2. Culturally appropriate and competent patient and contact education.
3. Outreach and follow-up of patients through culturally competent networks of public health agencies.

Criteria for Evaluating Applications: Applications will be reviewed based on the following evaluation criteria, which for items a through e include assuring the provision of culturally competent systems of care:

a. Extent to which the applicant displays an understanding of the problems and methods of treatment associated with the care of HD patients;

b. Adequacy of the applicant's plan for providing services to HD patients;

c. Extent to which the applicant develops arrangements to serve HD patients outside its current catchment area.

d. Adequacy of the applicant's outreach plans including referral arrangements with public health agencies for follow-up of patients and contacts and training programs for health care professionals.

e. Appropriateness of the qualifications and experience of the proposed project staff;

f. Adequacy of the proposed budget and budget justification;

g. Evidence of administrative procedures for fiscal control and fund accounting procedures.

Other Information

Grant funds may not be used for the purchase, construction, or renovation of real property.

Other Award Information: This program is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system to review applications from within their States under certain Federal programs. The application kit, to be made available under this notice, will contain a listing of States which have chosen to set up a review system and will provide a single point of contact (SPOC) in the States for that 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 appropriate application deadline date. The BPHC does not guarantee that it will accommodate or explain its response to State process recommendations received after the due date.

Public Health System Impact Statement

This program is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the Office of Management and Budget (#0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

a. A copy of the face page of the application (SF 424).

b. A summary of the project not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

The OMB Catalogue of Federal Domestic Assistance number for this program is 93.215.

Dated: August 14, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–20508 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

National Institutes of Health; Proposed Revision and Extension of the International Research Fellowship Application NIH Form 1541–1

Proposed Data Collection

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Fogarty International Center (FIC) of the National Institutes of Health (NIH) is publishing this notice to solicit public comment on the proposed revision and extension of the International Research Fellowship (IRF) application NIH Form 1541–1. Forms designed for the IRF Program have been in use since 1958. The Fogarty International Center (FIC) of the NIH is the sole organization within the PHS that uses the NIH Form 1541–1. This form was reviewed by OMB and cleared through November 30, 1995 (0925–0010). To request more information on the proposed revision, or to obtain a copy of the revised application, call the NIH Project Clearance Office on (301) 496–4716.

Comments are invited on: (a) Whether the proposed collection is necessary, including whether the information has practical use; (b) ways to enhance the clarity, quality, and use of the information to be collected; (c) the accuracy of the agency's estimate of burden of the proposed collection; (d) ways to minimize the collection burden of the respondents, which includes using automated collection techniques or other forms of information technology. Send comments to Dr. Kenneth Bridbord, Director, Division of International Training and Research, Fogarty International Center, NIH, Building 31, Room B2C32, Bethesda, MD 20892. All comments must be received by October 17, 1995.

Proposed Application Revision

The application forms are used by individuals from selected foreign

countries to apply for International Research Fellowship Awards. The application receipt dates have changed from August 1 and November 15 to July 1 and October 15. A number of other minor revisions have been proposed to conform more closely with the newly revised PHS Individual NRSA fellowship application (PHS–416–1), OMB No. 0925–0002, expiration 3/31/98. The application (NIH 1541–1) consists of three parts: Part I is completed by applicants from foreign countries; Part II is completed by the proposed U.S. host investigator; and Part III is completed by established scientists who can evaluate the applicant's qualifications for research. An average hours-per-response is computed for each form in the series. The burden estimates are as follows:

Applications and forms	Estimated total annual responses and respondents	Estimated average number of hours required per respondent
Applicant: (Part I).	200	8
U.S. Sponsor: (Part II).	200	2
Referee: (Part III).	800 (×4 each) ...	.5

Dated: August 11, 1995.

Philip E. Schambra,

Director, Fogarty International Center, National Institutes of Health.

[FR Doc. 95–20465 Filed 8–17–95; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health; Notice of Meeting

Notice is hereby given that the National Institutes of Health is convening a Parkinson's Disease Research Planning Workshop on August 29–30, 1995 at the Madison Hotel in Washington, D.C. The meeting will begin at 8:30 a.m. each day and end at 5:30 p.m. on August 29 and at 3:30 p.m. August 30. Both sessions will be open to the public on a space available basis. The meeting is cosponsored by the National Institute of Neurological Disorders and Stroke, the National Institute on Aging, the National Institute of Environmental Health Sciences and the National Institute of Mental Health.

The purpose of the conference is to assess progress made, to identify new opportunities and research goals, and to plan an agenda to strengthen cooperation in research activities. The meeting will be international in scope with representatives from European countries as well as basic and clinical investigators from institutions across the United States.

For additional information, please contact the Office of Scientific and Health Reports, National Institute of Neurological Disorders and Stroke, (301) 496–5751.

Dated: August 11, 1995.

Zach W. Hall,

Director.

[FR Doc. 95–20464 Filed 8–17–95; 8:45 am]

BILLING CODE 4140–01–M

Agency Forms Undergoing Paperwork Reduction Act Review

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Reports Clearance Office on (202) 690–7100.

The following requests have been submitted for review since the list was last published on August 11.

1. Hazardous Waste Worker Training—42 CFR Part 65—0925–0348—Extension—This clearance request is for the information collection requirements in the final rule, 42 CFR Part 65—Hazardous Waste Worker Training. This final rule states that grants shall be awarded to non-profit organizations for the training and education of workers who are or may be engaged in activities related to hazardous waste removal or containment or emergency response. Respondents: Not-for-profit institutions; State, Local or Tribal Government; Number of Respondents: 1; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual burden: 1 hour. Send comments to Allison Eydt, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

2. Monitoring Media/Health Partnerships—New—The CDC requires this information to assess the current status of Objective 8.13 of the Healthy People 2000 objectives. This Objective aims to improve the partnering activities between local television networks and community organizations around health promotion goals. The responders will be attendees at an annual convention of community affairs directors. Respondents: Business or other for-profit; Number of Respondents: 320; Number of Responses per Respondent: 1; Average Burden per Response: 0.34 hour; Estimated Annual burden: 109 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201.

3. Atherosclerosis Risk in Communities Study (ARIC)—Revision—0925–0281—A random sample of 15,800 persons, aged 45–64, has been selected from certain communities. They will be followed prospectively for changes in cardiovascular risk factors, subclinical disease, and overt disease. Surveillance for coronary heart disease is being done in all adults in these communities. Respondents: Individual or households; Business or other for-profit; Not-for-profit institutions. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201.

	Number of respondents	Number of responses/respondents	Average burden/response (hours)
ARIC individuals or households	4,870	5.776	0.5215
ARIC physicians ..	543	1	0.25

Estimated Total Annual Burden.....14,896 hours

4. Application for Training—Revision—0920–0017—The Application for Training forms are the official application used for all public health/laboratory training activities conducted by the CDC. Respondents: Individuals or households; State, Local or Tribal Government; Number of Respondents: 56,300; Number of Responses per Respondent: 1; Average Burden per Response: .142 hour; Estimated Annual burden: 8025 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

5. Lung Cancer and High Levels of Indoor Radon—New—This is a case-control study of lung cancer to determine if residential exposure to radon is related to lung cancer. Radon will be measured in all current and former residences, and subjects will be interviewed about smoking and other risk factors for lung cancer. Respondents: Individuals or households; Number of Respondents: 196; Number of Responses per Respondent: 1; Average Burden per Response: .75 hour; estimated Annual

burden: 147 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: August 11, 1995.

James Scanlon,

Director, Data Policy Staff, Office of the Assistant Secretary for Health and PHS Reports Clearance Officer.

[FR Doc. 95–20395 Filed 8–17–95; 8:45 am]

BILLING CODE 4160–01–M

Substance Abuse and Mental Health Services Administration Advisory Committee for Women's Services; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services Administration (SAMHSA) in September, 1995.

The meeting of the Advisory Committee for Women's Services will include a discussion of and update on policy and program issues relating to women's substance abuse and mental health service needs at SAMHSA, including the SAMHSA FY 1996 budget, SAMHSA's reauthorization, SAMHSA's information dissemination activities for women, and on-going women's activities within SAMHSA's Center for Mental Health Services, Center for Substance Abuse Prevention, and Center for Substance Abuse Treatment.

A summary of the meeting and/or a roster of committee members may be obtained from: Jennifer B. Fiedelholtz, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date(s): September 18–19, 1995.

Place: Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open: 8:30 a.m. to 5 p.m.

Contact: Jennifer B. Fiedelholtz, Room 13–99, Parklawn Building, Telephone (301) 443–5184.

Dated: August 14, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–20561 Filed 8–17–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–57841]

Notice of Realty Action: Non-Competitive Sale of Public Lands

AGENCY: Bureau of Land Management.

ACTION: Non-competitive sale of public lands in Clark County, NV.

SUMMARY: A Notice of Realty Action was previously published in the **Federal Register**, pages 59787 and 59788, volume 59, No. 222, on November 18, 1994, segregating certain described land from all other forms of appropriation under the public land laws, including the general mining laws, except for sales and disposals under the mineral disposal laws.

This Notice of Realty Action extends the segregation period an additional 270 days until May 14, 1996.

Dated: August 14, 1995.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 95–20499 Filed 8–17–95; 8:45 am]

BILLING CODE 4310–HC–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32607]

WFEC Railroad Company—Construction and Operation of a Rail Line in Choctaw and McCurtain Counties, OK

WFEC Railroad Company has petitioned the Interstate Commerce Commission (Commission) for authority to construct and operate a 14.3 mile rail line in Choctaw and McCurtain Counties, OK. The Commission's Section of Environmental Analysis (SEA) has prepared an Environmental Assessment (EA). Based on the information provided and the environmental analysis conducted to date, this EA concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA preliminarily recommends that the Commission impose on any decision approving the proposed construction and operation conditions requiring WFEC Railroad Company to implement the mitigation contained in the EA. The EA will be served on all parties of record as well as all appropriate Federal, state and local officials and will be made available to the public upon request. SEA will consider all comments received in response to the EA in making its final environmental recommendations to the Commission. The Commission will then consider SEA's final recommendations and the environmental record in making its final decision in this proceeding.

Comments (an original and 10 copies) and any questions regarding this Environmental Assessment should be filed with the Commission's Section of Environmental Analysis, Office of Economic and Environmental Analysis, Room 3219, Interstate Commerce Commission, Washington, D.C. 20423, to the attention of Michael Dalton (202) 927–6202. Requests for copies of the EA should also be directed to Mr. Dalton.

Date made available to the public: August 18, 1995.

Comment due date: September 18, 1995.

By the Commission, Elaine K. Kaiser, Chief, Section of Environmental Analysis, Office of Economic and Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 95–20524 Filed 8–17–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29

CFR Part 1, by authority of the Secretary of the Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedures thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective data as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Divisions, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Maryland
MD950042 (Feb. 10, 1995)
Pennsylvania
PA950005 (Feb. 10, 1995)
PA950018 (Feb. 10, 1995)
Virginia
VA950030 (Feb. 10, 1995)

Volume III

Alabama
AL950008 (Feb. 10, 1995)
AL950044 (Feb. 10, 1995)
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FL950095 (Feb. 10, 1995)
South Carolina
SC950003 (Feb. 10, 1995)
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TN950002 (Feb. 10, 1995)
West Virginia
WV950001 (Feb. 10, 1995)
WV950002 (Feb. 10, 1995)
WV950003 (Feb. 10, 1995)
WV950006 (Feb. 10, 1995)

Volume IV

Illinois
IL950007 (Feb. 10, 1995)
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Louisiana
LA950001 (Feb. 10, 1995)
LA950004 (Feb. 10, 1995)
LA950005 (Feb. 10, 1995)
LA950014 (Feb. 10, 1995)
LA950015 (Feb. 10, 1995)
LA950018 (Feb. 10, 1995)
Iowa
IA950005 (Feb. 10, 1995)
Kansas
KS950009 (Feb. 10, 1995)
Missouri
MO950003 (Feb. 10, 1995)
Oklahoma
OK950013 (Feb. 10, 1995)
OK950014 (Feb. 10, 1995)
Texas
TX950001 (Feb. 10, 1995)
TX950003 (Feb. 10, 1995)
TX950014 (Feb. 10, 1995)
TX950015 (Feb. 10, 1995)
TX950057 (Feb. 10, 1995)
TX950069 (Feb. 10, 1995)

Volume VI

Arizona
AZ950010 (Feb. 10, 1995)
North Dakota
ND950001 (Feb. 10, 1995)
Nevada
NV950001 (Feb. 10, 1995)
NV950005 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Act''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 11th day of August 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–20321 Filed 8–17–95; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Job Training Partnership Act: Indian and Native American Employment and Training Programs; List of Allocations by Grantee for Title II–B and Title IV–A Funds Received Under the Job Training Partnership Act for 1995

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: List of current JTPA section 401 grantees receiving JTPA funds, and the amounts funded under titles II–B and IV–A of JTPA for Calendar Year (CY) 1995 (title II–B) and Program Year (PY) 1995 (title IV–A).

SUMMARY: Pursuant to the requirements at section 162(d) of the amended Act, the Department hereby publishes the final allocation figures for JTPA section 401 Indian and Native American grantees for 1995, by title.

Inquiries: Any inquiries concerning these allocations should be addressed to Mr. Thomas Dowd, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, Room N–4641 FPB, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIVE AMERICANS CY 1995 TITLE II–B ALLOTMENTS

State	Grantee	Grant No.	Administrative	Program	Total
National Total		2,365,266	13,403,104	15,768,370	
1 AL	Inter-Tribal Council of Alabama	B–5133–5–00–81–55	0	0	0
1 AL	Poarch Band of Creek Indians	B–5132–5–00–81–55	760	4,309	5,069
2 AK	Aleutian/Pribilof Islands Association	B–5134–5–00–81–55	4,435	25,133	29,568
2 AK	Arctic Slope Native Association	B–5126–5–00–81–55	0	0	0
2 AK	Association of Village Council President	B–5135–5–00–81–55	35,156	199,216	234,372
2 AK	Bristol Bay Native Association	B–5136–5–00–81–55	9,828	55,690	65,518
2 AK	Central Council of Tlingit and Haida	B–5137–5–00–81–55	27,082	153,464	180,546
2 AK	Chugachmiut	B–5139–5–00–81–55	4,001	22,671	26,672
2 AK	Cook Inlet Tribal Council	B–5138–5–00–81–55	45,710	259,022	304,732
2 AK	Kawerak Incorporated	B–5140–5–00–81–55	14,446	81,861	96,307
2 AK	Kenaitze Indian Tribe	B–5141–5–00–81–55	3,965	22,465	26,430
2 AK	Kodiak Area Native Association	B–5142–5–00–81–55	5,268	29,852	35,120
2 AK	Kushokwim Native Association	B–5124–5–00–81–55	0	0	0
2 AK	Maniilaq Manpower	B–5143–5–00–81–55	12,328	69,859	82,187
2 AK	Metlakatla Indian Community	B–5144–5–00–81–55	2,534	14,362	16,896
2 AK	Native Village of Barrow	B–5125–5–00–81–55	0	0	0
2 AK	Orutsararmuit Native Council	B–5145–5–00–81–55	6,644	37,648	44,292
2 AK	Tanana Chiefs Conference, Inc	B–5146–5–00–81–55	35,482	201,062	236,544
4 AZ	Affiliation of Arizona Ind. Cntrs. Inc	B–5147–5–00–81–55	0	0	0
4 AZ	American Indian Association of Tucson	B–5148–5–00–81–55	0	0	0
4 AZ	Colorado River Indian Tribes	B–5149–5–00–81–55	5,829	33,032	38,861
4 AZ	Gila River Indian Community	B–5150–5–00–81–55	25,688	145,565	171,253
4 AZ	Hopi Tribal Council	B–5151–5–00–81–55	17,994	101,968	119,962
4 AZ	Indiana Development District of Arizona	B–5152–5–00–81–55	7,802	44,214	52,016
4 AZ	Native Americans for Community Action	B–5153–5–00–81–55	0	0	0
4 AZ	Navajo Nation	B–5154–5–00–81–55	390,786	2,214,456	2,605,242
4 AZ	Pasqua Yaqui Tribe	B–5155–5–00–81–55	6,571	37,238	43,809
4 AZ	Phoenix Indian Center, Inc	B–5156–5–00–81–55	0	0	0
4 AZ	Salt River Pima-Maricopa Indian Council	B–5157–5–00–81–55	9,251	52,419	61,670
4 AZ	San Carlos Apache Tribe	B–5158–5–00–81–55	17,596	99,711	117,307
4 AZ	Tohono O'Odham Nation	B–5159–5–00–81–55	23,498	133,152	156,650
4 AZ	White Mountain Apache Tribe	B–5160–5–00–81–55	23,534	133,357	156,891
5 AR	American Indian Center of Arkansas, Inc	B–5161–5–00–81–55	0	0	0
6 CA	American Indian Center of Santa Clara Va	B–5162–5–00–81–55	0	0	0
6 CA	California Indian Manpower Consortium, I	B–5163–5–00–81–55	28,729	162,799	191,528
6 CA	Candelaria American Indian Council	B–5164–5–00–81–55	0	0	0
6 CA	Indian Human Resources Center, Inc	B–5165–5–00–81–55	0	0	0
6 CA	Northern CA Indian Development Council,	B–5166–5–00–81–55	1,914	10,848	12,762
6 CA	Quechan Indian Tribe	B–5127–5–00–81–55	0	0	0
6 CA	Southern CA Indian Center, Inc	B–5167–5–00–81–55	0	0	0
6 CA	Tule River Tribal Council	B–5168–5–00–81–55	2,154	12,208	14,362
6 CA	United Indian Nations, Inc	B–5169–5–00–81–55	0	0	0
6 CA	Ya-Ka-Ama Indian Education & Development	B–5170–5–00–81–55	0	0	0
8 CO	Denver Indian Center	B–5171–5–00–81–55	0	0	0
8 CO	Southern Ute Indian Tribe	B–5172–5–00–81–55	3,005	17,029	20,034
8 CO	Ute Mountain Ute Indian Tribe	B–5173–5–00–81–55	3,657	20,722	24,379
10 DE	Nanticoke Indian Association, Inc	B–5174–5–00–81–55	0	0	0
12 FL	Florida Governor's Council on Indian Aff	B–5176–5–00–81–55	0	0	0
12 FL	Miccosukee Corporation	B–5177–5–00–81–55	4,949	28,044	32,993
12 FL	Seminole Tribe of Florida	B–5178–5–00–81–55	3,892	22,055	25,947
15 HI	Alu Like, Inc	B–5180–5–00–81–55	340,117	1,927,327	2,267,444
15 HI	State of HI Dept. of Labor and Industria	B–5181–5–00–81–55	0	0	0
16 ID	Kootenai Tribe of Idaho	B–5182–5–00–81–55	164	926	1,090
16 ID	Nez Perce Tribe	B–5183–5–00–81–55	5,304	30,057	35,361
16 ID	Shoshone-Bannock Tribes	B–5184–5–00–81–55	7,006	39,699	46,705
17 IL	Native Americans Educ Srvcs College	B–5185–5–00–81–55	0	0	0
18 IN	Indiana American Ind Manpower Council	B–5186–5–00–81–55	0	0	0
20 KS	Mid American All Indian Center, Inc	B–5192–5–00–81–55	0	0	0
20 KS	United Tribes of Kansas and S.E. Nebraska	B–5193–5–00–81–55	2,299	13,028	15,327

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIVE AMERICANS CY 1995 TITLE II–B ALLOTMENTS—Continued

State	Grantee	Grant No.	Administrative	Program	Total
22 LA	Inter-Tribal Council of Louisiana, Inc	B–5195–5–00–81–55	677	3,835	4,512
23 ME	Central Maine Indian Association, Inc	B–5196–5–00–81–55	0	0	0
23 ME	Passamaquoddy Tribe	B–5128–5–00–81–55	0	0	0
23 ME	Tribal Governors, Inc	B–5197–5–00–81–55	3,693	20,927	24,620
24 MD	Baltimore American Indian Center	B–5198–5–00–81–55	0	0	0
25 MA	Mashpee-Wampahoag Indian Tribal Council	B–5199–5–00–81–55	0	0	0
25 MA	North American Indian Center of Boston	B–5200–5–00–81–55	0	0	0
26 MI	Grand Traverse Band of Ottawa & Chippewa	B–5201–5–00–81–55	634	3,590	4,224
26 MI	Inter-Tribal Council of Michigan, Inc	B–5202–5–00–81–55	7,133	40,417	47,550
26 MI	MI Indian Employment and Training Service	B–5203–5–00–81–55	0	0	0
26 MI	North American Indian Association of Det	B–5204–5–00–81–55	0	0	0
26 MI	Potawatomi Indian Nation	B–5205–5–00–81–55	0	0	0
26 MI	Sault Ste. Marie Tribe of Chippewa Indians	B–5206–5–00–81–55	9,649	54,677	64,326
26 MI	Southeastern Michigan Indians, Inc	B–5207–5–00–81–55	0	0	0
27 MN	American Indian Opportunities Center	B–5208–5–00–81–55	0	0	0
27 MN	Bois Forte R.B.C	B–5209–5–00–81–55	1,109	6,283	7,392
27 MN	Fond Du Lac R.B.C	B–5210–5–00–81–55	2,860	16,208	19,068
27 MN	Leech Lake R.B.C	B–5211–5–00–81–55	7,875	44,623	52,498
27 MN	Mille Lacs Band of Chippewa Indians	B–5212–5–00–81–55	1,097	6,218	7,315
27 MN	Minneapolis American Indian Center	B–5213–5–00–81–55	1,529	8,665	10,194
27 MN	Red Lake Tribal Council	B–5214–5–00–81–55	9,522	53,959	63,481
27 MN	White Earth R.B.C	B–5215–5–00–81–55	6,233	35,319	41,552
28 MS	Mississippi Band of Choctaw Indians	B–5216–5–00–81–55	10,337	58,575	68,912
29 MO	Region VII American Indian Council, Inc	B–5217–5–00–81–55	0	0	0
30 MT	Assiniboine & Sioux Tribes	B–5218–5–00–81–55	13,631	77,245	90,876
30 MT	Blackfeet Tribal Business Council	B–5219–5–00–81–55	15,496	87,811	103,307
30 MT	Chippewa Cree Tribe	B–5220–5–00–81–55	5,177	29,339	34.516
30 MT	Confederated Salish & Kootenai Tribes	B–5221–5–00–81–55	14,573	82,.579	97,152
30 MT	Crow Indian Tribe	B–5222–5–00–81–55	12,654	71,705	84,359
30 MT	Fort Belknap Indian Community	B–5223–5–00–81–55	5,395	30,569	35,964
30 MT	Montana United Indian Association	B–5224–5–00–81–55	0	0	0
30 MT	Northern Cheyenne Tribe	B–5225–5–00–81–55	10,681	60,524	71,205
31 NE	Indian Center, Inc	B–5226–5–00–81–55	0	0	0
31 NE	Nebraska Indian Inter-Tribal Dev. Corp	B–5227–5–00–81–55	8,708	49,342	58,050
31 NE	Omaha Tribe of Nebraska	B–5123–5–00–81–55	0	0	0
32 NV	Inter-Tribal Council of Nebraska	B–5228–5–00–81–55	13,125	74,372	87,497
32 NV	Las Vegas Indian Center, Inc	B–5229–5–00–81–55	0	0	0
32 NV	Shoshone-Paiute Tribes	B–5230–5–00–81–55	2,381	13,494	15,875
34 NJ	Powhatan Renape Nation	B–5232–5–00–81–55	0	0	0
35 NM	Alamo Navajo School Board	B–5233–5–00–81–55	4,236	24,004	28,240
35 NM	All Indian Pueblo Council, Inc	B–5234–5–00–81–55	11,622	65,858	77,480
35 NM	Eight Northern Indian Pueblo Council	B–5235–5–00–81–55	5,250	29,749	34,999
35 NM	Five Sandoval Indian Pueblos, Inc	B–5236–5–00–81–55	10,011	56,728	66,739
35 NM	Jicarilla Apache Tribe	B–5237–5–00–81–55	6,789	38,468	45,257
35 NM	Mescalero Apache Tribe	B–5238–5–00–81–55	6,191	35,084	41,275
35 NM	National Indian Youth Council	B–5239–5–00–81–55	0	0	0
35 NM	Pueblo of Acoma	B–5240–5–00–81–55	6,662	37,750	44,412
35 NM	Pueblo of Laguna	B–5241–5–00–81–55	7,983	45,239	53,222
35 NM	Pueblo of Taos	B–5242–5–00–81–55	2,607	14,772	17,379
35 NM	Pueblo of Zuni	B–5243–5–00–81–55	19,406	109,969	129,375
35 NM	Ramah Navajo School Board, Inc	B–5244–5–00–81–55	5,268	29,852	35,120
35 NM	Santa Clara Indian Pueblo	B–5245–5–00–81–55	3,005	17,029	20,034
35 NM	Santo Domingo Tribe	B–5246–5–00–81–55	8,219	46,572	54,791
36 NY	American Indian Community House, Inc	B–5247–5–00–81–55	1,322	7,488	8,810
36 NY	Native American Cultural Center, Inc	B–5249–5–00–81–55	2,860	16,205	19,065
36 NY	Native Am. Comm. Services of Erie & Niag	B–5250–5–00–81–55	0	0	0
36 NY	St. Regis Mohawk Tribe	B–5251–5–00–81–55	4,453	25,236	29,689
36 NY	Seneca Nation of Indians	B–5252–5–00–81–55	8,074	45,752	53,826
37 NC	Cumberland County Association for Indian	B–5253–5–00–81–55	0	0	0
37 NC	Eastern Band of Cherokee Indians	B–5254–5–00–81–55	14,573	82,579	97,152
37 NC	Guilford Native American Association	B–5255–5–00–81–55	0	0	0
37 NC	Haliwa-Saponi Tribe, Inc	B–5256–5–00–81–55	0	0	0
37 NC	Lumbee Regional Development Association	B–5257–5–00–81–55	0	0	0
37 NC	Metrolina Native American Association	B–5258–5–00–81–55	0	0	0
37 NC	North Carolina Commission of Indian Affa	B–5259–5–00–81–55	0	0	0
38 ND	Devils Lake Sioux Tribe	B–5260–5–00–81–55	7,350	41,648	48,998
38 ND	Standing Rock Sioux Tribe	B–5261–5–00–81–55	14,736	83,502	98,238
38 ND	Three Affiliated Tribes—Ft. Berthold R	B–5262–5–00–81–55	7,929	44,931	52,860
38 ND	Turtle Mountain Band of Chippewa Indians	B–5263–5–00–81–55	17,795	100,839	118,634
38 ND	United Tribes Technical College	B–5264–5–00–81–55	0	0	0
39 OH	North America Indian Cultural Centers	B–5265–5–00–81–55	0	0	0

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIVE AMERICANS CY 1995 TITLE II–B ALLOTMENTS—Continued

State	Grantee	Grant No.	Administrative	Program	Total
40 OK	Caddo Tribe of Oklahoma	B–5266–5–00–81–55	1,973	11,182	13,155
40 OK	Central Tribes of Shawnee Area, Inc	B–5267–5–00–81–55	8,201	46,470	54,671
40 OK	Cherokee Nation of Oklahoma	B–5268–5–00–81–55	171,959	974,435	1,146,394
40 OK	Cheyenne-Arapaho Tribes	B–5269–5–00–81–55	17,687	100,223	117,910
40 OK	Chickasaw Nation of Oklahoma	B–5270–5–00–81–55	59,450	336,882	396,332
40 OK	Choctaw Nation of Oklahoma	B–5271–5–00–81–55	79,073	448,082	527,155
40 OK	Citizen Band of Potawatomi Indians of Oklah	B–5272–5–00–81–55	50,145	284,155	334,300
40 OK	Comanche Tribe of Oklahoma	B–5273–5–00–81–55	16,256	92,120	108,376
40 OK	Creek Nation of Oklahoma	B–5274–5–00–81–55	77,118	437,003	514,121
40 OK	Four Tribes Consortium of Oklahoma	B–5275–5–00–81–55	5,775	32,724	38,499
40 OK	Inter-Tribe Council of N.E. Oklahoma	B–5276–5–00–81–55	9,305	52,727	62,032
40 OK	Kiowa Tribe of Oklahoma	B–5277–5–00–81–55	15,279	86,580	101,859
40 OK	Oklahoma Tribal Assistance Program, Inc	B–5278–5–00–81–55	41,963	237,787	279,750
40 OK	Osage Tribal Council	B–5279–5–00–81–55	12,238	69,346	81,584
40 OK	OTOE-Missouria Tribe of Oklahoma	B–5280–5–00–81–55	3,765	21,338	25,103
40 OK	Pawnee Tribe of Oklahoma	B–5281–5–00–81–55	4,671	26,466	31,137
40 OK	Ponca Tribe of Oklahoma	B–5282–5–00–81–55	8,599	48,727	57,326
40 OK	Sac & Fox Nation of Oklahoma	B–5283–5–00–81–55	0	0	0
40 OK	Seminole Nation of Oklahoma	B–5284–5–00–81–55	11,351	64,319	75,670
40 OK	Tonkawa Tribe of Oklahoma	B–5285–5–00–81–55	6,644	37,648	44,292
40 OK	United Urban Indian Council, Inc	B–5286–5–00–81–55	62,401	353,603	416,004
41 OR	Confed. Tribes of Siletz Indians of Oreg	B–5287–5–00–81–55	3,458	19,593	23,051
41 OR	Confed. Tribes of the Umatilla Indian Re	B–5288–5–00–81–55	2,643	14,977	17,620
41 OR	Confederated Tribe of Warm Springs	B–5289–5–00–81–55	7,965	45,137	53,102
41 OR	Organization of Forgotten Americans	B–5290–5–00–81–55	514	2,910	3,424
42 PA	Council of Three Rivers	B–5291–5–00–81–55	0	0	0
42 PA	United American Indians of the Delaware	B–5292–5–00–81–55	0	0	0
44 RI	Rhode Island Indian Council	B–5293–5–00–81–55	0	0	0
45 SC	Catawba Indian Nation	B–5294–5–00–81–55	0	0	0
46 SD	Cheyenne River Sioux Tribe	B–5295–5–00–81–55	13,613	77,143	90,756
46 SD	Crow Creek Sioux Tribe	B–5129–5–00–81–55	0	0	0
46 SD	Lower Brule Sioux Tribe	B–5296–5–00–81–55	2,770	15,695	18,465
46 SD	Oglala Sioux Tribe	B–5297–5–00–81–55	29,634	167,929	197,563
46 SD	Rosebud Sioux Tribe	B–5298–5–00–81–55	25,507	144,539	170,046
46 SD	Sisseton-Wahpeton Sioux Tribe	B–5299–5–00–81–55	7,513	42,572	50,085
46 SD	United Sioux Tribe Development Corp	B–5300–5–00–81–55	12,419	70,371	82,790
47 TN	Native American Indian Association	B–5301–5–00–81–55	0	0	0
48 TX	Alabama-Coushatta Indian Tribal Council	B–5302–5–00–81–55	1,503	8,514	10,017
48 TX	Dallas Inter-Tribal Center	B–5303–5–00–81–55	0	0	0
48 TX	Ysleta del Sur Pueblo	B–5304–5–00–81–55	1,459	8,268	9,727
49 UT	Indian Training & Educatiuon Center	B–5305–5–00–81–55	688	3,898	4,586
49 UT	Ute Indian Tribe	B–5306–5–00–81–55	6,372	36,109	42,481
50 VT	Abenaki Self-Help Association/NH Ind. C	B–5307–5–00–81–55	0	0	0
51 VA	Mattaponi Pamunkey Monacan Consortium	B–5308–5–00–81–55	0	0	0
53 WA	American Indian Community Center	B–5309–5–00–81–55	22,918	129,870	152,788
53 WA	Colville Confederated Tribes	B–5310–5–00–81–55	9,468	53,651	63,119
53 WA	Lummi Indian Business Council	B–5311–5–00–81–55	4,490	25,440	29,930
53 WA	Makah Tribal Council	B–5131–5–00–81–55	2,064	11,694	13,758
53 WA	Puyallup Tribe of Indians	B–5312–5–00–81–55	2,486	14,088	16,574
53 WA	Seattle Indian Center	B–5313–5–00–81–55	0	0	0
53 WA	The Tulalip Tribes	B–5130–5–00–81–55	2,299	13,028	15,327
53 WA	Western WA Indian Empl. and Trng Pgm	B–5314–5–00–81–55	16,564	93,863	110,427
55 WI	Ho-Chunk Nation	B–5322–5–00–81–55	1,891	10,714	12,605
55 WI	Lac Courte Oreilles Tribal Governing Boa	B–5315–5–00–81–55	5,938	33,647	39,585
55 WI	Lac Du Flambeau Band of Lake Superior Ch	B–5316–5–00–81–55	3,711	21,030	24,741
55 WI	Menominee Indian Tribe of Wisconsin	B–5317–5–00–81–55	7,748	43,905	51,653
55 WI	Milwaukee Area Am. Ind. Manpower Council	B–5318–5–00–81–55	0	0	0
55 WI	Oneida Tribe of Indians of WI, Inc	B–5319–5–00–81–55	5,793	32,826	38,619
55 WI	Stockbridge-Munsee Community	B–5320–5–00–81–55	1,179	6,680	7,859
55 WI	Wisconsin Indian Consortium	B–5321–5–00–81–55	4,707	26,671	31,378
56 WY	Shoshone/Arapahoe Tribes	B–5323–5–00–81–55	14,211	80,527	94,738

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION NATIVE AMERICANS PY 1995 TITLE IV–A ALLOTMENTS

State	Grantee	Grant No.	Administrative	Program	Total
National Total			11,957,402	47,829,598	59,787,000

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION NATIVE AMERICANS PY 1995 TITLE IV–A ALLOTMENTS—Continued

State	Grantee	Grant No.	Administrative	Program	Total
1 AL	Inter-Tribal Council of Alabama	B–5133–5–00–81–55	50,326	201,306	251,632
1 AL	Poarch Band of Creek Indians	B–5132–5–00–81–55	19,922	79,686	99,608
2 AK	Aleutian/Pribilof Islands Association	B–5134–5–00–81–55	6,691	26,765	33,456
2 AK	Arctic Slope Native Association	B–5126–5–00–81–55	8,605	34,420	43,025
2 AK	Association of Village Council President	B–5135–5–00–81–55	83,736	334,944	418,680
2 AK	Bristol Bay Native Association	B–5136–5–00–81–55	22,850	91,399	114,249
2 AK	Central Council of Tlingit and Haida	B–5137–5–00–81–55	41,375	165,501	206,876
2 AK	Chugachmiut	B–5139–5–00–81–55	8,516	34,063	42,579
2 AK	Cook Inlet Tribal Council	B–5138–5–00–81–55	84,370	337,478	421,848
2 AK	Kawerak Incorporated	B–5140–5–00–81–55	35,318	141,273	176,591
2 AK	Kenaitze Indian Tribe	B–5141–5–00–81–55	4,486	17,943	22,429
2 AK	Kodiak Area Native Association	B–5142–5–00–81–55	8,983	35,931	44,914
2 AK	Kuskokwim Native Association	B–5124–5–00–81–55	9,887	39,546	49,433
2 AK	Maniilaq Manpower	B–5143–5–00–81–55	24,768	99,072	123,840
2 AK	Metlakatla Indian Community	B–5144–5–00–81–55	4,282	17,126	21,408
2 AK	Native Village of Barrow	B–5125–5–00–81–55	7,360	29,441	36,801
2 AK	Orutsararmuit Native Council	B–5145–5–00–81–55	9,973	39,892	49,865
2 AK	Tanana Chiefs Conference, Inc	B–5146–5–00–81–55	68,011	272,046	340,057
4 AZ	Affiliation of Arizona Ind. Cntrs. Inc	B–5147–5–00–81–55	54,713	218,852	273,565
4 AZ	American Indian Association of Tucson	B–5148–5–00–81–55	57,512	230,047	287,559
4 AZ	Colorado River Indian Tribes	B–5149–5–00–81–55	14,469	57,877	72,346
4 AZ	Gila River Indian Community	B–5150–5–00–81–55	128,968	515,871	644,839
4 AZ	Hopi Tribal Council	B–5151–5–00–81–55	61,280	245,122	306,402
4 AZ	Indian Development District of Arizona	B–5152–5–00–81–55	29,624	118,498	148,122
4 AZ	Native Americans for Community Action	B–5153–5–00–81–55	38,911	155,645	194,556
4 AZ	Navajo Nation	B–5154–5–00–81–55	1,410,930	5,643,723	7,054,653
4 AZ	Pasqua Yaqui Tribe	B–5155–5–00–81–55	24,134	96,536	120,670
4 AZ	Phoenix Indian Center, Inc	B–5156–5–00–81–55	176,349	705,396	881,745
4 AZ	Salt River Pima-Maricopa Indian Council	B–5157–5–00–81–55	30,008	120,032	150,040
4 AZ	San Carlos Apache Tribe	B–5158–5–00–81–55	73,969	295,876	369,845
4 AZ	Tohono O'Odham Nation	B–5159–5–00–81–55	100,620	402,480	503,100
4 AZ	White Mountain Apache Tribe	B–5160–5–00–81–55	97,550	390,198	487,748
5 AR	American Indian Center of Arkansas, Inc	B–5161–5–00–81–55	65,005	260,020	325,025
6 CA	American Indian Center of Santa Clara Va	B–5162–5–00–81–55	33,023	132,094	165,117
6 CA	California Indian Manpower Consortium, I	B–5163–5–00–81–55	481,077	1,924,307	2,405,384
6 CA	Candelaria American Indian Council	B–5164–5–00–81–55	64,335	257,342	321,677
6 CA	Indian Human Resources Center, Inc	B–5165–5–00–81–55	67,701	270,805	338,506
6 CA	Northern CA Indian Development Council	B–5166–5–00–81–55	48,249	192,995	241,244
6 CA	Quechan Indian Tribe	B–5127–5–00–81–55	9,307	37,229	46,536
6 CA	Southern CA Indian Center, Inc	B–5167–5–00–81–55	278,129	1,112,517	1,390,646
6 CA	Tule River Tribal Council	B–5168–5–00–81–55	20,351	81,406	101,757
6 CA	United Indian Nations, Inc	B–5169–5–00–81–55	89,684	358,735	448,419
6 CA	Ya-Ka-Ama Indian Education & Development	B–5170–5–00–81–55	18,473	73,890	92,363
8 CO	Denver Indian Center	B–5171–5–00–81–55	126,117	504,466	630,583
8 CO	Southern Ute Indian Tribe	B–5172–5–00–81–55	10,041	40,163	50,204
8 CO	Ute Mountain Ute Indian Tribe	B–5173–5–00–81–55	19,926	79,705	99,631
10 DE	Nanticoke Indian Association, Inc	B–5174–5–00–81–55	5,691	22,766	28,457
12 FL	Florida Governor's Council on Indian Aff	B–5176–5–00–81–55	190,046	760,185	950,231
12 FL	Miccosukee Corporation	B–5177–5–00–81–55	17,068	68,273	85,341
12 FL	Seminole Tribe of Florida	B–5178–5–00–81–55	17,139	68,558	85,697
15 HI	Alu Like, Inc	B–5180–5–00–81–55	354,040	1,416,159	1,770,199
15 HI	State of HI Dept. of Labor and Industria	B–5181–5–00–81–55	15,711	62,846	78,557
16 ID	Kootenai Tribe of Idaho	B–5182–5–00–81–55	3,603	14,412	18,015
16 ID	Nez Perce Tribe	B–5183–5–00–81–55	15,867	63,467	79,334
16 ID	Shoshone-Bannock Tribes	B–5184–5–00–81–55	48,938	195,750	244,688
17 IL	Native Americans Educ Srvcs College	B–5185–5–00–81–55	109,408	437,634	547,042
18 IN	Indiana American Ind Manpower Council	B–5186–5–00–81–55	53,577	214,307	267,884
20 KS	Mid American All Indian Center, Inc	B–5192–5–00–81–55	33,019	132,075	165,094
20 KS	United Tribes of Kansas and S.E. Nebrask	B–5193–5–00–81–55	82,683	330,733	413,418
22 LA	Inter-Tribal Council of Louisiana, Inc	B–5195–5–00–81–55	131,735	526,939	658,674
23 ME	Central Maine Indian Association, Inc	B–5196–5–00–81–55	16,383	65,532	81,915
23 ME	Passamaquoddy Tribe	B–5128–5–00–81–55	5,954	23,817	29,771
23 ME	Tribal Governors, Inc	B–5197–5–00–81–55	15,024	60,098	75,122
24 MD	Baltimore American Indian Center	B–5198–5–00–81–55	51,019	204,074	255,093
25 MA	Mashpee-Wampahoag Indian tribal Council	B–5199–5–00–81–55	13,522	54,090	67,612
25 MA	North American Indian Center of Boston	B–5200–5–00–81–55	45,617	182,467	228,084
26 MI	Grand Traverse Band of Ottawa & Chippewa	B–5201–5–00–81–55	10,440	41,761	52,201
26 MI	Inter-Tribal Council of Michigan, Inc	B–5202–5–00–81–55	13,222	52,890	66,112
26 MI	MI Indian Employment and Training Servi	B–5203–5–00–81–55	144,959	579,834	724,793
26 MI	North American Indian Association of Det	B–5204–5–00–81–55	54,010	216,041	270,051
26 MI	Potawatomi Indian Nation	B–5205–5–00–81–55	21,719	86,874	108,593

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION NATIVE AMERICANS PY 1995 TITLE IV–A ALLOTMENTS—Continued

State		Grantee	Grant No.	Administrative	Program	Total
26	MI	Sault Ste. Marie Tribe of Chippewa India	B–5206–5–00–81–55	45,835	183,342	229,177
26	MI	Southeastern Michigan Indians, Inc	B–5207–5–00–81–55	26,784	107,135	133,919
27	MN	American Indian Opportunities Center	B–5208–5–00–81–55	117,796	471,186	588,982
27	MN	Bois Forte R.B.C	B–5209–5–00–81–55	5,540	22,161	27,701
27	MN	Fond Du Lac R.B.C	B–5210–5–00–81–55	46,248	184,992	231,240
27	MN	Leech lake R.B.C	B–5211–5–00–81–55	42,070	168,278	210,348
27	MN	Mille Lacs Band of Chippewa Indians	B–5212–5–00–81–55	9,376	37,504	46,880
27	MN	Minneapolis American Indian Center	B–5213–5–00–81–55	87,055	348,218	435,273
27	MN	Red Lake Tribal Council	B–5214–5–00–81–55	44,737	178,947	223,684
27	MN	White Earth R.B.C	B–5215–5–00–81–55	31,403	125,613	157,016
28	MS	Mississippi Band of Choctaw Indians	B–5216–5–00–81–55	56,375	225,501	281,876
29	MO	Region VII American Indian Council, Inc	B–5217–5–00–81–55	92,938	371,752	464,690
30	MT	Assiniboine & Sioux Tribes	B–5218–5–00–81–55	52,650	210,599	263,249
30	MT	Blackfeet Tribal Business Council	B–5219–5–00–81–55	69,394	277,578	346,972
30	MT	Chippewa Cree Tribe	B–5220–5–00–81–55	27,448	109,790	137,238
30	MT	Confederated Salish & Kootenai Tribes	B–5221–5–00–81–55	54,788	219,150	273,938
30	MT	Crow Indian Tribe	B–5222–5–00–81–55	48,526	194,104	242,630
30	MT	Fort Belknap Indian Community	B–5223–5–00–81–55	19,952	79,808	99,760
30	MT	Montana United Indian Association	B–5224–5–00–81–55	86,234	344,938	431,172
30	MT	Northern Cheyenne Tribe	B–5225–5–00–81–55	43,558	174,233	217,791
31	NE	Indian Center, Inc	B–5226–5–00–81–55	56,780	227,120	283,900
31	NE	Nebraska Indian Inter-Tribal Dev. Corp	B–5227–5–00–81–55	56,218	224,873	281,091
31	NE	Omaha Tribe of Nebraska	B–5123–5–00–81–55	19,645	78,580	98,225
32	NV	Inter-Tribe of Nebraska	B–5123–5–00–81–55	70,436	281,745	352,181
32	NV	Las Vegas Indian Center, Inc	B–5229–5–00–81–55	26,887	107,550	134,437
32	NV	Shoshone-Paiute Tribes	B–5230–5–00–81–55	24,430	97,718	122,148
34	NJ	Powhatan Renape Nation	B–5232–5–00–81–55	58,017	232,067	290,084
35	NM	Alamo Navajo School Board	B–5233–5–00–81–55	12,579	50,317	62,896
35	NM	All Indian Pueblo Council, Inc	B–5234–5–00–81–55	26,559	106,234	132,793
35	NM	Eight Northern Indian Pueblo Council	B–5235–5–00–81–55	12,948	51,793	64,741
35	NM	Five Sandoval Indian Pueblos, Inc	B–5236–5–00–81–55	21,467	85,869	107,336
35	NM	Jicarilla Apache Tribe	B–5237–5–00–81–55	13,735	54,939	68,674
35	NM	Mescalero Apache Tribe	B–5238–5–00–81–55	24,521	98,082	122,603
35	NM	National Indian Youth Council	B–5239–5–00–81–55	255,491	1,021,966	1,277,457
35	NM	Pueblo of Acoma	B–5240–5–00–81–55	32,174	128,697	160,871
35	NM	Pueblo of Laguna	B–5241–5–00–81–55	21,844	87,375	109,219
35	NM	Pueblo of Taos	B–5242–5–00–81–55	10,500	42,001	52,501
35	NM	Pueblo of Zuni	B–5243–5–00–81–55	61,203	244,811	306,014
35	NM	Ramah Navajo School Board, Inc	B–5244–5–00–81–55	24,650	98,601	123,251
35	NM	Santa Clara Indian Pueblo	B–5245–5–00–81–55	6,758	27,032	33,790
35	NM	Santo Domingo Tribe	B–5246–5–00–81–55	18,175	72,702	90,877
36	NY	American Indian Community House, Inc	B–5247–5–00–81–55	123,949	495,795	619,744
36	NY	Native American Cultural Center, Inc	B–5249–5–00–81–55	47,701	190,803	238,504
36	NY	Native Am. Comm. Services of Erie & Niag	B–5250–5–00–81–55	35,926	143,702	179,628
36	NY	St. Regis Mohawk Tribe	B–5251–5–00–81–55	29,680	118,722	148,402
36	NY	Seneca Nation of Indians	B–5252–5–00–81–55	43,780	175,119	218,899
37	NC	Cumberland County Association for Indian	B–5253–5–00–81–55	19,156	76,623	95,779
37	NC	Eastern Band of Cherokee Indians	B–5254–5–00–81–55	46,789	187,156	233,945
37	NC	Guilford Native American Association	B–5255–5–00–81–55	13,699	54,794	68,493
37	NC	Haliwa-Saponi Tribe, Inc	B–5256–5–00–81–55	15,421	61,683	77,104
37	NC	Lumbee Regional Development Association	B–5257–5–00–81–55	202,667	810,666	1,013,333
37	NC	Metrolina Native American Association	B–5258–5–00–81–55	14,001	56,003	70,004
37	NC	North Carolina Commission of Indian Affa	B–5259–5–00–81–55	47,634	190,536	238,170
38	ND	Devils Lake Sioux Tribe	B–5260–5–00–81–55	29,682	118,728	148,410
38	ND	Standing Rock Sioux Tribe	B–5261–5–00–81–55	50,494	201,976	252,470
38	ND	Three Affiliated Tribes—Ft. Berthold R	B–5262–5–00–81–55	38,961	155,845	194,806
38	ND	Turtle Mountain Band of Chippewa Indians	B–5263–5–00–81–55	80,282	321,128	401,410
38	ND	United Tribes Technical College	B–5264–5–00–81–55	39,040	156,158	195,198
39	OH	North American Indian Cultural Centers	B–5265–5–00–81–55	105,545	422,178	527,723
40	OK	Caddo Tribe of Oklahoma	B–5266–5–00–81–55	6,438	25,751	32,189
40	OK	Central Tribes of Shawnee Area, Inc	B–5267–5–00–81–55	15,665	62,661	78,326
40	OK	Cherokee Nation of Oklahoma	B–5268–5–00–81–55	306,422	1,225,687	1,532,109
40	OK	Cheyenne-Arapaho Tribes	B–5269–5–00–81–55	48,605	194,418	243,023
40	OK	Chickasaw Nation of Oklahoma	B–5270–5–00–81–55	109,402	437,606	547,008
40	OK	Choctaw Nation of Oklahoma	B–5271–5–00–81–55	158,650	634,598	793,248
40	OK	Citizen Band Potawatomi Indians of Oklah	B–5272–5–00–81–55	66,544	266,175	332,719
40	OK	Comanche Tribe of Oklahoma	B–5273–5–00–81–55	34,565	138,260	172,825
40	OK	Creek Nation of Oklahoma	B–5274–5–00–81–55	143,317	573,266	716,583
40	OK	Four Tribes Consortium of Oklahoma	B–5275–5–00–81–55	22,221	88,885	111,106
40	OK	Inter-Tribal Council of N.E. Oklahoma	B–5276–5–00–81–55	18,077	72,306	90,383
40	OK	Kiowa Tribe of Oklahoma	B–5277–5–00–81–55	45,146	180,585	225,731

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION NATIVE AMERICANS PY 1995 TITLE IV–A ALLOTMENTS—Continued

State		Grantee	Grant No.	Administrative	Program	Total
40	OK	Oklahoma Tribal Assistance Program, Inc	B–5278–5–00–81–55	74,085	296,340	370,425
40	OK	Osage Tribal Council	B–5279–5–00–81–55	26,651	106,606	133,257
40	OK	OTOE–Missouria Tribe of Oklahoma	B–5280–5–00–81–55	9,076	36,306	45,382
40	OK	Pawnee Tribe of Oklahoma	B–5281–5–00–81–55	9,595	38,378	47,973
40	OK	Ponca Tribe of Oklahoma	B–5282–5–00–81–55	22,131	88,526	110,657
40	OK	Sac & Fox Nation of Oklahoma	B–5283–5–00–81–55	6,810	27,239	34,049
40	OK	Seminole Nation of Oklahoma	B–5284–5–00–81–55	28,036	112,146	140,182
40	OK	Tonkawa Tribe of Oklahoma	B–5285–5–00–81–55	16,089	64,354	80,443
40	OK	United Urban Indian Council, Inc	B–5286–5–00–81–55	118,768	475,070	593,838
41	OR	Confed. Tribes of Siletz Indians of Oreg	B–5287–5–00–81–55	113,391	453,563	566,954
41	OR	Confed. Tribes of the Umatilla Indian Re	B–5288–5–00–81–55	8,171	32,684	40,855
41	OR	Confederated Tribes of Warm Springs	B–5289–5–00–81–55	21,954	87,815	109,769
41	OR	Organization of Forgotten Americans	B–5290–5–00–81–55	78,451	313,805	392,256
42	PA	Council of Three Rivers	B–5291–5–00–81–55	115,862	463,449	579,311
42	PA	United American Indians of the Delaware	B–5292–5–00–81–55	28,259	113,035	141,294
44	RI	Rhode Island Indian Council	B–5293–5–00–81–55	47,466	189,865	237,331
45	SC	Catawba Indian Nation	B–5294–5–00–81–55	37,747	150,986	188,733
46	SD	Cheyenne River Sioux Tribe	B–5295–5–00–81–55	52,186	208,745	260,931
46	SD	Crow Creek Sioux Tribe	B–5129–5–00–81–55	14,455	57,818	72,273
46	SD	Lower Brule Sioux Tribe	B–5296–5–00–81–55	9,754	39,016	48,770
46	SD	Oglala Sioux Tribe	B–5297–5–00–81–55	135,958	543,834	679,792
46	SD	Rosebud Sioux Tribe	B–5298–5–00–81–55	87,746	350,982	438,728
46	SD	Sisseton-Wahpeton Sioux Tribe	B–5299–5–00–81–55	34,007	136,030	170,037
46	SD	United Sioux Tribe Development Corp	B–5300–5–00–81–55	121,793	487,170	608,963
47	TN	Native American Indian Association	B–5301–5–00–81–55	60,221	240,884	301,105
48	TX	Alabama-Coushatta Indian Tribal Council	B–5302–5–00–81–55	129,838	519,352	649,190
48	TX	Dallas Inter-Tribal Center	B–5303–5–00–81–55	66,879	267,517	334,396
48	TX	Ysleta del Sur Pueblo	B–5304–5–00–81–55	79,083	316,334	395,417
49	UT	Indian Training & Education Center	B–5305–5–00–81–55	96,829	387,318	484,147
49	UT	Ute Indian Tribe	B–5306–5–00–81–55	24,120	96,480	120,600
50	VT	Abenaki Self-Help Association/NH Ind. C	B–5307–5–00–81–55	23,846	95,382	119,228
51	VA	Mattaponi Pamunkey Monacan Consortium	B–5308–5–00–81–55	45,906	183,625	229,531
53	WA	American Indian Community Center	B–5309–5–00–81–55	137,555	550,222	687,777
53	WA	Colville Confederated Tribes	B–5310–5–00–81–55	35,537	142,147	177,684
53	WA	Lummi Indian Business Council	B–5311–5–00–81–55	20,908	83,632	104,540
53	WA	Makah Tribal Council	B–5131–5–00–81–55	6,097	24,386	30,483
53	WA	Puyallup Tribe of Indians	B–5312–5–00–81–55	30,167	120,666	150,833
53	WA	Seattle Indian Center	B–5313–5–00–81–55	74,358	297,432	371,790
53	WA	The Tulalip Tribes	B–5130–5–00–81–55	5,830	23,322	29,152
53	WA	Western WA Indian Empl. and Trng Pgm	B–5314–5–00–81–55	155,897	623,588	779,485
55	WI	Ho-Chunk Nation	B–5322–5–00–81–55	40,063	160,253	200,316
55	WI	Lac Courte Oreilles Tribal Governing Boa	B–5315–5–00–81–55	29,767	119,068	148,835
55	WI	Lac Du Flambeau Band of Lake Superior Ch	B–5316–5–00–81–55	16,107	64,428	80,535
55	WI	Menominee Indian Tribe of Wisconsin	B–5317–5–00–81–55	30,839	123,356	154,195
55	WI	Milwaukee Area Am. Ind. Manpower Council	B–5318–5–00–81–55	45,537	182,148	227,685
55	WI	Oneida Tribe of Indians of WI, Inc	B–5319–5–00–81–55	40,042	160,167	200,209
55	WI	Stockbridge-Munsee Community	B–5320–5–00–81–55	14,561	58,245	72,806
55	WI	Wisconsin Indian Consortium	B–5321–5–00–81–55	28,287	113,146	141,433
56	WY	Shoshone/Arapahoe Tribes	B–5323–5–00–81–55	77,196	308,783	385,979

Note: Current section 401 grantees discovering any discrepancies between the above figures and the most recent Notice of Obligation (NOO) received from the Department should immediately report such discrepancies to their DINAP Federal Representative Team or to the Grant Officer, James DeLuca.

Signed at Washington, D.C., this 14th day of August, 1995.

Thomas M. Dowd,

Chief, Division of Indian and Native American Programs.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

James C. DeLuca,

Grant Officer, Office of Grants and Contracts Management, Division of Acquisition and Assistance.

[FR Doc. 95–20531 Filed 8–17–95; 8:45 am]

BILLING CODE 4510–30–P

THE COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for 19 September 1995 at 10:00 AM in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001 to discuss various projects affecting the appearance of Washington, D.C., including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral

statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, D.C. 27 July 1995.

Charles H. Atherton,

Secretary.

[FR Doc. 95–20533 Filed 8–17–95; 8:45 am]

BILLING CODE 6330–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting an expedited notice of information collection that will affect the public. Interested persons are invited to submit comments by September 15, 1995. Copies of materials may be obtained at the NSF address or telephone number shown below.

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Contracts, Policy, and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306–1243. Comments may also be submitted to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs, ATTN: Jonathan Winer, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Evaluation of the National Science Foundation's Science and Technology Centers Program (STC).

Affected Public: Individuals or households and non-profit institutions.

Respondents/Reporting Burden: 850 respondents, 680 total burden hours.

Abstract: NSF needs to evaluate the accomplishments and impacts of its Science and Technology Centers program in order to (1) Make a number of management decisions regarding the future of the program, and (2) report to OMB and the Congress under the GPRA pilot study arrangement; information will be gathered from Principal Investigators, Deans, industry and education users, and Ph.D graduates in industry and their supervisors.

Dated: August 15, 1995.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 95–20523 Filed 8–17–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

In the Matter of Entergy Operations, Inc., (Waterford Steam Electric Station, Unit 3); Exemption

I

Entergy Operations, Inc., (the licensee) is the holder of Facility Operating License No. NPF–38, which authorizes operation of the Waterford Steam Electric Station, Unit 3 (Waterford 3). The operating license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site in St. Charles Parish, Louisiana.

II

Title 10 CFR 73.55, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,'' paragraph (a), in part, states that ''The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

10 CFR 73.55(d), ''Access Requirements,'' paragraph (1), specifies that ''The licensee shall control all points of personnel and vehicle access into a protected area.'' 10 CFR 73.55(d)(5) requires that ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.'' 10 CFR 73.55(d)(5) also states that an individual not employed by the licensee (i.e., contractors) may be authorized access to protected areas without escort provided the individual ''receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area . . .''

The licensee proposed to implement an alternative unescorted access control system which would eliminate the need to issue and retrieve badges at each entrance/exit location and would allow all individuals with unescorted access to keep their badge with them when departing the site.

An exemption from 10 CFR 73.55(d)(5) is required to allow contractors who have unescorted access to take their badges offsite instead of returning them when exiting the site. By letter dated October 24, 1994, the licensee requested an exemption from certain requirements of 10 CFR 73.55(d)(5) for this purpose.

III

Pursuant to 10 CFR 73.5, ''Specific exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Pursuant to 10 CFR 73.55, the Commission may authorize a licensee to provide alternative measures for protection against radiological sabotage provided the licensee demonstrates that the alternative measures have ''the same high assurance objective'' and meet ''the general performance requirements'' of the regulation, and ''the overall level of system performance provides protection against radiological sabotage equivalent'' to that which would be provided by the regulation.

Currently, employee and contractor identification/access control cards are issued and retrieved on the occasion of each entry to and exit from the protected areas of the Waterford 3 site. Station security personnel are required to maintain control of the badges while the individuals are offsite. This practice has been in effect at the Waterford 3, since the operating license was issued. Security personnel retain each identification access control card, when not in use by the authorized individual, within appropriately designed storage receptacles inside a bullet-resistant enclosure. An individual who meets the access authorization requirements is issued a picture identification card which also serves as an access control card. This card allows entry into preauthorized areas of the station. While entering the plant in the present configuration, an authorized individual is ''screened'' by the required detection equipment and by the issuing security officer. Having received the badge, the individual proceeds to the access portal, inserts the access control card into the card reader, and passes through the turnstile which is unlocked by the access card. Once inside the station, the access card allows entry into areas if the preauthorized criteria are met.

This present procedure is labor intensive since security personnel are required to verify badge issuance, ensure badge retrieval, and maintain the badges in orderly storage until the next entry into the protected area. The

regulations permit employees to remove their badges from the site, but an exemption from 10 CFR 73.55(d)(5) is required to permit contractors to take their badges offsite instead of returning them when exiting the site.

Under the proposed system, all individuals authorized to gain unescorted access will have the physical characteristics of their hand (hand geometry) recorded with their badge number. Since the hand geometry is unique to each individual and its application in the entry screening function would preclude unauthorized use of a badge, the requested exemption would allow employees and contractors to keep their badges at the time of exiting the protected area. The process of verifying badge issuance, ensuring badge retrieval, and maintaining badges could be eliminated while the balance of the access procedure would remain intact. Firearm, explosive, and metal detection equipment and provisions for conducting searches will remain as well. The security officer responsible for the last access control function (controlling admission to the protected area) will also remain isolated within a bullet-resistant structure in order to assure his or her ability to respond or to summon assistance.

Use of a hand geometry biometrics system exceeds the present verification methodology's capability to discern an individual's identity. Unlike the photograph identification badge, hand geometry is nontransferable. During the initial access authorization or registration process, hand measurements are recorded and the template is stored for subsequent use in the identity verification process required for entry into the protected area. Authorized individuals insert their access authorization card into the card reader and the biometrics system records an image of the hand geometry. The unique features of the newly recorded image are then compared to the template previously stored in the database. Access is ultimately granted based on the degree to which the characteristics of the image match those of the ''signature'' template.

Since both the badge and hand geometry would be necessary for access into the protected area, the proposed system would provide for a positive verification process. Potential loss of a badge by an individual, as a result of taking the badge offsite, would not enable an unauthorized entry into protected areas.

The access process will continue to be under the observation of security personnel. The system of identification badges coupled with their associated access control cards will continue to be used for all individuals who are authorized access to protected areas without escorts. Badges will continue to be displayed by all individuals while inside the protected area. Addition of a hand geometry biometrics system will provide a significant contribution to effective implementation of the security plan at each site.

IV

For the foregoing reasons, pursuant to 10 CFR 73.55, the NRC staff has determined that the proposed alternative measures for protection against radiological sabotage meet ''the same high assurance objective,'' and ''the general performance requirements'' of the regulation and that ''the overall level of system performance provides protection against radiological sabotage equivalent'' to that which would be provided by the regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, as long as the licensee uses the hand geometry access control system, the Commission hereby grants Entergy Operations, Inc. an exemption from those requirements of 10 CFR 73.55(d)(5) relating to the returning of picture badges upon exit from the protected area such that individuals not employed by the licensee, i.e., contractors, who are authorized unescorted access into the protected area, can take their badges offsite.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 40865). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 11th day of August 1995.

For The Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20512 Filed 8–17–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–289]

GPU Nuclear Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–50 issued to GPU Nuclear Corporation (the licensee) for operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1) located in Dauphin County, Pennsylvania.

The proposed amendment would remove Technical Specification (TS) Section 3.2, ''Makeup and Purification and Chemical Addition Systems,'' and its bases. The pertinent requirements and bases applicable to these systems are being incorporated in the TMI–1 Updated Final Safety Analysis Report (UFSAR). This proposed change is consistent with the Standard Technical Specifications for Babcock and Wilcox Plants (NUREG–1430, September 1992), which do not include requirements for these systems. The proposed change is also consistent with the Commission's criteria to be used to determine which structures, systems, and components are to be included in the TS. These criteria were recently codified in 10 CFR 50.36 of the Commission's regulations as noticed in the **Federal Register** (60 FR 36953, July 19, 1995). The licensee's request for the amendment under consideration is dated August 11, 1995, and supersedes an earlier request dated May 17, 1995. The staff had noticed the earlier request in the **Federal Register** on June 21, 1995 (60 FR 32365).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The administrative relocation of the existing Technical Specification 3.2 requirements for the Makeup and Purification and Chemical Addition Systems to the TMI–1 UFSAR is

unrelated to the probability of occurrence or the consequences of an accident previously evaluated. Design basis accident and transient analysis criteria regarding emergency core cooling system (ECCS) cold shutdown boration requirements are maintained in TMI–1 Technical Specification Section 3.3. The requirements currently contained in Technical Specification 3.2 do not meet the criteria in the NRC ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' July 1992, as codified by the revision to 10 CFR 50.36. The proposed amendment is expected to produce an improvement in safety through reduced potential action statement induced plant transients. Therefore, the proposed amendment has no effect on the probability of occurrence or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. Design basis accident and transient analysis criteria regarding ECCS cold shutdown boration requirements are maintained in TMI–1 Technical Specification Section 3.3. Administrative relocation of the existing Technical Specification 3.2 requirements for the Makeup and Purification and Chemical Addition Systems to the UFSAR ensures that these system requirements and bases are appropriately controlled in accordance with the requirements of 10 CFR 50.59. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment is consistent with the Standard Technical Specifications for Babcock and Wilcox Plants, NUREG–1430, July 1992, and the NRC Final Policy Statement on Improvements to Technical Specifications. The requirements currently contained in TMI–1 Technical Specification Section 3.2 do not meet any of the four (4) criteria in the Final Policy Statement for inclusion in Technical Specifications, as codified in the revision to 10 CFR 50.36. The proposed amendment is expected to produce an improvement in safety through reduced potential action statement induced plant transients. Administrative relocation of the existing TMI–1 Technical Specification Section 3.2 requirements for the Makeup and Purification and Chemical Addition Systems to the UFSAR ensures that these system requirements and bases are appropriately controlled in accordance with the requirements of 10 CFR 50.59. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 18, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to

rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 11, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this day of August 1995.

For The Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20513 Filed 8–17–95; 8:45 am]

BILLING CODE 7590–01–P

Proposed Generic Letter; Revised Contents of the Monthly Operating Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter regarding revised monthly operating report (MOR) contents. The purpose of the proposed generic letter is to inform licensees of nuclear power reactors that the NRC is requesting the submittal, on a voluntary basis, of less information in a modified version of the monthly operating report.

In a staff requirements memorandum (SRM) dated April 26, 1994, in which the Commission endorsed the NRC staff proposal in SECY–94–093 to assess the reporting requirements for power reactor licensees and initiate rulemaking or other appropriate actions consistent with the plan for implementing the recommendations of the Regulatory Review Group (SECY–94–003), the Commission cautioned NRC staff to ''consider the public's need for the information in assessing the body of reporting requirements.'' Therefore, the NRC is seeking comment from interested parties on the generic letter presented under the Supplementary Information heading, regarding the need to (1) retain information deleted from the monthly operating report identified in Draft Regulatory Guide 1.16/Revision 4, ''Reporting of Operating Information-Appendix A Technical Specifications,'' or (2) further restrict or more explicitly define the information to be reported in the monthly operating report. As an example, in focusing on the reporting of performance indicator data in the MOR, information needed to calculate unit availability will no longer be reported; this includes the unit reserve shutdown hours and the hours in the reporting period. While this statistic may be of interest to certain elements of the industry or public, it is not an essential part of the safety mission of the agency to continue to compile this information.

This generic letter was endorsed by the Committee to Review Generic Requirements (CRGR) on August 1, 1995. The relevant information that was sent to the CRGR will be placed in the Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The final evaluation by the NRC will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the Public Document Room.

DATES: Comment period expires on September 18, 1995. Comments submitted after this date will be considered if it is practical to do so; assurance of consideration can only be given for those comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

SUPPLEMENTARY INFORMATION: NRC GENERIC LETTER 95–XX: REVISED CONTENTS OF THE MONTHLY OPERATING REPORT

Addressees

All holders of operating licenses for nuclear power plants.

Purpose

The purpose of this generic letter is to inform licensees that the NRC is requesting the submittal of less information in the monthly operating report. This generic letter requires no specific action or written response.

Discussion

Overview

The assessment of NRC information gathering needs has been the subject of several staff reviews. These reviews have focused on identifying duplicative reporting, determining whether some reports could be reduced in scope or eliminated, and determining whether the frequency of reporting could be reduced. In this regard, the NRC staff concludes that the scope of the information requested in the operating report, which is called for in the Technical Specifications, may be reduced.

Need for the Monthly Operating Report

The impetus for the operating report came from the 1973–1974 oil embargo. Draft Regulatory Guide 1.16, Revision 4, ''Reporting of Operating Information—Appendix A Technical Specifications,'' published for comment in August 1975, identifies operating statistics and shutdown experience information then desired in the operating report. Licensees have generally followed the guidance of the draft Regulatory Guide. The NRC previously compiled this information on a monthly basis and published it in hard copy form as NUREG–0020, ''Licensed Operating Reactors—Status Summary Report'' (referred to as the ''Gray Book''), but now publishes this information on an annual basis as an Idaho National Engineering Laboratory (INEL) report and also makes it available on diskette.

The NRC staff assessed the information that is submitted in the operating report and determined that it is a unique source of information for two of the eight performance indicators approved by the Commission for the NRC Performance Indicator (PI) Program. Performance indicator data are fundamental tools used by the NRC staff to independently analyze nuclear power plant safety performance trends. The performance indicator data provided in the operating report include the number of reactor critical hours for the equipment forced outage indicator, the forced outage hours for the equipment forced outage and forced outage rate indicators, and the outage type (whether forced or scheduled) for the forced outage rate and equipment forced outage indicators. NRC will retain the operating report because the agency has a continuing need to receive this performance indicator data, and at the same frequency. Information reported in the operating report can be limited to that needed to support the PI Program because no safety argument has been presented to justify continuing to receive and compile the other information that is identified in Draft Regulatory Guide 1.16, Revision 4, Section C.1.c. Attachment 1 to this generic letter delineates the information that is needed for the PI Program.

Voluntary Response Requested

Effective immediately, licensees of operating nuclear power plants submitting operating reports called for in the Technical Specifications may do so in accordance with the guidance provided in Attachment 1 to this generic letter. Implementation of this option by licensees is voluntary. However, licensees will have to take whatever means are appropriate to negate any prior commitments to provide operating reports which contain the information identified in Draft Regulatory Guide 1.16, Revision 4, Section C.1.c; this may include an amendment to the facility operating license to remove a license condition. Licensees who choose not to implement this option may continue to submit operating reports as they have in the past.

Backfit Discussion

The NRC staff has determined that the backfit rule, Section 50.109 of Title 10 of the Code of Federal Regulations (10 CFR 50.109), does not apply to this generic letter because the submittal by licensees of a monthly operating report of the scope described in Attachment 1 is strictly voluntary.

Federal Register Notification

(To be completed after the public comment period.)

Paperwork Reduction Act Statement

The voluntary information collections contained in this request are covered by the Office of Management and Budget clearance number 3150–0011, which expires July 31, 1997. The public reporting burden for this monthly collection of information was previously estimated to average 50 hours per response. The NRC staff now estimates that the reporting burden will average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, for those addressees who opt to submit modified operating reports that conform to the guidance contained in this generic letter. Send comments regarding this burden estimate or any other aspect of this voluntary collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, D.C. 20503

Attachment 1—Monthly Operating Report Contents

Background

As part of its mission to protect public health and safety, the NRC monitors the performance of licensees that operate the commercial nuclear power plants in the United States. This monitoring effort alerts the NRC to the necessity of adjusting plant-specific regulatory programs. One monitoring tool being used is a set of eight performance indicators (PIs). The PIs provide information about plant performance trends and assist NRC management to identify poor and/or declining safety performance, as well as good and/or improving performance. PI reports were produced quarterly from 1987 to June 1993, then semiannually until June 1995, and annually thereafter. The reports are provided to the Commission, NRC senior managers, licensee senior managers, and to the public through the NRC Public Document Rooms.

The following eight indicators are currently evaluated to determine performance trends among the commercial nuclear power plants: (1) Unplanned automatic reactor trips while critical, (2) selected safety system actuations, (3) significant events, (4) safety system failures, (5) forced outage rate, (6) equipment-forced outages per 1000 commercial critical hours, (7) collective radiation exposure, and (8) cause codes.

The NRC Performance Indicator (PI) Program has been improved and expanded since it was first introduced. Comparison with plant peer groups and the impact of operational conditions on plant PIs was included in the reports beginning with the first quarter of 1993. Plants have been categorized into nine peer groups based on the nuclear steam supply system vendor, the product line, the generating capacity, and the licensing date; a tenth peer group includes all new plants that received a low-power license since January 1, 1987. Calculations of PI trends and deviations are based on an operational cycle methodology; the operational cycle consists of a refueling outage, a plant startup, power operations,

nonrefueling outages, and a prerefueling phase.

Contents of the Monthly Operating Report

Routine reports of operating statistics and shutdown experience are needed to support the NRC Performance Indicator Program. Therefore, the following information should continue to be provided in the monthly operating report:

• Docket Number, Unit Name, Date, Name and Telephone Number of Preparer, and Reporting Month

This information is needed for administrative, tracking, and data entry purposes for the PI Program.

• Unit Shutdowns, including:

—Sequential number of shutdown for calendar year
—Date of start of shutdown
—Type (Forced or Scheduled)
—Duration (hours)—to the nearest tenth of an hour
—Reason for shutdown
—Method of shutting down the reactor
—Corrective actions/comments
—Narrative summary of monthly operating experience

This information is needed to calculate the following performance indicators in the PI report: forced outage rate and equipment-forced outages per 1000 commercial critical hours. The information is also used to confirm the operational phase of each event. The operational phase is identified in the PI report for various initiators: automatic trip while critical, safety system actuation, significant event, safety system failure, and cause codes.

• Number of Hours the Reactor Was Critical

This information is needed to calculate the equipment forced outage indicator and to tabulate critical hours in the PI report.

• Number of Hours the Generator Was On Line (Service Hours)

This information is needed to calculate the forced outage rate indicator in the PI report.

Appendices A and B of this attachment provide further guidance concerning the information that should continue to be submitted. Appendices A and B may also be used as a guide for the format of the information submitted in the monthly operating report. The completed operating report should be submitted by the tenth of the month following the calendar month covered by the report to Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001.

Dated at Rockville, Maryland, this 11th day of August, 1995.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

Appendix A—Operating Data Report

Docket No. _____

Unit Name _____

Date _____

Completed By _____

Telephone _____

(This report should continue to be furnished on a monthly basis by licensees.)

Reporting Period: (Month/Year) _____

MONTH YEAR-TO-DATE CUMULATIVE

1. Number of Hours the Reactor Was Critical. The total number of hours during the reporting period that the reactor was critical.
2. Number of Hours the Generator Was On Line. (Also called Service Hours.) The total number of hours during the reporting period that the unit operated with breakers closed to the station bus.

Appendix B—Unit Shutdowns

Docket No. _____

Unit Name _____

Date _____

Completed By _____

Telephone _____

Reporting Period: (Month/Year) _____

No.	Date	Type F: Forced S: Scheduled	Duration (Hours)	Reason (1)	Method of Shutting Down (2)	Cause/Corrective Actions Comments
						(1) Reason A—Equipment Failure (Explain) B—Maintenance or Test C—Refueling D—Regulatory Restriction E—Operator Training/License Examination F—Administrative G—Operational Error (Explain) H—Other (Explain) (2) Method 1—Manual 2—Manual Trip 3—Automatic Trip 4—Continuation 5—Load Reduction 6—Other (Explain)

[FR Doc. 95–20514 Filed 8–17–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Procurement Regulatory Activity Report; Availability

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of availability of the *Procurement Regulatory Activity Report, Number 11.*

SUMMARY: Subsections 25(g) (1) and (2) of the Office of Federal Procurement Policy (OFPP) Act, as amended by Public Law 100–679, codified at 41 U.S.C. § 421(g), require the Administrator for Federal Procurement Policy to publish a report within six months after the date of enactment and every six months thereafter relating to the development of procurement regulations.

Accordingly, OFPP has prepared this report, which is designed to satisfy all aspects of subsections 25(g) (1) and (2) of the OFPP Act, and includes information on the status of each regulation; a description of those regulations required by statute; a description of the methods by which public comment was sought; regulations, policies, procedures, and forms under review by the OFPP; whether the regulations have paperwork requirements; the progress made in promulgating and implementing the Federal Acquisition Regulation; and

such other matters as the Administrator determines to be useful.

ADDRESSES: Those persons interested in obtaining a copy of the procurement Regulatory Activity Report may contact the Executive Office of the President Publications Service, Room 2200, 725 17th Street, NW., Washington, DC 20503, or phone 202–395–7332.

ADDITIONAL INFORMATION: For additional information write the Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503 or call 202–395–6803.

Dated: August 15, 1995.

Steven Kelman,

Administrator.

[FR Doc. 95–20557 Filed 8–17–95; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36096; File No. SR–Phlx–95–51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Employee Trading Accounts

August 11, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 17, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Phlx Rule 751 to require employees of member organizations to receive permission from their employer before opening a securities trading account. Specifically, member and participant organizations would be prohibited from carrying an account or transaction for employees of a member or participant organization, unless the employer consents in writing. Further, the employer would received duplicate copies of the employees' confirmation reports and trading account statements. The Exchange also proposes to retitle the rule from ''Transactions for Clerks Entitled to Access to Floor'' to ''Accounts of Employees of Member or Participant Organizations.''

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of an 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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx Rule 751 currently requires that a member organization carrying the account of a clerk entitled to access the Floor of the Exchange must receive prior approval from the Business Conduct Committee (''BCC''). Thus, the current rule impacts floor clerks only and does not provide for employer knowledge of a trading account.

Accordingly, the Exchange proposes to amend Phlx Rule 751 as proposed above. The proposed language would replace BCC approval with employer consent and expand coverage to all employees associated with a member or participant organization. The employer also would receive duplicate confirmations and account statements in order to effectively monitor the employees' ongoing securities transactions. The Exchange believes that BCC approval is an ineffective monitoring mechanism because it provides for the initial approval for the opening of such accounts, but has no reporting requirements that would allow for the ongoing supervision of such accounts. Moreover, the Rule's current application to floor clerks only does not reach non-floor employees who are also subject to supervision requirements and for whom employee awareness also is needed to deter and detect abuses.[2]

The purpose of these changes is to bolster the requirements respecting employee trading accounts. By increasing the employers' awareness of its employees' trading patterns through the use of employer consent and duplicate records relating to the account, the Exchange believes member organizations will be able to supervise their employees more effectively. In addition to being consistent with many firms' current procedures, the Exchange notes that this proposal is congruous with the rules of other self-regulatory organizations.[3]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[4] of the Act 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 to protect investors and the public interest by bolstering the restrictions on employee trading accounts and thereby improve employer supervision.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no 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 has neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other 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.

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Phlx Rule 748 (requiring members to supervise all accounts handled by their registered representatives); Phlx Rule 761 (mandating that member organizations maintain written supervisory procedures as required by the Insider Trading and Securities Fraud Enforcement Act of 1988).

[3] *See* New York Stock Exchange Rule 407; American Stock Exchange Rule 416; Pacific Stock Exchange Rule 9.2; and NASD Rules of Fair Practice, Article III, Section 28.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. 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 Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Philadelphia Stock Exchange. All submissions should refer to File No. SR–Phlx–95–51 and should be submitted by September 8, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20478 Filed 8–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21280; File No. 811–3437]

Jefferson-Pilot Money Market Fund, Inc, et al.

August 11, 1995.

AGENCY: U.S. Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANT: Jefferson-Pilot Money Market Fund, Inc. (''JP Money Market'').

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: The Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 16, 1994, and amended on August 7, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 5, 1995, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549; Applicant, c/o J. Gregory Poole, Esq., Jefferson-Pilot Life Insurance Company 100 North Greene Street, Greensboro, North Carolina 27401.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Patrice M. Pitts, Special Counsel, Division of Investment Management (Office of Insurance Products), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicant's Representations

1. JP Money Market is organized as a North Carolina corporation, and is registered under the 1940 Act as an open-end diversified management investment company. On April 1, 1982, JP Money Market filed an initial registration statement on Form N–1 to register shares under the Securities Act of 1933 (File No. 2–76802), and notified the SEC of its registration as an investment company by filing a Notice of Registration on Form N–8A (File No. 811–3437). Applicant's registration statement was declared effective by the SEC on October 26, 1982.

2. The SEC granted an order on October 21, 1994 (Rel. No. IC–20643) permitting the substitution of shares of the Variable Insurance Products Funds' Money Market Portfolio for shares of JP Money Market. On October 27, 1994, the Applicant redeemed for cash all outstanding shares of the fund it held on behalf of Jefferson-Pilot Separate Account A, a separate account organized by Jefferson-Pilot Life Insurance Company (''JP Life'') and registered under the 1940 Act as a unit investment trust for the purpose of funding individual variable annuity contracts. Commencing October 27, 1994, and continuing through November 7, 1994, JP Life redeemed its shares of JP Money Market at net asset value. This redemption of shares by JP Life, which represented its ''seed'' money in JP Money Market, took place over a twelve day period as the shares were redeemed coincident with the maturity of short-term securities held by JP Money Market. The shares redeemed for Jefferson-Pilot Separate Account A and those redeemed for JP Life constituted all the outstanding shares of Applicant.

3. On December 12, 1994, Applicant's Board of Directors adopted a resolution directing that JP Money Market be deregistered under the 1940 Act.

4. Applicant is not a party to any litigation or administrative proceeding and is not now engaged, nor does it intend to engage, in any business activities other than those necessary for the winding-up of its affairs.

5. Applicant has no debts. There were no expenses, including brokerage commissions, incurred in connection with the liquidation. Any expenses involved in the dissolution of Applicant as a North Carolina corporation will be borne by JP Management, Applicant's investment adviser.

6. JP Money Market is current with all of it filings under the Act, including all Form N–SAR filings.

7. Applicant currently has no assets, has no security holders or shares outstanding, and is in the process of winding up its affairs. Applicant has not sold its assets or securities to another investment company, nor transferred its assets to any other trust, nor has it or will it merge into or consolidate with another registered investment company. Applicant has no reason for continuing to be registered as an investment company. Applicant has no reason for continuing to be registered as an investment company.

8. Applicant intends to file with the North Carolina Secretary of State the documents necessary to dissolve itself as a North Carolina corporation, thereby ceasing to exist as a legal entity.

Conclusion

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20479 Filed 8–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21279; No. 812–9406]

Security Life of Denver Insurance Company, et al.

August 11, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

[6] 17 C.F.R. 200.30–3(a)(12).

APPLICANTS: Security Life of Denver Insurance Company (''Security Life''), Security Life Separate Account L1 (''Separate Account''), and ING America Equities, Inc. (formerly known as SLD Equities, Inc.) (''ING Equities'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Section 27(a)(3) of the 1940 Act and Rule 6e–3(T)(b)(13)(ii) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the issuance of a variable life insurance contract (''Contract'') with a front-end sales load structure in which the percentage of sales charge deducted from any target premium payment could exceed that percentage deducted from any premium payment made in a prior year in excess of the target premium.

FILING DATE: The application was filed on December 30, 1994, and amended on July 26, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 1, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested.

Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Applicants, c/o Jerrianne Smith, Security Life of Denver Insurance Company, Security Life Center, 1290 Broadway, Denver, Colorado 80203–5699.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Brenda Sneed, Assistant Director, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Security Life, a Colorado stock life insurance company, principally is engaged in offering life insurance, annuities and pension products. Security Life is licensed to do business in the District of Columbia and all states except New York. Security Life is an indirect wholly-owned subsidiary of Internationale Nederlanden Groep, N.V. (''ING''). ING is headquartered in The Hague, Netherlands. ING is subject to the oversight of Internationale Nederlanden America Life Corporation, located in Georgia, which also is an indirect wholly-owned subsidiary of ING.

2. The Separate Account was established by Security Life as a separate account under the laws of Colorado. The Separate Account is registered as a unit investment trust under the 1940 Act.[1] A registration statement also has been filed under the Securities Act of 1933 in connection with the offering of the Contract by the Separate Account.[2] The Separate Account presently has seventeen divisions (''Divisions''), each of which invests in shares of a corresponding portfolio of an open-end diversified management investment company.

3. ING Equities (formerly, SLD Equities, Inc.),[3] a wholly-owned subsidiary of Security Life, is the principal underwriter for the Contract. ING Equities is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

4. The Contract is a flexible premium variable universal life insurance contract issued by Security Life in reliance on Rule 6e–3(T) under the 1940 Act. The Contract provides insurance coverage with flexibility in death benefits and premium payments and is designed primarily for use on a multiple-life basis where the insureds share a common employment or business relationship. The Contract provides for allocation of net premium payments to one or more of the Divisions and to a Guaranteed Interest Division which guarantees a minimum fixed rate of interest, or both. The Contract also provides for certain guarantees against lapse. If premium payments are discontinued, the Contract will continue in effect until the cash value, less any Contract loans and accrued loan interest, no longer can cover the monthly deductions for the benefits selected, after which the Contract will lapse.[4]

5. Certain fees and charges are deducted under the Contract, including: (a) a charge equal to 2.5% of each premium for state premium taxes; (b) a charge currently equal to 1.5% of each premium for the estimated costs for the Federal income tax treatment of Security Life's deferred acquisition costs under Section 848 of the Internal Revenue Code of 1986, as amended, (commonly referred to as the ''DAC Tax'');[5] (c) a mortality and expense risk charge at an annual rate of 0.75%; (d) an initial Contract charge of $10 per month from Account Value for the first five Contract years for administrative expenses, cost of insurance, Guaranteed Minimum Death Benefit coverage, if elected, and any additional benefits provided by rider;[6] and (e) administrative charges in connection with certain Contract transactions, consisting of (i) a service fee equal to the lesser of $25 or 2% of amount requested for each partial withdrawal, (ii) a fee of $25 for each additional transfer after the first 12 in a Contract year, (iii) a fee of $25 for each premium allocation change after the first five in each Contract year, and (iv) reservation of the right to charge a fee not to exceed $25 for Contract illustrations in excess of one per Contract year.

Applicants state that the administrative charges imposed in connection with the Contracts are not designed to yield a profit to Security Life. All administrative and other

[1] Applicants incorporate this registration statement by reference to the extent necessary to support and supplement the descriptions and representations set out in this application.

[2] Applicants incorporate this registration statement by reference to the extent necessary to support and supplement the descriptions and representations set out in this application. Applicants state that the Separate Account currently funds other variable life insurance contracts registered under the 1933 Act and, in the future, may fund other forms of contracts.

[3] Applicants represent that an amendment to the application providing this information will be filed during the notice period.

[4] During the first three Contract years, the Contract is guaranteed not to lapse, regardless of Account Value, if certain minimum annual premium requirements have been met. Further, if one of the Contract's Guaranteed Minimum Death Benefit provisions has been purchased, the Stated Death Benefit portion of the Contract will remain in effect until the end of the Guarantee Period so long as the conditions for the guarantee are met.

[5] By order dated July 14, 1994, the Commission granted Applicants exemptive relief to deduct this charge. *See* Investment Company Act Rel. No. 20407 (Jul. 14, 1994) (Order), and 20362 (June 17, 1994) (Notice).

[6] The monthly charge is comprised of a per Contract charge of $5 per month plus a charge of $0.0125 per $1,000 of Stated Death Benefit (or Target Death Benefit, if greater), and is limited to a maximum of $20 per month. The cost of insurance charges and the cost of any additional benefits added by rider are deducted monthly in amounts not to exceed the guaranteed maximum rates stated in the Contract. The charge for the Guaranteed Minimum Death Benefit, if purchased, is currently $0.005 per $1,000 (and guaranteed not to exceed $0.01 per $1,000) of Stated Death Benefit each month during the Guarantee Period.

charges in connection with the Contracts will comply with all applicable requirements of Rule 6e–3(T), subject only to the relief requested herein.

6. A front-end sales charge also is deducted under the Contract. As illustrated below, for each of the first five Contract years, the front-end sales charge is equal to 8% of premiums paid up to the Contract's ''target premium,'' [7] and 3% of premiums paid in excess of the target premium. In the sixth Contract year and thereafter, the sales charge is equal to 3% of all premium amounts.[8]

FRONT-END SALES LOADS

Contract years	Deducted from premium payments	
	Up to target premium (percent)	Excess of target premium (percent)
1 to 5	8.0	3.0
6	3.0	3.0
After 6	3.0	3.0

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act.

2. Section 27(a)(3) of the 1940 Act generally provides, with respect to periodic payment plan certificates, that the amount of sales charge deducted from any of the first twelve monthly payments, of their equivalent, can not exceed proportionately the amount deducted from any other such payment. Further, the amount deducted from any subsequent payment can not exceed proportionately the amount deducted from any other subsequent payment.

3. Rule 6e–3(T)(b)(13)(ii) grants an exemption from Section 27(a)(3) of the 1940 Act, provided that the proportionate amount of sales charge deducted from any premium payment does not exceed the proportionate amount deducted from any prior premium payment, unless an increase is caused by the grading of cash value into reserves or reductions in sales of the annual cost of insurance. Rule 6e–3(T)(b)(13)(ii) thus permits a decrease in sales load for any subsequent premium payment, but not an increase.

4. Applicants submit that the requested relief is necessary because, in any one of the first five Contract years, the 8% front-end sales charge deducted from premium payments not in excess of the target premium could exceed the 3% front-end sales charge deducted from any premium payments made in a prior year in excess of the target premium. Applicants request exemptive relief because the Contract's sales load structure appears to violate the ''stair-step'' provisions in Section 27(a)(3) and Rule 6e–3(T)(13)(ii).

5. Applicants state that the stair-step requirements of Section 27(a)(3) are designed to address the abuse of periodic payment plan certificates that imposed unduly complicated sales load structures, which purchasers could have difficulty understanding. Applicants submit that the stair-step features of the sales charge design of the Contract are not unduly complicated and will clearly be of benefit to Contract owners. Further, full disclosure of the sales charge features of the Contract will be contained in the Contract prospectus.

6. Applicants submit that the sales charges are not designed to generate more revenues from later premium payments than from earlier payments. Applicants note that, to the extent that sales charges decline after the early Contract years, greater amounts, in general, tend to be paid with respect to payments made in early Contract years than with respect to payments made in later years. This varies somewhat with respect to individual Contracts, to the extent that the precise amount of sales charges imposed depends, among other things, on the degree to which a Contract owner exercises the premium and other flexibility features of the Contract. The exercise of these features, however, is solely within the control of the Contract owner.

7. Applicants submit that the Contract could be designed to avoid the stair-step violation and qualify for the exemptive relief from Section 27(a)(3) afforded by Rule 6e–3(T)(b)(13)(ii) if a full 8% front-end sales load were to be assessed against all premiums paid during the first five Contract years (including those in excess of the target premium) and a 3% sales charge were to be assessed against premiums paid in the sixth Contract year and thereafter. Applicants believe, however, that the Contract's existing sales charge design is more favorable to Contract owners because premiums in excess of the target premium will be paid without imposition of an additional 5% front-end sales load. Applicants state that the 5% additional sales charge is not imposed, despite the fact that Rule 6e–3(T) would permit the deduction of the additional amounts.

8. Moreover, Applicants represent that the sales charge structure is based on Security Life's operating expenses for the sale of the Contract. Thus, this structure reflects in part the lower overall distribution costs associated with excess premiums paid over the life of a Contract. Applicants submit that it would not be in the best interest of a Contract Owner to require the imposition of a sales load structure that is higher than Applicants deem necessary to adequately defray their expenses.

Conclusion

For the reasons discussed above, Applicants submit that the requested exemptions from Section 27(a)(3) of the 1940 Act and Rule 6e–3(T)(b)(13)(ii) thereunder, are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act. Therefore, the standards set forth in Section 6(c) of the 1940 Act are satisfied.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20480 Filed 8–17–95; 8:45 am]

BILLING CODE 8010–01–M

[7] Target premiums are actuarially determined based on the age, sex and premium class of the insured.

[8] For a Contract with multiple coverage segments of stated death benefit, premiums paid are allocated to the segments in the same proportion that the guideline annual premium (as defined by Federal income tax law) for each segment bears to the total guideline annual premium for the Contract.

SMALL BUSINESS ADMINISTRATION

National Advisory Council Meeting

The U.S. Small Business Administration (SBA) National Advisory Council will hold a public meeting on Monday, September 11, 1995 from 10:00 a.m. to 4:30 p.m. and Tuesday, September 12, 1995 from 9:00 a.m. to noon in Washington, DC at the Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

For further information, write or call Ms. Dorothy Overal, Director, Office of Advisory Council, 409 3rd Street, SW., Washington, DC 20416, (202) 205–6434.

Dated: August 14, 1995.

Dorothy A. Overal,

Director, Office of Advisory Council.

[FR Doc. 95–20521 Filed 8–17–95; 8:45 am]

BILLING CODE 8025–01–M

Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on September 19, 1995, from 9 a.m. through 4 p.m., at the Durant Bank and Trust, 1400 West Main, Durant, Oklahoma 74702.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board members, staff of the SBA, or others present.

For further information, write or call Mary Ann Holl, SBA, 4th Floor, 409 3rd Street, SW., Washington, DC 20416, telephone 202/205–7302.

Dated: August 14, 1994.

Dorothy A. Overal,

Director, Office of Advisory Councils.

[FR Doc. 95–20519 Filed 8–17–95; 8:45 am]

BILLING CODE 8025–01–M

Portland District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Portland District Advisory Council will hold a public meeting on Thursday, September 14, 1995 from 1:00 p.m. to 4:30 p.m. and Friday, September 15, 1995 from 8:00 a.m. to 12 noon at the Riverhouse, 3075 N Highway, Bend, Oregon, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John L. Gilman, District Director, U.S. Small Business Administration, 222 SW. Columbia, Suite 500, Portland, OR 97201–6695, (503) 326–5221.

Dated: August 14, 1995.

Dorothy A. Overal,

Director, Office of Advisory Council.

[FR Doc. 95–20520 Filed 8–17–95; 8:45 am]

BILLING CODE 8025–01–P

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for a meeting of the National Advisory Board. The meeting is open to the public.

DATES: The National Advisory Board meeting is scheduled for Friday, September 8, 1995, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the Federal Deposit Insurance Corporation, Board Room 6010, 550 17th St., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer Thrift Depositor Protection Oversight Board, 808 17th Street, NW., Washington, DC 20232, 202/416–2626.

SUPPLEMENTARY INFORMATION: Pursuant to section 21A(d) of the Federal Home Loan Bank Act, the Thrift Depositor Protection Oversight Board established a National Advisory Board and six Resolution Trust Corporation (RTC) on the disposition of real property assets of the Corporation.

Agenda: A detailed agenda will be available at the meeting. The meeting will include remarks from executives of the RTC, the Executive Director of the Thrift Depositors Protection Oversight Board and the chair of the National Advisory Board. In addition, there will be briefings from the chairpersons of the six regional advisory boards on their respective meetings held throughout the country from June 20 through July 28. Topics to be addressed at the September 8 meeting include: RTC's Securitization Program Cost Analysis of the RTC Affordable Housing Disposition Program and RTC's Environmental Program.

Statements: Interested persons may submit, in writing, data, information or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating is available on a first come first served basis for this open meeting.

Dated: August 15, 1995.

Jill Nevius,

Committee Management Officer.

[FR Doc. 95–20506 Filed 8–17–95; 8:45 am]

BILLING CODE 2221–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–034]

Vessel Certifications of Alternative Compliance and Exceptions

AGENCY: Coast Guard, DOT.

ACTION: Notice of certificates of alternative compliance issued.

SUMMARY: This document provides the required notice of Certificates of Alternative Compliance issued by the Coast Guard which have not been previously published in the **Federal Register**. This notice identifies vessels which, due to their special construction and purpose, cannot comply fully with certain provisions of the International Navigation Rules for Preventing Collisions at Sea (72 COLREGS) without interfering with that vessel's special functions and identifies the alternative provisions to which each vessel must comply.

DATES: This notice lists Certificates of Alternative Compliance issued between January 1993 and July 1995.

ADDRESSES: Certificates of Alternative Compliance may be examined at, and copies are available upon request from, Commandant, U.S. Coast Guard Headquarters, Office of Navigation, Safety, and Waterway Service (G–NVT–3), 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Diane Appleby, Marine Safety Specialist, Vessel Traffic Service Division at (202) 267–0352 between the hours of 8 a.m. and 5 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 1607 of Title 33, United States Code, authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate rules and regulations necessary to implement the International Navigation Rules for Preventing Collisions at Sea (72 COLREGS). This authority has been delegated to the Coast Guard.

Under Rule 1(e) of the 72 COLREGS, when the Coast Guard determines that a vessel of special construction or purpose cannot comply fully with the provisions of the 72 COLREGS, the Coast Guard may allow that vessel to comply with alternate requirements that the Coast Guard determines to be the closest possible compliance with the 72 COLREGS with respect to that vessel.

The Coast Guard issues a Certificate of Alternative Compliance to a vessel based on a determination by the cognizant Chief of the Marine Safety Division that the vessel cannot fully comply with the 72 COLREGS. A vessel must carry a Certificate of Alternative Compliance as evidence that the Coast Guard authorized the described alternative compliance. The Certificate of Alternative Compliance expires when a vessel ceases to be engaged in the operation for which the certificate is issued.

Under the provisions of 33 U.S.C. 1605 and 33 CFR part 81, the Coast Guard must publish in the **Federal Register** notice of each Certificate of

Alternative Compliance it issues. To meet this legal obligation, the Coast Guard periodically publishes a list of Certificates of Alternative Compliance which have been issued. The following vessels were issued certificates pursuant to rule 1(e) of the 72 COLREGS between January 1993 and July 1995.

Vessel name	Effective date	Alternative compliance
GECO MARLIN	Jan. 3, 1993	Carries the after masthead light 18.14 meters aft of the forward masthead light.
DONALD J ALLEN	Jan. 6, 1993	Displays one stern light on the aft portion of its pilothouse 15.14 meters forward of its stern.
CARIBBEAN SENTRY	Feb. 3, 1993	Carries the after masthead light 12.8 meters aft of the forward masthead light.
GULF SENTRY	Feb. 3, 1993	Carries the after masthead light 12.8 meters aft of the forward masthead light.
PACIFIC SENTRY	Feb. 3, 1993	Carries the after masthead light 12.8 meters aft of the forward masthead light.
SA'AR 501 Class ship	Apr. 5, 1993	Carries the aft masthead light 3.5 meters above the forward one; forward anchor light mounted 2.0 meters above the uppermost continuous deck with the aft anchor light 3.0 meters below forward anchor light; forward masthead light carried 27.2 meters aft of the stem, the aft masthead light carried 58.0 meters aft of the stem; the sidelights mounted 24.3 meters aft of the stem.
SA'AR 501 Class ship	Apr. 5, 1993	Carries the aft masthead light 3.5 meters above the forward one; forward anchor light mounted 2.0 meters above the uppermost continuous deck with the aft anchor light 3.0 meters below forward one; forward masthead light carried 27.2 meters aft of the stem, the aft masthead light carried 58.0 meters aft of the stem; the sidelights mounted 24.3 meters aft of the stem.
SA'AR 501 Class ship	Apr. 5, 1993	Carries the aft masthead light 3.5 meters above the forward one; forward anchor light mounted 2.0 meters above the uppermost continuous deck with the aft anchor light 3.0 meters below forward one; forward masthead light carried 27.2 meters aft of the stem, the aft masthead light carried 58.0 meters aft of the stem; the sidelights mounted 24.3 meters aft of the stem.
ATLANTIC SENTRY	Apr. 28, 1993	Carries main masthead light 12.95 meters aft from the forward masthead light.
AMY CHOUEST	Sep. 9, 1993	Displays one stern light and one stern towing light 53.16 meters forward of the stern of the vessel.
RYAN B	Nov. 17, 1993	Carries stern light 35.04 meters forward of the vessel's stern; the horizontal separation between forward and aft masthead lights is 15.2 meters.
BRAZOS MOON	Dec. 15, 1993	Carries main masthead light 11.42 meters aft of forward mast; vessel's overall length increased by 7.92 meters.
CHINA SEAL	Dec. 17, 1993	Carries main masthead light 10.06 meters aft of the forward masthead light; vessel's forward mast moved aft by a distance of 3.73 meters.
OFFSHORE PACIFIC	Jan. 24, 1994	One stern light on the after-most mast mounted on the pilothouse; horizontal separation between forward and aft masthead lights is 12.44 meters.
U.S.N., YFB–92 AND U.S.N., YFB–93	Mar. 30, 1994	Each vessel carries sidelights 22.25 meters forward of the vessel's stern light. One of the sidelights is mounted 0.91 meters inboard of the vessel's side.
DIAMOND JO	May 23, 1994	Horizontal separation between masthead lights of 3.88 meters.
CAROLYN CHOUEST	June 10, 1994	Carries second masthead light 25 feet 4 inches abaft of the forward masthead light, 67 feet above the main deck.
LAFAYETTE	June 24, 1994	Carries second masthead light 44 feet abaft the forward masthead light 56 feet above the main deck.
ARGOSY IV	July 20, 1994	Carries second masthead light 39 feet abaft the forward masthead light, 55 feet above the main deck.
COASTAL MOON	July 20, 1994	Carries second masthead light a horizontal distance 11.42 meters from the forward masthead light.
NASB Hull #151	Aug. 17, 1994	Carries second masthead light some 23 feet, 4 inches abaft the forward masthead light, some 61 feet 9 inches above the main deck.
GULF SCREAMER	Nov. 16, 1994	Carries sternlight on the aft side of vessel radar arch on the vessel centerline.
NIAGARA PRINCE	Nov. 28, 1994	Forward masthead height light above hull not less than 36.5 feet.
M/V INNOVATEUR JR	Feb. 21, 1995	Masthead light ''height above hull'' not less than 19 feet 8.4 inches.
M/V LECONTE	Mar. 23, 1995	Sidelights mounted slightly forward of masthead lights.
T/B BARBARA VAUGHT	June 29, 1995	Tug may move its masthead lights to the front of the forward crane while being pushed in the notch by the M/V KATHERINE CLEWIS.

Dated: August 8, 1995.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–20362 Filed 8–17–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

National Motor Carrier Advisory Committee Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces a public meeting of the National Motor Carrier Advisory Committee. The focus of the meeting will be issues and concerns of the motor carrier community, including: (1) Regulatory Updates; (2) Follow-up on the Truck and Bus Safety Summit; and (3) Intelligent Transportation Systems.

DATES: The meeting will be from 8:30 a.m. to 4:30 p.m. on September 12, 1995, and from 8:30 a.m. to 12 p.m. on September 13, 1995.

ADDRESSES: The meeting will be held at the Federal Highway Administration, 400 Seventh Street, SW., room 2230, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Jill Hochman, HIA–20, Room 3104, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366–1861 . Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except for Federal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: August 11, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–20503 Filed 8–17–95; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Customs Service

Tariff Classification of Sleepwear Separates

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed change of inconsistent tariff classification rulings of sleepwear separates.

SUMMARY: This notice advises the public that Customs proposes to modify inconsistent rulings on garments known as pajama or sleepwear separates which do not conform with Customs position on the proper classification of such garments. Customs Headquarters has issued rulings that women's woven cotton pajama or sleepwear separates, when imported without a matching component (thus precluding classification as pajamas), are classified as similar articles and remain within heading 6208 of the Harmonized Tariff Schedule of the United States (HTSUS). Heading 6208, HTSUS, provides for women's or girls' singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles. It has come to Customs attention that prior to issuance of these rulings a limited number of rulings were issued on similar garments referred to as pajama bottoms, sleep bottoms or sleep shorts. In these earlier rulings, the garments ruled upon were classified in the provision for women's or girls' pajamas. This was an error. Due to the likelihood that Customs Headquarters may not be aware of all rulings issued on such garments, notice is hereby being given via the **Federal Register** of our intent to modify these inconsistent rulings to conform with our view with respect to classification of the garments, not as pajamas, but as similar articles. Before modification of these rulings, consideration will be given to any written comments timely submitted in response to publication of this notice.

DATES: Comments must be received on or before September 18, 1995.

ADDRESSES: Written comments are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20229. Comments submitted may be inspected at the Commercial Rulings Division, Office of Regulations and Rulings, located at Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Textile Classification Branch (202–482–7050).

SUPPLEMENTARY INFORMATION:

Background

This notice advises the public that Customs proposes to modify inconsistent rulings on garments known as pajama or sleepwear separates which do not conform with Customs current views on the proper classification of such garments. Customs Headquarters issued a ruling on the classification of certain women's sleepwear separates, HRL 956202 of September 29, 1994. In that ruling, Customs ruled that women's woven cotton pajama or sleepwear separates, when imported without a matching component (thus precluding classification as pajamas), are classified as similar articles and remain within heading 6208 of the Harmonized Tariff Schedule of the United States (HTSUS). Heading 6208, HTSUS, provides for women's or girls' singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles. As similar articles, the pajama/sleepwear separates were classified in subheading 6208.91.3010, Harmonized Tariff Schedule of the United States Annotated (HTSUSA).

Rulings issued since HRL 956202 have followed the classification arguments stated therein. It has come to Customs attention that prior to issuance of this ruling a limited number of rulings were issued on similar garments referred to as pajama bottoms, sleep bottoms or sleep shorts. In these earlier rulings, the garments ruled upon were classified in the provision for women's or girls' pajamas. This was an error. Due to the likelihood that Customs Headquarters may not be aware of all rulings issued on such garments, notice is hereby being given via the **Federal Register** of our intent to modify these rulings to reflect classification of the garments, not as pajamas, but as similar articles. Before the change becomes effective, consideration will be given to any written comments timely submitted in response to publication of this notice.

In Headquarters Ruling Letter 088192 issued on February 20, 1991, and New York Ruling Letter 862500 of April 29, 1991, a pair of ladies' boxer-style shorts, style 53035, were classified in subheading 6208.22.0000, HTSUSA, which provides for women's or girls' nightdresses and pajamas of man-made fibers. Style 53035 was constructed of a woven polyester satiny fabric. In NYRL 885168 of May 17, 1993, Customs classified a pair of boxer-type shorts of 100 percent woven polyester charmeuse as sleepwear in subheading 6208.22.0000, HTSUSA. In DD 889242 of August 27, 1993, Customs classified a women's woven cotton pajama pant in subheading 6208.21.0020, HTSUSA, and, in NYRL 890570 of October 20, 1993, (amended by supplemental letter of October 28, 1993) Customs classified five styles of women's woven boxer-styled sleep shorts (all sold with a coordinating upper body garment) in subheadings 6208.21.0010, HTSUSA and 6208.21.0020, HTSUSA. Customs Headquarters believes the conclusions in these rulings that the garments at issue therein would be principally used as sleepwear and should be classified as such are correct. These are rulings which Customs is able to identify and intends to modify to conform with HRL 956202. The error in the rulings was not

the conclusion that the garments were sleepwear, but the classification of the garments at the subheading level in the provision for pajamas. Any other Customs ruling on virtually identical merchandise in which the goods were classified in the provision for pajamas are also subject to this notice.

In order to be classified in the provision for nightdresses and pajamas, a garment must be one of the named articles. In Headquarters Ruling Letter 088635 of May 24, 1991, the meaning of the term ''pajamas'' was examined and it was determined that the common meaning of the term required top and bottom garments and that ''pajama bottoms'' or sleep bottoms without pajama tops are not classifiable as pajamas.

It follows that the women's sleepwear bottoms which were the subject of the previously cited rulings cannot be classified in the provision for nightdresses and pajamas. Although not classifiable as pajamas, these garments may be classified as ''other similar articles'' in the ''other'' provision of heading 6208, HTSUS.

The rationale for classification of the garments at issue in heading 6208, HTSUS, as similar to nightdresses and pajamas lies in the rule of statutory construction known as *ejusdem generis.* In *Van Dale Industries* versus *United States,* Slip Op. 94–54, (April 1, 1994), in discussing *ejusdem generis,* the Court of International Trade stated:

One rule of statutory construction is *ejusdem generis,* which means ''of the same kind, class, or nature.'' Black's Law Dictionary 464 (5th ed. 1979). This rule applies ''whenever a doubt arises as to whether a given article not specifically named in the statute is to be placed in a class of which some of the individual subjects are named.'' [*United States* versus *Damrak Trading Co., Inc.,* 43 CCPA 77, 79, C.A.D. 611 (1956).] Under *ejusdem generis,* where particular words of description are followed by general terms, the latter will be regarded as referring to things of a like class with those particularly described. *Id.* In other words, *ejusdem generis* requires that merchandise possess the particular characteristics or purposes that unite the specified exemplars in order to be classified under the general terms. See, *Nissho-Iwasi Am. Corp.* versus *United States,* 10 CIT 154, 157, 641 F. Supp. 808, 810 (1986) (citations omitted).

Heading 6208, HTSUS, specifically provides for women's and girls' singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles. To apply *ejusdem generis,* Customs must ascertain the shared characteristics or purposes of the named garments in heading 6208, HTSUS.

All of the articles named in heading 6208, HTSUS, may be characterized as ''intimate apparel''. They are garments which are recognized as either underwear (the singlets and other undershirts, slips, petticoats, briefs and panties), sleepwear (the nightdresses, pajamas and negligees), or garments normally worn indoors in the presence of family or close friends (the negligees, bathrobes and dressing gowns). The explanatory note for heading 6208 describes the scope of the heading as including women's or girls' underclothing and, after naming the last five exemplars, ''garments usually worn indoors''. While the explanatory notes contained in the Harmonized Commodity Description and Coding System Explanatory Notes are not legally binding, they do represent the international interpretation of the Harmonized System and provide guidance in determining the scope of the various headings.

As Customs believes the garments in the previously named rulings were properly classified in heading 6208, HTSUS, based on the examination of the garments by Customs which determined that the garments were sleepwear, it is only the subheadings in which the garments were classified that is viewed as an error. Clearly, these garments were of a type which may be characterized as ''intimate apparel'', *i.e.,* garments which are either worn under other apparel (undergarments) or, garments which are not worn outside the home and when worn in the home would be worn only in the presence of family or intimate friends. Therefore, Customs intends to modify these decisions to reflect the proper classification of the garments in subheading 6208.91.3010, HTSUSA, if of cotton or in subheading 6208.92.0030, HTSUSA, if of man-made fibers. These subheadings provide for, inter alia, women's other garments similar to nightdresses, pajamas, negligees, bathrobes, and dressing gowns.

Claims for detrimental reliance under § 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Authority

This notice is published pursuant to 5 U.S.C. 552 (a)(1)(D). Publication of this notice in the **Federal Register** pursuant to the foregoing provision provides a higher degree of notice than that required under section 625 of the Tariff Act of 1930 (19 U.S.C. 1625), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, (hereinafter section 625). Accordingly, it is Customs position that publication pursuant to section 625 is unnecessary. Customs is using **Federal Register** publication (1) because all rulings to which this notice relates may not have been identified, (2) in order to ensure a uniform and consistent position with respect to classification of this merchandise at an early date, (3) to assist Customs in its responsibility to administer informed compliance with respect to the trade community, and (4) as an aid to the importing community in exercising reasonable care with respect to importations of merchandise subject to this notice.

Comments

Before modifying these inconsistent rulings, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 and 4:30 p.m. at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

Approved: August 14, 1995

George J. Weise,

Commissioner of Customs.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–20530 Filed 8–17–95; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Information Collections Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Number: 2900–0208.

Title and Form Number: Architect-Engineer Fee Proposal, VA Form 08–6298.

Type of Information Collection: Extension of a currently approved collection.

Needs and Uses: The form is used by architect-engineering firms to submit a fee proposal on the scope and complexity of an individual project. The information is used in the negotiation of a fair and reasonable contract for services.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 800 hours.

Estimated Average Burden Per Respondent: 4 hours

Frequency of Response: One-time.

Estimated Number of Respondents: 200 respondents.

OMB Number: 2900–0080.

Titles and Form Number: Authorization and Invoice for Medical and Hospital Services; VA Form 10–7078(R); Claim for Payment of Cost of Unauthorized Medical Services; VA Form 10–583(R); and Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, VA Form 10–2511(R).

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Needs and Uses:

a. VA Form 10–7078(R) is used to authorize expenditures from the medical care account and process payment of medical and hospital services provided by other than Federal health providers to VA beneficiaries.

b. VA Form 10–583(R) is used to collect information for determining the legal and medical eligibility of applicants for payment or reimbursement of the costs of unauthorized medical service obtained by a veteran.

c. VA Form 10–2511(R) is used to authorize expenditures from the beneficiary travel account and process payment for ambulance or other hired vehicular forms of transportation for eligible veterans to and from VA health care facilities for examination, treatment or care.

Affected Public: Business or other for-profit—Individual or households—Not-for-profit institutions—Federal Government—State, Local or Tribal Government.

Estimated Annual Burden: 29,671 total hours.

a. VA Form 10–7078(R)—8,400.

b. VA Form 10–583(R)—4,083.

c. VA Form 10–2511(R)—17,188.

Estimated Average Burden Per Respondent:

a. VA Form 10–7078(R)—2 minutes.

b. VA Form 10–583(R)—15 minutes.

c. VA Form 10–2511(R)—2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 443,250 total respondents.

a. VA Form 10–7078(R)—252,000 respondents.

b. VA Form 10–583(R)—68,760 respondents.

c. VA Form 10–2511(R)—122,500 respondents.

OMB Number: 2900–0160.

Title and Form Number: Application for Furnishing Nursing Home Care to Beneficiaries of Veterans Affairs, VA Form 10–1170; State Home Report and State Month of Federal Aid Claimed, VA Form 10–5588; and Residential Care Home Program—Sponsor Application, VA Form 10–2407.

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Needs and Uses:

a. VA Form 10–1170 is used by non Federal nursing homes to qualify to provide care to veterans patients.

b. VA Form 10–5588 is used by State Homes to request reimbursement for care provided to veteran patients.

c. VA Form 10–2407 is used by applicants to apply to VHA to become a sponsor in the Residential Care Home Program.

Affected Public: Business or other for-profit—Individuals or households—State, Local or Tribal Government.

Estimated Annual Burden: 315 total hours.

a. VA Form 10–1170—133 hours.

b. VA Form 10–5588—110 hours.

c. VA Form 10–2407—72 hours.

Estimated Average Burden Per Respondent:

a. VA Form 10–1170—20 minutes.

b. VA Form 10–5588—30 minutes.

c. VA Form 10–2407—5 minutes.

Frequency of Response:

a. VA Form 10–1170—Annually.

b. VA Form 10–5588—Quarterly.

c. VA Form 10–2407—Annually.

Estimated Number of Respondents: 1,315 total respondents.

a. VA Form 10–1170—400 respondents.

b. VA Form 10–5588—220 respondents.

c. VA Form 10–2407—860 respondents.

OMB Number: 2900–0219.

Title and Form Number: Application for CHAMPVA Benefits, VA Form 10–10D; CHAMPVA Claim Form, VA Form 10–7959A; Other Health Insurance (OHI) Certification, VA Form 10–7959C; and Potential Liability Claim, VA Form 10–7959D

Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Needs and Uses:

a. VA Form 10–10D is used to determine eligibility of persons applying for medical care under CHAMPVA (Civilian Health and Medical Program of Veterans Affairs).

b. VA Form 10–7959A is used adjudicate claims for CHAMPVA benefits.

c. VA Form 10–7959C is used to obtain annual other health insurance information and to correctly coordinate benefits among all liable parties.

d. VA Form 7959D is used in the recovery of costs associated with medical services related to an injury/illness caused by a third party.

Affected Public: Individuals or households—Business or other for-profit—Not-for-profit institutions.

Estimated Annual Burden: 30,033 total hours.

a. VA Form 10–10D—800 hours.

b. VA Form 10–7959A—20,000 hours.

c. VA Form 10–7959C—6,200 hours.

d. VA Form 10–7959D—3,033 hours.

Estimated Average Burden Per Respondent:

a. VA Form 10–10D—5 minutes.

b. VA Form 10–7959A—4 minutes.

c. VA Form 10–7959C—6 minutes.

d. VA Form 10–7959D—7 minutes.

Frequency of Response:

a. VA Form 10–10D—Annually.

b. VA Form 10–7959A—Annually.

c. VA Form 10–7959C—Annually.

d. VA Form 10–7959D—On occasion.

Estimated Number of Respondents: 397,600 total respondents.

a. VA Form 10–10D—9,600 respondents.

b. VA Form 10–7959A—300,000 respondents.

c. VA Form 10–7959C—62,000 respondents.

d. VA Form 10–7959D—26,000 respondents.

Estimated Number of Respondents: 10,000 respondents.

OMB Number: 2900–0427

Title and Form Number: Former POW Medical History, VA Form 10–0048.

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Needs and Uses: The information is obtained from former POWs to assess the medical care needs of these veterans. The information will be used to determine the present and future

needs of POWs in the areas of disability compensation, health care and rehabilitation.

Affected Public: Individuals or households.

Estimated Annual Burden: 750 hours.

Estimated Average Burden Per Respondent: 1 hour

Frequency of Response: Non-recurring.

Estimated Number of Respondents: 750 respondents.

ADDRESSES: Copies of these submissions may be obtained from Ann Bickoff, Veterans Health Administration (161B4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–7407.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. DO NOT send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer on or before September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 565–4412.

Dated: August 10, 1995.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 95–20568 Filed 8–17–95; 8:45 am]

BILLING CODE 8320–01–P

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 9–95

Question Presented: Must the value of a life estate in real property acquired by inheritance be included in determining annual income and net worth for improved-pension purposes?

Held: The value of a life estate in real property acquired by inheritance generally would not constitute income for improved-pension purposes. The value of a life estate acquired by inheritance would be considered in evaluating a claimant's estate for improved-pension purposes, except to the extent that the property serves as the claimant's dwelling. In determining whether a claimant's estate is a bar to entitlement to improved pension, a determination must be made on all the facts of the individual case as to whether it would be reasonable that a part of the claimant's estate be consumed for his or her maintenance.

Effective Date: March 30, 1995

VAOPGCPREC 10–95

Question Presented: To what extent must the Board of Veterans' Appeals employ the nomenclature, diagnostic criteria, and adaptive-functioning scale of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition, in determining appeals involving issues of service connection and rating of mental disorders?

Held: Sections 4.126 and 4.132 of title 38, Code of Federal Regulations, which require that diagnoses of mental disorders conform to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (APA Manual), Third Edition (DSM–III) and establish the criteria for rating disabilities attributable to mental disorders based upon the psychiatric nomenclature and diagnostic criteria used in DSM–III, require that the Board of Veterans' Appeals (BVA) use the DSM–III nomenclature and diagnostic criteria until such time as the regulations are amended. The BVA is not precluded from making reference to medical reports which employ the adaptive-functioning assessment scales of either DSM–III or the fourth edition of the APA Manual (DSM–IV). However, the utility of such reports may be limited by differences between the terminology and disability levels used in those scales and those employed in 38 CFR § 4.132, the schedule for rating mental disorders.

Effective Date: March 31, 1995.

VAOPGCADV 11–95

Question Presented: May the Department employ a ''fair market value'' standard when setting rates for government quarters, in light of the Chief Financial Officers Act, which contemplates that agencies structure pricing in order to recoup all costs to the Government for providing the goods or services?

Held: OMB Circular A–45, which provides that the costs of quarters be set according to the rule of equivalence, or the fair market value, is based upon 5 U.S.C. § 5911; this section is an exception to the CFO Act requirement that charges for goods and services should reflect costs incurred by the Government.

Effective Date: May 23, 1995.

VAOPGCPREC 12–95

Questions Presented: a. Under the constructive-notice rule of *Bell v. Derwinski,* 2 Vet. App. 611 (1992), may the failure of an agency of original jurisdiction (AOJ) to consider pertinent Department of Veterans Affairs (VA) medical records in existence at the time of its prior final decision constitute clear and unmistakable error, even though such evidence was not actually in the record before the AOJ?

b. Would those circumstances constitute clear and unmistakable error only when the prior final decision of the agency of original jurisdiction was rendered after July 21, 1992, the date of the *Bell* decision?

c. If those circumstances would not constitute clear and unmistakable error as to prior final AOJ decisions rendered before July 21, 1992, would the effective date of an award of benefits in a later

reopened claim after July 21, 1992, based on preexisting VA medical records be the date the reopened claim is filed?

Held: a. With respect to final agency of original jurisdiction (AOJ) decisions rendered on or after July 21, 1992, an AOJ's failure to consider records which were in VA's possession at the time of the decision, although not actually in the record before the AOJ, may constitute clear and unmistakable error, if such failure affected the outcome of the claim.

b. With respect to final AOJ decisions rendered prior to July 21, 1992, an AOJ's failure to consider evidence which was in VA's possession at the time of the decision, although not actually in the record before the AOJ, may not provide a basis for a finding of clear and unmistakable error.

c. When, subsequent to a final AOJ denial prior to July 21, 1992, a claim is reopened after July 21, 1992, and benefits are awarded on the basis of evidence in VA's possession but not actually in the record at the time of the AOJ denial, the effective date of that award will generally be the date on which the reopened claim was filed, as provided by 38 U.S.C. § 5110(a).

Effective Date: May 10, 1995.

VAOPGCADV 13–95

Questions Presented: A. Are VA medical facilities required to follow Michigan state law that establishes the duty of state physicians to either warn known sex and needle-sharing partners of patients infected with the human immunodeficiency virus (HIV), or, in the alternative, to provide the State with the names and addresses of the patient and known partners?

B. Does the analysis in VAOPGCADV 9–90, O.G.C. Advisory Opinion 9–90, which sets out that VA physicians are under no specific duty to follow State law in reporting child and elderly abuse, apply to the Michigan partner notification law?

C. To what extent does VA's HIV confidentiality statute, 38 U.S.C. § 7332, permit VA physicians to cooperate with the State law and should VA physicians cooperate with the State law to that extent?

Held: A. VA medical facilities are under no legal obligation to follow Michigan state law requiring partner notification, or in the alternative, disclosure of confidential information, in HIV cases to a state public health authority.

B. The Supremacy Clause analysis set forth in VAOPGCADV 9–90, O.G.C. Advisory Opinion 9–90 is applicable in the instant case. Nonetheless, VA has the discretionary authority to comply with state law to the extent that 38 U.S.C. §§ 7332 and 5701, as well as the Privacy Act of 1974, allows. These provisions would allow the VA medical center to disclose the requisite information to the state public health authority if the information is submitted pursuant to an adequate written request from that entity.

C. Under the aforementioned provisions, VA physicians (in accordance with any policy or guidance that may be established by the VA medical center) may disclose HIV test results, but not the patient's name, to the spouse or sexual partner (''sexual partner'' as disclosed by the patient during examination or counseling) if the physician determines, after discussion with the patient, that the patient will not be providing the information and the disclosure is necessary to protect the health of the spouse or sexual partner. If these legal prerequisites have been satisfied, we anticipate a VA physician, in the exercise of sound medical and ethical practice, would utilize that provision. VA physicians do not have the authority to notify needle-sharing partners of possible exposure to HIV.

Effective Date: June 12, 1995

VAOPGCPREC 14–95

Questions Presented: a. Whether a final, unappealed Department of Veterans Affairs (VA) regional office decision is subject to review for clear and unmistakable error (CUE) under 38 C.F.R. § 3.105(a), where, upon subsequent reopening, the Board of Veterans' Appeals (BVA or Board) denied the claim.

b. Whether a final, unappealed VA regional office decision is subject to review for CUE, where the Board subsequently denied reopening of the claim.

Held: a. A claim of clear and unmistakable error under 38 C.F.R. § 3.105(a) concerning a final, unappealed regional office decision may not be considered where the Board of Veterans' Appeals has reviewed the entire record of the claim following subsequent reopening and has denied the benefits previously denied in the unappealed decision.

b. If the Board of Veterans' Appeals concludes that new and material evidence sufficient to reopen a prior, unappealed regional office decision has not been submitted, and denies reopening, the Board's decision does not serve as a bar to a claim of CUE in the prior regional office decision.

Effective Date: May 12, 1995.

VAOPGCPREC 15–95

Questions Presented: a. Under the provisions of the Final Stipulation and Order entered in the case of *Nehmer* v. *United States Veterans' Administration:*

(1) should the effective date of an award of dependence and indemnity compensation to a veteran's surviving spouse be based on the date of an original claim filed in 1987 and finally denied in 1988, where, though the veteran served in the Republic of Vietnam during the Vietnam era, the surviving spouse did not allege in the original claim that the veteran's death was caused by exposure to Agent Orange or other herbicides; or

(2) should the effective date of the award be based on the date of a reopened claim, filed in 1993, in which the claimant alleged that the veteran's death may have resulted from exposure to Agent Orange?

b. Do the provisions of the *Nehmer* Final Stipulation and Order governing readjudication of claims apply to claims for burial allowance for service-connected death?

c. If so, may burial allowance based on service-connected death be awarded in the case of a veteran buried prior to the effective date of the regulation establishing a presumption of service connection for the cause of the veteran's death?

d. If service-connected burial allowance may be paid for a veteran buried prior to the effective date of the regulation, would the amount payable be determined under the burial allowance statute as in effect at the time of burial or that in effect at the time of the change in law under which service connection was established?

Held: a. If you conclude that the original dependence and indemnity compensation claim of a veteran's surviving spouse did not allege that the veteran's death resulted from a disease which may have been caused by exposure to herbicides containing dioxin during the veteran's Vietnam-era service in the Republic of Vietnam, and was not denied under former 38 C.F.R. § 3.311a(d) (1986), which governed claims based on herbicide exposure, the claim does not fall within the scope of the Final Stipulation and Order entered in *Nehmer* v. *United States Veterans' Administration*. In that case, the effective date of a subsequent award of dependency and indemnity compensation to the surviving spouse following reopening of the claim may not be based on the date of the original claim. However, if such a surviving spouse's reopened claim involved allegations that the veteran's death from

lung cancer may have resulted from exposure to Agent Orange, it would be governed by the provisions of the Stipulation pertaining to claims filed after the district's court's May 3, 1989, order in *Nehmer* invalidating a portion of the referenced regulations. Under paragraph 5 of the Final Stipulation and Order, the effective date of the award in such a claim must be based on the later of the date of filing of the reopened claim or the date of the veteran's death.

b. The portion of the Final Stipulation and Order in the *Nehmer* case pertaining to readjudication of claim denials voided by the district court's May 3, 1989, order in that case applies to claims for burial allowance for service-connected death under 38 U.S.C. § 2307, if such claims were denied under former 38 U.S.C. § 3.311a(d). However, under the circumstances of a particular claim, you may be justified in concluding that a burial allowance claim was not denied under former section 3.311a(d). In that case, the Final Stipulation and Order would not be applicable.

c. If a claim for service-connected burial allowance under what is now 38 U.S.C. § 2307 was denied under former 38 U.S.C. § 3.311a(d) and therefore fell within the group of claim denials voided by the district court's May 3, 1989, order in the *Nehmer* case, or if entitlement to the nonservice-connected burial benefit was previously established, if service connection for the cause of the veteran's death is later established on the basis of regulations issued pursuant to the Agent Orange Act of 1991, the post-burial effective date of those regulations would not be an impediment to payment of a burial allowance under section 2307.

d. The maximum amount of burial allowance payable under section 2307 is determined based on the maximum rate authorized at the time the burial took place. Where nonservice-connected burial benefits have already been paid, and it is later determined that entitlement to service-connected burial allowance exists, only the difference between the amount previously paid and the amount payable under section 2307 may be paid.

Effective Date: June 2, 1995.

VAOPGCPREC 16–95

Question Presented: May the recipient of a VA work-study allowance under 38 U.S.C. § 3485, who is assigned by VA to perform work-study services at a university, be paid by the university the difference between the amount payable by VA and the amount which the university otherwise pays to work-study students performing similar services?

Held: 1. The statutes governing the VA work-study program do not expressly bar the student from receiving work-study payments from both VA and other sources, public or private, for performance of the same work. However, the availability of such other payments has a direct bearing on the individual's need for the additional educational assistance afforded under the VA work-study program. The Department has determined that assistance from another source for performing the same work-study activities vitiates the student's need for the supplemental educational assistance provided by VA's work-study program. Accordingly, VA, in the judicious administration of limited Federal resources, has included terms in its standard student work-study agreement prohibiting receipt or acceptance of such ''other source'' payments.

2. Nevertheless, that contractual preclusion represents a rebuttable presumption of lack of need for the benefit. Thus, the standard work-study agreement terms restricting ''other source'' payments may be modified, should VA find it meritorious to do so in the individual case. This may be an option in the case cited if you conclude that receipt of the differential amount does not materially affect the individual's need for a VA work-study allowance.

Effective Date: June 7, 1995.

VAOGCPREC 17–95

Questions Presented: a. What is the scope of any obligation imposed on the Secretary of Veterans Affairs under 38 U.S.C. § 7722, or any other legal authority, to inform individuals concerning benefits to which they may be entitled? [1]

b. Does the assumption that the Department of Veterans Affairs (VA) knew or reasonably should have known of an individual's eligibility for VA benefits have any bearing on the Secretary's notification obligation?

c. Are the provisions of any applicable notification law or regulation, including section 7722, applicable from the date of their enactment or retroactively?

d. May a failure to provide required notification to a claimant be the basis of a grant of an earlier effective date of an award of VA benefits and, if so, what is the legal authority to deviate from the criteria pertaining to effective dates of awards?

Held: a. The provisions of 38 U.S.C. § 7722, as interpreted by the Court of Veterans Appeals, require VA to inform individuals of their potential entitlement to Department of Veterans Affairs benefits when (1) such individuals meet the statutory definition of ''eligible veteran'' or ''eligible dependent,'' and (2) VA is aware or reasonably should be aware that such individuals are potentially entitled to VA benefits. VA's duty to provide information and assistance to such individuals requires only such actions as are reasonable under the circumstances.

b. The notification requirements currently in 38 U.S.C. § 7722 and previously in 38 U.S.C. § 241 have been in effect since March 26, 1970, and do not apply retroactively to any period prior to that date.

c. A failure by VA to provide the notice required by 38 U.S.C. § 7722 may not provide a basis for awarding retroactive benefits in a manner inconsistent with express statutory requirements, except insofar as a court may order such benefits pursuant to it general equitable authority or the Secretary of Veterans Affairs may award such benefits pursuant to his equitable-relief authority under 38 U.S.C. § 503(a).

Effective Date: June 21, 1995.

VAOGCPREC 18–95

Question Presented: Is the Department of Veterans Affairs' (VA) definition of ''past-due benefits'' in 38 C.F.R. § 20.609(h)(3) inconsistent with the governing statutory provisions in 38 U.S.C. § 5904(d)(3)?

Held: The definition of ''past-due benefits'' in 38 C.F.R. § 20.609(h)(3) is consistent with the provisions of 38 U.S.C. § 5904(d)(3). Further, because the language of section 5904(d)(3) may reasonably be construed to prohibit counting as past-due benefits any amounts payable after the date of the decision making, or ordering the making of, the award, we believe that the regulatory amendment sought by petitioner would be inconsistent with the statute.

Effective Date: June 22, 1995.

By Direction of the Secretary.

Mary Lou Keener,

General Counsel.

[FR Doc. 95–20490 Filed 8–17–95; 8:45 am]

BILLING CODE 8320–01–M

[1] You have requested our views regarding the scope of VA's notification obligation under section 7722 ''or any other legal authority,'' and we note that a duty to provide notice or information to claimants may sometimes arise under statutory provisions other than section 7722. *See*, e.g., 38 U.S.C. §§ 3563, 5107(a). However, because we believe that section 7722 provides the sole notification obligation pertinent to the specific facts described in your opinion request, we have limited our analysis to the scope of the duty under that provision. The scope of VA's obligation may differ under other statutory provisions.

Advisory Committee on Geriatrics and Gerontology; Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held on September 7 and 8, 1995, by the Department of Veterans Affairs, in Meeting Room 9 of the Ramada Renaissance (Techworld) Hotel located at 999–9th Street, NW, Washington, DC. The purpose of the GGAC is to advise the Secretary of Veterans Affairs and the Under Secretary for Health relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education, and Clinic Centers.

The Committee will convene at 9:00 a.m. (EST) on September 7 to conduct routine business and will adjourn at Noon (EST) on September 8. Tentative topics on the agenda are: VA's Psychogeriatric Programs and Plans, Status of VA Restructuring, Acting ACMD Office of Geriatrics and Extended Care Updates, Status of Extended Care Programs, GRECC Site Visit, Geriatrics and Grants Management Programs, and Ethics and Conflicts of interest. The meeting will be open to the public up to the seating capacity which is about 20 persons. Those wishing to attend should contact Jacqueline Holmes, Program Assistant, Office of the Assistant Chief Medical Director for Geriatrics and Extended Care, at (202) 565–7164, no later than 12 noon (EST) September 4, 1995.

Dated: August 10, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–20489 Filed 8–17–95; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103–446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held September 18–21, 1995, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The sessions will convene in room 230, VA Central Office (VACO) Building, 810 Vermont Avenue, NW., Washington, DC on September 18 and 19 from 9:00 a.m. to 5:30 p.m. On September 20, 1995, the meeting will convene in the Omar Bradley Conference Room located in room 1010 between 8:30 a.m. and 5:30 p.m. On September 21, the meeting will be held in room 530 VACO between 8:30 a.m. and 12:00 noon.

Tentative Agenda

Monday, 18 Sept

Call to Order

8:30 am—Public Forum Speakers
10:30 am—Break
10:40 am—Public Forum Speakers
12:00 pm—Lunch
1:00 pm—Public Forum Speakers
2:30 pm—Break
2:50 pm—Public Forum Speakers
4:30 pm—Committee Session
  Review of Data
  Discussion of Impacts
  Determination of Resolution Plan
    within Dept of VA
    within external agencies
  and Followup Mechanism
6:00 pm—Closure

Tuesday, 19 Sept

8:30 am—Call to order
8:45—Review of Committee's Inaugural Report
  Reconfirm mission, goals, objectives
  Revalidate Subcommittees and memberships
  Determination Specific Support Requirements to include statistical research, data collection, and computer on line services capabilities
9:40 am—African American Veterans
10:40 am—Break
11:00 am—Disabled Minority Veterans
12:00 pm—Lunch
1:00 pm—Subcommittees' Strategic Planning for FY 1996–1997
  Development of Plan, to include details, costs, travel, reporting format, protocols, public affairs, and coordination measures
4:00 pm—Subcommittee Briefings to Committee
5:30 pm—Closure

Wednesday, 20 Sept

8:30 am—Call to Order
8:45 am—Native American Veterans
9:45 am—Break
10:00 am—Guest Speaker, Congressional Black Caucus
11:00 am—African American Working Committee Briefing
12:00 pm—Lunch
1:00 pm—Discussion with Joan Fury, Director of Center for Women Veterans
1:40 pm—Asian American Veterans
2:40 pm—Subcommittee Work
4:30 pm—Review of Unresolved Issues
  Adjustments to Thursday's Agenda
  Members Open Discussion
5:30 pm—Closure

Thursday, 21 Sept

8:30 am—Call to Order
8:45 am—Hispanic American Veterans
9:45 am—Break
10:00 am—Native Hawaiian and Pacific Islander Veterans
11:00 am—Committee Discussion

All sessions will be open to the public up to the seating capacity of the rooms. Because the capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Angelia Sare, Department of Veterans Affairs (phone (202) 273–6708) prior to September 15, 1995. Limited time will be allocated for the purpose of receiving oral presentations from the public, however, prior notification of request to speak will be required. The Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: August 9, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–20546 Filed 8–17–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 160

Friday, August 18, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

ASSASSINATION RECORDS REVIEW BOARD

DATE: August 28 and 29, 1995.

PLACE: ARRB, 600 E Street NW., 2d Floor, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Previous Closed Meetings.
2. Document Review, Discussion, and Decisions.
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street NW., 2d floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 95–20603 Filed 8–16–95; 10:47 am]

BILLING CODE 6820–TD–M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" number: 95–19957.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 17, 1995, 10:00 a.m. Meeting Open to the Public.

THE FOLLOWING ITEMS WERE ADDED TO THE AGENDA:

Future Meeting Dates.

Proposed Final Repayment Determinations and Statement of Reasons—Bush-Quayle '92 Primary Committee, Inc., Bush-Quayle '92 General Committee, Inc., and Bush-Quayle '92 Compliance Committee, Inc. (LRA # 425).

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 95–20672 Filed 8–16–95; 3:17 pm]

BILLING CODE 6715–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, August 23, 1995, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of check image system within the Federal Reserve System. (This item was originally announced for a closed meeting on August 16, 1995.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20604 Filed 8–16–95; 10:48 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, August 23, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

Note: Effective August 23, open meetings will resume in the Board Room of the Eccles Building.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. The matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendments to the Board's risk-based capital guidelines for state member banks and bank holding companies regarding the treatment of derivative transactions (proposed earlier for public comment; Docket No. R–0845).

Discussion Agenda

2. Publication for comment of proposed amendments to Regulation M (Consumer Leasing) (proposed earlier for public comment; Docket No. R–0815).
3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 16, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20605 Filed 8–16–95; 10:48 am]

BILLING CODE 6210–01–P

Corrections

Federal Register

Vol. 60, No. 160

Friday, August 18, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Parts 204 and 215

Defense Federal Acquisition Regulation Supplement; Sequence of Progress Payments and Contract Modifications

Correction

In rule document 95–16162 beginning on page 34467 in the issue of Monday, July 3, 1995, make the following corrections:

204.7103-1 [Corrected]

1. On page 34468, in the third column, in section 204.7103-1(a)(4)(ii)(B), in the second line, ''or'' should read ''of''.

204.7107 [Corrected]

2. On page 34469, in the second column, in section 204.7107(e)(1), in the second line, ''identify'' should read ''identity''.

3. On the same page, in the third column, in section 204.7101(e)(3), in the second line from the bottom, insert ''additional'' after ''the''.

215.406-2 [Corrected]

4. On page 34470, in the first column, in the heading for section 215.406-2, ''schedule'' should read ''Schedule''.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–343–000]

NorAm Gas Transmission Company; Notice Rescheduling Informal Settlement Conference

Correction

In notice document 95–19725 appearing on page 40835 in the issue of Thursday, August 10, 1995, make the following correction:

On page 40835, in the third column, in the first line, the Docket Number is corrected to read as above.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 95-18]

RIN 1557—AB14

Capital; Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance

Correction

In rule document 95-18772 beginning on page 39226 in the issue of Tuesday, August 1, 1995, make the following correction:

On page 39229, in the first column, in amendatory instruction 4 to appendix A to part 3, in the second line, ''(c)(3)'' should read ''(c)(2)''.

BILLING CODE 1505–01–D

federal register

Friday
August 18, 1995

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Federal Property Suitable as Facilities to Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–50]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CERE–MC, Room 4224, 20 Massachusetts Ave. NW, Washington, DC 20314–1000; (202) 761–1753; U.S. Air Force: Carol Xander, Air Force Real Estate Agency (Area/MI), Bolling AFB, 172 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–5113; (202) 767–4034; (These are not toll-free numbers).

Dated: August 11, 1995.

Thelma Moore,

Deputy Assistant Secretary for Planning/Community Viability.

Title V. Federal Surplus Property Program Federal Register Report For 08/18/95

Suitable/Available Properties

BUILDINGS (by State)

Arizona

Facility #18
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510024
Status: Excess
Comment: 5925 sq. ft., 1 story, good condition, off-site removal only, most recent use—storage.

Facility #21
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510025
Status: Excess
Comment: 2500 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—child care.

Facility #22
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510026
Status: Excess
Comment: 13752 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—gymnasium.

Facility #23
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510027
Status: Excess
Comment: 485 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility #27
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510028
Status: Excess
Comment: 3252 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—base chapel.

Facility #29
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510029
Status: Excess
Comment: 85 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility #31
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–

Landholding Agency: Air Force
Property Number: 189510030
Status: Excess
Comment: 2720 sq. ft., steel frame, 1 story, good condition, off-site removal only, most recent use—sales store.

Facility #32
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510031
Status: Excess
Comment: 1200 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—hobby shop.

Facility #34
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510032
Status: Excess
Comment: 1937 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—bath house.

Facility #35
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510033
Status: Excess
Comment: 7685 sq. ft., concrete block frame, 1 story, good condition, off-site removal only, most recent use—open mess.

Facility #37
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510034
Status: Excess
Comment: 21295 sq. ft., wood frame, 2 story, good condition, off-site removal only, most recent use—dormitory/multi-purpose.

Facility #38
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510035
Status: Excess
Comment: 4115 sq. ft., metal frame, good condition, 1 story, off-site removal only, most recent use—commissary.

38 Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510036
Status: Excess
Comment: 1170 sq. ft. ea., 1 story relocatable framed residences, good condition, secured area w/alternate access.

26 Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510037
Status: Excess
Comment: 1456 sq. ft. ea., 1 story slump block frame residences, off-site removal only, good condition.

Facility #510
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510038
Status: Excess
Comment: 373 sq. ft. slump blocks frame, 1 story, good condition, off-site removal only, most recent use—storage.

18 Detached Garages
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Location: Inc. bldgs. 630, 640, 670, 680, 710, 720, 740, 760, 790, 800, 820, 840, 870, 880, 910, 920, 950, 960 on Milan Loop
Landholding Agency: Air Force
Property Number: 189510039
Status: Excess
Comment: 186 sq. ft. ea., wood frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility #1004
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510040
Status: Excess
Comment: 1734 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residence.

Facility #1010
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510041
Status: Excess
Comment: 4155 sq. ft., quonset hut frame, good condition, off-site removal only, most recent use—theater.

Facility #4140
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510042
Status: Excess
Comment: 3584 sq. ft., metal frame, 1 story, good condition, off-site removal only, most recent use—bowling center.

Facility #4520
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510043
Status: Excess
Comment: 7800 sq. ft., prefab steel frame, 2 story, good condition, off-site removal only, most recent use—dormitory.

Facility #4252
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510044
Status: Excess
Comment: 144 sq. ft., metal frame, 1 story, good condition, off-site removal only, most recent use—storage.

10 Duplex Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Location: Inc. bldgs. 2334, 2335, 2340, 2343, 2344, 2348, 2351, 2352, 2356, 2360 on Conrad Circle
Landholding Agency: Air Force
Property Number: 189510045
Status: Excess
Comment: 3176 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residences.

4—Fourplex Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025
Location: Inc. bldgs. 2337, 2339, 2347, 2355 on Conrad Circle
Landholding Agency: Air Force
Property Number: 189510046
Status: Excess
Comment: 4728 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residences.

California

Bldg. 604
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010237
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 605
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010238
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 612
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010239
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 611
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010240
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 613
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010241
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 614
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010242
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 615
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010243
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 616
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010244
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 617
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010245
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 618
Point Arena Air Force Station Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010246
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Florida

Bldg. 244
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825
Landholding Agency: Air Force
Property Number: 189520001
Status: Excess
Comment: 6239 sq. ft., masonry frame, needs rehab, secured area w/alternate access, most recent use—commissary.

Bldg. 242
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825
Landholding Agency: Air Force
Property Number: 189520002
Status: Excess
Comment: 8554 sq. ft., steel frame module, secured area w/alternate access, most recent use—exchange branch.

Bldg. 427
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825
Landholding Agency: Air Force
Property Number: 189520003
Status: Excess
Comment: 5258 sq. ft., metal & masonry frame, secured area w/alternate access, most recent use—bowling center.

Bldg. SF–97
Port Mayaca Lock & Spillway
9 miles north of Canal Point
Port Mayaca Co: Martin FL 33438
Landholding Agency: COE
Property Number: 319340001
Status: Unutilized
Comment: 1700 sq. ft., 1-story concrete block/stucco, most recent use—laboratory, off-site use only.

Guam

Anderson VOR
In the municipality of Dededo
Dededo Co: Guam GU 96912
Location: Access is through Route 1 and Route 3, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010267
Status: Unutilized
Comment: 550 sq. ft., 1 story perm/concrete; on 226 acres.

Anderson Radio Beacon Annex
In the municipality Dededo
Dedeco Co: Guam GU 96912
Location: Approximately 7.2 miles southwest of Anderson AFB proper; access is from Route 3, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010268
Status: Unutilized
Comment: 480 sq. ft.; 1 story perm/concrete; on 25 acres; most recent use—radio beacon facility.

Annex No. 4
Anderson Family Housing
Municipality of Dededo
Dededo Co: Guam GU 96912
Location: Access is through Route 1, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010545
Status: Underutilized
Comment: Various sq. ft.; 1 story frame/modified quonset; on 376 acres; portions of building and land leased to Government of Guam.

Harmon VORsite (Portion) (AJKZ)
Municipality of Dededo
Dededo Co: Guam GU 96912
Location: Approx. 12 miles southwest of Anderson AFB proper.
Landholding Agency: Air Force
Property Number: 189120234
Status: Unutilized
Comment: 550 sq. ft. bldg., needs rehab on 82 acres.

Idaho

Bldg. 121
Mountain Home Air Force Base
Main Avenue (See County) Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189030007
Status: Excess
Comment: 3375 sq. ft.; 1 story wood frame; potential utilities; needs rehab; presence of asbestos; building is set on piers; most recent use—medical administration, veterinary services.

Bldg. 611
Mountain Home Air Force Base
Mountain Home AFB Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189440016
Status: Underutilized
Comment: 3200 sq. ft., 1 story wood frame; needs repair, presence of lead base paint and asbestos, most recent use—base chapel.

Bldg. 2201
Mountain Home Air Force Base
Mountain Home Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189520005
Status: Underutilized
Comment: 6804 sq. ft.; 1 story wood frame; most recent use—temporary garage for base fire dept. vehicles, presence of lead paint and asbestos shingles.

Illinois

Defunct Radio Station Site
(Govt Tract B–135), Chain of Rocks Canal Co: Madison IL 62040
Landholding Agency: COE
Property Number: 319520002
Status: Excess
Comment: 5 bldgs. (48×17, 8×10, 15×18, 6×6, 12×14), need extensive repairs, off-site use only.

Indiana

Bldg. 01, Monroe Lake
Monroe Cty. Rd. 37 North to Monroe Dam Rd.
Bloomington Co: Monroe IN 47401–8772
Landholding Agency: COE
Property Number: 319140002
Status: Unutilized
Comment: 1312 sq. ft., 1 story brick residence, off-site use only.

Bldg. 02, Monroe Lake
Monroe Cty. Rd. 37 North to Monroe Dam Rd.
Bloomington Co: Monroe IN 47401–8772
Landholding Agency: COE
Property Number: 319140003
Status: Unutilized
Comment: 1312 sq. ft., 1 story brick residence, off-site use only.

Iowa

Bldg. 00627
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110
Landholding Agency: Air Force
Property Number: 189310001
Status: Unutilized
Comment: 1932 sq. ft., 1-story concrete block bldg., most recent use—storage, pigeon infested.

Bldg. 00669
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110
Landholding Agency: Air Force
Property Number: 189310002
Status: Unutilized
Comment: 1113 sq. ft., 1-story concrete block bldg., contamination clean-up in process.

Bldg. 00106, Fort Dodge
Ft. Dodge Co: Webster IA 50501
Landholding Agency: Air Force
Property Number: 189310051
Status: Unutilized
Comment: 200 sq. ft., 1-story wood frame, needs rehab, most recent use—storage.

Bldg.—Bridgeview
Rathbun Lake Project, R.R. #3
Centerville Co: Appanoose IA 52544
Landholding Agency: COE
Property Number: 319340003
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Bldg.—Island View
Rathbun Lake Project, R.R. #3
Centerville Co: Appanoose IA 52544
Landholding Agency: COE
Property Number: 319340004
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Bldg.—Rolling Cove
Rathbun Lake Project, R.R. #3
Centerville Co: Appanoose IA 52544
Landholding Agency: COE
Property Number: 319340005
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Kansas

Trailer—Clinton Lake
Rt. 5, Box 109B
Lawrence Co: Douglas KS 66046
Landholding Agency: COE
Property Number: 319410003
Status: Excess

Comment: double-wide trailer (24x50), most recent use—residence, needs major repair, off-site use only.

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Landholding Agency: COE
Property Number: 319010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Kentucky River Lock and Dam 3
Pleasureville Co: Henry KY 40057–
Location: SR 421 North from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010060
Status: Unutilized
Comment: 897 sq. ft.; 2 story wood frame; structural deficiencies.

Bldg. 1
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011628
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Bldg. 2
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011629
Status: Unutilized
Comment: 1530 sq. ft., 2-story wood frame house; subject to periodic flooding; needs rehab.

Utility Bldg, Nolin River Lake
Moutardier Recreation Site Co: Edmonson KY
Landholding Agency: COE
Property Number: 319320002
Status: Unutilized
Comment: 541 sq. ft., concrete block, off-site use only.

Louisiana

Barksdale Radio Beacon Annex
Curtis Co: Bossier LA 71111–
Location: 7 miles south of Bossier City on highway 71 south; left 1¼ miles on highway C1552.
Landholding Agency: Air Force
Property Number: 189010269
Status: Unutilized
Comment: 360 sq. ft.; 1 story wood/concrete; on 11.25 acres.

Michigan

Bldg. 30
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010779
Status: Excess
Comment: 2593 sq. ft.; 1 floor; concrete block; possible asbestos; potential utilities; most recent use—communications transmitter building.

Bldg. 46
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010786
Status: Excess
Comment: 5898 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—visiting personnel housing.

Bldg. 51
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010791
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 52
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010792
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 53
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010793
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 54
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010794
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 55
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010795
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 56
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010796
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 57
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010797
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 58
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010798
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 59
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010799
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 60
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010800
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 61
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010801
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 62
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010802
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 63
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010803
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 64
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010804
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 65
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010805
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 66
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010806
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 67
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010807

Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 68
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010808
Status: Excess
Comment: 1478 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 70
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010809
Status: Excess
Comment: 1394 sq. ft.; 1 story concrete block; possible asbestos; most recent use—youth center.

Bldg. 72
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010811
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 73
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010812
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 74
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010813
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 75
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010814
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 76
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010815
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 77
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010816
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 78
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010817
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 79
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010818
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 80
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010819
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 81
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010820
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 82
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010821
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 83
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010822
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 84
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010823
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; possible utilities; possible asbestos.

Bldg. 85
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010824
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 86
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010825
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 87
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010826
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 88
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010827
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 89
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010828
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 97
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010829
Status: Excess
Comment: 171 sq. ft.; 1 floor; potential utilities; most recent use—pump house.

Bldg. 98
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010830
Status: Excess
Comment: 114 sq. ft.; 1 floor; potential utilities; most recent use—pump house.

Bldg. 10
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010836
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 216
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010847
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 217
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010848
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 218
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010849
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 219
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010850
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 220
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010851
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 221
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010852
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 222
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010853
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 223
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010854
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 224
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010855
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 215
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010856
Status: Excess
Comment: 390 sq. ft.; 1 story wood frame housing garage.

Bldg. 212
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010859
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 214
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010861
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 23
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010865
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 24
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010866
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 36
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010872
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 37
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010873
Status: Excess
Comment: Bldg. 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 201
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010879
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Minnesota

Frame Dwelling—Lake Traverse
Rural Rt. 2
Wheaton Co: Traverse MN 56296–9630
Landholding Agency: COE
Property Number: 319520001
Status: Excess
Comment: 1453 sq. ft., 2-story residence, off-site use only.

Missouri

House No. 2, Clearwater Lake
Rt. HH at the dam
Piedmont Co: Wayne MO 63957
Landholding Agency: COE
Property Number: 319430009
Status: Excess
Comment: 1600 sq. ft., 1-story brick veneer residence, off-site use only.

Montana

Bldg. Conrad Training Site
15 miles east of the City of Conrad Co: Pondera MT 59425
Landholding Agency: Air Force
Property Number: 189420025
Status: Unutilized
Comment: 7000 sq. ft., 1-story brick, most recent use—technical training site.

Bldg. 1807, Malstrom AFB
Malstrom Communication Annex
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510023
Status: Excess
Comment: 1966 sq. ft., 1 story masonry block bldg. on 22 acres, limited utilities, roof needs replacement

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 319120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only.

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242
Landholding Agency: COE
Property Number: 319210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only.

One Unit/Residence
Conemaugh River Lake, RD #1, Box 702
Saltburg Co: Indiana PA 15681
Landholding Agency: COE
Property Number: 319430011
Status: Unutilized
Comment: 2642 sq. ft., 1-story, 1-unit of duplex, fair condition, access restrictions.

Tract 302A
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430016
Status: Unutilized
Comment: 960 sq. ft., 2-story log structure, most recent use—residential, needs rehab, if used for habitation must be flood proofed or removed off-site.

Tract 302B
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430017
Status: Unutilized
Comment: 502 sq. ft., 2-story, needs repair, most recent use—beauty shop/residence, if used for habitation must be flood proofed or removed off-site.

Tract 314
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430018
Status: Unutilized
Comment: 1864 sq. ft., 2-story, brick structure needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 353
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430019
Status: Unutilized

Comment: 812 sq. ft., 2-story, log structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 402
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430020
Status: Unutilized
Comment: 728 sq. ft., 2-story, needs repairs, most recent use—residential/parsonage, if used for habitation must be flood proofed or removed off-site.

Tract 403A
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430021
Status: Unutilized
Comment: 620 sq. ft., 20-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403B
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430022
Status: Unutilized
Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403C
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430023
Status: Unutilized
Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed.

Tract 434
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430024
Status: Unutilized
Comment: 1059 sq. ft., 2-story, wood frame, 2 apt. units, historic property, if used for habitation must be flood proofed or removed off-site.

Tract 440
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319430025
Status: Unutilized
Comment: 1000 sq. ft., 2-story, asbestos shingle siding, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract No. 224
Grays Landing Lock & Dam Project
Greensboro Co: Green PA 15338–
Landholdng Agency: COE
Property Number: 319440001
Status: Unutilized
Comment: 1040 sq. ft., 2 story bldg., needs repair, historic struct., flowage easement, if habitation is desired property will be required to be flood proofed or removed off site

Tract No. 301
Grays Landing Lock & Dam Project
Greensboro Co: Green PA 15338–
Landholdng Agency: COE
Property Number: 319440002
Status: Excess
Comment: 1330 sq. ft., 2 story brick bldg., needs repair, historic struct., flowage easement, if habitation is desired the property will be required to be flood proofed or removed

South Carolina

Bldg. 5
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC
Location: ½ mile east of Resource Managers Office.
Landholdng Agency: COE
Property Number: 319011548
Status: Excess
Comment: 1900 sq. ft., 1 story masonary frame; possible asbestos; most recent use—storage, off-site removal only.

South Dakota

West Communications Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholdng Agency: Air Force
Property Number: 189340051
Status: Unutilized
Comment: 2 bldgs. on 2.37 acres, remote area, lacks infrastructure, road hazardous during winter storms, most recent use—industrial storage

Tennessee

Cheatam Lock & Dam
Tract D, Lock Road
Nashville Co: Davidson TN 37207–
Landholdng Agency: COE
Property Number: 319520003
Status: Unutilized
Comment: 1100 sq. ft. dwelling w/storage bldgs. on 7 acres, needs major rehab, contamination issues, approx. 1 acre in fldwy, modif. to struct. subj. to approval of St. Hist. Presv. Ofc.

Texas

Bldg. 121
Lauglin Air Force Base
Co: Val Verde TX 78843–5000
Landholdng Agency: Air Force
Property Number: 189420026
Status: Unutilized
Comment: 11202 sq. ft. 1-story, needs rehab, presence of asbestos, secured area with alternate access

Bldg. 348
Lauglin Air Force Base
Co: Val Verde TX 78843–5000
Landholdng Agency: Air Force
Property Number: 189420027
Status: Unutilized
Comment: 1799 sq. ft. 1-story, needs rehab, presence of asbestos, secured area with alternate access

Bldg. 475
Lauglin Air Force Base
Co: Val Verde TX 78843–5000
Landholdng Agency: Air Force
Property Number: 189420028
Status: Unutilized
Comment: 1083 sq. ft. 1-story, needs rehab, secured area with alternate access

Virginia

Peters Ridge Site
Gathright Dam
Covington VA
Landholdng Agency: COE
Property Number: 319430013
Status: Excess
Comment: 64 sq. ft., metal bldg.

Coles Mountain Site
Gathright Dam, Rt. 607
Co: Bath VA
Landholdng Agency: COE
Property Number: 319430015
Status: Excess
Comment: 64 sq. ft., 1-story metal bldg.

Washington

Park Hdqts. House
McNary Lock & Dam Project
5107 West Columbia Dr.
Kennewick Co: Benton WA 99336–
Landholdng Agency: COE
Property Number: 319430014
Status: Unutilized
Comment: 1696 sq. ft., 1-story brick residence, off-site use only

Wisconsin

Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road.
Appleton Co: Outagamie WI 54911–
Landholdng Agency: COE
Property Number: 319011524
Status: Unutilized
Comment: 1224 sq. ft., 2 story brick/wood frame residence; needs rehab, secured area with alternate access

Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton Co: Outagamie WI 54911–
Landholdng Agency: COE
Property Number: 319011525
Status: Unutilized
Comment: 908 sq. ft., 2 story wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna Co: Outagamie WI 54131–
Landholdng Agency: COE
Property Number: 319011527
Status: Unutilized
Comment: 1290 sq. ft., 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton Co: Outagamie WI 54911–
Landholdng Agency: COE
Property Number: 319011531
Status: Unutilized
Comment: 1300 sq. ft., potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown Co: Outagamie WI 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road

Landholdng Agency: COE
Property Number: 319011533
Status: Unutilized
Comment: 1952 sq. ft., 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence Co: Brown WI 54130–
Location: 3 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway ''D'') and River Street.
Landholdng Agency: COE
Property Number: 319011535
Status: Unutilized
Comment: 1224 sq. ft., 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute Co: Outagamie WI 54140–
Landholdng Agency: COE
Property Number: 319011536
Status: Unutilized
Comment: 1224 sq. ft., 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Land (by State)

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholdng Agency: COE
Property Number: 319010071
Status: Unutilized
Comment: 77.6 acres

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholdng Agency: COE
Property Number: 319010072
Status: Unutilized
Comment: 198.5 acres

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010073
Status: Unutilized
Comment: 50.46 acres

Parcel 04
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010074
Status: Unutilized
Comment: 236.37 acres

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010075
Status: Unutilized
Comment: 187.30 acres

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010076
Status: Unutilized
Comment: 13.0 acres

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010077
Status: Unutilized
Comment: 0.27 acres

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010078
Status: Unutilized
Comment: 14.6 acres

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010079
Status: Unutilized
Comment: 6.60 acres

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010080
Status: Unutilized
Comment: 4.5 acres

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010081
Status: Unutilized
Comment: 19.50 acres

Lake Greeson
Section 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 319010083
Status: Unutilized
Comment: 46 acres

California

60 ARG/DE
Travis ILS Outer Marker Annex
Rio-Dixon Road
Travis AFB Co: Solano CA 94535–5496
Location: State Highway 113
Landholding Agency: Air Force
Property Number: 189010189
Status: Excess
Comment: .13 acres; most recent use—location for instrument landing systems equipment.

Lake Mendocino
1160 Lake Mendocino Drive
Ukiah Co: Mendocino CA 95482–9404
Landholding Agency: COE
Property Number: 319011015
Status: Unutilized
Comment: 20 acres, steep, dense brush; potential utilities.

Guam

Annex 1
Andersen Communication
Dededo Co: Guam GU 96912
Location: In the municipality of Dededo.
Landholding Agency: Air Force
Property Number: 189010427
Status: Underutilized
Comment: 862 acres; subject to utilities easements.

Annex 2, (Partial)
Andersen Petroleum Storage
Dedeo Co: Guam GU 96912
Location: In the municipality of Dededo.
Landholding Agency: Air Force
Property Number: 189010428
Status: Underutilized
Comment: 35 acres; subject to utilities easements.

Illinois

Lake Shelbyville
Shelbyville Co: Shelby & Moultr IL 62565–9804
Landholding Agency: COE
Property Number: 319240004
Status: Unutilized
Comment: 5 parcels of land equalling 0.70 acres, improved w/4 small equipment storage bldgs. and a small access road, easement restrictions.

Kansas

Parcel 1
El Dorado Lake
Section 13, 24, and 18
(See County) Co: Butler KS
Landholding Agency: COE
Property Number: 319010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2625
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010028

Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Location: 6½ miles west of Cadiz.
Landholding Agency: COE
Property Number: 319010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Location: 1 mile in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 319010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Location: 3½ miles in southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 319010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Location: 6½ miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 319010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: 7 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 319010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 319010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Barkley Lake, Kentucky and Tennessee
Kuttawa Co: Lyon KY 42055
Location: Situated on the waters of Poplar Creek, approximately 1 mile southwest of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010057
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 319010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240

Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 319010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 319011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract B—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130002
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding.

Tract A—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130003
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding.

Tract C—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130005
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding.

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 319140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements.

Portion of Lock & Dam No. 1
Kentucky River
Carrolton Co: Carroll KY 41008–0305
Landholding Agency: COE
Property Number: 319320003
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored.

Portion of Lock & Dam No. 2
Kentucky River
Lockport Co: Henry KY 40036–9999
Landholding Agency: COE
Property Number: 319320004
Status: Underutilized
Comment: approx. 13.14 acres (sloping), access monitored.

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 319011009
Status: Unutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, LA.
Landholding Agency: COE
Property Number: 319011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Michigan

Calumet Air Force Station
Section 1, T57N, R31W
Houghton Township
Calumet Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010862
Status: Excess
Comment: 34 acres; potential utilities.

Calumet Air Force Station
Section 31, T58N, R30W
Houghton Township
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010863
Status: Excess
Comment: 3.78 acres; potential utilities.

Minnesota

Parcel D
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011038
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Sandy Lake
McGregor Co: Aitkins MN 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Landholding Agency: COE
Property Number: 319011040
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Leech Lake
Benedict Co: Hubbard MN 56641–
Location: 1 mile from city of Federal Dam, MN.
Landholding Agency: COE
Property Number: 319011041
Status: Excess
Comment: 7.3 acres; no utilities.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Grenada Lake
Section 20 T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Grenada Lake
Sections 16, 17, 18 T24N R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011022

Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Grenada Lake
Section 20 and T23N, R5E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake
Section 2 and 3. T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 319011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38390–0903
Landholding Agency: COE
Property Number: 319011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 319011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

Missouri

Harry S Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road ''B'', part of Bledsoe Ferry Park Tract 150.
Landholding Agency: COE
Property Number: 319030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

Ohio

Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal Co: Monroe OH 43931–0008
Location: Adjacent to the new Martinsville Bridge.
Landholding Agency: COE
Property Number: 319010015
Status: Underutilized
Comment: 22 acres; river bank.

Oklahoma

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 319010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 north to Belknap, Road #4
Landholding Agency: COE
Property Number: 319010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 319011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Crooked Creek Lake Co: Armstrong PA 03051
Location: Left bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 319011011
Status: Unutilized
Comment: 7.59 acres; potential for utilities.

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226
Landholding Agency: COE
Property Number: 319430012
Status: Unutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights.

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 319010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 319010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015
Location: ½ mile downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 319010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 319010930
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Location: Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Location: Across Fall Creek near Fall Creek camping area.
Landholding Agency: COE
Property Number: 319010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562
Location: TN Highway 56
Landholding Agency: COE
Property Number: 319010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 319010934
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010935
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 319010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 319010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028
Location: 4½ miles SW. of Bumpus Mills.
Landholding Agency: COE
Property Number: 319010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 319010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport.
Landholding Agency: COE
Property Number: 319011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 319130007
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation.

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements.

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Tracts A–20, A–21
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140008
Status: Underutilized
Comment: 821 acres, most recent use—recreation, subject to existing easements.

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570–
Landholding Agency: COE
Property Number: 319140010
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Texas

Parcel 222
Lake Texoma Co: Grayson TX
Location: C. Meyerheim survey A–829
J. Hamilton survey A–529
Landholding Agency: COE
Property Number: 319010421
Status: Excess
Comment: 52.80 acres, most recent use—recreation.

Suitable/Unavailable Properties

Buildings (by State)

California

Hawes Site (KHGM)
March AFB
Hinckley Co: San Bernardino CA 92402–
Landholding Agency: Air Force
Property Number: 189010084
Status: Unutilized
Comment: 9290 sq. ft., 2 story concrete, most recent use—radio relay station, possible asbestos, land belongs to Bureau of Land Management, potential utilities.

Santa Fe Flood Control Basin
Irwindale Co: Los Angeles CA 91706–
Landholding Agency: COE

Property Number: 319011298
Status: Unutilized
Comment: 1400 sq. ft.; 1 story stucco; needs rehab; termite damage; secured area with alternate access.

Florida

Bldg. CN7
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010012
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.

Bldg. CN8
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 22471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number 319010013
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.

Bldg. SF–83
Moore Haven Lock & Dam
Ockeechobee Waterway
Moore Haven Co: Glades FL 33471–
Landholding Agency: COE
Property Number: 319310006
Status: Unutilized
Comment: 1441 sq. ft., 1-story frame residence, average condition, restricted access

Idaho

Bldg. 516
Mountain Home Air Force Base
Mountain Home Co: Elmore ID 86348–
Landholding Agency: Air Force
Property Number: 319310004
Status: Excess
Comment: 4928 sq. ft., 1 story wood frame, presence of lead paint and asbestos, most recent use—offices

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010001
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most recent use—residence.

Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame.

Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Michigan

Bldg. 20
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010775
Status: Excess
Comment: 13404 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—warehouse/supply facility.

Bldg. 21
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010776
Status: Excess
Comment: 2146 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—storage.

Bldg. 22
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010777
Status: Excess
Comment: 1546 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—administrative facility

Bldg. 28
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010778
Status: Excess
Comment: 1000 sq. ft.; 1 floor; possible asbestos; potential utilities; most recent use—maintenance facility.

Bldg. 40
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010780
Status: Excess
Comment: 2069 sq. ft.; 2 floors; concrete block; possible asbestos; potential utilities; most recent use—administrative facility.

Bldg. 41
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010781
Status: Excess
Comment: 2069 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 42
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010782
Status: Excess
Comment: 4017 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dining hall.

Bldg. 43
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010783
Status: Excess
Comment: 3674 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 44
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010784
Status: Excess
Comment: 7216 sq. ft.; 2 story; concrete block; possible asbestos; potential utilities; most recent use—dormitory.

Bldg. 45
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010785
Status: Excess
Comment: 6070 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—administrative facility.

Bldg. 47
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010787
Status: Excess
Comments: 83 sq. ft.; 1 story; concrete block; potential utilities; most recent use—storage.

Bldg. 48
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010788
Status: Excess
Comment: 96 sq. ft.; 1 story; concrete block; potential utilities; most recent use—storage.

Bldg. 49
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010789
Status: Excess
Comment: 1944 sq. ft.; 1 story; concrete block; potential utilities; most recent use—dormitory.

Bldg. 50
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010790
Status: Excess
Comment: 6171 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—Fire Department vehicle parking building.

Bldg. 14
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010833
Status: Excess
Comment: 6751 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—gymnasium.

Bldg. 16
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010834
Status: Excess
Comment: 3000 sq. ft.; 1 floor concrete block; most recent use—commissary facility.

Bldg. 9
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010835
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 11
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010837
Status: Excess
Comment: 1056 sq. ft.; 1 floor wood frame residence.

Bldg. 12
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010838
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 13
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010839
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 5
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010840
Status: Excess
Comment: 864 sq. ft.; 1 floor wood frame residence; possible asbestos.

Bldg. 6
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010841
Status: Excess
Comment: 864 sq. ft.; 1 floor wood frame residence; possible asbestos.

Bldg. 7
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010842
Status: Excess
Comment: 864 sq. ft.; 1 story wood frame residence; possible asbestos.

Bldg. 8
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010843
Status: Excess
Comment: 864 sq. ft.; 1 floor wood frame residence; possible asbestos.

Bldg. 4
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010844
Status: Excess
Comment: 2340 sq. ft.; 1 floor concrete block; most recent use—heating facility.

Bldg. 3
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010845
Status: Excess
Comment: 5314 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—maintenance shop and office.

Bldg. 1
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010846
Status: Excess
Comment: 4528 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—office.

Bldg. 158
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010857
Status: Excess
Comment: 3603 sq. ft.; 1 story concrete/steel; possible asbestos; most recent use—electrical power station.

Bldg. 15
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010864
Status: Excess
Comment: 538 sq. ft.; 1 floor concrete/wood structure; potential utilities; most recent use—gymnasium facility.

Bldg. 31
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010867
Status: Excess
Comment: 36 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 32
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010868
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 33
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010869
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 34
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010870
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 35
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010871
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 39
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010874
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 202
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010880
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 203
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010881
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 204
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010882
Status: Excess

Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 205
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010883
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 206
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010884
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 207
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010885
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 153
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010886
Status: Excess
Comment: 4314 sq. ft.; 2 story concrete block facility; (radar tower bldg.) potential use—storage.

Bldg. 154
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010887
Status: Excess
Comment: 8960 sq. ft.; 4 story concrete block facility; (radar tower bldg.) potential use—storage.

Bldg. 157
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010888
Status: Excess
Comment: 3744 sq. ft.; 1 story concrete/steel facility; (radar tower bldg.); potential use—storage.

Missouri

Jefferson Barracks ANG Base
Missouri National Guard
1 Grant Road
St. Louis Co: St. Louis MO 63125–4118
Landholding Agency: Air Force
Property Number: 189010081
Status: Underutilized
Comment: 20 acres; portion near flammable materials; portion on archaeological site; special fencing required.

Montana

Bldg. 00007
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330066
Status: Unutilized
Comment: 992 sq. ft.; 1-story metal, most recent use—auto/hobby shop

Bldg. 00008
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330067
Status: Unutilized
Comment: 2640 sq. ft., 1-story metal, most recent use—vehicle parking

Bldg. 00016
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330068
Status: Unutilized
Comment: 3604 sq. ft., 1-story cinder block, most recent use—storage

Bldg. 00023
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330069
Status: Unutilized
Comment: 3315 sq. ft., 1-story wood, most recent use—fire station

Bldg. 00024
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330070
Status: Unutilized
Comment: 5016 sq. ft., 1-story brick, most recent use—dormitory

Bldg. 00027
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330071
Status: Unutilized
Comment: 14280 sq. ft., 1-story cinder block, most recent use—recreation center and commissary store

Bldg. 00029
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330072
Status: Unutilized
Comment: 63 sq. ft., 1-story metal

Bldg. 00031
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330073
Status: Unutilized
Comment: 3130 sq. ft., 1-story cinder block, most recent use—maintenance shop and admin.

Bldg. 00032
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330074
Status: Unutilized
Comment: 64 sq. ft., metal, most recent use—storage

Bldg. 00035
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330075
Status: Unutilized
Comment: 2252 sq. ft., 4-story metal, most recent use—storage

Bldg. 00039
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330076
Status: Unutilized
Comment: 21824 sq. ft., 1-story masonry, most recent use—storage

Bldg. 00040
Havre Air Force Station
Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330077
Status: Unutilized
Comment: 874 sq. ft., 1-story masonry, most recent use—storage

Bldg. 00041
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330078
Status: Unutilized
Comment: 108 sq. ft., 1-story masonry.

Bldg. 00042
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330079
Status: Unutilized
Comment: 760 sq. ft., 1-story masonry, most recent use—warehouse.

Bldg. 00044
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330080
Status: Unutilized
Comment: 3298 sq. ft., 1-story metal, most recent use—wood hobby shop.

Bldgs. 51, 52, 56, 58
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330081
Status: Unutilized
Comment: 1352 sq. ft. each, 1-story wood, most recent use—residential.

Bldgs. 53–55, 57, 59, 61, 63, 65, 67, 69, 71
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330082
Status: Unutilized
Comment: 1152 sq. ft. each, 1-story wood, most recent use—residential.

Bldgs. 60, 62, 64, 66, 68
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330083
Status: Unutilized
Comment: 1361 sq. ft. each, 1-story wood, most recent use—residential.

Bldgs. 70, 72, 74, 78
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330084
Status: Unutilized
Comment: 1455 sq. ft. each, 1-story wood, most recent use—residential.

Bldgs. 76, 80
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330085
Status: Unutilized
Comment: 1343 sq. ft. each, 1-story wood, most recent use—residential.

Bldg. 82
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330086
Status: Unutilized

Comment: 1553 sq. ft., 1-story wood, most recent use—residential.

Bldgs. 150, 152, 154, 156, 158, 160, 162, 164, 168, 170, 172, 174, 176, 178, 180, 182, 184
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330087
Status: Unutilized
Comment: 1247 sq. ft. each, 1-story wood, most recent use—residential.

Bldgs. 106–109, 112–113
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330088
Status: Unutilized
Comment: 36 sq. ft. each, most recent use—fire hose house.

Bldgs. 202, 204, 206, 212, 214, 216, 218
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330089
Status: Unutilized
Comment: 72 sq. ft. each, most recent use—storage units.

Bldgs. 208, 210
Havre Air Force Station Co: Hill MT 59501
Landholding Agency: Air Force
Property Number: 189330090
Status: Unutilized
Comment: 36 sq. ft. each, most recent use—storage.

Nebraska

Bldg. 4, Hastings Family Hsg.
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320059
Status: Excess
Comment: 19370 sq. ft., brick frame, 1-story, possible asbestos, most recent use—recreation.

Bldg. 500
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320060
Status: Excess
Comment: 4984 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 502
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320061
Status: Excess
Comment: 2108 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 504
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320062
Status: Excess
Comment: 2852 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 506
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320063
Status: Excess
Comment: 2960 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 507
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320064
Status: Excess
Comment: 2154 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 509
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320065
Status: Excess
Comment: 2404 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 511
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320066
Status: Excess
Comment: 3156 sq. ft., 2-story plus full basement wood frame family housing, possible asbestos.

Bldg. 512
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320067
Status: Excess
Comment: 2948 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 515
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320068
Status: Excess
Comment: 2554 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 517
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320069
Status: Excess
Comment: 2554 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 519
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320070
Status: Excess
Comment: 2800 sq. ft., 2-story plus full basement wood frame family housing, possible asbestos.

Bldg. 521
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320071
Status: Excess
Comment: 2268 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 523
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320072
Status: Excess
Comment: 2718 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 525
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320073
Status: Excess
Comment: 2718 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 526
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320074
Status: Excess
Comment: 3720 sq. ft., 1-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 529
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320075
Status: Excess
Comment: 2252 sq. ft., 1-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 531
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320076
Status: Excess
Comment: 2782 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 533
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320077
Status: Excess
Comment: 2324 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 534

Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320078
Status: Excess
Comment: 3276 sq. ft., 1-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 536
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320079
Status: Excess
Comment: 2228 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 538
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320080
Status: Excess
Comment: 2228 sq. ft., 2-story plus full basement wood frame family housing, possible asbestos.

Bldg. 541
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320081
Status: Excess
Comment: 2452 sq. ft., 2-story plus full basement wood frame family housing, possible asbestos.

Bldg. 542
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320082
Status: Excess
Comment: 2566 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

Bldg. 544
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320083
Status: Excess
Comment: 3488 sq. ft., 1-story plus full basement wood frame family housing, possible asbestos.

Bldg. 546
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320084
Status: Excess
Comment: 3724 sq. ft., 1-story plus full basement wood frame family housing, possible asbestos.

Bldg. 549
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320085
Status: Excess
Comment: 2624 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 550
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320086
Status: Excess
Comment: 2270 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 552
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320087
Status: Excess
Comment: 2358 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 553
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320088
Status: Excess
Comment: 2012 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 555
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320089
Status: Excess
Comment: 2286 sq. ft., 2-story plus full basement wood frame family housing, possible asbestos.

Bldg. 557
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320090
Status: Excess
Comment: 2176 sq. ft., 1-story plus full basement wood frame family housing, possible asbestos.

Bldg. 558
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320091
Status: Excess
Comment: 2052 sq. ft., 2-story plus ½ basement wood frame family housing, possible asbestos.

Bldg. 560
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320092
Status: Excess
Comment: 2600 sq. ft., 2-story plus ¾ basement wood frame family housing, possible asbestos.

27 Detached Garages
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320093
Status: Excess
Comment: 280–708 sq. ft., wood frame, accommodates 1 to 3 vehicles, possible asbestos.

Bldg. 17
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320094
Status: Excess
Comment: 2225 sq. ft., 1-story wood frame, most recent use—offices, needs rehab, possible asbestos.

Bldg. 16
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320095
Status: Excess
Comment: 3278 sq. ft., 1-story plus basement brick frame, most recent use—storage, possible asbestos.

Bldg. 18
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320096
Status: Excess
Comment: 115 sq. ft., 1-story metal frame, most recent use—storage, no known utility potential.

Bldg. 6
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320097
Status: Excess
Comment: 256 sq. ft., 1-story wood frame, most recent use—storage, possible asbestos.

Bldg. 547
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320098
Status: Excess
Comment: 731 sq. ft., 1-story plus full basement wood frame, most recent use—storage, possible asbestos.

Bldg. 604
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320099
Status: Excess
Comment: 224 sq. ft., 1-story wood frame, most recent use—storage.

New Hampshire

Bldg. 114
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189320055
Status: Excess
Comment: 2606 sq. ft., 1-story, concrete block frame, possible asbestos, access restrictions, most recent use—storage.

Bldg. 115
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189320056
Status: Excess
Comment: 2606 sq. ft., 1-story, concrete block frame, possible asbestos, access restrictions, most recent use—storage.

Bldg. 127
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189320057
Status: Excess
Comment: 698 sq. ft., 1-story, concrete and metal frame, possible asbestos, access restrictions, most recent use—storage.

Pennsylvania

Tract No. 408E
Grays Landing Lock & Dam Project
Greensboro Co: Green PA 15338
Landholding Agency: COE
Property Number: 319440003
Status: Excess
Comment: 1187 sq. ft., 2-story brick bldg., historic structure, flowage easement.

Tennessee

Transient Quarters
Dale Hollow Lake and Dam Project
Dale Hollow Resource Mgr Office, Rt 1, Box 64
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 319140005
Status: Unutilized
Comment: 1400 sq. ft., concrete block, possible security restrictions, subject to existing easements.

Texas

Bldg. 605
Brooks Air Force Base
San Antonio Co: Bexar TX 78235
Landholding Agency: Air Force
Property Number: 189110090
Status: Unutilized
Comment: 392 sq. ft., 1-story sheet metal building; most recent use—storage; possible asbestos; needs rehab.

Bldg. 696
Brooks Air Force Base
San Antonio Co: Bexar TX 78235
Landholding Agency: Air Force
Property Number: 189110091
Status: Unutilized
Comment: 1344 sq ft., possible asbestos; most recent use—auto hobby shop; needs rehab.

Bldg. 697
Brooks Air Force Base
San Antonio Co: Bexar TX 78235
Landholding Agency: Air Force
Property Number: 189110092
Status: Unutilized
Comment: 770 sq. ft., possible asbestos; most recent use—supply store; needs rehab.

Bldg. 698
Brooks Air Force Base
San Antonio Co: Bexar TX 78235
Landholding Agency: Air Force
Property Number: 189110093
Status: Unutilized
Comment: 5815 sq. ft., 1-story corrugated iron; possible asbestos; needs rehab; most recent use—recreation, workshop.

Bldg. 699
Brooks Air Force Base
San Antonio Co: Bexar TX 78235
Landholding Agency: Air Force
Property Number: 189110094
Status: Unutilized
Comment: 2659 sq. ft., 1-story; possible asbestos; most recent use—arts and crafts center.

Wisconsin

Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere Co: Brown WI 54115
Landholding Agency: COE
Property Number: 319011526
Status: Unutilized
Comment: 1224 Sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Land (by State)

California

Camp Kohler Annex
McClellan AFB
Sacramento Co: Sacramento CA 95652–5000
Landholding Agency: Air Force
Property Number: 189010045
Status: Unutilized
Comment: 35.30 acres + .11 acres easement; 30+ acres undeveloped; potential utilities; secured area; alternate access.

Norton Com. Facility Annex
Norton AFB
Sixth and Central Streets
Highland Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010194
Status: Excess
Comment: 30.3 acres; most recent use—recreational area; portion subject to easements.

Indiana

Portion of Tract 1219
Salamonie Lake, SR 9
Huntington Co: Huntington IN 46750
Landholding Agency: COE
Property Number: 319310002
Status: Unutilized
Comment: 0.88 acre, potential utilities.

Portion of Tract No. 1220
Salamonie Lake, SR 9
Huntington Co: Huntington IN 46750
Landholding Agency: COE
Property Number: 319310003
Status: Unutilized
Comment: 0.30 acre, potential utilities.

Portion of Tract No. 1207
Salamonie Lake, SR 9
Huntington Co: Huntington IN 46750
Landholding Agency: COE
Property Number: 319310004
Status: Unutilized
Comment: 0.26 acre, potential utilities.

Portion of Tract No. 116
Huntington Lake
Huntington Co: Huntington IN 46750
Landholding Agency: COE
Property Number: 319320001
Status: Excess
Comment: 3.41 acres with road easement.

Kentucky

Carr Fork Lake
5 miles SE of Hindman, Ky., Hwy. 60
Hindman Co: Knott KY
Landholding Agency: COE
Property Number: 319240003
Status: Unutilized
Comment: 2.81 acres, most recent use—drainage area for bank stabilization for adjacent cemetery.

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 319011012
Status: Unutilized
Comment: 1 acre; most recent use—free campground.

Texas

Part of Tract 340
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010400
Status: Unutilized
Comment: 1 acre; future use—recreation.

Washington

Portion of Tract 905
Lower Monumental Lock & Dam
½ mi SE of Lyons Ferry Marina Co: Whitman WA
Landholding Agency: COE
Property Number: 319320005
Status: Excess
Comment: 3.788 acres with encroaching private well.

Suitable/To Be Excessed

Buildings (by State)

Michigan

Former C. G. Lightkeeper Sta.
Little Rapids Channel Project
St. Marys River
Sault Ste. Marie Co: Chippewa MI 49783
Location: 3 miles east of downtown Sault Ste. Marie.
Landholding Agency: COE
Property Number: 319011573
Status: Excess
Comment: 1,411 Sq. ft.; 2 story; wood frame on .62 acres; needs rehab; secured area with alternate access.

Nevada

Bldg. 300
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120001
Status: Unutilized
Comment: 1,573 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 301
Nellis Air Force Base
Indian Spring AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 1891200002
Status: Unutilized
Comment: 1,573 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 302

Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120003
Status: Unutilized
Comment: 1,573 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 303
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120004
Status: Unutilized
Comment: 2,750 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 304
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120005
Status: Unutilized
Comment: 2,750 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 305
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120006
Status: Unutilized
Comment: 2,750 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 306
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120007
Status: Unutilized
Comment: 2,750 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 307
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120008
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 308
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120009
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 309
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120010
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 310
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120011
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 311
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120012
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 312
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120013
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 313
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120014
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 314
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120015
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 315
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120016
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 316
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120017
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 317
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120018
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 318
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120019
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 319
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120020
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 320
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120021
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 321
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120022
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 322
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120023
Status: Unutilized
Comment: 2,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 323
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120024
Status: Unutilized
Comment: 1,233 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 324
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120025

Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 325
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120026
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 326
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120027
Status: Unutilized
Comment: 2,424 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 331
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120028
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 332
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120029
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 333
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120030
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 334
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120031
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 335
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120032
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 336
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120033
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 337
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120034
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 338
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120035
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 339
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120036
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 340
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120037
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 341
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120038
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 343
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120039
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 345
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120040
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 346
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120041
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 348
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120042
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 349
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120043
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 350
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120044
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 351
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120045
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 352
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120046
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 353
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120047
Status: Unutilized
Comment: 1,170 Sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 400

Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120048
Status: Unutilized
Comment: 2464 Sq. ft., one story, most recent use—maintenance shop, easement restrictions, potential utilities, off-site removal only.

Bldg. 402
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120049
Status: Unutilized
Comment: 2570 Sq. ft., one story, most recent use—Chapel, easement restrictions, potential utilities, off-site removal only.

Bldg. 404
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120050
Status: Unutilized
Comment: 2376 Sq. ft., one story, most recent use—religious education facility, easement restrictions, potential utilities, off-site removal only.

Bldg. 406
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120051
Status: Unutilized
Comment: 2605 Sq. ft., one story, most recent use—child care facility, easement restrictions, potential utilities, off-site removal only.

Bldg. 3027
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120052
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3028
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120053
Status: Unutilized
Comment: 60 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3029
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120054
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3030
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120055
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3031
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120056
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3032
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120057
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3033
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120058
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3034
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120059
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3035
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120060
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3036
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120061
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3037
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120062
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3038
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120063
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3039
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120064
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3040
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018
Landholding Agency: Air Force
Property Number: 189120065
Status: Unutilized
Comment: 120 Sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

West Virginia

R.T. Price House
U.S. Route 2
Williamson Co: Mingo WV 25661
Landholding Agency: COE
Property Number: 319520004
Status: Excess
Comment: 3116 ft., brick, most recent use—office/conf.,listed on Natl. Reg. of Historic Places, restriction against human habitation, recommend flood protection measures.

Land (by State)

Florida

Springfield Annex (VZTD)
Tyndall Air Force Base
Springfield Co. Bay FL
Landholding Agency: Air Force
Property Number: 189240053
Status: Unutilized
Comment: 7.55 acres; improved w/parking lot, 2 loading ramps and railroad tracks.

Georgia

Lake Sidney Lanier Co: Forsyth GA 30130
Location: Located on Two Mile Creek adj. to State Route 369
Landholding Agency: COE
Property Number: 319440010
Status: Unutilized
Comment: 0.25 acres; endangered plant species.

Lake Sidney Lanier—3 parcels
Gainesville Co: Hall GA 30503
Location: Between Gainesville H.S. and State Route 53 By-Pass
Landholding Agency: COE
Property Number: 319440011
Status: Unutilized

Comment: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species.

Indiana

Cecil M. Harden Lake Project
Rockville Co: Parke IN 47872
Location: Route 57 at intersection w/county road 910E.
Landholding Agency: COE
Property Number: 319011689
Status: Excess
Comment: 2.68 acres; narrow triangular shaped area of land.

Brookville Lake—Land
Liberty Co: Union IN 47353
Landholding Agency: COE
Property Number: 319440009
Status: Unutilized
Comment: 6.91 acres, limited utilities.

Kansas

Parcel #1
Fall River Lake
Section 26 Co: Greenwood KS
Landholding Agency: COE
Property Number: 319010065
Status: Unutilized
Comment: 155 acres; most recent use—recreation and leased cottage sites.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado Co: Butler KS
Landholding Agency: COE
Property Number: 319210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area.

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landholding Agency: COE
Property Number: 319010016
Status: Excess
Comment: 1.45 acres.

Minnesota

Tract #3
Lac Qui Parle Flood Control Project
County Rd. 13
Watson Co: Lac Qui Parle MN 56295
Landholding Agency: COE
Property Number: 319340006
Status: Unutilized
Comment: approximately 2.9 acres, fallow land.

Tract #34
Lac Qui Parle Flood Control Project
Marsh Lake
Watson Co: Lac Qui Parle MN 56295
Landholding Agency: COE
Property Number: 319340007
Status: Unutilized
Comment: approx. 8 acres, fallow land.

Ohio

Middleport Public Access Site
Robert C. Byrd Locks & Dam
Middleport Co: Meigs OH 45760
Landholding Agency: COE
Property Number: 319230001
Status: Underutilized
Comment: approximately 17.23 acres including parking lot, flowage easement, right-of-way for city street and utilities.
GSA Number: 2–D–OH–793.

Pennsylvania

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 319210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field.

Tracts 1373 and 1374
Tioga-Hammond Lakes Project
Mansfield Co: Tioga PA 16933
Landholding Agency: COE
Property Number: 319440012
Status: Excess
Comment: 0.74 acres in residential area, possible easement restrictions.

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015
Location: Right downstream bank of Sycamore Creek.
Landholding Agency: COE
Property Number: 319010942
Status: Excess
Comment: 8.93 acres; subject to existing easements.

Texas

Tract J–957
Whitney Lake
Bosque Co: Bosque TX
Location: Via Avenue B within the community of Kopperl.
Landholding Agency: COE
Property Number: 319110029
Status: Unutilized
Comment: 1.368 acres; potential utilities; encroachments on large portion of property.

Tract J–936
Portion of Whitney Lake Proj.
Bosque Co: Bosque TX
Location: Off F.M. Highway 56 within the community of Kopperl.
Landholding Agency: COE
Property Number: 319110032
Status: Unutilized
Comment: 5.661 acres; potential utilities.
GSA Number: 7–D–TX–0505M

Tract F–516 O.C. Fisher Lake
Parallel with Grape Creek Road
San Angelo Co: Tom Green TX 76902–3085
Landholding Agency: COE
Property Number: 319120002
Status: Unutilized
Comment: 2.13 acres, potential limited utilities.
GSA Number: 7–D–TX–0968–A

Part of Tract 102 Segment 1
Bardwell Dam Road
Ennis Co: Ellis TX 75119
Landholding Agency: COE
Property Number: 319140014
Status: Unutilized
Comment: approx. 6.38 acres.
GSA Number: 7–D–TX–738–D

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Location: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Landholding Agency: COE
Property Number: 319240001
Status: Unutilized
Comment: 4.4 acres, most recent use—farm land.

Wisconsin

Kewaunee Eng. Depot
East Storage Yard
Kewaunee Co: Kewaunee WI 54216
Landholding Agency: COE
Property Number: 319440013
Status: Excess
Comment: 0.87 acres, limited utilities, secured area w/alternate access

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 913
Maxwell AFB
Avenue ''C''
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189010002
Status: Unutilized
Reason: Secured Area

Bldg. 927
Maxwell AFB
Montgomery Co: Montgomery AL 36112–
Location: Off Avenue ''C''
Landholding Agency: Air Force
Property Number: 189010003
Status: Unutilized
Reason: Secured Area

Bldg. 935
Maxwell AFB
Montgomery Co: Montgomery AL 36112–
Location: Off Selfridge Street
Landholding Agency: Air Force
Property Number: 189010004
Status: Unutilized
Reason: Secured Area

Bldg. 936
Maxwell AFB
Selfridge Street
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189010005
Status: Unutilized
Reason: Secured Area

Bldg. 809
Gunter AFB
Montgomery Co: Montgomery AL 36114–
Location: Off Renfroe Street
Landholding Agency: Air Force
Property Number: 189010011
Status: Unutilized
Reason: Secured Area

Bldg. 861
Gunter AFB
South Drive
Montgomery Co: Montgomery AL 36114–
Landholding Agency: Air Force
Property Number: 189010012
Status: Unutilized
Reason: Secured Area

Bldg. 1101
Gunter AFB
Avenue ''A''
Montgomery Co: Montgomery AL 36114–

Landholding Agency: Air Force
Property Number: 189010013
Status: Unutilized
Reason: Secured Area

Bldg. 1022
Gunter AFB
Montgomery Co: Montgomery AL 36114–
Location: Adjacent to Avenues ''A'' and ''C''
Landholding Agency: Air Force
Property Number: 189010015
Status: Underutilized
Reason: Secured Area

Bldg. 1042
Gunter AFB
Montgomery Co: Montgomery AL 36114–
Location: Between Avenues ''A'' and ''C''
Landholding Agency: Air Force
Property Number: 189010016
Status: Underutilized
Reason: Secured Area

Bldg. 1052
Gunter AFB
Montgomery Co: Montgomery AL 36114–
Location: Between Avenues A and C
Landholding Agency: Air Force
Property Number: 189010019
Status: Underutilized
Reason: Secured Area

Bldg. 1060
Gunter AFB
4th Street at Avenue C
Montgomery Co: Montgomery AL 36114–
Landholding Agency: Air Force
Property Number: 189010020
Status: Unutilized
Reason: Secured Area

Bldg. 1061
Gunter AFB
Avenue C
Montgomery Co: Montgomery AL 36114–
Landholding Agency: Air Force
Property Number: 189010022
Status: Unutilized
Reason: Secured Area

Bldg. 1435
Maxwell Air Force Base
Mimosa Road
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189030220
Status: Unutilized
Reason: Floodway, Secured Area

Bldg. 1436
Maxwell Air Force Base
Mimosa Road
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189030221
Status: Unutilized
Reason: Floodway, Secured Area

Bldg. 1440
Maxwell Air Force Base
Mimosa Road
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189030222
Status: Unutilized
Reason: Floodway, Secured Area

Bldg. 1441
Maxwell Air Force Base
Mimosa Road
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189030223
Status: Unutilized
Reason: Floodway, Secured Area

Bldg. 830
Gunter Air Force Base
Ramp Road
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189040853
Status: Underutilized
Reason: Secured Area

Bldg. 421
Gunter Air Force Base
Avenue D
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189040854
Status: Underutilized
Reason: Secured Area

Bldg. 426
Gunter Air Force Base
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189040855
Status: Underutilized
Reason: Secured Area

Petrol OPS Bldg.
Maxwell Air Force Base
1101 Chanute Street
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189110165
Status: Unutilized
Reason: Secured Area

Law Center
Maxwell Air Force Base
519 10th Street
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189110166
Status: Unutilized
Reason: Secured Area

Bldg. 1011
Maxwell Air Force Base
Dannelly Street
Montgomery Co: Montgomery AL 36112–5000
Landholding Agency: Air Force
Property Number: 189110167
Status: Unutilized
Reason: Secured Area

HQ Specified Bldg
Maxwell AFB
677 Third Street
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189120231
Status: Unutilized
Reason: Secured Area

Base Personnel Office
Maxwell AFB
853 Second Street
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189120232
Status: Unutilized
Reason: Secured Area

Bldg. 932
932 3rd St. & Ave. D, West
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130335
Status: Unutilized
Reason: Secured Area

Bldg. 8
8 Maxwell Blvd., East
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130336
Status: Unutilized
Reason: Secured Area

Bldg. 712
Avenue ''E''
Gunter Air Force Base
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189130349
Status: Unutilized
Reason: Secured Area

Bldg. 1004
Reserves Forces Training Facility
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Location: 1004 Maxwell Blvd. & Kelly Street
Landholding Agency: Air Force
Property Number: 189130369
Status: Unutilized
Reason: Secured Area, Within airport runway clear zone

Bldg. 1006, Reproduction Plant
1006 Kelly Street
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130370
Status: Unutilized
Reason: Secured Area

Bldg. 72, Storage Shed
72 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130371
Status: Unutilized
Reason: Secured Area

Bldg. 95, Storage Shed
95 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130372
Status: Unutilized
Reason: Secured Area

Bldg. 96, Storage Shed
96 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130373
Status: Unutilized
Reason: Secured Area

Bldg. 97, Storage Shed
97 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130374
Status: Unutilized
Reason: Secured Area

Bldg. 78, Maintenance Shop
78 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130375

Status: Unutilized
Reason: Secured Area

Bldg. 79, Warehouse
79 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130376
Status: Unutilized
Reason: Secured Area

Bldg. 82, Storage CV Facility
82 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130377
Status: Unutilized
Reason: Secured Area

Bldg. 83, Storage CV Facility
83 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130378
Status: Unutilized
Reason: Secured Area

Bldg. 88, Maintenance Shop
88 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130379
Status: Unutilized
Reason: Secured Area

Bldg. 90, Storage CV Facility
90 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130380
Status: Unutilized
Reason: Secured Area

Bldg. 94, Storage CV Facility
94 Selfridge & Maxwell Blvd.
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Number: 189130381
Status: Unutilized
Reason: Secured Area

Bldg. 135
Gunter Air Force Base
1st Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140001
Status: Underutilized
Reason: Secured Area

Bldg. 206
Gunter Air Force Base
Off 1st Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140002
Status: Underutilized
Reason: Secured Area

Bldg. 208
Gunter Air Force Base
1st Street at ''D'' Streets
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140003
Status: Unutilized
Reason: Secured Area

Bldg. 420
Gunter Air Force Base
2nd Street at Avenue ''D''
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140004
Status: Underutilized
Reason: Secured Area

Bldg. 559
Gunter Air Force Base
4th Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140005
Status: Underutilized
Reason: Secured Area

Bldg. 560
Gunter Air Force Base
4th Street
Mongtomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140006
Status: Underutilized
Reason: Secured Area

Bldg. 561
Gunter Air Force Base
Off 4th Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140007
Status: Unutilized
Reason: Secured Area

Bldg. 562
Gunter Air Force Base
4th Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140008
Status: Underutilized
Reason: Secured Area

Bldg. 818
Gunter Air Force Base
Foster Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140009
Status: Unutilized
Reason: Secured Area

Bldg. 807
Maxwell Air Force Base
Maxwell Blvd. & Third Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189140010
Status: Unutilized
Reason: Secured Area

Bldg. 1001
Maxwell Air Force Base
Kelly St., North & Airplane Park. Apron 3001
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189140011
Status: Unutilized
Reason: Secured Area

Bldg. 1010
Maxwell Air Force Base
Bet. Maxwell Blvd. & Dannelly St.
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189140012
Status: Unutilized
Reason: Secured Area

Bldg. 1039
Maxwell Air Force Base
Kelly Street at Taxiway 3004
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189140013
Status: Unutilized
Reason: Secured Area

Bldg. 1215
Maxwell Air Force Base
March St. bet. Willow St. & Beech St.
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189140014
Status: Unutilized
Reason: Secured Area

Bldg. 823
Gunter Air Force Base
Ramp Road at Second Street
Montgomery Co: Montgomery AL 36114–5000
Landholding Agency: Air Force
Property Number: 189140021
Status: Unutilized
Reason: Secured Area

Bldg. 81
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220005
Status: Unutilized
Reason: Secured Area

Bldg. 1041
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220006
Status: Unutilized
Reason: Secured Area

Bldg. 1042
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220007
Status: Unutilized
Reason: Secured Area

Bldg. 1114
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220008
Status: Unutilized
Reason: Secured Area

Bldg. 1208
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220009
Status: Unutilized
Reason: Secured Area

Bldg. 1210
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220010
Status: Unutilized
Reason: Secured Area

Bldg. 1211
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220011
Status: Unutilized
Reason: Secured Area

Bldg. 1214
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220012
Status: Unutilized
Reason: Secured Area

Bldg. 1229
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220013
Status: Unutilized
Reason: Secured Area

Bldg. 1245
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189220014
Status: Unutilized
Reason: Secured Area

Bldg. 906
Maxwell Air Force Base
Bet. Avenue B & C on Second Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240013
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 907
Maxwell Air Force Base
Bet. Avenue B & C on Second Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240014
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 931
Maxwell Air Force Base
Corner of Selfridge & 3rd Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240015
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 933
Maxwell Air Force Base
Corner of Selfridge & 3rd Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240016
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 934
Maxwell Air Force Base
Corner of Selfridge & 3rd Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240017
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 143
Maxwell Air Force Base
Avenue D
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240018
Status: Unutilized
Reason: Secured Area

Bldg. 839
Maxwell Air Force Base
1st & Bay Streets at Ash Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189240019
Status: Unutilized
Reason: Secured Area

Bldg. 603, Maxwell AFB
Gunter Annex
Montgomery Co: Montgomery AL 36114–3112
Landholding Agency: Air Force
Property Number: 189310042
Status: Unutilized
Reason: Extensive deterioration Secured Area

Bldg. 315, Maxwell AFB
Gunter Annex
Montgomery Co: Montgomery AL 36114–3112
Landholding Agency: Air Force
Property Number: 189310043
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 314, Maxwell AFB
Gunter Annex
Montgomery Co: Montgomery AL 36114–3112
Landholding Agency: Air Force
Property Number: 189310044
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 301, Maxwell AFB
Gunter Annex
Montgomery Co: Montgomery AL 36114–3112
Landholding Agency: Air Force
Property Number: 189310045
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Water Supply Bldg. Maxwell AFB
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189310046
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Recrea./Library, Maxwell AFB
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189310047
Status: Unutilized
Reason: Extensive deterioration, Secured Area

BE Storage Shed, Maxwell AFB
1043 Kelly Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189310048
Status: Unutilized
Reason: Secured Area

Data Proc. Bldg., Maxwell AFB
908 Avenue B at Avenue C
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189310049
Status: Unutilized
Reason: Secured Area

Youth Center, Maxwell AFB
712 6th Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189310050
Status: Unutilized
Reason: Secured Area

Education Center
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189320044
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Admin. Office
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189320045
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 830, Gunter Annex
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189320046
Status: Unutilized
Reason: Secured Area

Chaplain School
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189320047
Status: Unutilized
Reason: Secured Area

Recreation Bldg.
Maxwell Air Force Base
690 Ash Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330045
Status: Unutilized
Reason: Secured Area

Storage Shed
Maxwell Air Force Base
1068 Kelly Street
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330046
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Storage Shed
Maxwell Air Force Base
1350 River Road
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330047
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 400
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330048
Status: Unutilized
Reason: Secured Area

Bldg. 402
Maxwell Air Force Base

Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330049
Status: Unutilized
Reason: Secured Area

Bldg. 408
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330050
Status: Unutilized
Reason: Secured Area

Bldg. 410
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330051
Status: Unutilized
Reason: Secured Area

Bldg. 502
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330052
Status: Unutilized
Reason: Secured Area

Bldg. 503
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330053
Status: Unutilized
Reason: Secured Area

Bldg. 504
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330054
Status: Unutilized
Reason: Secured Area

Bldg. 505
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330055
Status: Unutilized
Reason: Secured Area

Bldg. 506
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330056
Status: Unutilized
Reason: Secured Area

Bldg. 508
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330057
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 509
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330058
Status: Unutilized
Reason: Secured Area

Bldg. 512
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330059
Status: Unutilized
Reason: Secured Area

Bldg. 513
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330060
Status: Unutilized
Reason: Secured Area

Bldg. 715
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330061
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 716
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330062
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 820
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330063
Status: Unutilized
Reason: Secured Area

Bldg. 864
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330064
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Facility 875
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Number: 189330065
Status: Unutilized
Reason: Secured Area

Bldg. 813
Maxwell Air Force Base
Montgomery AL 36114
Landholding Agency: Air Force
Property Number: 189430001
Status: Unutilized
Reason: Secured Area

Alaska

Bldg. 203
Tin City Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010296
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 165
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010298
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 150
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010299
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 130
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010300
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 306
King Salmon Airport
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010301
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 11–230
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010303
Status: Unutilized
Reason: Secured Area, Contamination

Bldg. 21–116
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010304
Status: Unutilized
Reason: Secured Area, Contamination

Bldg. 63–320
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010307
Status: Unutilized
Reason: Secured Area, Contamination

Bldg. 63–325
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010308
Status: Unutilized
Reason: Secured Area, Contamination

Bldg. 103
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force

Property Number: 189010309
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 110
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010310
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 112
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010311
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 113
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010312
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 114
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010313
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 115
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010314
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 118
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010315
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1018
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010317
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1025
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010318
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1055
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010319
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 107
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010320
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 115
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010321
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 113
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010322
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 150
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 88506–5000
Landholding Agency: Air Force
Property Number: 189010323
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 152
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010324
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 301
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010325
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1001
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010326
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1003
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010327
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1055
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010328
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1056
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010329
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 103
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010330
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 104
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010331
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 105
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010332
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 110

Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010333
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 114
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010334
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 202
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010335
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 204
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010336
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 205
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010337
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1001
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010338
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 1015
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010339
Status: Unutilized
Reason: Secured Area, Isolated area, Not accessible by road, Contamination

Bldg. 50
Cold Bay Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010433
Status: Unutilized
Reason: Other, Isolated area, Not accessible by road
Comment: Isolated and remote; Arctic environment

Bldg. 1548, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420001
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1568, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420002
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1570, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420003
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1700, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420004
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1832, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420005
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1842, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420006
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1844 Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189420007
Status: Unutilized
Reason: Floodway, Secured Area, Extensive deterioration

Bldg. 1853, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189440011
Status: Unutilized
Reason: Secured Area, Floodway

Bldg. 24–825
Elmendorf Air Force Base
Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189440012
Status: Unutilized
Reason: Secured Area, Within airport runway clear zone

Bldg. 24–820
Elmendorf Air Force Base
Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189440013
Status: Unutilized
Reason: Secured Area, Within airport runway clear zone

Bldg. 21–878
Elmendorf Air Force Base
Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189440014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 10–480
Elmendorf Air Force Base
Anchorage AK 99506-5000
Landholding Agency: Air Force
Property Number: 189440015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 142
Tin City Long Range Radar Site
Wales Co; Nome AK
Landholding Agency: Air Force
Property Number: 189520013
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 110
Tin City Long Range Radar Site
Wales Co; Nome AK
Landholding Agency: Air Force
Property Number: 189520014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 646
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 189520015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 2541
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 189520016
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1770
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 189520017
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1
Lonely Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 189520024
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2
Lonely Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 189520025
Status: Unutilized
Reason: Extensive deterioration, Not accessible by road

Bldg. 12
Lonely Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 189520026
Status: Unutilized
Reason: Extensive deterioration, Not accessible by road

Bldg. 1
Wainwright Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 189520027
Status: Unutilized
Reason: Extensive deterioration, Not accessible by road

Bldg. 2
Wainwright Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 189520028
Status: Unutilized
Reason: Extensive deterioration, Not accessible by road

Bldg. 3
Wainwright Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 189520029
Status: Unutilized
Reason: Extensive deterioration, Not accessible by road

Bldg. 3024
Tatalina Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530001
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3045
Tatalina Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530002
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 18
Lonely Dewline Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530003
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 23
Lonely Dewline Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530004
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1015
Kotzebue Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530005
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1
Flaxman Island DEW Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530006
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 2
Flaxman Island DEW Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530007
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3
Flaxman Island DEW Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530008
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 4100
Cape Romanzof Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530009
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 200
Cape Newenham Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530010
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 2166
Cape Newenham Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530011
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 5500
Cape Newenham Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530012
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 8
Barter Island
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530013
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 75
Barter Island
Elmendorf AFB, AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 86
Barter Island
Elmendorf AFB, AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3060
Barter Island
Elmendorf AFB, AK 99506–4420
Landholding Agency: Air Force
Property Number: 189530016
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 11–330
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530017
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 11–490
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530018
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 21–870
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530019
Status: Unutilized
Reason: Secured Area

Bldg. 22–010
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530020
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 24–811
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530021
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 31–342
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530022
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 32–126
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530023
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 32–129
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530024
Status: Unutilized

Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 42–350
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530025
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 44–775
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530026
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 73–402
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 1895300127
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 73–403
Elmendorf Air Force Base
Anchorage, AK 99506–3240
Landholding Agency: Air Force
Property Number: 189530028
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area, Extensive deterioration

Arizona

Facility 90002
Holbrook Radar Site
Holbrook Co: Navajo, AZ 86025
Landholding Agency: Air Force
Property Number: 189340049
Status: Unutilized
Reason: Within airport runway clear zone

California

Bldg. 4052
March AFB
Ice House in West March
Riverside Co: Riverside, CA 92518
Landholding Agency: Air Force
Property Number: 189010082
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 392 60 ABG/DE
Travis Air Force Base
Hospital Drive
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010187
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 1182 60 ABG/DE
Travis Air Force Base
Perimeter Road
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010188
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 152 60 ABG/DE
Travis Air Force Base
Broadway Street
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010190
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 159 60 ABG/DE
Travis Air Force Base
Broadway Street
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010191
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 384 60 ABG/DE
Travis Air Force Base
Hospital Drive
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010192
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 707 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010193
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 575 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010195
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 502 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010196
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 23 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010197
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 100
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010196
Status: Unutilized
Reason: Secured Area

Bldg. 101
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010234
Status: Underutilized
Reason: Secured Area

Bldg. 116
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010235
Status: Unutilized
Reason: Secured Area

Bldg. 202
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010236
Status: Unutilized
Reason: Secured Area

Bldg. 201
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189010546
Status: Unutilized
Reason: Secured Area

Bldg. 202
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189010547
Status: Unutilized
Reason: Secured Area

Bldg. 203
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189010548
Status: Unutilized
Reason: Secured Area

Bldg. 204
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189010549
Status: Unutilized
Reason: Secured Area

Bldg. 1823
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189130360
Status: Excess
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 10312
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189210026
Status: Unutilized
Reason: Secured Area

Bldg. 10503
Vandenberg Air Force Base

Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189210028
Status: Unutilized
Reason: Secured Area

Bldg. 16104, Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Hwy 1, Hwy 246, Coast Rd., Pt Sal Rd., Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189230020
Status: Underutilized
Reason: Secured Area

Bldg. 1791
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Hwy 1, Hwy 246, Coast Rd., Pt Sal Road, Miguelito Cyn
Landholding Agency: Air Force
Property Number: 189240044
Status: Unutilized
Reason: Secured Area

Bldg. 10721
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Hwy 1, Hwy 246, Coast Rd., Pt Sal Road; Miguelito Cyn
Landholding Agency: Air Force
Property Number: 189240048
Status: Underutilized
Reason: Secured Area

Bldg. 13028
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Hwy 1, Hwy 246, Coast Rd., Pt Sal Road, Miguelito Cyn
Landholding Agency: Air Force
Property Number: 189240050
Status: Unutilized
Reason: Secured Area

Bldg. 5427, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189310014
Status: Unutilized
Reason: Secured Area

Bldg. 5428, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189310015
Status: Unutilized
Reason: Secured Area

Bldg. 5430, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189310016
Status: Unutilized
Reason: Secured Area

Bldg. 5431, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 189310017
Status: Unutilized
Reason: Secured Area

Bldg. 6407, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310024
Status: Unutilized
Reason: Secured Area

Bldg. 6425, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310027
Status: Unutilized
Reason: Secured Area

Bldg. 6444, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310028
Status: Unutilized
Reason: Secured Area

Bldg. 7303, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310029
Status: Unutilized
Reason: Secured Area

Bldg. 7304, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310030
Status: Unutilized
Reason: Secured Area

Bldg. 12406, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310034
Status: Unutilized
Reason: Secured Area

Bldg. 12407, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310035
Status: Unutilized
Reason: Secured Area

Bldg. 13010, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189310036
Status: Unutilized
Reason: Secured Area

Bldg. 12205, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320020
Status: Excess
Reason: Secured Area

Bldg. 12206, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320021
Status: Excess
Reason: Secured Area

Bldg. 12207, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320022
Status: Excess
Reason: Secured Area

Bldg. 12209, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320023
Status: Excess
Reason: Secured Area

Bldg. 12210, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320024
Status: Excess
Reason: Secured Area

Bldg. 12306, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320025
Status: Excess
Reason: Secured Area

Bldg. 12307, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320026
Status: Excess
Reason: Secured Area

Bldg. 12309, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320027
Status: Excess
Reason: Secured Area

Bldg. 12310, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320028
Status: Excess
Reason: Secured Area

Bldg. 12313, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320029
Status: Excess
Reason: Secured Area

Bldg. 12314, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320030
Status: Excess
Reason: Secured Area

Bldg. 12503, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189320031
Status: Excess
Reason: Secured Area

Bldg. 5437, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189330011
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 6206, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189330013
Status: Unutilized
Reason: Secured Area

Bldg. 8215, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189330016
Status: Unutilized
Reason: Secured Area

Bldg. 8220, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189330019
Status: Unutilized
Reason: Secured Area

Bldg. 9001, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189330028
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 13025, Vandenberg AFB

Vandenberg Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189330032
Status: Unutilized
Reason: Secured Area

Bldg. 1988
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340003
Status: Unutilized
Reason: Other, Secured Area
Comment: Electrical Power Generator Bldg.

Bldg. 1324
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340006
Status: Unutilized
Reason: Secured Area

Bldg. 1341
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340007
Status: Unutilized
Reason: Secured Area

Bldg. 1955
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340008
Status: Unutilized
Reason: Secured Area

Bldg. 5007
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340009
Status: Unutilized
Reason: Secured Area

Bldg. 5107
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340010
Status: Unutilized
Reason: Secured Area

Bldg. 5118
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340011
Status: Unutilized
Reason: Secured Area

Bldg. 5120
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340012
Status: Unutilized
Reason: Secured Area

Bldg. 5132
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340013
Status: Unutilized
Reason: Secured Area

Bldg. 6008
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340014
Status: Unutilized
Reason: Secured Area

Bldg. 6418
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340015
Status: Unutilized
Reason: Secured Area

Bldg. 6420
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340016
Status: Unutilized
Reason: Secured Area

Bldg. 6429
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340017
Status: Unutilized
Reason: Secured Area

Bldg. 6441
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340018
Status: Unutilized
Reason: Secured Area

Bldg. 6442
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340019
Status: Unutilized
Reason: Secured Area

Bldg. 6443
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340020
Status: Unutilized
Reason: Secured Area

Bldg. 7301
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340021
Status: Unutilized
Reason: Secured Area

Bldg. 7306
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340022
Status: Unutilized
Reason: Secured Area

Bldg. 8309
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340023
Status: Unutilized
Reason: Secured Area

Bldg. 9310
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340024
Status: Unutilized
Reason: Secured Area

Bldg. 11190
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340025
Status: Unutilized
Reason: Secured Area

Bldg. 11308
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340026
Status: Unutilized
Reason: Secured Area

Bldg. 16164
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189340028
Status: Unutilized
Reason: Secured Area

Bldg. 6521
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189410004
Status: Unutilized
Reason: Secured Area

Bldg. 13019
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189410005
Status: Unutilized
Reason: Secured Area

Bldg. 501
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189420008
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 13020
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189420011
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 1203
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440001
Status: Unutilized
Reason: Secured Area

Bldg. 1786
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440002
Status: Unutilized
Reason: Secured Area

Bldg. 11032
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440004
Status: Unutilized
Reason: Secured Area

Bldg. 11183
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force

Property Number: 189440005
Status: Unutilized
Reason: Secured Area

Bldg. 11219
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440006
Status: Unutilized
Reason: Secured Area

Bldg. 11238
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440007
Status: Unutilized
Reason: Secured Area

Bldg. 11511
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440008
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 13412
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189440009
Status: Unutilized
Reason: Secured Area

Bldg. 460
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189510019
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 6348
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189510020
Status: Unutilized
Reason: Secured Area

Bldg. 908
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189520018
Status: Excess
Reason: Other
Comment: Detached Latrine.

Bldg. 11514
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189520019
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 11559
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189520020
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 13002
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189520021
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 13004
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189520022
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 16195
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189520023
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 422
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530029
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 431
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530030
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 470
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530031
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 480
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530032
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 508
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530033
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 951
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530034
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 6011
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530035
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 6520
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530036
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 6606
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530037
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7200
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530038
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7307
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530039
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 9351
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530040
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 10717
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530041
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 10720
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530042
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 10722
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530043
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 13213
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530044
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 13215
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 189530045
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Colorado

Bldg. 712
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330002
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 518
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330003
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 505
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330004
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 504
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330005
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 503
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330006
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 502
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330007
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 32
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330008
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 27
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330009
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 23
Buckley Air National Guard Base
Aurora Co: Arapahoe CO 80011–9599
Landholding Agency: Air Force
Property Number: 189330010
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 00910
''Blue Barn''—Falcon Air Force Base
Falcon Co: El Paso CO 80912
Landholding Agency: Air Force
Property Number: 189530046
Status: Underutilized
Reason: Secured Area

Delaware

Bldg. 1304 (436 CSG)
Dover Air Force Base
Dover Co: Kent DE 19902–5065
Landholding Agency: Air Force
Property Number: 189140018
Status: Unutilized
Reason: Secured Area, Within airport runway clear zone

Florida

Bldg. 902
Tyndall Air Force Base
Panama City Co: Bay FL 32403–5000
Landholding Agency: Air Force
Property Number: 189130348
Status: Underutilized
Reason: Secured Area

Bldg. 400
Patrick Air Force Base
C Street bet. First & Second Streets
Cocoa Beach Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189220001
Status: Unutilized
Reason: Secured Area

Bldg. 430
Patrick Air Force Base
Third Street bet. B and C Streets
Cocoa Beach Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189220002
Status: Underutilized
Reason: Secured Area

Bldg. 1176
Patrick Air Force Base
1176 School Avenue Co: Brevard FL 32935
Landholding Agency: Air Force
Property Number: 189240029
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 1179
Patrick Air Force Base
1179 School Avenue Co: Brevard FL 32935
Landholding Agency: Air Force
Property Number: 189240030
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 321
Patrick Air Force Base Co: Brevard FL 32925
Property Number: 189320001
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material, Other
Comment: Extensive Deterioration

Bldg. 510
Patrick Air Force Base Co: Brevard FL 3292
Landholding Agency: Air Force
Property Number: 189320002
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material, Other
Comment: Extensive Deterioration

Bldg. 558
Patrick Air Force Base Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189320003
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Other
Comment: Extensive Deterioration

Bldg. 575
Patrick Air Force Base Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189320004
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Other
Comment: Extensive Deterioration

Bldg. 184, MacDill AFB
MacDill AFB Co: Hillsbourgh FL 33608
Landholding Agency: Air Force
Property Number: 189320100
Status: Unutilized
Reason: Extensive Deterioration

Facility 90523
Cape Canaveral AFS
Cape Canaveral AFS Co: Brevard FL
Landholding Agency: Air Force
Property Number: 189330001
Status: Unutilized
Reason: Secured Area

Bldg. 921
Patrick Air Force Base Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189430002
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Facility No. 01676V
Cape Canaveral AFS Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189430003
Status: Unutilized
Reason: Secured Area

Bldg. 2613
Tyndall Air Force Base
Panama City Co: Bay FL 32403
Landholding Agency: Air Force
Property Number: 189430004
Status: Unutilized
Reason: Secured Area, Extensive deterioriation

Bldg. 2625
Tyndall Air Force Base
Panama City Co: Bay FL 32403
Landholding Agency: Air Force
Property Number: 189430005
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 2639
Tyndall Air Force Base
Panama City Co: Bay FL 32403
Landholding Agency: Air Force
Property Number: 189430006
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 2642

Tyndall Air Force Base
Panama City Co: Bay FL 32403
Landholding Agency: Air Force
Property Number: 189430007
Status: Unutilized
Reason: Secured Area, Extensive deterioration

23 Family Housing
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825
Location: Include Bldgs: 448, 451 thru 470, 472 and 474
Landholding Agency: Air Force
Property Number: 189520006
Status: Excess
Reason: Within airport runway clear zone

Bldg. 240
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825
Landholding Agency: Air Force
Property Number: 189520007
Status: Excess
Reason: Extensive deterioration

Idaho

Bldg. 1012
Mountain Home Air Force Base
7th Avenue (See County) Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189030004
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 923
Mountain Home Air Force Base
7th Avenue (See County) Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189030005
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 604
Mountain Home Air Force Base
Pine Street (See County) Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189030006
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 229
Mt. Home Air Force Base
1st Avenue and A Street
Mt. Home AFB Co: Elmore ID 83648
Landholding Agency: Air Force
Property Number: 189040857
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, within airport runway clear zone

Bldg. 4403
Mountain Home Air Force Base
Moutain Home Co: Elmore ID 83647
Landholding Agency: Air Force
Property Number: 189520008
Status: Unutilized
Reason: Extensive Deterioration

Illinois

Bldg. 3191
Scott Air Force Base
East Drive 375/ABG/DE
Scott AFB Co: St. Clair IL 62225–5001
Landholding Agency: Air Force
Property Number: 189010247
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 3670
Scott Air Force Base
East Drive 375 ABG/DE
Scott AFB Co: St. Clair IL 622255001
Landholding Agency: Air Force
Property Number: 189010248
Status: Unutilized
Reason: Secured Area

Bldg. 503
Scott Air Force Base
Scott AFB Co: St. Clair IL 62225
Landholding Agency: Air Force
Property Number: 189010725
Status: Unutilized
Reason: Secured Area

Bldg. 869
Scott Air Force Base
375 CSG/DEER
Scott AFB Co: St. Clair IL 622255045
Landholding Agency: Air Force
Property Number: 189110087
Status: Unutilized
Reason: Secured Area

Bldg. 865
Scott Air Force Base
Belleville Co: St. Clair IL 62225
Landholding Agency: Air Force
Property Number: 189130347
Status: Unutilized
Reason: Secured Area

Indiana

Brookville Lake—Bldg.
Brownsville Rd. in Union
Liberty Co: Union IN 47353
Landholding Agency: COE
Property Number: 319440004
Status: Excess
Reason: Extensive deterioration

Iowa

Bldg. 00273
Sioux Gateway Airport
Sioux Co: St. Woodbury IA 51110
Landholding Agency: Air Force
Property Number: 189310008
Status: Unutilized
Reason: Secured Area

Bldg. 00671
Sioux Gateway Airport
Sioux Co: St. Woodbury IA 51110
Landholding Agency: Air Force
Property Number: 189310009
Status: Unutilized
Reason: Other
Comment: Fuel pump station.

Bldg. 00736
Sioux Gateway Airport
Sioux Co: St. Woodbury IA 51110
Landholding Agency: Air Force
Property Number: 189310010
Status: Unutilized
Reason: Other
Comment: Pump station.

House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530002
Status: Excess
Reason: Extensive deterioration

Play House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530003
Status: Excess
Reason: Extensive deterioration

House, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530004
Status: Excess
Reason: Extensive deterioration

Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530005
Status: Excess
Reason: Extensive deterioration

Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530006
Status: Excess
Reason: Extensive deterioration

Machine Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530007
Status: Excess
Reason: Extensive deterioration

Barn, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530008
Status: Excess
Reason: Extensive deterioration

2-Car Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530009
Status: Excess
Reason: Extensive deterioration

Barn, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530010
Status: Excess
Reason: Extensive deterioration

Shed, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530011
Status: Excess
Reason: Extensive deterioration

House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530012
Status: Excess
Reason: Extensive deterioration

Play House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE

Property Number: 319530013
Status: Excess
Reason: Extensive deterioration

Kennel, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530014
Status: Excess
Reason: Extensive deterioration

Corn Crib, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530015
Status: Excess
Reason: Extensive deterioration

Barn W, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530016
Status: Excess
Reason: Extensive deterioration

Barn E, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530017
Status: Excess
Reason: Extensive deterioration

Shed, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530018
Status: Excess
Reason: Extensive deterioration

House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530019
Status: Excess
Reason: Extensive deterioration

Out House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530020
Status: Excess
Reason: Extensive deterioration

Chicken House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530021
Status: Excess
Reason: Extensive deterioration

Shed, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530022
Status: Excess
Reason: Extensive deterioration

Barn, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530023
Status: Excess
Reason: Extensive deterioration

Smokehouse, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530024
Status: Excess
Reason: Extensive deterioration

Shed, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530025
Status: Excess
Reason: Extensive deterioration

Shed—White, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530026
Status: Excess
Reason: Extensive deterioration

Leanto, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530027
Status: Excess
Reason: Extensive deterioration

Grain Bins (8), Tract 138
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530028
Status: Excess
Reason: Extensive deterioration

Kansas

Bldg. 1407
McConnell Air Force Base
Wichita Co: Sedgwick KS 67221
Landholding Agency: Air Force
Property Number: 189340029
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 186
McConnell Air Force Base
Wichita Co: Sedgwick KS 67221
Landholding Agency: Air Force
Property Number: 189340030
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 187
McConnell Air Force Base
Wichita Co: Sedgwick KS 67221
Landholding Agency: Air Force
Property Number: 189340031
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Pole Barn, Tract 200
Benedictine Bottoms Mitigation Site
Co: Atchison KS
Landholding Agency: COE
Property Number: 319530029
Status: Unutilized
Reason: Extensive deterioration

3 Metal Pole Barns, Tract 203
Benedictine Bottoms Mitigation Site
Co: Atchison KS
Landholding Agency: COE
Property Number: 319530030
Status: Unutilized
Reason: Extensive deterioration

Granaries, Tract 203
Benedictine Bottoms Mitigation Site
Co: Atchison KS
Landholding Agency: COE
Property Number: 319530031
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008
Landholding Agency: COE
Property Number: 219040416
Reason: Other
Comment: Spring House

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 219040417
Status: Unutilized
Reason: Other
Comment: Coal Storage

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 219040418
Status: Unutilized
Reason: Other
Comment: Coal Storage

Barn
Kentucky River Lock and Dam No. 3
Highway 561
Pleasureville Co: Henry KY 40057
Landholding Agency: COE
Property Number: 219040419
Status: Underutilized
Reason: Other
Comment: 110 year old barn with crumbled foundation

Latrine
Kentucky River Lock and Dam Number 3
Highway 561
Pleasureville Co: Henry KY 40057
Landholding Agency: COE
Property Number: 319040009
Status: Unutilized
Reason: Other
Comment: Detached Latrine

6-Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273
Location: Off State Hwy 369, which runs off of Western Ky, Parkway
Landholding Agency: COE
Property Number: 319120010
Status: Unutilized
Reason: Floodway

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273
Location: Off State Hwy 369, which runs off of Western Ky, Parkway
Landholding Agency: COE
Property Number: 319120011
Status: Unutilized
Reason: Floodway

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler, KY 42273

Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120012
Status: Unutilized
Reason: Floodway

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler, KY 42273
Landholding Agency: COE
Property Number: 319120013
Status: Unutilized
Reason: Floodway

Louisiana

Bldg. 3477
Barksdale Air Force Base
Davis Avenue
Barksdale AFB Co: Bossier, LA 71110–5000
Landholding Agency: Air Force
Property Number: 189140015
Status: Unutilized
Reason: Secured Area

Maryland

Bldg. 4
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges, MD 20613
Landholding Agency: Air Force
Property Number: 189010261
Status: Unutilized
Reason: Secured Area

Bldg. 5
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges, MD 20613
Landholding Agency: Air Force
Property Number: 189010264
Status: Unutilized
Reason: Secured Area

Bldg. 3427
Andrews Air Force Base
3427 Pennsylvania Avenue
Andrews AFB Co: Prince Georges, MD 20335
Landholding Agency: Air Force
Property Number: 189140016
Status: Unutilized
Reason: Secured Area

Bldg. 3492
Andrews Air Force Base
Andrews AFB Co: Prince Georges, MD 20335
Landholding Agency: Air Force
Property Number: 189340050
Status: Unutilized
Reason: Secured Area

Massachusetts

Bldg. 1900
Westover Air Force Base
Chicopee Co: Hampden, MA 01022
Landholding Agency: Air Force
Property Number: 189010438
Status: Unutilized
Reason: Secured Area

Bldg. 1833
Westover Air Force Base
Chicopee Co: Hampden, MA 01022–5000
Landholding Agency: Air Force
Property Number: 189040002
Status: Unutilized
Reason: Secured Area

Michigan

Bldg. 560
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Location: North end of airfield
Landholding Agency: Air Force
Property Number: 189010522
Status: Unutilized
Reason: Secured Area

Bldg. 5658
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Location: Near South Perimeter Road, near Building 590
Landholding Agency: Air Force
Property Number: 189010523
Status: Unutilized
Reason: Secured Area

Bldg. 580
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Location: South end of airfield
Landholding Agency: Air Force
Property Number: 189010524
Status: Unutilized
Reason: Secured Area

Bldg. 856
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010525
Status: Unutilized
Reason: Secured Area

Bldg. 1005
Selfridge Air National Guard Base
1005 C Street
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010526
Status: Unutilized
Reason: Secured Area

Bldg. 1012
Selfridge Air National Guard Base
1012 A Street
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010527
Status: Unutilized
Reason: Secured Area

Bldg. 1041
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010528
Status: Unutilized
Reason: Secured Area

Bldg. 1412
Selfridge Air National Guard Base
1412 Castle Avenue
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010529
Status: Unutilized
Reason: Secured Area

Bldg. 1434
Selfridge Air National Guard Base
1434 Castle Avenue
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010530
Status: Unutilized
Reason: Secured Area

Bldg. 1688
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Location: Near South Perimeter Road, near Building 1694
Landholding Agency: Air Force
Property Number: 189010531
Status: Unutilized
Reason: Secured Area

Bldg. 1689
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Location: Near South Perimeter Road, near Building 1694
Landholding Agency: Air Force
Property Number: 189010532
Status: Unutilized
Reason: Secured Area

Bldg. 5670
Selfridge Air National Guard Base
Selfridge Co: Macomb, MI 48045
Landholding Agency: Air Force
Property Number: 189010533
Status: Unutilized
Reason: Secured Area

Bldg. 71
Calumet Air Force Station
Calument Co: Keweenaw, MI 49913
Landholding Agency: Air Force
Property Number: 189010810
Status: Excess
Reason: Other
Comment: Sewage treatment and disposal facility

Bldg. 99 (WATER WELL)
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010831
Status: Excess
Reason: Other
Comment: Water well.

Bldg. 100 (WATER WELL)
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010832
Status: Excess
Reason: Other
Comment: Water well.

Bldg. 118
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010875
Status: Excess
Reason: Other
Comment: Gasoline Station.

Bldg. 120
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010876
Status: Excess
Reason: Other
Comment: Gasoline Station.

Bldg. 166
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010877
Status: Excess
Reason: Other
Comment: Pump lift station.

Bldg. 168
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010878

Status: Excess
Reason: Other
Comment: Gasoline station.

Bldg. 69
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010889
Status: Excess
Reason: Other
Comment: Sewer pump facility.

Bldg. 2
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913
Landholding Agency: Air Force
Property Number: 189010890
Status: Excess
Reason: Other
Comment: Water pump station.

Missouri

Bldg. 42
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125
Landholding Agency: Air Force
Property Number: 189010726
Status: Unutilized
Reason: Secured Area.

Bldg. 45
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125
Landholding Agency: Air Force
Property Number: 189010728
Status: Unutilized
Reason: Secured Area.

Bldg. 46
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125
Landholding Agency: Air Force
Property Number: 189010729
Status: Unutilized
Reason: Secured Area.

Bldg. 47
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125
Landholding Agency: Air Force
Property Number: 189010730
Status: Unutilized
Reason: Secured Area.

Bldg. 61
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125
Landholding Agency: Air Force
Property Number: 189010731
Status: Unutilized
Reason: Secured Area.

Tract 2222
Stockton Project
Aldrich Co: Polk MO 65601
Landholding Agency: COE
Property Number: 319510001
Status: Excess
Reason: Extensive deterioration.

Montana

Bldg. 280
Malmstrom AFB
Flightline & Avenue G
Malmstrom Co: Cascade MT 59402
Landholding Agency: Air Force
Property Number: 189010077
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Other environmental.

Bldg. 440
Malmstrom Air Force Base
Great Falls Co: Cascade MT 59402–7525
Landholding Agency: Air Force
Property Number: 189430008
Status: Unutilized
Reason: Extensive deterioration, Secured Area.

Bldg. 444
Malmstrom Air Force Base
Great Falls Co: Cascade MT 59402–7525
Landholding Agency: Air Force
Property Number: 189430009
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 464
Malmstrom Air Force Base
Great Falls Co: Cascade MT 59402–7525
Landholding Agency: Air Force
Property Number: 189430010
Status: Unutilized
Reason: Secured Area.

Bldg. 495
Malmstrom Air Force Base
Great Falls Co: Cascade MT 59402–7525
Landholding Agency: Air Force
Property Number: 189430011
Status: Unutilized
Reason: Secured Area.

Bldg. 205
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510004
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. 210
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510005
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Bldg. 245
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510006
Status: Unutilized
Reason: Secured Area.

Bldg. 246
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510007
Status: Underutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 334
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510008
Status: Underutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 335
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510009
Status: Underutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 529
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510011
Status: Underutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 625
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59405
Landholding Agency: Air Force
Property Number: 189510014
Status: Unutilized
Reason: Secured Area

Bldg. 780
Malstrom Air Force Base
Malstrom AFB Co: Cascade MT 59402
Landholding Agency: Air Force
Property Number: 189520012
Status: Unutilized
Reason: Secured Area

Nebraska

Offutt Communications Annex-#3
Offutt Air Force Base
Scribner Co: Dodge NE 68031
Landholding Agency: Air Force
Property Number: 189210006
Status: Unutilized
Reason: Other
Comment: former sewage lagoon

Bldg. 637
Lincoln Municipal Airport
2301 West Adams
Lincoln Co: Lancaster NE 68524
Landholding Agency: Air Force
Property Number: 189230021
Status: Unutilized
Reason: Extensive deterioration

Bldg. 639
Lincoln Municipal Airport
2301 West Adams
Lincoln Co: Lancaster NE 68524
Landholding Agency: Air Force
Property Number: 189230022
Status: Unutilized
Reason: Extensive deterioration

Bldg. 31
Offutt Air Force Base
Sac Boulevard
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189240007
Status: Unutilized
Reason: Secured Area

Bldg. 311
Offutt Air Force Base
Nelson Drive
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189240008
Status: Unutilized
Reason: Secured Area

Bldg. 401
Offutt Air Force Base
Custer Drive

Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189240009
Status: Unutilized
Reason: Secured Area

Bldg. 416
Offutt Air Force Base
Sherman Turnpike
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189240010
Status: Unutilized
Reason: Secured Area

Bldg. 417
Offutt Air Force Base
Sherman Turnpike
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189240011
Status: Unutilized
Reason: Secured Area

Bldg. 545
Offutt Air Force Base
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189240012
Status: Unutilized
Reason: Secured Area

Bldg. 21
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901
Landholding Agency: Air Force
Property Number: 189320058
Status: Excess
Reason: Other
Comment: Generator

Bldg. 686
Offutt Air Force Base
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189510021
Status: Unutilized
Reason: Secured Area

Bldg. 439
Offutt Air Force Base
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Number: 189510022
Status: Unutilized
Reason: Secured Area

Storage Bldg.
Omaha District Svc Base
Omaha Co: Douglas NE 68112
Landholding Agency: COE
Property Number: 319530032
Status: Excess
Reason: Extensive deterioration

New Hampshire

Bldg. 101
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189320005
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 102
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189320006
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 104
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 189320007
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

New Mexico

Bldg. 831
833 CSG/DEER
Holloman AFB Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189130333
Status: Unutilized
Reason: Secured Area

Bldg. 21
Holloman Air Force Base
Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240032
Status: Unutilized
Reason: Secured Area

Bldg. 80
Holloman Air Force Base
Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240033
Status: Unutilized
Reason: Secured Area

Bldg. 98
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240034
Status: Unutilized
Reason: Secured Area

Bldg. 324
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240035
Status: Unutilized
Reason: Secured Area

Bldg. 598
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240036
Status: Unutilized
Reason: Secured Area

Bldg. 801
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240037
Status: Unutilized
Reason: Secured Area

Bldg. 802
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240038
Status: Unutilized
Reason: Secured Area

Bldg. 1095
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240039
Status: Unutilized
Reason: Secured Area

Bldg. 1096
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240040
Status: Unutilized
Reason: Secured Area

Facility 321
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240041
Status: Unutilized
Reason: Secured Area

Facility 75115
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240042
Status: Unutilized
Reason: Secured Area

Bldg. 874
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189320041
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 1258
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189320042
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive Deterioration

Bldg. 134
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430014
Status: Unutilized
Reason: Secured Area

Bldg. 640
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430015
Status: Unutilized
Reason: Secured Area

Bldg. 703
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430016
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 813
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430017
Status: Unutilized
Reason: Secured Area

Bldg. 821
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430018
Status: Unutilized
Reason: Secured Area

Bldg. 829
Holloman Air Force Base Co: Otero NM 88330

Landholding Agency: Air Force
Property Number: 189430019
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 867
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430020
Status: Unutilized
Reason: Secured Area

Bldg. 884
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430021
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 886
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430022
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Bldg. 908
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189430023
Status: Unutilized
Reason: Secured Area

Bldg. 599
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189510001
Status: Unutilized
Reason: Secured Area

Bldg. 600
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189510002
Status: Unutilized
Reason: Secured Area

New York

Bldg. 626 (Pin: RVKQ)
Niagara Falls International Airport
914th Tactical Airlift Group
Niagara Falls Co: Niagara NY 14303–5000
Landholding Agency: Air Force
Property Number: 189010075
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 272
Griffiss Air Force Base
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 189140022
Status: Excess
Reason: Secured Area

Bldg. 888
Griffiss Air Force Base
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 189140023
Status: Excess
Reason: Secured Area

Facility 814, Griffiss AFB
NE of Weapons Storage Area
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 189230001
Status: Excess
Reason: Within airport runway clear zone, Secured Area

Facility 808, Griffiss AFB
Perimeter Road
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 189230002
Status: Excess
Reason: Within airport runway clear zone, Secured Area

Facility 807, Griffiss AFB
Perimeter Road
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 189230003
Status: Excess
Reason: Within airport runway clear zone, Secured Area

Facility 126
Griffiss Air Force Base
Hanger Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240020
Status: Unutilized
Reason: Secured Area

Facility 127
Griffiss Air Force Base
Hanger Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240021
Status: Unutilized
Reason: Secured Area

Facility 135
Griffiss Air Force Base
Hanger Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240022
Status: Unutilized
Reason: Secured Area

Facility 137
Griffiss Air Force Base
Otis Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240023
Status: Unutilized
Reason: Secured Area

Facility 138
Griffiss Air Force Base
Otis Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240024
Status: Unutilized
Reason: Secured Area

Facility 173
Griffiss Air Force Base
Selfridge Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240025
Status: Unutilized
Reason: Secured Area

Facility 261
Griffiss Air Force Base
McDill Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240026
Status: Unutilized
Reason: Secured Area

Facility 308
Griffiss Air Force Base
205 Chanute Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240027
Status: Unutilized
Reason: Secured Area

Facility 1200
Griffiss Air Force Base
Donaldson Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189240028
Status: Unutilized
Reason: Secured Area

Bldg. 759, Hancock Field
6001 East Molloy Road
Syracuse Co: Onondaga NY 13211–7099
Landholding Agency: Air Force
Property Number: 189310007
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Facility 841
Griffiss Air Force Base
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 189330097
Status: Unutilized
Reason: Secured Area

Bldg. 852
Niagara Falls International Airport
914th Tactical Airlift Group
Niagara Falls Co: Niagara NY 14304–5000
Landholding Agency: Air Force
Property Number: 189420013
Status: Unutilized
Reason: Secured Area

North Carolina

Bldg. 4230—Youth Center
Cannon Ave.
Goldsboro Co: Wayne NC 27531–5005
Landholding Agency: Air Force
Property Number: 189120233
Status: Underutilized
Reason: Secured Area

Bldg. 607, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2890
Landholding Agency: Air Force
Property Number: 189330041
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 255, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 189420019
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 370, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 189420020
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 904, Pope Air Force Base

Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 189420021
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 910, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 189420022
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 912, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 189420023
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 914, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 189420024
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 462
Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2402
Landholding Agency: Air Force
Property Number: 189510003
Status: Unutilized
Reason: Secured Area, Extensive deterioration

North Dakota

Bldg. 422
Minot Air Force Base
Minot Co: Ward ND 58705
Landholding Agency: Air Force
Property Number: 189010724
Status: Underutilized
Reason: Secured Area

Bldg. 50
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844
Landholding Agency: Air Force
Property Number: 189310107
Status: Excess
Reason: Other
Comment: Garbage incinerator

Bldg. 119
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320034
Status: Unutilized
Reason: Secured Area

Bldg. 191
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320035
Status: Unutilized
Reason: Secured Area

Bldg. 490
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320036
Status: Unutilized
Reason: Secured Area

Bldg. 509
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320037
Status: Unutilized
Reason: Secured Area

Bldg. 526
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320038
Status: Unutilized
Reason: Secured Area

Bldg. 895
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320039
Status: Unutilized
Reason: Secured Area

Bldg. 1019
Minot Air Force Base
Minot Co: Ward ND 58701
Landholding Agency: Air Force
Property Number: 189320040
Status: Unutilized
Reason: Secured Area

Ohio

Bldg. 404, Hydrant Fuel
910 Airlift Group
Kings-Graves Road
Vienna Co: Trumbull OH 44473–5000
Landholding Agency: Air Force
Property Number: 189220015
Status: Unutilized
Reason: Secured Area

Bldg. 405, Test Cell
910 Airlift Group
Kings-Graves Road
Vienna Co: Trumbull OH 44473–5000
Landholding Agency: Air Force
Property Number: 189220016
Status: Unutilized
Reason: Secured Area

Lab
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510002
Status: Unutilized
Reason: Secured Area

Storage Facility
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510003
Status: Unutilized
Reason: Secured Area

Office Building
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510004
Status: Unutilized
Reason: Secured Area

Oklahoma

Bldg. 604
Vance Air Force Base
Enid Co: Garfield OK 73705–5000
Landholding Agency: Air Force
Property Number: 189010204
Status: Unutilized
Reason: Secured Area, within 2000 ft. of flammable or explosive material.

Pennsylvania

Lock & Dam #7
Monogahela River
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 319530001
Status: Excess
Reason: Floodway

Puerto Rico

Bldg. 10
Punta Salinas Radar Site
Toa Baja Co: Toa Baja PR 00759
Landholding Agency, Air Force
Property Number: 189010544
Status: Underutilized
Reason: Secured Area

South Dakota

Bldg. 88513
Ellsworth Air Force Base
Porter Avenue
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189210001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 88501
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189210002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 200, South Nike Ed Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320048
Status: Unutilized
Reason: Extensive deterioration

Bldg. 201, South Nike Ed Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320049
Status: Unutilized
Reason: Extensive deterioration

Bldg. 203, South Nike Ed Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320050
Status: Unutilized
Reason: Extensive deterioration

Bldg. 204, South Nike Ed Annex
Ellsworth Air Force Base
Ellwsorth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320051
Status: Unutilized
Reason: Extensive deterioration

Bldg. 205, South Nike Ed Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320052
Status: Unutilized
Reason: Extensive deterioration

Bldg. 206, South Nike Ed Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320053
Status: Unutilized

Reason: Extensive deterioration

Bldg. 00605
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189320054
Status: Underutilized
Reason: Secured Area

Bldg. 88535
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340032
Status: Unutilized
Reason: Secured Area

Bldg. 88470
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340033
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 88304
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340034
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Other, Secured Area
Comment: Extensive deterioration

Bldg. 9011
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340035
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Other, Secured Area
Comment: Extensive deterioration

Bldg. 7506
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340037
Status: Unutilized
Reason: Secured Area

Bldg. 6908
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340038
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Other, Secured Area
Comment: Extensive deterioration

Bldg. 6904
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340039
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Other, Secured Area
Comment: Extensive deterioration

Bldg. 4102
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340040
Status: Unutilized
Reason: Secured Area

Bldg. 4101
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340041
Status: Unutilized
Reason: Secured Area

Bldg. 4100
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340042
Status: Unutilized
Reason: Secured Area

Bldg. 3016
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340043
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Other, Secured Area
Comment: Waste treatment bldg.

Bldg. 1115
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340044
Status: Unutilized
Reason: Secured Area

Bldg. 1210
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340045
Status: Unutilized
Reason: Secured Area

Bldg. 1112
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340046
Status: Unutilized
Reason: Secured Area

Bldg. 1110
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340047
Status: Unutilized
Reason: Secured Area

Bldg. 606
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189340048
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 6905, Ellsworth AFB
Ellsworth AFB Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 189440010
Status: Underutilized
Reason: Secured Area

Bldg. 1208
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189520009
Status: Unutilized
Reason: Secured Area

Bldg. 7245
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189520010
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material, Within airport runway clear zone

Bldg. 7502
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189520011
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011499
Status: Unutilized
Reason: Floodway

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 319011503
Status: Underutilized
Reason: Floodway

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay, TN 38351–
Landholding Agency: COE
Property Number: 319140011
Status: Excess
Reason: Other
Comment: Water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay, TN 38351–
Landholding Agency: COE
Property Number: 319140012
Status: Excess
Reason: Other
Comment: Water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay, TN 38351–
Landholding Agency: COE
Property Number: 319140013
Status: Excess
Reason: Other
Comment: Water treatment plant

Texas

Bldg. 400
Laughlin Air Force Base
Val Verde Co. Co: Val Verde, TX 78843–5000
Location: Six miles on Highway 90 east of Del Rio, Texas.
Landholding Agency: Air Force
Property Number: 189010173
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Within airport runway clear zone

Bldg. 40

Laughlin Air Force Base Co: Val Verde, TX 78843–5000
Landholding Agency: Air Force
Property Number: 189420014
Status: Unutilized
Reason: Extensive deterioration

Bldg. 107
Laughlin Air Force Base Co: Val Verde, TX 78843–5000
Landholding Agency: Air Force
Property Number: 189420015
Status: Unutilized
Reason: Extensive deterioration

Bldg. 119
Laughlin Air Force Base Co: Val Verde, TX 78843–5000
Landholding Agency: Air Force
Property Number: 189420016
Status: Unutilized
Reason: Extensive deterioration

Utah

Bldg. 789
Hill Air Force Base
(See County) Co: Davis, UT 84056–
Landholding Agency: Air Force
Property Number: 189040859
Status: Unutilized
Reason: Within airport runway clear zone, Secured Area

Washington

Bldg. 640
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010139
Status: Unutilized
Reason: Secured Area

Bldg. 641
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010140
Status: Unutilized
Reason: Secured Area

Bldg. 642
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010141
Status: Unutilized
Reason: Secured Area

Bldg. 643
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010142
Status: Unutilized
Reason: Secured Area

Bldg. 645
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010143
Status: Unutilized
Reason: Secured Area

Bldg. 646
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010144
Status: Unutilized
Reason: Secured Area

Bldg. 647
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010145
Status: Unutilized
Reason: Secured Area

Bldg. 1415
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010146
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 1429
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010147
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 1464
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010148
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 1465
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010149
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 1466
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010150
Status: Unutilized
Reason: Within 2,000 ft. of flammable or explosive material, Secured Area

Bldg. 3503
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010151
Status: Unutilized
Reason: Secured Area

Bldg. 3504
Fairchild AFB
Fairchild Co: Spokane, WA 99011–
Landholding Agency: Air Force
Property Number: 189010152
Status: Unutilized
Reason: Secured Area

Bldg. 3505
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010153
Status: Unutilized
Reason: Secured Area

Bldg. 3506
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010154
Status: Unutilized
Reason: Secured Area

Bldg. 3507
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010155
Status: Unutilized
Reason: Secured Area

Bldg. 3510
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010156
Status: Unutilized
Reason: Secured Area

Bldg. 3514
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010157
Status: Unutilized
Reason: Secured Area

Bldg. 3518
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010158
Status: Unutilized
Reason: Secured Area

Bldg. 3521
Fairchild AFB
Fairchild Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010159
Status: Unutilized
Reason: Secured Area

Bldg. 100, Geiger Heights
Grove and Hallet Streets
Fairchild AFB Co: Spokane WA 99204
Landholding Agency: Air Force
Property Number: 189210004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 261
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310053
Status: Unutilized
Reason: Secured Area

Bldg. 284
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310054
Status: Unutilized
Reason: Secured Area

Facility 923
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310055
Status: Unutilized
Reason: Secured Area

Bldg. 1330
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310056
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 1336
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011

Landholding Agency: Air Force
Property Number: 189310057
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 2000
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310058
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 2143
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310059
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 2385
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310060
Status: Unutilized
Reason: Secured Area

Bldg. 3509
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310061
Status: Unutilized
Reason: Secured Area

Bldg. 1405
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310062
Status: Underutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Facility 1468
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310063
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Facility 1469
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310064
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Facility 2450
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189310065
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 1, Waste Annex
West of Craig Road Co: Spokane WA 99022
Landholding Agency: Air Force
Property Number: 189320043
Status: Unutilized
Reason: Secured Area

Bldg. 1220
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189330091
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 1224
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189330092
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 2004
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189330093
Status: Unutilized
Reason: Secured Area

Bldg. 2018
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189330094
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 2150
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189330095
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 2164
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189330096
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Wisconsin

Bldg. 204, 440 Airlift Wing
Gen. Mitchell IAP
Milwaukee Co: Milwaukee WI 53207–6299
Landholding Agency: Air Force
Property Number: 189320032
Status: Unutilized
Reason: Secured Area

Bldg. 306, 440 Airlift Wing
Gen. Mitchell IAP
Milwaukee Co: Milwaukee WI 53207–6299
Landholding Agency: Air Force
Property Number: 189320033
Status: Unutilized
Reason: Secured Area

Wyoming

Bldg. 31
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189010198
Status: Unutilized
Reason: Secured Area

Bldg. 34
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189010199
Status: Underutilized
Reason: Secured Area

Bldg. 37
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189010200
Status: Unutilized
Reason: Secured Area

Bldg. 284
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189010201
Status: Unutilized
Reason: Secured Area

Bldg. 385
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189010202
Status: Unutilized
Reason: Secured Area

Bldg. 2780
Warren Air Force Base
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189240005
Status: Unutilized
Reason: Secured Area

Bldg. 2781
Warren Air Force Base
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189240006
Status: Unutilized
Reason: Secured Area

Bldg. 844
Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189410002
Status: Unutilized
Reason: Secured Area

Bldg. 848
Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189410003
Status: Unutilized
Reason: Secured Area

Bldg. 362
Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189420017
Status: Unutilized
Reason: Secured Area

Bldg. 342
Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189420018
Status: Unutilized
Reason: Secured Area

Bldg. 810
Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189510016
Status: Unutilized
Reason: Secured Area

826

Warren Air Force Base
Cheyenne Co: Laramie WY 82005
Landholding Agency: Air Force
Property Number: 189510018
Status: Unutilized
Reason: Secured Area

Land (by State)

Alabama

Old Lock 9
Armistead I. Selden
Sec. 5 & 8, Twp. 23 North, Range 4 East Co: Green AL 35462
Landholding Agency: COE
Property Number: 319440006
Status: Underutilized
Reason: Floodway

Alaska

Campion Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010430
Status: Unutilized
Reason: Other, Isolated area, Not accessible by road
Comment: Isolated and remote area; Arctic environment

Lake Louise Recreation
21 CSG–DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010431
Status: Unutilized
Reason: Other, Isolated area, Not accessible by road
Comment: Isolated and remote area; Arctic coast

Nikolski Radio Relay Site
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010432
Status: Unutilized
Reason: Other, Isolated area, Not accessible by road
Comment: Isolated and remote area; Arctic coast

Florida

Land
MacDill Air Force Base
6601 S. Manhattan Avenue
Tampa Co: Hillsborough FL 33608
Landholding Agency: Air Force
Property Number: 189030003
Status: Excess
Reason: Floodway

Indiana

Portion of Tract No. 1224
Salamonie Lake
Huntington Co: Huntington IN 46750
Landholding Agency: COE
Property Number 319310001
Status: Unutilized
Reason: Other
Comment: Landlock

Kentucky

Tract 4626
Barkley, Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211
Location: 14 miles from US Highway 68.
Landholding Agency: COE
Property Number 319010030
Status: Underutilized
Reason: Floodway

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
US HWY. 7 To Blue John Road
Burnside Co: Pulaski KY 42519
Landholding Agency: COE
Property Number 319010038
Status: Underutilized
Reason: Floodway

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski KY 42519
Landholding Agency: COE
Property Number 319010039
Status: Underutilized
Reason: Floodway

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038
Location: US Highway 62 to state highway 93.
Landholding Agency: COE
Property Number 319010043
Status: Excess
Reason: Floodway

Red River Lake Project
Stanton Co: Powell KY 40380
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613.
Landholding Agency: COE
Property Number 319011684
Status: Unutilized
Reason: Floodway

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270
Landholding Agency: COE
Property Number 319120008
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273
Location: Off State Hwy. 369, which runs off Western Ky. Parkway
Landholding Agency: COE
Property Number 319120009
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288
Location: Off State Hwy 403, which is off State Hwy 231
Landholding Agency: COE
Property Number 319120014
Status: Underutilized
Reason: Floodway

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275
Location: Off State Highway 185
Landholding Agency: COE
Property Number 319120015
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210
Location: Off State Highway 259
Landholding Agency: COE
Property Number 319120016
Status: Underutilized
Reason: Floodway

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Green-up KY 41144
Landholding Agency: COE
Property Number 319120017
Status: Unutilized
Reason: Floodway

Tract 6404, Cave Run Lake
U.S. Hwy 460
Index Co: Morgan KY
Landholding Agency: COE
Property Number 319240005
Status: Underutilized
Reason: Floodway

Tract 6803, Cave Run Lake
State Road 1161
Pomp Co: Morgan KY
Landholding Agency: COE
Property Number 319240006
Status: Underutilized
Reason: Floodway

Maryland

Land
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges MD 20613
Landholding Agency: Air Force
Property Number 189010263
Status: Unutilized
Reason: Secured Area

Tract 131R
Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD
Landholding Agency: COE
Property Number 319240007
Status: Underutilized
Reason: Floodway

Minnesota

Parcel G
Pine River
Cross Lake Co: Crow Wing MN 56442
Location: 3 miles from city of Cross Lake between highways 6 and 371.
Landholding Agency: COE
Property Number 319011037
Status: Excess
Reason: Other
Comment: highway right of way

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number 319011018
Status: Underutilized
Reason: Within airport runway clear zone

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden Co: Dunklin MO
Landholding Agency: COE
Property Number 319130001
Status: Unutilized
Reason: Floodway

Union Lake
Sec 7, Twshp 42 north, Ranger West
Beaufort Co: Franklin MO

Landholding Agency: COE
Property Number 319240008
Status: Unutilized
Reason: Floodway

Confluence Levee (32B)
Missouri & Osage Rivers Co: Cole & Osage MO
Landholding Agency: COE
Property Number 319430001
Status: Unutilized
Reason: Floordway

New Mexico

Facility 75100
Holloman Air Force Base Co: Otero NM 88330
Landholding Agency: COE
Property Number 189240043
Status: Unutilized
Reason: Secured Area

North Dakota

Tracts 1 & 2
Garrison Dam
Lake Sakakawea
Williston Co: Williams ND 58801
Landholding Agency: COE
Property Number: 319410015
Status: Excess
Reason: Within 2,000 ft. of flammable or explosive material, Floodway

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 319440007
Status: Underutilized
Reason: Floodway

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 319440008
Status: Underutilized
Reason: Floodway

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Green PA
Location: Left hand side of entrance roadway to project.
Landholding Agency: COE
Property Number: 319011564
Status: Unutilized
Reason: Floodway

Lock and Dam #3
Monongahela River
Elizabeth Co: Allegheny PA 15037–0455
Landholding Agency: COE
Property Number: 319240014
Status: Unutilized
Reason: Floodway

South Dakota

Badlands Bomb Range
60 miles southeast of Rapid City, SD
1½ miles south of Highway 44 Co: Shannon SD
Landholding Agency: Air Force
Property Number: 189210003
Status: Unutilized
Reason: Secured Area

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 219040413
Status: Underutilized
Reason: Floodway

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE
Property Number: 219040415
Status: Underutilized
Reason: Floodway

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 319011478
Status: Underutilized
Reason: Floodway

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011479
Status: Excess
Reason: Floodway

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551
Location: TN Highway 52
Landholding Agency: COE
Property Number: 319011480
Status: Underutilized
Reason: Floodway

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011481
Status: Underutilized
Reason: Floodway

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011482
Status: Underutilized
Reason: Floodway

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith TN 38564
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011483
Status: Underutilized
Reason: Floodway

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 319011484
Status: Underutilized
Reason: Floodway

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011485
Status: Underutilized
Reason: Floodway

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011486
Status: Underutilized
Reason: Floodway

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011487
Status: Underutilized
Reason: Floodway

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011488
Status: Underutilized
Reason: Within airport runway clear zone, Floodway

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011489
Status: Underutilized
Reason: Floodway

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011490
Status: Unutilized
Reason: Floodway

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 319011491
Status: Unutilized
Reason: Floodway

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030

Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011492
Status: Unutilized
Reason: Floodway

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214
Location: Interstate 40 to S. Mount Juliet Road.
Landholding Agency: COE
Property Number: 319011493
Status: Underutilized
Reason: Floodway

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167
Location: Florence Road near Enon Springs Road
Landholding Agency: COE
Property Number: 319011494
Status: Underutilized
Reason: Floodway

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167
Location: Lamon Road
Landholding Agency: COE
Property Number: 319011495
Status: Underutilized
Reason: Floodway

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 319011496
Status: Underutilized
Reason: Floodway

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson TN 37214
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike.
Landholding Agency: COE
Property Number: 319011497
Status: Underutilized
Reason: Floodway

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011498
Status: Unutilized
Reason: Floodway

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 319011500
Status: Unutilized
Reason: Floodway

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564
Landholding Agency: COE
Property Number: 319011501
Status: Unutilized
Reason: Floodway

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson TN 38562
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011502
Status: Unutilized
Reason: Floodway

Tract 104, et al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030
Location: Highway 70 N
Landholding Agency: COE
Property Number: 319011504
Status: Underutilized
Reason: Floodway

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 319120007
Status: Underutilized
Reason: Floodway

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138
Landholding Agency: COE
Property Number: 319130008
Status: Underutilized
Reason: Floodway

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010397
Status: Underutilized
Reason: Floodway

Part of Tract 201–3
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010398
Status: Underutilized
Reason: Floodway

Part of Tract 323
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010399
Status: Underutilized
Reason: Floodway

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010401
Status: Unutilized
Reason: Floodway

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010402
Status: Unutilized
Reason: Floodway

Virginia

Parcel 1 (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150
Landholding Agency: Air Force
Property Number: 189010435
Status: Unutilized
Reason: Floodway

Parcel 3 (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150
Landholding Agency: Air Force
Property Number: 189010436
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Parcel 2, (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150
Landholding Agency: Air Force
Property Number: 189010437
Status: Unutilized
Reason: With 2000 ft. of flammable or explosive material, Secured Area

ANG Site
Camp Pendleton
Virginia Air National Guard
Virginia Beach Co: (See County) VA 23451
Landholding Agency: Air Force
Property Number: 189010589
Status: Unutilized
Reason: Secured Area

Washington

Fairchild AFB
SE corner of base
Fairchild AFB Co: Spokane WA 99011
Landholding Agency: Air Force
Property Number: 189010137
Status: Unutilized
Reason: Secured Area

Fairchild AFB
Fairchild AFB Co: Spokane WA 99011
Location: NW corner of base
Landholding Agency: Air Force
Property Number: 189010138
Status: Unutilized
Reason: Secured Area

West Virginia

Ohio River
Pike Island Locks and Dam
Buffalo Creek
Wellsburg Co: Brooke WV
Landholding Agency: COE
Property Number: 319011529
Status: Unutilized
Reason: Floodway

Morgantown Lock and Dam
Box 3 RD # 2
Morgantown Co: Monongahelia WV 26505
Landholding Agency: COE
Property Number: 319011530
Status: Unutilized
Reason: Floodway

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126
Location: 20 miles east of Charleston, WV
Landholding Agency: COE
Property Number: 319011690
Status: Unutilized

Reason: Other
Comment: .03 acres; very narrow strip of land located too close to busy highway.

[FR Doc. 95–20289 Filed 8–17–95; 8:45 am]

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federal register

Friday
August 18, 1995

Part III

Environmental Protection Agency

40 CFR Part 9, et al.

National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9, 60 and 63

[AD–FRL–5272–1]

RIN 2060–AD94

National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule promulgates national emission standards for hazardous air pollutants (NESHAP) for petroleum refineries. This rule implements section 112 of the Clean Air Act (Act) and are based on the Administrator's determination that petroleum refineries emit organic hazardous air pollutants (HAPs) identified on the EPA's list of 189 HAPs. The health effects of exposure to HAPs can include cancer, respiratory irritation and damage to the nervous system. The petroleum refinery NESHAP requires petroleum refineries located at major sources to meet emission standards reflecting the application of the maximum achievable control technology (MACT), consistent with sections 112(d) and (h) of the Act. The petroleum refinery affected source is defined to include petroleum refinery process units, marine tank vessel loading operations, and gasoline loading rack operations classified under Standard Industrial Classification (SIC) code 2911 emission points located at petroleum refineries. The petroleum refinery affected source and source category description are revised to reflect the inclusion of these emission points. This action also amends two standards of performance for two stationary sources: Standards of performance for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemicals manufacturing industry (SOCMI); and standards of performance for VOC emissions from petroleum refinery wastewater systems. The amended standards were previously promulgated under section 111 of the Act.

EFFECTIVE DATE: August 18, 1995. See the Supplementary Information section concerning judicial review.

ADDRESSES: *Docket.* Docket No. A–93–48, containing information considered by the EPA in development of the promulgated standards, is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW, Washington, DC 20460; telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

Response to Comment Document. The response to comment document for the promulgated standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone (919) 541–2777; or from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia 22151, telephone (703) 487–4650. Please refer to ''National Emission Standards for Hazardous Air Pollutants, Petroleum Refineries-Background Information for Final Standards, Summary of Public Comments and Responses'' (EPA No.–453/R–95–015b). The document contains: (1) A summary of all the public comments made on the proposed standards and the Administrator's response to the comments; and (2) a summary of the changes made to the standards since proposal. This document is also available for downloading from the Technology Transfer Network (see below) under the Clean Air Act, Recently Signed Rules.

Technology Transfer Network. The Technology Transfer Network is one of the EPA's electronic bulletin boards. The Technology Transfer Network provides information and technology exchange in various areas of air pollution control. The service is free except for the cost of a phone call. Dial (919) 541–5472 for up to a 14,400 bps modem. If more information on the Technology Transfer Network is needed call the HELP line at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: For information concerning the final standards, contact Mr. James Durham, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone number (919) 541–5672.

SUPPLEMENTARY INFORMATION: *Judicial Review.* National emission standards for HAP's for petroleum refineries were proposed in the **Federal Register** (FR) on July 15, 1994 (59 FR 36130). This **Federal Register** action announces the EPA's final decisions on the rule. Under section 307(b)(1) of the Act, judicial review of the NESHAP is available only by the petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The following outline is provided to aid in reading the preamble to the final regulation.

I. Background
II. Summary of Considerations in Developing the Rule
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  B. Technical Basis of Regulation
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  B. Storage Vessel Provisions
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  D. Equipment Leak Provisions
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  F. Recordkeeping and Reporting Provisions
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  A. Process Vents Group Determination
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VI. Changes to NSPS
VII. Administrative Requirements
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  D. Regulatory Flexibility Act
  E. Unfunded Mandates

I. Background

Section 112(b) of the Act lists 189 HAP's and directs the EPA to develop rules to control all major and some area sources emitting HAP's. On July 16, 1992 (57 FR 31576), the EPA published a list of major and area sources for which NESHAP are to be promulgated. Petroleum refineries were listed as a category of major sources. On December 3, 1993 (58 FR 83941), the EPA published a schedule for promulgating standards for the listed major and area sources. Standards for the petroleum refinery source category for sources not distinctly listed were scheduled for promulgation on November 15, 1994. The EPA is promulgating these standards under a July 28, 1995 court-ordered deadline.

II. Summary of Considerations in Developing the Rule

A. Purpose of Regulation

The Act was developed, in part,

> To protect and enhance the quality of the Nations air resources so as to promote the public health and welfare and the productive capacity of its population (the Act, section 101(b)(1)).

Petroleum refineries are major sources of HAP emissions. Individual refineries emit over 23 megagrams per year (Mg/yr) (25 tons per year (tpy)) of organic HAP's including benzene, toluene, ethyl benzene, and other HAP's. The HAP's controlled by this rule are associated with a variety of adverse health effects. The range of adverse health effects include cancer and a number of other chronic health disorders (e.g., aplastic anemia, pancytopenia, pernicious anemia, pulmonary (lung) structural changes) and a number of acute health disorders (e.g., dyspnea (difficulty in breathing), upper respiratory tract irritation with cough, conjunctivitis, neurotoxic effects (e.g., visual blurring, tremors, delirium, unconsciousness, coma, convulsions). Table 1 presents the 11 most significant organic HAP's emitted from the petroleum refineries. Petroleum refineries also emit inorganic HAP's (e.g., hydrogen fluoride, hydrogen chloride). Inorganic HAP emissions from the emission points covered under this rule are low relative to organic HAP emissions. Emission points emitting inorganic HAP's are included in a separate source category under a separate schedule.

TABLE 1.—SIGNIFICANT HAZARDOUS AIR POLLUTANTS FROM PETROLEUM REFINERIES

[Hazardous Air Pollutant]

2,2,4-Trimethylpentane	Methyl tert butyl ether.
Benzene	Naphthalene.
Cresols/cresylic acid	Phenol.
Ethylbenzene	Toluene.
Hexane	Xylenes.
Methyl ethyl ketone	

The catalytic cracking unit catalyst regeneration vent emits primarily metal HAP's, which would be controlled using particulate controls. Catalytic reformer catalyst regeneration vents emit hydrogen chloride, and sulfur plant vents emit carbonyl sulfide and carbon disulfide. Because of these compounds' unique characteristics, the EPA concluded that these emission points warranted separate consideration for control of inorganic HAP's. Because limited data are currently available, these emission points are included in a separate source category under a separate schedule.

The Regulatory Impacts Analysis (RIA) presents the results of an examination of the potential health and welfare benefits associated with air emission reductions projected as a result of implementation of the petroleum refinery NESHAP. Of the pollutants emitted by petroleum refineries, some are classified as VOC, which are ozone precursors. Benefits from HAP emission reductions are presented separately from the benefits associated specifically with VOC emission reductions.

The predicted emissions of a few HAP's associated with this regulation have been classified as possible, probable, or known human carcinogens. Benzene and cresols are the two HAP's identified as carcinogens.

Benzene is classified as a class A or a known human carcinogen. Benzene is a concern to the EPA because long term exposure to this chemical causes an increased risk of cancer in humans, and is also associated with aplastic anemia, pancytopenia, chromosomal breakages, and weakening of the bone marrow.

Cresols are classified as class C or possible human carcinogens. For this HAP, there is either inadequate data or no data on human carcinogenicity. Therefore, while cancer risk is a possibility, there is not sufficient evidence to quantify the increased cancer risk to humans caused by these chemicals.

There are serious health effects reported from exposure to some of the noncarcinogenic HAP's. These serious health effects typically occur at higher levels of exposure than estimated for the regulatory baseline. Exposure to phenol is very toxic to animals and increases mortality, but there is little human data. Exposure to n-hexane can cause polyneuropathy (muscle weakness and numbness) in humans, and exposure to naphthalene is linked to cataracts and anemia in human infants. It is also possible that there are less serious health effects in the regulatory baseline from exposure to these HAP's.

Emissions of VOC have been associated with a variety of health and welfare impacts. Volatile organic compound emissions, together with nitrogen oxides (NO_X), are precursors to the formation of tropospheric ozone. Exposure to ambient ozone is responsible for a series of health impacts, such as alterations in lung capacity; eye, nose, and throat irritation; malaise and nausea; and aggravation of existing respiratory disease. Among the welfare impacts from exposure to ambient ozone include damage to selected commercial timber species and economic losses for commercially valuable crops such as soybeans and cotton.

Based on existing data, the benefits associated with reduced HAP and VOC emissions were quantified. The quantification of dollar benefits for all benefit categories is not possible at this time because of limitations in both data and available methodologies. Although an estimate of the total reduction in HAP emissions for various regulatory alternatives has been developed for the RIA, it has not been possible to identify the speciation of the HAP emission reductions for each type of emission point. However, an estimate of HAP speciation for equipment leaks has been made. Using emissions data for equipment leaks and the Human Exposure Model (version 1), the annual cancer risk caused by HAP emissions from petroleum refineries was estimated. Generally, this benefit category is calculated as the difference in estimated annual cancer incidence before and after implementation of each regulatory alternative. Since the annual cancer incidence associated with baseline conditions was less than one life per year, the cancer benefits associated with HAP reductions for the petroleum refinery NESHAP were determined to be low. Therefore, these quantified benefits are not part of the overall quantified benefits estimate for the analysis.

The benefits of reduced emissions of VOC from a MACT regulation of petroleum refineries were quantified using the technique of ''benefits transfer.'' Because analysis by the Office of Technology Assessment from which benefits transfer values were obtained only estimated acute health benefits in ozone nonattainment areas, the transfer values can be applied to VOC reductions occurring only in ozone nonattainment areas. The range of benefit transfer values used in this analysis is from $25 to $1,574 per megagram (Mg) ($23 to $1,431 per ton) of VOC with an average of $800/Mg ($727/ton) of VOC.

In order to quantify benefits from VOC emission reductions, the average value is multiplied by VOC emission reductions from petroleum refineries in ozone nonattainment areas. Estimated annual benefits for VOC reductions are $108.8 million for selected regulatory alternatives. The quantified annual

benefits exceed annual compliance costs by $29.8 million (1992 dollars).

The promulgated NESHAP will reduce HAP emissions from petroleum refineries by 59 percent. Table 2 presents the national baseline emissions and emission reductions for petroleum refinery process vents, storage vessels, wastewater, and equipment leaks. The emissions reductions for controlling gasoline loading racks and the marine vessel loading emission points are discussed in supporting material for the Gasoline Distribution (Stage I) and the Marine Vessel Loading Operations rules.

TABLE 2.—NATIONAL PRIMARY AIR POLLUTION IMPACT IN THE FIFTH YEAR

Source	Baseline emissions (Mg/yr)		Emission reductions			
			(Mg/yr)		(Percent)	
	HAP	VOC	HAP	VOC	HAP	VOC
Miscellaneous process vents	10,000	109,000	6,700	85,000	67	78
Equipment leaks	52,000	189,000	40,000	146,000	77	77
Storage vessels	9,300	111,000	1,300	21,000	14	19
Wastewater collection and treatment	10,000	10,000	([a])	([a])	([a])	([a])
Total	81,300	419,000	48,000	252,000	59	60

[a] The MACT level of control is no additional control.

B. Technical Basis of Regulation

National emission standards for major sources of HAP's established under section 112 of the Act reflect MACT or:

> * * * the maximum degree of reduction in emissions of the HAP * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts and energy requirements, determine is achievable for new or existing sources in the category or subcategory to which such emission standard applies * * * (the Act section 112(d)(2)).

Prior to proposal, section 114 questionnaires, information collection requests (ICR's), and telephone surveys were used to obtain information on emissions, emissions control, and emissions control costs for petroleum refinery emission points. Section 114 questionnaires were sent out to nine large refineries, of approximately 130 existing petroleum refineries nationally, to obtain emissions and emissions control information for equipment leaks, wastewater, process vents, and storage vessel emission points located in a petroleum refinery. The ICR's were sent out to the refineries that were not sent section 114 questionnaires to obtain information on emissions control equipment and emissions for process vents, storage vessels, and equipment leaks emission points. A telephone survey of equipment vendors was conducted to obtain leak detection and repair (LDAR) cost information.

Data and information were received for approximately 130 petroleum refineries. This information was used, in part, as the technical basis in determining the MACT level of control for the process units covered under this rule. In addition to information collected from industry, the EPA used information on refinery locations and processes available in the general literature. The EPA also used control technology performance and cost information developed under previous rulemakings for the petroleum and chemical industries, such as the petroleum refinery new source performance standard (NSPS), benzene NESHAP, and synthetic organic chemical manufacturing industry (SOCMI) standards. The EPA also considered existing State regulations and additional information received during the public comment period for the proposed rule in developing the final rule.

C. Stakeholder and Public Participation

In the development of this rule, numerous representatives of the petroleum refinery industry were consulted prior to proposal. Industry representatives have included trade associations, and refiners responding to section 114 questionnaires, ICR's, and telephone surveys. Representatives from State agencies and the EPA regions were also consulted and participated in the development of the rule.

The standards were proposed and published in the **Federal Register** on July 15, 1994 (59 FR 36130). The preamble to the proposed standard describes the rationale for the proposed rule. Public comments were solicited at the time of proposal.

To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was offered at proposal. A public hearing was held in Research Triangle Park, North Carolina, on August 5, 1994. The hearing was open to the public and four persons presented oral testimony. The public comment period was from July 15, 1994 to September 13, 1994. Sixty-two comment letters were received. Commenters included industry representatives, States, environmental organizations, and others. The comments have been carefully considered, and changes have been made in the proposed standards when determined by the Administrator to be appropriate. A detailed discussion of these comments and responses can be found in the Response of Comment Document, which is referenced in the **ADDRESSES** section of this preamble. The summary of comments and responses in the document serve as the basis for the revisions that have been made to the standards between proposal and promulgation. Section V of this preamble discusses the major comments that resulted in changes to the standards.

III. Summary of Promulgated Standards

The promulgated standard applies to petroleum refining process units as well as other colocated emission points that are part of a plant site that is a major source as defined in section 112 of the Act. The determination of potential to emit, and therefore major source status, is based on the total of all HAP emissions from all activities at the plant site. The applicability section of the regulation specifies what is included in the petroleum refining source category and defines the sources regulated by the NESHAP.

The general standards consist of compliance dates for new and existing sources, require sources to be properly operated and maintained at all times, and clarify the applicability of the NESHAP General Provisions (40 Code of Federal Regulations (CFR) part 63, subpart A) to sources subject to subpart CC.

The affected source comprises the miscellaneous process vents, storage vessels, wastewater streams, and equipment leaks associated with petroleum refining process units, and marine tank vessel loading operations and gasoline loading racks classified under SIC code 2911 located at a refinery. The inclusion of marine tank vessel loading operations and gasoline loading racks in the definition of the petroleum refinery affected source and source category is a revision from the proposal. These emission points have been included as part of the petroleum refinery affected source and source category to permit an owner or operator of a petroleum refinery to average emissions among emission points collocated at the refinery to comply with the standards. These standards do not apply to distillation units located at pipeline pumping stations whose primary purpose is to produce fuel to operate turbines and internal combustion engines at the pipeline pumping stations. A summary of the specific provisions that apply to each of the emission points contained within a petroleum refinery affected source follows. All of the specified provisions for each of the covered emission points allow for, or are based on and encourage, pollution prevention.

These standards do not address three vents that will be subject to future NESHAP standards. These are the catalyst regeneration vents on catalytic cracking units and catalytic reforming units (CRU's) and vents from sulfur recovery units (SRU's). Industry is concerned that standards for these three vents will require the use of control technologies designed to reduce non-HAP emissions and will preclude the use of alternatives that can achieve comparable HAP control at a lower cost. The EPA recognizes that standards should be structured on a performance basis wherever possible to ensure that industry is provided the flexibility to seek out and implement cost-effective controls. The EPA's existing standards for sulfur dioxide and particular matter emissions from new FCCU catalyst regenerator vents demonstrate such recognition. The allowable emissions were expressed in terms of the amount of coke burned off the catalyst in order to provide industry with the flexibility to comply through operational changes or through traditional end-of-pipe controls or a combination of the two. The EPA has every intention to ensure that future rules also provide similar flexibility.

A. Miscellaneous Process Vent Provisions

Miscellaneous process vents include vents from petroleum refining process units that emit organic HAP's. Vents that are routed to the refinery fuel gas system are considered to be part of the process and are not subject to the standard. The miscellaneous process vent provisions define two groups of vents. Group 1 process vents are those with VOC emissions greater than or equal to 33 kilograms per day (kg/day) (72 pounds per day (lb/day)) for existing sources and 6.8 kg/day (15 lb/day) for new sources. Group 2 vents are vents with emissions below these levels.

The miscellaneous process vent provisions for new and existing sources require the owner or operator of a Group 1 miscellaneous process vent to reduce organic HAP emissions by 98 percent or to less than 20 parts per million by volume (ppmv), or to reduce emissions using a flare meeting the requirements of § 63.11(b) of the NESHAP General Provisions (40 CFR part 63, subpart A).

Monitoring requirements for Group 1 vents include an initial performance demonstration and monitoring of control device operating parameters. The owner could also comply by reducing emissions from a Group 1 process vent to less than 33 kg/day (72 lb/day) for existing sources and 6.8 kg/day (15 day) for new sources, thereby converting it to a Group 2 process vent. No controls or monitoring are required for Group 2 process vents.

B. Storage Vessel Provisions

The storage vessel provisions define two groups of vessels: Group 1 vessels are vessels with a design storage capacity and a maximum true vapor pressure above the values specified in the regulation. Group 2 vessels are all storage vessels that are not Group 1 vessels. The storage vessel provisions require that one of the following control systems be applied to Group 1 storage vessels: (1) An internal floating roof (IFR) with proper seals; (2) an external floating roof (EFR) with proper seals; (3) an EFR converted to an IFR with proper seals; or (4) a closed vent system to a control device that reduces HAP emissions by 95 percent or to 20 ppmv. The storage provisions give details on the type of seals required. Monitoring and compliance provisions for Group 1 vessels include periodic external visual inspections of vessels and roof seals, as well as less frequent internal inspections. If a closed vent system and control device is used for venting emissions from Group 1 storage vessels, the owner or operator must establish appropriate monitoring procedures. No controls or inspections are required for Group 2 storage vessels.

For existing sources, the final rule requires that fixed roof tanks with capacities greater than or equal to 177 cubic meters (m^3) (47,000 gallons (gal)) that store liquids containing more than 4 percent organic HAP with vapor pressures greater than 10.4 kilopascals (kPa) (1.5 pounds per square inch absolute (psia)) comply fully with the rule within 3 years. If an owner or operator must replace an existing fixed roof tank in order to comply with the rule, it would be reasonable for the State to grant an additional year to comply as authorized under section 112(i)(3)(B) of the Act (a total of four years). This additional time would allow time to design and construct tanks without disrupting refinery operations that could create additional emissions. Owners or operators of IFR or EFR tanks are allowed to defer upgrading of their seals to meet the NESHAP requirements until the next scheduled inspection and maintenance activity or within 10 years, whichever comes first.

For new sources, the final rule requires that vessels with capacities greater than or equal to 151 m^3 (40,000 gal), that store liquids containing more than 2 percent organic HAP with vapor pressures equal to or greater than 3.4 kPa (0.5 psia), and vessels with capacities equal to or greater than 76 m^3 (20,000 gal) storing liquids containing more than 2 percent organic HAP with vapor pressures equal to or greater than 77 kPa (11.1 psia) comply with the level of control required by 40 CFR part 63, subpart G (including the controlled fitting requirements).

C. Wastewater Provisions

The wastewater provisions define two groups of wastewater streams. Group 1 streams are those that are located at a refinery with a total annual benzene loading of at least 10 megagrams per year (Mg/yr) (11 tpy) and are not exempt from control requirements under 40 CFR part 61, subpart FF (the benzene waste operations NESHAP or BWON). In general, streams are not exempt from 40 CFR part 61 subpart FF if they contain a concentration of at least 10 parts per million by weight (ppmw) benzene, and have a flow rate of at least 0.02 liters per minute (L/min) (0.005 gallons per minute (gal/min)). Group 2 streams are wastewater streams that are not Group 1.

The wastewater provisions of the final rule refer to the BWON for both new and existing sources, which requires owners or operators of a Group 1 wastewater stream to reduce benzene

mass emissions by 99 percent using suppression followed by steam stripping, biotreatment, or other treatment processes. Vents from steam strippers and other waste management or treatment units are required to be controlled by a control device achieving 95 percent emissions reduction or 20 ppmv at the outlet of the control device. The performance tests, monitoring, reporting, and recordkeeping provisions required to demonstrate compliance are included in the BWON. No controls or monitoring are required for Group 2 wastewater streams.

D. Equipment Leak Provisions

The equipment leak standards for the petroleum refinery NESHAP allow owners or operators of existing sources to choose between complying with equipment leaks provisions in 40 CFR part 60, subpart VV (NSPS for Equipment Leaks) or complying with a modified negotiated regulation for equipment leaks presented in 40 CFR part 63, subpart H (Hazardous Organic NESHAP or HON equipment leaks). The differences in the NSPS equipment leak requirements and the HON equipment leak requirements are in the leak definitions and connector monitoring provisions.

Under either of the two options, existing refineries subject to the rule will be required to implement a LDAR program with the same leak definitions (10,000 parts per million (ppm)) and frequencies as specified in 40 CFR part 60, subpart VV within 3 years after promulgation of the petroleum refineries NESHAP. Refineries that choose to comply with the modified negotiated regulation would implement the Phase II leak definitions and frequencies at the end of the fourth year, and comply with Phase III requirements 5½ years after promulgation. Phase III defines a leak at a lower level, but allows less frequent monitoring for good performers. Although the modified negotiated regulation is not required in the final rule, the EPA believes that it would provide greater emission reductions and, in many cases, would be more cost effective than 40 CFR part 60, subpart VV and could even provide cost savings. Cost savings would occur because it would reduce equipment leak product loss, and facilities with a low percentage of leaking valves would be able to monitor less frequently, thereby reducing monitoring costs.

New sources must comply at startup with the modified negotiated regulation; pumps and valves at new sources must be in compliance with the Phase II requirements at startup rather than Phase I. This is consistent with the negotiated rule (40 CFR part 63, subpart H).

E. Marine Tank Vessel Loading and Gasoline Loading Rack Provisions

The final refineries NESHAP requires marine tank vessel loading operations at refineries to comply with the marine loading NESHAP (40 CFR part 63, subpart Y) unless they are included in an emissions average. Gasoline loading racks classified under SIC code 2911 at refineries are required to comply with the 40 CFR part 63, subpart R loading rack provisions unless they are included in an emissions average.

F. Recordkeeping and Reporting Provisions

The final rule requires that petroleum refineries subject to 40 CFR part 63, subpart CC maintain required records for a period of at least 5 years. The final rule requires that the following reports be submitted: (1) A Notification of compliance status report, (2) periodic reports, and (3) other reports (e.g., notifications of storage vessel internal inspections; startup, shutdown, and malfunction reports).

G. Emissions Averaging

The EPA is allowing emissions averaging among existing miscellaneous process vents, storage vessels, wastewater streams, marine tank vessel loading operations, and gasoline loading racks classified under SIC code 2911 located at a refinery. New sources are not allowed to use emissions averaging. Under emissions averaging, a system of emission ''credits'' and ''debits'' is allowed to determine whether a source is achieving the required emission reductions.

IV. Summary of Impacts

The impacts presented in this section include process vents, storage vessels, equipment leaks, and wastewater streams from petroleum refinery process units. Impacts for control of marine tank vessel loading operations and gasoline loading rack operations classified under SIC code 2911 located at refineries are presented in the background documentation for 40 CFR part 63, subparts Y and R.

These standards will reduce nationwide emissions of HAP from petroleum refineries by 48,000 Mg/yr (53,000 tpy), or 59 percent by 1998 compared to the emissions that would result in the absence of standards. No adverse secondary air impacts, water or solid waste impacts are anticipated from the promulgation of these standards.

The national electric usage required to comply with the rule is expected to increase by 48 million kilowatt-hours per year, which is equivalent to approximately 77,500 barrels of oil.

The implementation of this regulation is expected to result in an overall annual national cost of $79 million. This includes a cost of $59 million from operation of control devices, and a monitoring, recordkeeping, and reporting cost of $20 million. The monitoring, reporting, and recordkeeping cost has been reduced by 25 percent from proposal. Table 3 presents the national control cost impacts for petroleum refinery process vents, storage vessels, wastewater, and equipment leaks. The control costs for gasoline loading racks and marine tank vessel loading operations are discussed in supporting material for the Gasoline Distribution (Stage I) and the Marine Vessel Loading Operations rules.

TABLE 3.—NATIONAL CONTROL COST IMPACTS IN THE FIFTH YEAR

Source	Total[a] capital costs[b] ($10[6])	Total[a] annual costs ($10[6]/yr)	Average HAP cost effectiveness ($/Mg HAP)	Average VOC cost effectiveness ($/Mg VOC)
Miscellaneous process vents	21 (2)	12 (1)	1,800	140
Equipment leaks	142 (16)	58 (17)	1,500	400
Storage vessels	48 (1)	8 (1)	6,100	380
Wastewater collection and treatment	([c])	([c])	([c])	([c])
Other recordkeeping and reporting	2	1	([d])	([d])

TABLE 3.—NATIONAL CONTROL COST IMPACTS IN THE FIFTH YEAR—Continued

Source	Total [a] capital costs [b] ($10 [6])	Total [a] annual costs ($10 [6]/yr)	Average HAP cost effectiveness ($/Mg HAP)	Average VOC cost effectiveness ($/Mg VOC)
Total	213 (21)	79 (20)	1,600	310

[a] Numbers in parentheses are recordkeeping and reporting costs included in total annual cost and total capital cost estimates. For equipment leaks, activities associated with setting up and operating a LDAR program (e.g., tagging and identifying, monitoring, data entry, setting up a data management system, etc.) are not reflected in the equipment leak recordkeeping and reporting costs, but are included in the equipment leak total annual cost and total capital cost estimate.
[b] Total capital costs incurred in the 5-year period.
[c] The MACT level of control is no additional control.
[d] Not applicable.

The EPA estimates that changes in the compliance times for storage vessels with floating roofs and changes to the process vents Group 1 applicability cutoff will provide substantial cost savings and emissions reductions for refineries. Estimates of degassing and cleaning storage tank costs provided by the refining industry indicate that premature (within 3 years of promulgation) degassing and cleaning activities would cost between $34,000 and $213,000 per floating roof tank depending on the type of material stored. If extrapolated to the entire refining industry for floating roof tanks, the cost savings from allowing floating roofs to comply at the next scheduled maintenance would be $6.6 million per year.

The EPA determined that substantial HAP emissions occur when storage vessels are degassed and cleaned. Typically, storage vessels are inspected and maintained on a 10-year schedule, at which time tanks are degassed and cleaned. If a 3-year compliance schedule were required, storage vessels would be degassed and cleaned prematurely, resulting in substantial HAP emissions caused by the rule. These HAP emissions could not be balanced in less than 5 years for floating roof tanks by the emission reduction achieved from complying with the rule. By changing the proposed rule to allow floating roof tanks to comply with the storage vessel requirements 10 years after promulgation of the rule or at the next scheduled inspection, the EPA estimates that 3,000 Mg/yr (2,700 tpy) of HAP, or 8,000 Mg (7,200 tpy) of HAP over 3 years, would be prevented from being emitted.

The existing source process vent applicability cutoff (33 kg of VOC/day (72 lb of VOC/day) per vent) will exclude 3,000 vents from requiring control at a total annual cost savings of $4.5 million. The new source process vent applicability cutoff (7 kg of VOC/day (15 lb of VOC/day) per vent) will exclude 35 vents from requiring control at a total annual cost savings of $25,000. The total annual cost reduction of these changes in the rule is a reduction of approximately $11 million.

The economic impact analysis for the selected regulatory alternatives shows that the estimated price increases for affected products range from 0.24 percent for residual fuel oil to 0.53 percent for jet fuel. Estimated decreases in product output range from 0.13 percent for jet fuel to 0.50 percent for residual fuel oil. Annual net exports (exports minus imports) are predicted to decrease by 2.3 million barrels, with the range of reductions varying from 0.21 million barrels for liquid petroleum gas to 0.91 million barrels for residual fuel oil.

Between zero and seven refineries, all of which are classified as small, may close due to the regulation. For more information, consult the ''Economic Impact Analysis for the Petroleum Refinery NESHAP'' in the docket (see **ADDRESSES** section of this preamble).

V. Significant Comments and Changes to the Proposed Standards

In response to comments received on the proposed standards, several changes have been made to the final rule. While several of these changes are clarifications designed to make the Agency's intent clearer, a number of them are significant changes to the proposed standard requirements. A summary of the substantive comments and/or changes made since the proposal are described in the following sections. Detailed Agency responses to public comments and the revised analysis for the final rule are contained in the BID and docket (see **ADDRESSES** section of this preamble).

A. Process Vents Group Determination

The proposed NESHAP would have required control of all miscellaneous process vents with HAP concentrations over 20 ppmv. This level was based on the fact that combustion control technologies can reduce organic emissions by 98 percent or to 20 ppmv, but cannot necessarily achieve lower concentrations. Several commenters suggested that other applicability criteria were needed to determine which process vents are required to apply control. They pointed out that the HON and State regulations use a total resource effectiveness (TRE) or emission rate cutoff to exclude small vents that have low emission potential and high costs from control requirements. The commenters contended that the MACT floor does not include control of such vents.

In response to these comments, the EPA examined potential control applicability criteria. The EPA reevaluated the miscellaneous process vents data base. The EPA's information on miscellaneous process vent streams was insufficient to establish an emission rate cutoff. This was because industry did not have sufficient information on the HAP and VOC content of vent streams requested by the section 114 questionnaires and ICR's and it would have been impractical to obtain this information. Therefore, as suggested by a number of commenters, and after consultations with industry and others, the EPA decided to use State regulations.

The EPA evaluated the current level of control for miscellaneous process vents in eight States and two air districts that contain the majority of refineries and were expected to have the most stringent regulations. Of the refineries in the United States, the 12 percent that are subject to the most stringent regulations are located in three States. In these three States, miscellaneous process vents emitting greater than 6.8 to 45 kg/day (15 to 100 lb/day) of VOC are required to be controlled. The median applicability cutoff level for the 12 percent of U.S. refineries subject to the most stringent regulations is 33 kg/day (72 lb/day VOC). Thus, control of vents with VOC emissions greater than 33 kg/day (72 lb/day) is the MACT floor for existing sources and 6.8 kg/day (15 lb/day) is the

MACT floor level of control for new sources. The primary organic HAP's at refineries are also VOC. Additionally, a VOC-based applicability criteria is most reflective of the current level of control required for miscellaneous process vents as the majority of State regulations are expressed in terms of VOC. Therefore, the EPA has adopted these emission levels in the final rule to distinguish Group 1 from Group 2 vents. Group 1 vents are those that emit over 33 kg/day (72 lb/day) for existing sources and over 6.8 kg/day (15 lb/day) for new sources. Group 1 vents must be controlled, whereas Group 2 vents (which emit less than 33 kg/day (72 lb/day) for existing sources and less than 6.8 kg/day (15 lb/day) for new sources) are not required to apply controls under the final rule. The 33 kg/day (72 lb/day) and 6.8 kg/day (15 lb/day) applicability limits are to be determined as the gases exit from process unit equipment (including any recovery devices) and prior to any non-recovery emission control device.

B. Process Vent Impacts

At proposal, the EPA estimated that the baseline HAP and VOC emissions from process vents were 9,800 Mg/yr (10,780 tpy) and 190,000 Mg/yr (209,000 tpy), respectively. Several commenters contended that the impacts analysis for process vents should be redone because: (1) The data base used in the analysis contained several errors, and (2) the emission estimation methodology was incorrect. The commenters asserted that these inaccuracies resulted in overestimates of emissions. Some of the commenters asserted that the data base flaws included: (1) A lack of data concerning the number, flowrates, and HAP concentrations of miscellaneous process vents, and (2) an erroneously high percentage of controlled vents because many uncontrolled vents were not reported. Some of the commenters contended that the emission estimation methodology was flawed because (1) It included wastewater and maintenance emissions, (2) emission factors were calculated from a HAP-to-VOC ratio that included reformer emissions, and (3) alkylation emissions and crude unit emissions were based on one refinery where vents were uncontrolled at the time of the questionnaire and are now controlled.

The EPA agrees with the commenters that the process vents emission impacts estimate has several assumptions that needed to be reanalyzed. The EPA also agrees that the data base used at proposal should be reevaluated to consider the commenters' concerns. Therefore, the EPA has reestimated the emissions and cost impacts of the process vents provisions using the commenters' recommendations.

The emissions at proposal were estimated using responses from only the section 114 questionnaires extrapolated to the entire refining industry. Because the section 114 questionnaires were sent to the largest companies, the data obtained from them skewed the results based on what the largest refineries did. The revised emissions were estimated using data from both the section 114 and ICR responses. The ICR questionnaires were sent to refineries not receiving the section 114 questionnaires. This additional data increased the number of vents in the data base by 1,300. The increase in vents resulted in a decrease in controlled vents from 40 percent to 24 percent. However, information on the HAP and VOC content of vent streams remained limited as no new data was provided by the ICR respondents. Additionally, no new HAP information was provided by industry after proposal of the rule.

Additionally, errors in the data base were corrected and non-miscellaneous process vents were removed from the data base (e.g., vents from wastewater, maintenance, catalytic reformer regeneration vents, etc). In the revised emission estimates, emissions from alkylation and crude units were estimated from a number of different data points (not just one, as the commenters have stated). Additionally, the one data point the commenters have referred to has been changed to reflect the change in control status. The revised baseline miscellaneous process vents HAP and VOC emissions are 10,000 Mg/yr (11,000 tpy) and 109,000 Mg/yr (119,900 tpy), respectively.

The EPA agrees that the data on HAP concentrations is limited. However, no new data was supplied by the commenters. The EPA's revised emission estimates are based on technically sound methods and the best available information.

C. Equipment Leaks Compliance Requirements

The proposed rule for equipment leaks at existing sources was an above-the-floor option modeled after the HON negotiated rule for equipment leaks. The floor level of control for equipment leaks from existing sources was determined to be control equal to the petroleum refinery NSPS. The modified negotiated rule was chosen as an above-the-floor option because it was estimated to be cost effective. The option chosen in the proposed rule differed from the HON in that: (1) Existing sources were not required to monitor connectors, and (2) the leak definitions were higher to reflect the different volatility of materials found in refinery process lines as opposed to SOCMI process lines. The proposed rule required one-third of the refinery to be in compliance 6 months after promulgation of the rule, two-thirds of the refinery to be in compliance 1 year after promulgation of the rule, and the entire refinery to be in compliance 18 months after promulgation of the rule.

Several commenters contended that the emissions and cost information used to determine the cost effectiveness of going from the floor level of control to the modified negotiated rule were inaccurate and did not consider recent changes to the equipment leak correlation equations for petroleum refineries. The commenters concluded that using the most recent information for refineries would show that it is not cost effective to go beyond the floor level of control.

The cost information used in the analysis was the best data available, and is based on surveys of vendors and established costs presented in previous projects. No new cost information was submitted by the industry. The equipment leak emission factors that are being used to estimate the emissions and emission reductions of the rule were developed in 1980. These are the only complete and accurate emission factors available for this purpose. To accurately estimate emissions from equipment leaks, two sets of information are needed. These include the amount of emissions generated per piece of equipment leaking at a given concentration and the percent of equipment that are actually leaking at these concentrations. The 1980 study that was used to estimate the impacts of the refinery MACT rule used a consistent sampling methodology to address both of these factors based on sampling at uncontrolled refineries. The 1993 API study developed new information only on emissions per piece of leaking equipment using a different methodology. As stated in API's report, this information was developed from refineries in California for use with other information to estimate facility-specific equipment leak emissions. Thus, this study was not designed to provide information on industry average percent leaking equipment. Therefore, it was not possible to redefine average emission factors. To actually use this information, however, the EPA would need corresponding new information on the percent of equipment leaking. The EPA does not believe that it would be appropriate to combine 1993

information with the 1980 data to develop new emission factors because sampling methodologies were different and because the 1993 study collected information from information from well-controlled facilities while the 1980 study collected information from uncontrolled facilities. However, the EPA agrees that new correlation equations developed for the refining industry indicate that the refinery factors may overestimate emissions by as much as a factor of two, which may make the modified negotiated rule option less cost effective. This cannot be accurately determined because the appropriate information to update average emission factors is not available. The EPA recognizes that enough uncertainty exists in the emission and cost estimates to question the results of the cost-effectiveness analysis.

In recognition of this uncertainty and to provide compliance flexibility, the EPA has changed the final rule to provide each existing refinery with a choice of complying with either: (1) The equipment leaks NSPS requirements (40 CFR part 60, subpart VV) or (2) a modified version of the negotiated rule (40 CFR part 63, subpart H). The NSPS represents the MACT floor for existing sources. The modified negotiated regulation is the same as what was contained in the proposed petroleum refinery NESHAP except that the compliance dates have been extended for reasons described below. Although not required in the final rule, the EPA promotes use of the modified negotiated rule option because it is believed to provide considerable product, emissions, and cost savings to a refinery.

Under either option, existing refineries will be required to implement an LDAR program with the same leak definitions (10,000 ppm) and the same leak frequencies as contained in the NSPS by 3 years after promulgation. A refinery may opt to remain at this level of control and do the monitoring, recordkeeping, and reporting specified in the NSPS. This option allows refineries that are familiar with the NSPS to continue to implement that standard without needing to change their procedures.

Alternatively, a refinery may choose to comply with Phase I of the negotiated rule (10,000 ppm leak definition) 3 years after promulgation, comply with Phase II 4 years after promulgation, and comply with Phase III 5½ years after promulgation. Each phase has lower leak definitions for pumps and valves. In Phase III, monitoring frequencies for valves are dependent on performance (percent leakers), providing an incentive (less frequent monitoring and reduced monitoring costs) for good performance. Refineries choosing to comply with the modified negotiated rule are subject to monitoring, recordkeeping, and reporting requirements of subpart H. The EPA has included this compliance alternative to add flexibility and opportunities for adjustment for differences among facilities.

The compliance dates for equipment leaks were revised to address commenter concerns that contended that small refineries and refineries in ozone attainment areas would be at a disadvantage if they were required to comply with the proposed equipment leak regulations because they would not have the experience to implement an equipment leaks control program within 6 to 18 months.

The EPA agrees that small refineries may not have the experience to implement an LDAR program for equipment leaks in a short timeframe without significant expense. The EPA also contends that other refineries that do not currently have LDAR programs may also have trouble implementing the rule in 6 to 18 months. In response to these comments, the EPA has changed the final rule to require that existing refineries, regardless of size, comply with an LDAR program with the same leak definitions (10,000 ppm) and monitoring frequencies as the petroleum refinery NSPS within 3 years of promulgation of the rule. At the end of the third year, the entire refinery must be in compliance with the petroleum refinery NSPS level of control; there will not be interim deadlines during the 3-year period by which portions of the refinery are required to comply during this time. A refinery owner or operator who chooses to comply with the modified negotiated rule must then implement Phase II within 4 years and Phase III within 5½ years of promulgation. The total annual cost estimates for the rule have been revised in accordance with the changes made to the equipment leak requirements.

D. Storage Vessels

The proposed rule required existing storage vessels containing liquids with vapor pressures greater than or equal to 8 kPa (1.2 psia) to comply with storage vessel requirements within 3 years. For tanks that were already controlled with internal or external floating roofs, the proposed rule allowed operators to defer upgrading of seals until the next scheduled maintenance with the following exceptions: (1) Fixed roof tanks, (2) EFR tanks with only a vapor-mounted primary seal, and (3) all tanks storing a liquid with a true vapor pressure greater than 34 kPa (5.0 psia).

Commenters to the proposed rule maintained that before additional emission controls (e.g., secondary seals) can be installed, tanks must be removed from service, degassed, and cleaned. Storage tanks are currently emptied and cleaned roughly every 10 years for inspection and maintenance. The commenters contended that removing storage tanks that already have floating roofs from service before scheduled maintenance would have adverse environmental impacts that could not be overcome by the emissions reductions from upgrading the seals on the tank. The commenters further stated that tank owners or operators would incur substantial costs as a result of degassing and cleaning a tank before scheduled maintenance. The commenters contended that a 3-year compliance schedule could not be met because there would not be enough trained and capable fabricators and contractors to support the tank modification work. Commenters stated that the reason was that the refinery rule compliance period overlaps with the implementation of other EPA rules and that a 10-year compliance schedule would be consistent with other EPA rulemakings such as the HON and the benzene storage NESHAP.

The EPA agrees with the commenters that the HON and the benzene storage NESHAP allow floating roof tanks to achieve compliance in 10 years or at the time of the next scheduled degassing. Most existing floating roof storage vessels at refineries also fall under the 10-year compliance schedule. Therefore, these storage vessels will be inspected within 5 to 10 years after promulgation of the rule. This is consistent with industry practice.

In response to these comments, the EPA analyzed the emissions resulting from degassing and cleaning storage vessels using empirical mass-transfer models. The analysis indicated that degassing and cleaning of floating roof vessels generally results in substantial volatilization of HAP's to the air. These emissions could not be balanced in less than 5 years by the emission reductions achieved by controlling the tank to the requirements in the rule. Additionally, the degassing and cleaning information submitted by the refining industry indicated substantial costs for each degassing and cleaning activity if required within 3 years after promulgation of the rule. Based on information provided by industry and the EPA's empirical analysis, the EPA determined that the proposed storage vessel provisions would, in many cases,

result in increased overall emissions because of the extra degassing emissions.

The final rule allows owners or operators of storage vessels subject to the rule to defer installation of better seals on floating roof tanks storing any liquid until the next scheduled maintenance or within 10 years, whichever comes first. This change addresses the commenters' concerns about emissions and costs as well as their concern about the availability of trained fabricators and contractors to modify the tanks within a 3-year period. The final rule maintains the requirement to retrofit IFR tanks at existing sources with secondary seals that meet 40 CFR part 60 subpart Kb requirements because it is the MACT floor for IFR vessels.

Based on the EPA's analysis, the emissions from degassing and cleaning fixed roof tanks can be balanced within 1 year (justifying a 3-year compliance date) by the emission reductions achieved by controlling the tank to the requirements in the rule. Therefore, the final rule maintains the proposed compliance times (within 3 years) for fixed roof tanks. The EPA believes that in certain situations, such as when replacement of a tank is required, it would be reasonable for States to grant an additional year to comply as authorized under section 112(i)(3)(B) of the Act. The additional year would provide time to design and construct the tanks without disrupting refinery operations which could cause additional emissions. The EPA will work with the industry and States to find ways to use the emissions averaging program to deal with cases where tanks have to replaced or where it is extremely difficult or costly to install the required controls.

Several commenters contended that the Group 1 definition of 8 kPa (1.2 psia) in the proposed NESHAP was based on data requests in section 114 and ICR questionnaires that were misinterpreted by respondents. The commenters stated that the questionnaires did not specify whether respondents were to provide maximum true vapor pressures or average annual true vapor pressures. The commenters elaborated that because other data were provided to estimate emissions on an annual basis, it was reasonable to assume that respondents provided average annual true vapor pressures instead of maximum true vapor pressures. The commenters concluded that vapor pressures based on the maximum monthly temperatures may be 0.3 psia higher than the average annual true vapor pressure. The commenters recommended that the EPA either change the applicability cutoff to 10 kPa (1.5 psia) maximum true vapor pressure to account for this difference or specify that the 8 kPa (1.2 psia) cutoff is the average annual true vapor pressure instead of the maximum true vapor pressure.

The EPA agrees with the commenters that because the questionnaires did not specify the type of vapor pressure, the respondents may have provided annual average true vapor pressures instead of maximum true vapor pressures. In order to reflect the uncertainty of the type of vapor pressure provided in the questionnaires, the EPA has decided to change the storage vessel applicability cutoff in the final rule from a maximum true vapor pressure of 8 kPa (1.2 psia) to 10 kPa (1.5 psia). An analysis of the storage vessel data base indicated that a change from 8.3 kPa (1.2 psia) to 10 kPa (1.5 psia) will not affect the impacts analysis.

Several commenters requested that a minimum HAP content be considered as well as a vapor pressure cut-off for storage vessels because some liquids may have very low HAP concentrations and high vapor pressures due to the volatility of non-HAP compounds in the material. The EPA agrees that several products, such as asphalt, have minimal HAP's that may have vapor pressures greater than 10 kPa (1.5 psia) if stored at elevated temperatures. To determine HAP weight percent applicability criteria, the EPA reviewed the MACT floor analysis for storage vessels to determine the HAP weight percents in controlled storage vessels at the best-controlled sources. The MACT floor for new sources is based on the best-controlled source, while the floor for existing sources is the average of the best-controlled 12 percent of sources (or 16 refineries). The HAP weight percent applicability criterion was determined using the same population of storage tanks used to determine the vapor pressure applicability cut-off (i.e., the best-controlled 16 refineries). The minimum HAP concentrations for materials stored in the tanks meeting subpart Kb at the 16 best-controlled sources ranged from 2 weight percent to 22 weight percent. The average HAP weight percent in the liquids stored in these tanks is 4 percent. The best-controlled tanks contain liquids with a HAP weight percent in the liquid of 2 percent. Therefore, the HAP weight percent criterion for existing sources is 4 percent HAP in the liquid; the HAP weight percent for new sources is 2 percent HAP in the liquid.

E. Overlapping Regulations

Several commenters contended that the petroleum refinery NESHAP will lead to overlap with other existing and future regulations such as the 40 CFR part 60 NSPS, 40 CFR parts 61 and 63 NESHAP, and State and local regulations. Commenters stated that the overlap between regulations will lead to confusion, uncertainty, and frustration for sources and regulators.

The EPA has clarified the applicability of subpart CC as it relates to other NSPS and parts 61 and 63 NESHAP that apply to the same source in § 63.640 of the final rule.

The final rule clarifies the applicability of 40 CFR part 63, subpart CC storage vessel provisions to storage vessels at existing and new petroleum refinery sources subject to 40 CFR part 60, subparts K, Ka, or Kb. The specific provisions are structured such that each vessel is subject to only the more stringent rule. For example, a Group 1 storage vessel at an existing refinery that is also subject to subpart K or Ka is required only to comply with the petroleum refinery NESHAP storage vessel provisions.

The final rule clarifies the applicability of 40 CFR part 63, subpart CC wastewater provisions by stating that a Group 1 wastewater stream managed in a piece of equipment that is also subject to the provisions of 40 CFR part 60, subpart QQQ is required only to comply with 40 CFR part 63, subpart CC. The final rule also clarifies that a Group 2 wastewater stream managed in equipment that is also subject to the provisions of 40 CFR part 60, subpart QQQ is required only to comply with subpart QQQ. Clarification of the applicable provisions for a wastewater stream that is conveyed, stored, or treated in a wastewater stream management unit that also receives streams subject to the provisions of 40 CFR part 63, subpart F has been included in the final rule.

There should not be any process vent applicability overlap between subpart CC and any other Federal rule. Process vents regulated under the HON are not subject to the petroleum refinery NESHAP.

The EPA clarifies the applicability of subpart CC equipment leak provisions in the final rule by stating that petroleum refinery sources subject to subpart CC and 40 CFR parts 60 or 61 equipment leaks regulations are required to comply only with the petroleum refinery NESHAP (40 CFR part 63, subpart CC) equipment leak provisions.

The EPA has also included a Standard Industrial Classification (SIC) code definition for petroleum refining (2911) to the petroleum refinery process units definition in the final rule in order to clarify which provisions of the rule apply to storage vessels and equipment leaks. The EPA believes that the inclusion of the SIC code reference in the definition of refinery process unit will alleviate confusion about applicability of this rule (reducing potential confusion regarding process unit regulatory overlap) and other source categories scheduled for the development of NESHAP under the Act. The EPA has also added a list of pollutants covered under the rule to assist facilities in the determination of whether emission points are covered under the rule.

Another issue raised by several commenters was the potential for overlap between the petroleum refinery MACT and other MACT standards such as the HON. These commenters requested that the EPA clarify the distinction between process units subject to the HON or other MACT standards and process units subject to the petroleum refinery MACT standard. These commenters thought that the description of refinery process units was too general and could include chemical processes subject to the HON or other MACT standards.

The final rule provides that 40 CFR part 63, subpart CC does not apply to units that are also subject to the provisions of the HON. The applicability of subpart CC versus the HON or other MACT standard to an emission point is determined by the primary product produced in the unit. The primary product is the product that is produced in the greatest mass or volume that the unit produces. For example, if a refinery operates a unit that produces upgraded feedstock for the alkylation unit and this unit also produces a small quantity (less than 20 percent) of the chemical methyl tert butyl ether (MTBE), that unit is considered to be subject to the petroleum refinery MACT standard and not to the HON. In contrast, if a facility operated a process unit that produced MTBE as the primary product and also produced small quantities of a mixed hydrocarbon stream, the unit would be subject to the HON because the unit produces MTBE as the primary product and the HON applies to chemical manufacturing units that produce MTBE. The distinction between the units is the difference in the primary product produced in the different units. In the first case, the unit is integral to the petroleum refinery's operations and the MTBE is a by-product of the unit. In the second case, the unit's operation could be replaced by purchased MTBE and the operation is not integral to the petroleum refinery's operations.

The EPA believes that including the concept of primary use in the petroleum refining process unit definition clarifies the applicability of the petroleum refinery MACT standard, and that including the primary product concept in HON and other MACT standards will avoid the same emission point from the same process unit being subject to multiple MACT standards. The EPA also believes that by directly stating in the rule that process units subject to the HON are not subject to this rule, the commenter's concerns over applicability issues have been addressed.

F. Source Category Definition

In the July 1994 notice of proposed rulemaking, the proposed rule preamble provided notice of and sought comment on the issues of a broad affected source definition and source category; source-wide averaging; and the relationship between the gasoline distribution affected source definition and source category and refineries. In the preamble of the proposed refinery rule, the EPA noted that it did not intend to include emission points that are subject to the gasoline distribution standard in the refinery source category, that all emission points within the refinery source category would be treated as one stationary source for purposes of the refinery standard, and that the EPA intended to permit averaging among all emission points within the source category except for equipment leaks.

Comments on both the gasoline distribution rule and the refinery proposal indicated that the Agency needed to clarify which rule applied to which emissions points and whether averaging would apply to collocated emission points. Both proposed rules addressed similar emission points; for example, both proposed rules addressed storage tanks and equipment leaks where refineries were collocated with gasoline distribution operations. In the preamble accompanying the final gasoline distribution rule, the EPA indicated the intent to rely on SIC codes to distinguish between emission points at refineries covered by the gasoline distribution standard and those covered by the refinery standard. The Agency noted that the SIC code for particular equipment would indicate the department with managerial oversight responsibility for each emission point. However, the EPA specifically provided that this rule, if appropriate, would modify the gasoline distribution standard to incorporate SIC code limits.

Today's rule identifies petroleum refinery process units and the gasoline loading rack emission points by SIC code for purposes of identifying the appropriate control requirements. A broad source category and affected source definition increases the opportunity to use flexible compliance options such as emissions averaging. Because the control technology under today's rule for gasoline loading racks is the same as the requirements under the gasoline distribution NESHAP, the required emissions reductions from gasoline loading racks would be at least as great as would have been required had gasoline loading racks been excluded from the petroleum refinery source category and affected source; due to the credit discount factors, overall emissions may be less than otherwise would be required if gasoline loading racks are included in an emissions averaging plan.

G. Emissions Averaging

The preamble to the proposed petroleum refinery rule requested comments on whether marine loading operations at refineries should be included in emissions averaging. The EPA also reopened the comment period for the proposed NESHAP for marine tank vessel loading operations (59 FR 44955) to request comment on whether marine terminals collocated at refineries should be moved to the petroleum refinery source category. In addition, as noted above, issues related to including gasoline distribution emissions in averaging at refineries were also raised in the proposed rule preamble.

During the comment period for the gasoline distribution NESHAP, commenters requested that gasoline bulk terminals contiguous to a refinery be regulated by the petroleum refinery NESHAP. Several commenters on the proposed petroleum refinery NESHAP and proposed marine tank vessel loading operations NESHAP supported averaging of refinery process unit emissions with emissions from marine terminals and gasoline distribution operations that are located at refineries. The commenters cited more cost-effective emission reduction as the advantage of including these emission points in emissions averaging, and specifically commented that the costs per megagram emission reduction of the marine loading controls are high. These commenters also claimed that emission calculation procedures for loading are well established and that adding marine loading to the averaging provisions will not appreciably increase the complexity

of enforcement. Other commenters opposed including marine loading and gasoline distribution emission points in emissions averaging. Some commenters claimed that these are separate source categories and that the Act does not permit averaging across source categories. Other commenters were of the opinion that the EPA has the flexibility to allow trading within a facility that includes units in different source categories. These commenters argued that it is unnecessary to redefine the source category to include marine loading operations and gasoline distribution operations collocated at refineries.

In the final rule, the definitions of the petroleum refinery source category and affected source have been changed to include gasoline loading racks classified under SIC code 2911 (Petroleum Refineries) and marine tank vessel loading operations that are located at refinery plant sites. Because marine loading operations and bulk gasoline transfer operations located at refineries are supplying raw materials to, or transferring products from, petroleum refinery process units, they are logically considered to be part of the same source as the petroleum refinery process units. The EPA considers this definition to be the most appropriate definition and, as noted by several commenters, to present fewer implementation problems.

A gasoline loading rack classified under SIC code 2911 or a marine tank vessel loading operation that is located at a petroleum refinery may be included in an emissions average with other refinery process unit emission points. Because these operations are included as part of a single source within one source category intersource averaging is not an issue.

In keeping with the EPA's stated goal of increasing flexibility in rulemakings, this decision has been made to provide more opportunities to average. This increases the opportunities for refiners to find cost-effective emission reductions from overall facility operations onsite. Costs and cost effectiveness of controlling a particular kind of emission point, such as marine loading, will vary depending on many site-specific factors. Emissions averaging allows the owner and operator to find the optimal control strategy for their particular situation.

The EPA is presently reviewing the emission averaging policy and considering whether any more flexibility can be provided while maintaining environmental protection. The issue of intersource averaging will be considered along with other aspects of the emissions averaging policy such as limitations on the number of points allowed in an average. The EPA believes that any decision to provide additional flexibility must be based on careful consideration of enforcement issues as well as equity in environmental protection. Given the complexity of these issues, the EPA does not believe that the Refinery MACT standard is the appropriate place to address these issues. The EPA plans to examine the issue independently of any specific rulemaking. In this, the EPA plans to work closely with both the refining and chemical industries and other interested parties to determine if there are opportunities for increasing flexibility and reducing the burden associated with demonstrating compliance with the MACT rules while remaining within the law.

The EPA would like to clarify that the emissions averaging program was designed to result in equal or greater environmental protection while providing sources flexibility to reduce emissions in the most cost-effective manner. Specifically, allowing marine loading operations, and gasoline loading racks classified under SIC code 2911, located at a refinery to be included in emissions averages will result in equivalent or greater overall HAP emission reduction at each refinery. The averaging provisions are structured such that ''debits'' generated by not controlling an emission point that otherwise would require control must be balanced by achieving extra control at other refinery emission points covered by the NESHAP. The averaging provisions also require that a source demonstrate that compliance through averaging will not result in greater risk or hazard than compliance without averaging.

Some commenters were concerned that including marine loading in averages could result in uncontrolled peak emissions. With regard to the commenters' concerns about peak emissions, the quarterly cap on the ratio of debits to credits is intended to limit the possibility of exposure peaks. Furthermore, because loading occurs fairly frequently, and emissions from an individual vessel filling or loading event are relatively small, such emissions are not expected to cause significant exposure peaks. Moreover, no evidence has been presented that emissions averaging would permit a very different mix of emissions to occur than would point-by-point compliance. That is, peaks of exposures from batch streams, storage, and loading operations should be equally likely under point-by-point compliance as under emissions averaging, so emissions averaging does not represent a less effective control strategy. Furthermore, in order to receive approval for an emissions average, the owner or operator is required to demonstrate that the emissions average does not increase the risk or hazard relative to compliance without averaging.

H. Monitoring, Recordkeeping, and Reporting

Several commenters alleged that the recordkeeping and reporting requirements of the proposed rule were extremely burdensome. The commenters requested that the EPA reduce the monitoring, recordkeeping, and reporting burden associated with the proposed rule. Commenters also requested that provisions be added to the final rule to avoid duplicative reporting for equipment subject to multiple NESHAP and NSPS. Other commenters requested that flexibility to allow alternative monitoring, recordkeeping, and reporting be incorporated into the final rule.

The EPA recognizes that unnecessary monitoring, recordkeeping, and reporting requirements would burden both the source and enforcement agencies. Prior to proposal, the EPA attempted to reduce the amount of monitoring, recordkeeping, and reporting to only that which is necessary to demonstrate compliance. For example, at proposal almost all reports were consolidated into the Notification of Compliance Status and the Periodic Reports. This was done to simplify and reduce the frequency of reporting. Sources also have the option of retaining records either in paper copy or in computer-readable formats, whichever is less burdensome. If multiple performance tests are conducted for the same kind of emission point using the same test method, only one complete test report is submitted along with summaries of the results of other tests. This reduces the number of lengthy test reports to be copied, reviewed, and submitted.

Site-specific test plans describing quality assurance in § 63.7(c) of 40 CFR part 63, subpart A are not required because the test methods cited in subpart CC already contain applicable quality assurance protocols. The quality assurance provisions in the individual test methods remain applicable and are not superseded by the nonapplicability of § 63.7(c) of subpart A. For continuously monitored parameters, periodic reporting is limited to excursions outside the established ranges and the in-range values are not required to be reported.

In response to the commenters, the EPA reevaluated whether monitoring, recordkeeping, and reporting requirements could be further reduced while maintaining the enforceability of the rule. The EPA has made the following changes in the promulgated rule to further reduce the monitoring, recordkeeping, and reporting burden:

(1) The requirement to submit an Initial Notification has been eliminated;

(2) Periodic reports are required to be submitted semiannually for all facilities that do not use emissions averaging (the proposal required quarterly reports if monitored parameters were out of range more than a specified percentage of the time);

(3) A reduction in the frequency for parameter monitoring and recording. The proposal required values of monitored parameters to be recorded every 15 minutes and all 15-minute records had to be retained for those days when excess emissions occurred. The final rule allows hourly monitoring and recording;

(4) Recordkeeping and reporting provisions that eliminate duplicate reporting for equipment subject to multiple NESHAP and NSPS were added to the applicability section (§ 63.640) of the final rule. The additions specify which rule applies and overrides the less stringent NSPS or NESHAP. For State and local regulation applicability determination, the final rule has been amended to state that the local regulatory authority (e.g., State or permitting authority) can decide how monitoring, recordkeeping, and reporting requirements can be consolidated, and can approve alternative monitoring, recordkeeping, and reporting requirements.

These reductions reduce the proposal monitoring, recordkeeping, and reporting burden by 25 percent. The EPA plans to continue to work with the industry as well as with other interested parties to identify further opportunities for reduction of the monitoring, recordkeeping, and reporting burden of the rule. The EPA will consider ways to eliminate overlapping requirements and to address any inconsistencies among the rules. The EPA will investigate the possibility of consolidating and simplifying the various rules while maintaining the same level of environmental protection. Assuming that the pilot project with the chemical industry is successful, the EPA expects to be able to complete the review of the Refinery rule monitoring, recordkeeping, and reporting requirements before the compliance date.

I. Subcategorization

Several commenters to the proposed petroleum refinery NESHAP requested that the EPA subcategorize refineries by size and/or location in an ozone attainment area. Other commenters stated that subcategorizing small refineries because of an arbitrary size exemption can result in an unfair competitive advantage. These commenters further elaborated that large refineries should not be penalized for an economy of scale achieved through its own effective competitiveness.

In response to these comments, the refinery data bases were subcategorized based on crude charge capacity. The refineries were also subcategorized by ozone attainment status and by refineries containing processes that are used to produce gasoline (such as catalytic cracking, coking, and catalytic reforming). Within each subcategory, the process vents, storage vessels, and equipment leaks data bases were sorted from most stringent control to least stringent. The MACT floor (average of the top 12 percent of sources) for each subcategory was identified.

The MACT floors for small refineries are not significantly different from the industry as a whole. The floor for process vents is the same for small refiners as for the entire industry. The floor for storage tanks would increase the materials vapor pressure cutoff from 10 kPa (1.5 psia) to 11 kPa (1.7 psia), which would result in a minimal cost savings since there are few petroleum liquids in this volatility range. The floor for equipment leaks would reduce the monitoring frequency; however, small refiners would still incur the cost of setting up and implementing an LDAR program.

Based on the EPA's analysis and the comments received during the public comment period, a separate subcategory for small refineries has not been included in the final rule. This decision was based on there being no clear relationship between refinery size or design and emission potential.

J. Economic Analysis

Comments were received on both the methodology of the economic analysis and the potential impacts of the analysis results. The EPA's economic model focused on estimating changes in product price and quantity of production for several petroleum products. Once the effects on price and quantity were evaluated, other impacts were estimated. The model the EPA used is predicated on neoclassical microeconomic theory.

The model assumed that those refineries with the highest per-unit control are marginal (i.e., near the margin between shutdown and continuing operation) in the post-control markets, and that they also have the highest underlying per-unit cost of production. This assumption may result in an overstatement of the adverse impacts, such as closure, since the assumed relationship between per-unit control cost and per-unit production cost may not hold for all refineries. For more information, consult the ''Economic Impact Analysis for the Petroleum Refinery NESHAP'' in the docket.

Most of the comments about the economic analyses methodology were focused on possible impacts on other parts of the petroleum industry other than refineries. The economic analysis for this rule, like most of the EPA's economic analyses, focuses on the impacts on the industry being regulated and does not calculate impacts to other industries indirectly affected unless those impacts are significant. In this case, the impacts to indirectly affected industries were not calculated since the impacts estimated for the petroleum refinery industry were not significant, impacts to indirectly affected industries would likely be insignificant also.

K. Benefits Analysis

Comments noted that naphthalene is classified as a possible carcinogen, not a known carcinogen, and therefore should not be included in the risk analysis. Commenters also argued that the estimates for monetized VOC benefits were too high, since the VOC reductions claimed in the regulation would occur as a result of State Implementation Plans (SIP's) required by the Act. Other commenters wrote that the level of benefits from HAP emissions reduction was not of sufficient justification for pursuing the regulation.

When the rule was proposed, naphthalene was classified as a possible human carcinogen. Naphthalene is no longer classified as a possible human carcinogen and is not included in the risk analysis for the final rule.

To estimate the benefits of reducing VOC, the EPA used a 1989 study conducted by the Office of Technology Assessment (OTA). The study examined a variety of acute health impacts related to ozone exposure as well as the benefits of reduced ozone concentrations for selected agricultural crops. A number of factors were not considered in the analysis, including chronic health effects and health impacts for attainment areas.

As to the comment about some of the benefits being attributable to VOC

emission reductions brought about by implementing SIP's, the EPA attempted to include in the baseline all possible impacts from SIP implementation. Control of VOC in this rule will be incorporated into future SIP's by affecting their baselines, thus making the emission reductions needed to meet them less, and leading to lower costs for petroleum refineries to meet those SIP's. Therefore, control of VOC emissions in this rule will lead to lower costs to future SIP implementation. Also, the emission streams from petroleum refineries are primarily VOC, with a small fraction of VOC being HAP. Control of any petroleum refinery emission stream involves control of VOC as well as HAP. Thus, any benefits estimated to occur from a rule that controls VOC, though their control is of secondary importance, should be included as benefits of the rule.

L. Emissions Data

Commenters raised concerns about the amount and quality of the data on HAP emissions, and the uncertainties in the emission estimates. Throughout the rulemaking, the EPA has been aware of these concerns. During the course of this rulemaking, the EPA requested information from the petroleum refining industry on emissions and emission control technologies. The industry provided sufficient information on the emission control technologies to determine the best controlled facilities, as required by section 112 of the Act. However, the information received on existing emission control levels was limited because it was not available. Thus, there is uncertainty in the refinery baseline emission estimates, and emission reductions and other benefits achieved from the emission controls required to comply with the rule. The EPA and the petroleum refinery industry are unable to reduce this uncertainty at this time. The Agency has characterized the costs and emission reductions of the requirements of this rule as accurately as possible. While there is a great deal of qualitative information on the benefits of this rule, the uncertainty in the emission estimates and the monetary value that can be placed on the emission reductions limits the Agency's ability to directly quantify all the benefits of the refinery MACT rule. The EPA does know, however, that the controls required in this rulemaking are in widespread use in the refining industry and that they provide substantial emission reductions.

Under section 112(f) of the Act, the EPA must determine whether further control of refinery emissions is necessary to protect the health of the general public. This determination will require more accurate emission estimates than currently exist. The EPA has made a commitment to work cooperatively with industry to identify the data needed to improve the emission estimates and any other information that is required to determine the health risks that may remain after implementation of the refinery MACT rule.

VI. Changes to NSPS

The changes to 40 CFR part 60, subparts VV and QQQ are promulgated with minor edits for clarity and consistency.

VII. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, and the BID containing the EPA's responses to significant comments, the contents of the docket will serve as the record in case of judicial review (section 307(d)(7)(A)).

B. Paperwork Reduction Act

The information collection requirements in this rule 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 control number 2060–0340. This collection of information has an estimated annual reporting burden averaging 320 hours per respondent and an estimated annual recordkeeping burden averaging 2,880 hours per respondent. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This reflects a reduction of the proposal monitoring, recordkeeping, and reporting burden of 25 percent. The EPA plans to continue to work with the industry as well as with other interested parties to identify further opportunities for reduction of the monitoring, recordkeeping, and reporting burden of the rule. The EPA will consider ways to eliminate overlapping requirements and to address any inconsistencies among the rules. The EPA will investigate the possibility of consolidating and simplifying the various rules while maintaining the same level of environmental protection. Assuming that the pilot project with the chemical industry is successful, the EPA expects to be able to complete the review of the Refinery rule monitoring, recordkeeping, and reporting requirements before the compliance date.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M St. SW., (Mail Code 2136); Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.''

C. Executive Order 12866

Under Executive Order 12866 (58 FR 5173 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

This action is a ''significant regulatory action'' within the meaning of Executive Order 12866. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

D. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, when an agency publishes a notice of rulemaking, for a rule that will have a significant effect on a substantial number of small entities, the agency

must prepare and make available for public comment a regulatory flexibility analysis (RFA) that considers the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). In assessing the regulatory approach for dealing with small entities in today's final rule, the EPA guidelines indicate that an economic impact should be considered significant if it meets one of the following criteria:

(1) Compliance increases annual production costs by more than 5 percent, assuming costs are passed on to consumers;

(2) Compliance costs as a percentage of sales for small entities are at least 10 percent more than compliance costs as a percentage of sales for large entities;

(3) Capital costs of compliance represent a ''significant'' portion of capital available to small entities, considering internal cash flow plus external financial capabilities, or

(4) Regulatory requirements are likely to result in closure of small entities.

Data were not readily available to determine if criteria (1) and (3) were met or not, so the analysis focused on the other two. Results from the economic impact analysis indicate that between zero and seven refiners, all of which are classified as small, are at risk of closure (refer to the ''Economic Impact Analysis of the Regulatory Alternatives for the Petroleum Refineries NESHAP'' in the *Background Information Documents* section). While this percentage of net closures is less than 20 percent of the total number of small refineries (88), it was deemed high enough for carrying out an RFA on that basis alone. Criterion (2), however, was satisfied. The compliance costs-to-sales ratio for the small refiners was more than 10 percent greater than the same ratio calculated for all other refiners.

There are four reasons why small entities are disproportionately affected by the regulation. The first is the fact that they tend to own smaller facilities, and therefore have smaller economics of scale. Because of the smaller economies of scale, per-unit costs of production and compliance are higher for the small refiners compared to others. Related to this is the fact that small refiners have less ability to produce differentiated products. This ability, called complexity, increases with increasing refinery capacity. A large refinery can respond to a relative increase in production costs for one product by increasing production of a product now relatively cheaper to produce, an ability most small refiners rarely enjoy.

A second reason is they have fewer capital resources. Small refineries have less ability to finance the capital expenditures needed to purchase the equipment required to comply with the regulation. A third reason is the difference in internal structure. None of the small refiners are vertically or horizontally integrated, and in all but a few cases are not the subsidiary of a large parent company. The small refiners are typically independent owners and operators of their facilities, and most are owners of a single refinery. They do not possess the ability to shift production between different refineries and have less market power than their large competitors.

A fourth reason why smaller refiners experience greater economic impacts than other refiners is due to the small industry-level price increases (less than 1 percent in all cases). It is unlikely that small refiners will be able to recover annualized control costs by increasing product prices, since the large refiners will not be significantly impacted. As seen in the examination of criterion (2), the large refiners will not be significantly affected from compliance with the regulation.

In calculating the number of closures, the assumption was made that those refineries with the highest per-unit control costs were marginal after compliance with the regulation. While this assumption is often useful in closure analysis, it is not always true. The assumption is consistent with perfect competition theory that presumes all firms are price-takers. If a refiner does have some monopoly power in a particular market, then it is possible a refiner experiencing some economic distress could continue to operate for some period while complying with the regulation. It is a conservative assumption that likely biases the results to overstate the number of refinery closures and other impacts of the proposed regulation.

To mitigate the economic impacts on small refiners, the Agency has considered whether to subcategorize the MACT floors for the various emission sources or to allow refiners more time to comply with the regulation. The Agency has decided not to include a separate subcategory for small refiners, but has decided to allow refiners more time to comply with various requirements for control of equipment leak and storage vessel emissions (refer to section V, ''Significant Comments and Changes to the Proposed Standards'').

The definition of small refinery used in the analysis is 50,000 bbl per stream day production capacity. This differs from the definition of 75,000 barrels per stream current as of May 1, 1992, a definition announced by the Small Business Administration that day in the **Federal Register** (57 FR 18808).

E. Unfunded Mandates

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

The EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Gasoline, Intergovernmental relations, Natural gas, Volatile organic compounds.

40 CFR Part 63

Air pollution control, Hazardous air pollutants, Petroleum refineries, Reporting and recordkeeping requirements.

Dated: July 28, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 9, 60, and 63 of title 40, chapter I, of the Code of Federal Regulations are amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345(d), and (e), 1381; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975

Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–i, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding the new entries to the table under the indicated heading in numerical order to read as follows:

§ 9.1 OMB approvals under the paperwork reduction act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
National Emission Standards for Hazardous Air Pollutants for Source Categories	
* * * * *	
63.653	2060–0340
63.654	2060–0340
* * * * *	

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401–7601.

Subpart VV—[Amended]

2. Section 60.481 is amended by revising the definition of ''closed vent system'' to read as follows:

§ 60.481 Definitions.

* * * * *

Closed vent system means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device. If gas or vapor from regulated equipment is routed to a process (e.g., to a petroleum refinery fuel gas system), the process shall not be considered a closed vent system and is not subject to the closed vent system standards.

* * * * *

3. Section 60.482–5 is revised to read as follows:

§ 60.482–5 Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed-purged, closed-loop, or closed-vent system, except as provided in § 60.482–1(c).

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall comply with the requirements specified in paragraphs (b)(1) through (b)(3) of this section:

(1) Return the purged process fluid directly to the process line; or

(2) Collect and recycle the purged process fluid to a process; or

(3) Be designed and operated to capture and transport all the purged process fluid to a control device that complies with the requirements of § 60.482–10.

(c) In situ sampling systems and sampling systems without purges are exempt from the requirements of paragraphs (a) and (b) of this section.

4. Section 60.482–10 is amended by revising paragraphs (f) and (g) and adding paragraphs (h) through (l) to read as follows:

§ 60.482–10 Standards: Closed vent systems and control devices.

* * * * *

(f) Except as provided in paragraphs (i) through (k) of this section, each closed vent system shall be inspected according to the procedures and schedule specified in paragraphs (f)(1) and (f)(2) of this section.

(1) If the vapor collection system or closed vent system is constructed of hard-piping, the owner or operator shall comply with the requirements specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this section:

(i) Conduct an initial inspection according to the procedures in § 60.485(b); and

(ii) Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.

(2) If the vapor collection system or closed vent system is constructed of ductwork, the owner or operator shall:

(i) Conduct an initial inspection according to the procedures in § 60.485(b); and

(ii) Conduct annual inspections according to the procedures in § 60.485(b).

(g) Leaks, as indicated by an instrument reading greater than 500 parts per million by volume above background or by visual inspections, shall be repaired as soon as practicable except as provided in paragraph (h) of this section.

(1) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(2) Repair shall be completed no later than 15 calendar days after the leak is detected.

(h) Delay of repair of a closed vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be complete by the end of the next process unit shutdown.

(i) If a vapor collection system or closed vent system is operated under a vacuum, it is exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section.

(j) Any parts of the closed vent system that are designated, as described in paragraph (k)(1) of this section, as unsafe to inspect are exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section if they comply with the requirements specified in paragraphs (j)(1) and (j)(2) of this section:

(1) The owner or operator determines that the equipment is unsafe to inspect because inspecting personnel would be exposed to an imminent or potential danger as a consequence of complying with paragraphs (f)(1)(i) or (f)(2) of this section; and

(2) The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times.

(k) Any parts of the closed vent system that are designated, as described in paragraph (l)(2) of this section, as difficult to inspect are exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section if they comply with the requirements specified in paragraphs (k)(1) through (k)(3) of this section:

(1) The owner or operator determines that the equipment cannot be inspected without elevating the inspecting personnel more than 2 meters above a support surface; and

(2) The process unit within which the closed vent system is located becomes an affected facility through §§ 60.14 or 60.15, or the owner or operator designates less than 3.0 percent of the total number of closed vent system equipment as difficult to inspect; and

(3) The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years. A closed vent system is exempt from inspection if it is operated under a vacuum.

(l) The owner or operator shall record the information specified in paragraphs (l)(1) through (l)(5) of this section.

(1) Identification of all parts of the closed vent system that are designated as unsafe to inspect, an explanation of why the equipment is unsafe to inspect, and the plan for inspecting the equipment.

(2) Identification of all parts of the closed vent system that are designated

as difficult to inspect, an explanation of why the equipment is difficult to inspect, and the plan for inspecting the equipment.

(3) For each inspection during which a leak is detected, a record of the information specified in § 60.486(c).

(4) For each inspection conducted in accordance with § 60.485(b) during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(5) For each visual inspection conducted in accordance with paragraph (f)(1)(ii) of this section during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(m) Closed vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

* * * * *

Subpart QQQ—[Amended]

* * * * *

5. Section 60.691 is amended by revising the definition of ''closed vent system'' to read as follows:

§ 60.691 Definitions.

* * * * *

Closed vent system means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission source to a control device. If gas or vapor from regulated equipment are routed to a process (e.g., to a petroleum refinery fuel gas system), the process shall not be considered a closed vent system and is not subject to the closed vent system standards.

* * * * *

6. Section 60.692–3 is amended by revising paragraph (d) to read as follows:

§ 60.692–3 Standards: Oil-water separators.

* * * * *

(d) Storage vessels, including slop oil tanks and other auxiliary tanks that are subject to the standards in §§ 60.112, 60.112a, and 60.112b and associated requirements, 40 CFR part 60, subparts K, Ka, or Kb are not subject to the requirements of this section.

* * * * *

7. Section 60.693–2 is amended by revising paragraphs (a)(1)(i) introductory text and (a)(1)(i)(A) to read as follows:

§ 60.693–2 Alternative standards for oil-water separators.

* * * * *

(a) * * *

(1) * * *

(i) The primary seal shall be a liquid-mounted seal or a mechanical shoe seal.

(A) A liquid-mounted seal means a foam- or liquid-filled seal mounted in contact with the liquid between the wall of the separator and the floating roof. A mechanical shoe seal means a metal sheet held vertically against the wall of the separator by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

* * * * *

8. Section 60.695 is amended by adding paragraphs (a)(3)(i) and (a)(3)(ii) to read as follows:

§ 60.695 Monitoring of operations.

* * * * *

(a) * * *

(3) * * *

(i) For a carbon adsorption system that regenerates the carbon bed directly onsite, a monitoring device that continuously indicates and records the volatile organic compound concentration level or reading of organics in the exhaust gases of the control device outlet gas stream or inlet and outlet gas stream shall be used.

(ii) For a carbon adsorption system that does not regenerate the carbon bed directly onsite in the control device (e.g., a carbon canister), the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system shall be monitored on a regular schedule, and the existing carbon shall be replaced with fresh carbon immediately when carbon breakthrough is indicated. The device shall be monitored on a daily basis or at intervals no greater than 20 percent of the design carbon replacement interval, whichever is greater. As an alternative to conducting this monitoring, an owner or operator may replace the carbon in the carbon adsorption system with fresh carbon at a regular predetermined time interval that is less than the carbon replacement interval that is determined by the maximum design flow rate and organic concentration in the gas stream vented to the carbon adsorption system.

* * * * *

9. Section 60.697 is amended by revising paragraphs (f)(3)(i), (f)(3)(ii); and by adding paragraphs (f)(3)(x) (A) and (B) to read as follows:

§ 60.697 Recordkeeping requirements.

* * * * *

(f) * * *

(3) * * *

(i) Documentation demonstrating that the control device will achieve the required control efficiency during maximum loading conditions shall be kept for the life of the facility. This documentation is to include a general description of the gas streams that enter the control device, including flow and volatile organic compound content under varying liquid level conditions (dynamic and static) and manufacturer's design specifications for the control device. If an enclosed combustion device with a minimum residence time of 0.75 seconds and a minimum temperature of 816 °C (1,500 °F) is used to meet the 95-percent requirement, documentation that those conditions exist is sufficient to meet the requirements of this paragraph.

(ii) For a carbon adsorption system that does not regenerate the carbon bed directly onsite in the control device such as a carbon canister, the design analysis shall consider the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature. The design analysis shall also establish the design exhaust vent stream organic compound concentration level, capacity of carbon bed, type and working capacity of activated carbon used for carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control device and source operating schedule.

* * * * *

(x) * * *

(A) Each owner or operator of an affected facility that uses a carbon adsorber which is regenerated directly onsite shall maintain continuous records of the volatile organic compound concentration level or reading of organics of the control device outlet gas stream or inlet and outlet gas stream and records of all 3-hour periods of operation during which the average volatile organic compound concentration level or reading of organics in the exhaust gases, or inlet and outlet gas stream, is more than 20 percent greater than the design exhaust gas concentration level, and shall keep such records for 2 years after the information is recorded.

(B) If a carbon adsorber that is not regenerated directly onsite in the control device is used, then the owner or operator shall maintain records of dates and times when the control device is monitored, when breakthrough is measured, and shall record the date and

time that the existing carbon in the control device is replaced with fresh carbon.

* * * * *

10. Section 60.698 is amended by adding paragraphs (d)(3)(i) and (d)(3)(ii) to read as follows:

§ 60.698 Reporting requirements.

* * * * *

(d) * * *

(3) * * *

(i) Each 3-hour period of operation during which the average volatile organic compound concentration level or reading of organics in the exhaust gases from a carbon adsorber which is regenerated directly onsite is more than 20 percent greater than the design exhaust gas concentration level or reading.

(ii) Each occurrence when the carbon in a carbon adsorber system that is not regenerated directly onsite in the control device is not replaced at the predetermined interval specified in § 60.695(a)(3)(ii).

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

Subpart R—[Amended]

2. Section 63.420 is amended by adding paragraph (i) to read as follows:

§ 63.420 Applicability.

* * * * *

(i) A bulk gasoline terminal or pipeline breakout station with a Standard Industrial Classification code 2911 located within a contiguous area and under common control with a refinery complying with subpart CC, §§ 63.646, 63.648, 63.649, and 63.650 is not subject to subpart R standards, except as specified in subpart CC, § 63.650.

* * * * *

3. Part 63 is amended by adding subpart CC consisting of §§ 63.640 through 63.679 to read as follows:

Subpart CC—National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

Sec.

63.640 Applicability and designation of affected source.
63.641 Definitions.
63.642 General standards.
63.643 Miscellaneous process vents provisions.
63.644 Monitoring provisions for miscellaneous process vents.
63.645 Test methods and procedures for miscellaneous process vents.
63.646 Storage vessel provisions.
63.647 Wastewater provisions.
63.648 Equipment leak standards.
63.649 Alternative means of emission limitation: Connectors in gas/vapor service and light liquid service.
63.650 Gasoline loading rack provisions.
63.651 Marine vessel tank loading operations provisions.
63.652 Emissions averaging provisions.
63.653 Monitoring, recordkeeping, and implementation plan for emissions averaging.
63.654 Reporting and recordkeeping requirements.
63.655 through 63.679 [Reserved]

Appendix to Subpart CC—Tables

Subpart CC—National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

§ 63.640 Applicability and designation of affected source.

(a) This subpart applies to petroleum refining process units and to related emission points that are specified in paragraphs (c)(5) through (c)(7) of this section that are located at a plant site that meet the criteria in paragraphs (a)(1) and (a)(2) of this section;

(1) Are located at a plant site that is a major source as defined in section 112(a) of the Clean Air Act; and

(2) Emit or have equipment containing or contacting one or more of the hazardous air pollutants listed in table 1 of this subpart.

(b) For process units that are designed and operated as flexible operation units, the applicability of this subpart shall be determined for existing sources based on the expected utilization for the first 5 years after startup.

(1) If the predominant use of the flexible operation unit, as described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section, is as a petroleum refining process unit, as defined in § 63.641, then the flexible operation unit shall be subject to the provisions of this subpart.

(i) Except as provided in paragraph (b)(1)(ii) of this section, the predominant use of the flexible operation unit shall be the use representing the greatest annual operating time.

(ii) If the flexible operation unit is used as a petroleum refining process unit and for another purpose equally based on operating time, then the predominant use of the flexible operation unit shall be the use that produces the greatest annual production on a mass basis.

(2) The determination of applicability of this subpart to petroleum refining process units that are designed and operated as flexible operation units shall be reported as specified in § 63.654(h)(6)(i).

(c) For the purpose of this subpart, the affected source shall comprise all emission points, in combination, listed in paragraphs (c)(1) through (c)(7) of this section that are located at a single refinery plant site.

(1) All miscellaneous process vents from petroleum refining process units meeting the criteria in paragraph (a) of this section;

(2) All storage vessels associated with petroleum refining process units meeting the criteria in paragraph (a) of this section;

(3) All wastewater streams and treatment operations associated with petroleum refining process units meeting the criteria in paragraph (a) of this section;

(4) All equipment leaks from petroleum refining process units meeting the criteria in paragraph (a) of this section;

(5) All gasoline loading racks classified under Standard Industrial Classification code 2911 meeting the criteria in paragraph (a) of this section;

(6) All marine vessel loading operations located at a petroleum refinery meeting the criteria in paragraph (a) of this section and the applicability criteria of subpart Y, § 63.560; and

(7) All storage vessels and equipment leaks associated with a bulk gasoline terminal or pipeline breakout station classified under Standard Industrial Classification code 2911 located within a contiguous area and under common control with a refinery meeting the criteria in paragraph (a) of this section.

(d) The affected source subject to this subpart does not include the emission points listed in paragraphs (d)(1) through (d)(4) of this section.

(1) Stormwater from segregated stormwater sewers;

(2) Spills; and

(3) Equipment that is intended to operate in organic hazardous air pollutant service, as defined in § 63.641 of this subpart, for less than 300 hours during the calendar year.

(4) Catalytic cracking unit and catalytic reformer catalyst regeneration vents, and sulfur plant vents.

(e) The owner or operator shall follow the procedures specified in paragraphs (e)(1) and (e)(2) of this section to determine whether a storage vessel is part of a source to which this subpart applies.

(1) Where a storage vessel is used exclusively by a process unit, the

storage vessel shall be considered part of that process unit.

(i) If the process unit is a petroleum refining process unit subject to this subpart, then the storage vessel is part of the affected source to which this subpart applies.

(ii) If the process unit is not subject to this subpart, then the storage vessel is not part of the affected source to which this subpart applies.

(2) If a storage vessel is not dedicated to a single process unit, then the applicability of this subpart shall be determined according to the provisions in paragraphs (e)(2)(i) through (e)(2)(iii) of this section.

(i) If a storage vessel is shared among process units and one of the process units has the predominant use, as determined by paragraphs (e)(2)(i)(A) and (e)(2)(i)(B) of this section, then the storage vessel is part of that process unit.

(A) If the greatest input on a volume basis into the storage vessel is from a process unit that is located on the same plant site, then that process unit has the predominant use.

(B) If the greatest input on a volume basis into the storage vessel is provided from a process unit that is not located on the same plant site, then the predominant use shall be the process unit that receives the greatest amount of material on a volume basis from the storage vessel at the same plant site.

(ii) If a storage vessel is shared among process units so that there is no single predominant use, and at least one of those process units is a petroleum refining process unit subject to this subpart, the storage vessel shall be considered to be part of the petroleum refining process unit that is subject to this subpart. If more than one petroleum refining process unit is subject to this subpart, the owner or operator may assign the storage vessel to any of the petroleum refining process units subject to this subpart.

(iii) If the predominant use of a storage vessel varies from year to year, then the applicability of this subpart shall be determined based on the utilization of that storage vessel during the year preceding promulgation of this subpart. This determination shall be reported as specified in § 63.654(h)(6)(ii) of this subpart.

(f) The owner or operator shall follow the procedures specified in paragraphs (f)(1) through (f)(5) of this section to determine whether a miscellaneous process vent from a distillation unit is part of a source to which this subpart applies.

(1) If the greatest input to the distillation unit is from a process unit located on the same plant site, then the distillation unit shall be assigned to that process unit.

(2) If the greatest input to the distillation unit is provided from a process unit that is not located on the same plant site, then the distillation unit shall be assigned to the process unit located at the same plant site that receives the greatest amount of material from the distillation unit.

(3) If a distillation unit is shared among process units so that there is no single predominant use, as described in paragraphs (f)(1) and (f)(2) of this section, and at least one of those process units is a petroleum refining process unit subject to this subpart, the distillation unit shall be assigned to the petroleum refining process unit that is subject to this subpart. If more than one petroleum refining process unit is subject to this subpart, the owner or operator may assign the distillation unit to any of the petroleum refining process units subject to this rule.

(4) If the process unit to which the distillation unit is assigned is a petroleum refining process unit subject to this subpart and the vent stream contains greater than 20 parts per million by volume total organic hazardous air pollutants, then the vent from the distillation unit is considered a miscellaneous process vent (as defined in § 63.641 of this subpart) and is part of the source to which this subpart applies.

(5) If the predominant use of a distillation unit varies from year to year, then the applicability of this subpart shall be determined based on the utilization of that distillation unit during the year preceding promulgation of this subpart. This determination shall be reported as specified in § 63.654(f)(1)(ii).

(g) The provisions of this subpart do not apply to the processes specified in paragraphs (g)(1) through (g)(7) of this section.

(1) Research and development facilities, regardless of whether the facilities are located at the same plant site as a petroleum refining process unit that is subject to the provisions of this subpart;

(2) Equipment that does not contain any of the hazardous air pollutants listed in table 1 of this subpart that is located within a petroleum refining process unit that is subject to this subpart;

(3) Units processing natural gas liquids;

(4) Units that are used specifically for recycling discarded oil;

(5) Shale oil extraction units;

(6) Ethylene processes; and

(7) Process units and emission points subject to subparts F, G, H, and I of this part.

(h) Except as provided in paragraphs (k), (l), or (m) of this section, sources subject to this subpart are required to achieve compliance on or before the dates specified in paragraphs (h)(1) through (h)(4) of this section.

(1) New sources that commence construction or reconstruction after July 14, 1994 shall be in compliance with this subpart upon initial startup or the date of promulgation of this subpart, whichever is later, as provided in § 63.6(b) of subpart A of this part.

(2) Except as provided in paragraphs (h)(3) through (h)(5) of this section, existing sources shall be in compliance with this subpart no later than August 18, 1998, except as provided in § 63.6(c) of subpart A of this part, or unless an extension has been granted by the Administrator as provided in § 63.6(i) of subpart A of this part.

(3) [Reserved].

(4) Existing Group 1 floating roof storage vessels shall be in compliance with § 63.646 at the next degassing and cleaning activity or within 10 years after promulgation of the rule, whichever is first.

(5) An owner or operator may elect to comply with the provisions of § 63.648 (c) through (f) as an alternative to the provisions of § 63.648 (a) and (b). In such cases, the owner or operator shall comply no later than the dates specified in paragraphs (h)(5)(i) through (h)(5)(iii) of this section.

(i) Phase I (see table 2 of this subpart), beginning on August 18, 1998;

(ii) Phase II (see table 2 of this subpart), beginning no later than August 18, 1999; and

(iii) Phase III (see table 2 of this subpart), beginning no later than June 18, 2001.

(i) If an additional petroleum refining process unit is added to a plant site that is a major source as defined in section 112(a) of the Clean Air Act, the addition shall be subject to the requirements for a new source if it meets the criteria specified in paragraphs (i)(1) through (i)(3) of this section:

(1) It is an addition that meets the definition of construction in § 63.2 of subpart A of this part;

(2) Such construction commenced after July 14, 1994; and

(3) The addition has the potential to emit 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

(j) If any change is made to a petroleum refining process unit subject to this subpart, the change shall be

subject to the requirements for a new source if it meets the criteria specified in paragraphs (j)(1) and (j)(2) of this section:

(1) It is a change that meets the definition of reconstruction in § 63.2 of subpart A of this part; and

(2) Such reconstruction commenced after July 14, 1994.

(k) If an additional petroleum refining process unit is added to a plant site or a change is made to a petroleum refining process unit and the addition or change is determined to be subject to the new source requirements according to paragraphs (i) or (j) of this section it must comply with the requirements specified in paragraphs (k)(1) and (k)(2) of this section:

(1) The reconstructed source, addition, or change shall be in compliance with the new source requirements upon initial startup of the reconstructed source or by the date of promulgation of this subpart, whichever is later; and

(2) The owner or operator of the reconstructed source, addition, or change shall comply with the reporting and recordkeeping requirements that are applicable to new sources. The applicable reports include, but are not limited to:

(i) The application for approval of construction or reconstruction shall be submitted as soon as practical before the construction or reconstruction is planned to commence (but it need not be sooner than 90 days after the date of promulgation of this subpart);

(ii) The Notification of Compliance Status report as required by § 63.654(f) for a new source, addition, or change;

(iii) Periodic Reports and Other Reports as required by § 63.654 (g) and (h);

(iv) Reports and notifications required by § 60.487 of subpart VV of part 60 or § 63.182 of subpart H of this part. The requirements for subpart H are summarized in table 3 of this subpart;

(v) Reports required by 40 CFR 61.357 of subpart FF;

(vi) Reports and notifications required by § 63.428 (b), (c), (g)(1), and (h)(1) through (h)(3) of subpart R. These requirements are summarized in table 4 of this subpart; and

(vii) Reports and notifications required by §§ 63.566 and 63.567 of subpart Y of this part. These requirements are summarized in table 5 of this subpart.

(l) If an additional petroleum refining process unit is added to a plant site or if a miscellaneous process vent, storage vessel, gasoline loading rack, or marine tank vessel loading operation that meets the criteria in paragraphs (c)(1) through (c)(7) of this section is added to an existing petroleum refinery or if another deliberate operational process change creating an additional Group 1 emission point(s) (as defined in § 63.641) is made to an existing petroleum refining process unit, and if the addition or process change is not subject to the new source requirements as determined according to paragraphs (i) or (j) of this section, the requirements in paragraphs (l)(1) through (l)(3) of this section shall apply. Examples of process changes include, but are not limited to, changes in production capacity, or feed or raw material where the change requires construction or physical alteration of the existing equipment or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. For purposes of this paragraph and paragraph (m) of this section, process changes do not include: Process upsets, unintentional temporary process changes, and changes that are within the equipment configuration and operating conditions documented in the Notification of Compliance Status report required by § 63.654(f).

(1) The added emission point(s) and any emission point(s) within the added or changed petroleum refining process unit are subject to the requirements for an existing source.

(2) The added emission point(s) and any emission point(s) within the added or changed petroleum refining process unit shall be in compliance with this subpart by the dates specified in paragraphs (l)(2)(i) or (l)(2)(ii) of this section, as applicable.

(i) If a petroleum refining process unit is added to a plant site or an emission point(s) is added to any existing petroleum refining process unit, the added emission point(s) shall be in compliance upon initial startup of any added petroleum refining process unit or emission point(s) or by 3 years after the date of promulgation of this subpart, whichever is later.

(ii) If a deliberate operational process change to an existing petroleum refining process unit causes a Group 2 emission point to become a Group 1 emission point (as defined in § 63.641), the owner or operator shall be in compliance upon initial startup or by 3 years after the date of promulgation of this subpart, whichever is later, unless the owner or operator demonstrates to the Administrator that achieving compliance will take longer than making the change. If this demonstration is made to the Administrator's satisfaction, the owner or operator shall follow the procedures in paragraphs (m)(1) through (m)(3) of this section to establish a compliance date.

(3) The owner or operator of a petroleum refining process unit or of a storage vessel, miscellaneous process vent, wastewater stream, gasoline loading rack, or marine tank vessel loading operation meeting the criteria in paragraphs (c)(1) through (c)(7) of this section that is added to a plant site and is subject to the requirements for existing sources shall comply with the reporting and recordkeeping requirements that are applicable to existing sources including, but not limited to, the reports listed in paragraphs (l)(3)(i) through (l)(3)(vii) of this section. A process change to an existing petroleum refining process unit shall be subject to the reporting requirements for existing sources including, but not limited to, the reports listed in paragraphs (l)(3)(i) through (l)(3)(vii) of this section. The applicable reports include, but are not limited to:

(i) The Notification of Compliance Status report as required by § 63.654(f) for the emission points that were added or changed;

(ii) Periodic Reports and other reports as required by § 63.654 (g) and (h);

(iii) Reports and notifications required by sections of subpart A of this part that are applicable to this subpart, as identified in table 6 of this subpart.

(iv) Reports and notifications required by § 63.182 of subpart H of this part, or § 60.407 of subpart VV of part 60. The requirements of subpart H are summarized in table 3 of this subpart;

(v) Reports required by § 61.357 of subpart FF;

(vi) Reports and notifications required by § 63.428 (b), (c), (g)(1), and (h)(1) through (h)(3) of subpart R of this part. These requirements are summarized in table 4 of this subpart; and

(vii) Reports and notifications required by § 63.567 of subpart Y of this part. These requirements are summarized in table 5 of this subpart.

(m) If a change that does not meet the criteria in paragraph (l) of this section is made to a petroleum refining process unit subject to this subpart, and the change causes a Group 2 emission point to become a Group 1 emission point (as defined in § 63.641), then the owner or operator shall comply with the requirements of this subpart for existing sources for the Group 1 emission point as expeditiously as practicable, but in no event later than 3 years after the emission point becomes Group 1.

(1) The owner or operator shall submit to the Administrator for approval a compliance schedule, along with a justification for the schedule.

(2) The compliance schedule shall be submitted within 180 days after the change is made or the information regarding the change is known to the source, unless the compliance schedule has been previously submitted to the permitting authority. The compliance schedule may be submitted in the next Periodic Report if the change is made after the date the Notification of Compliance Status report is due.

(3) The Administrator shall approve or deny the compliance schedule or request changes within 120 calendar days of receipt of the compliance schedule and justification. Approval is automatic if not received from the Administrator within 120 calendar days of receipt.

(n) Overlap of subpart CC with other regulations for storage vessels.

(1) After the compliance dates specified in paragraph (h) of this section, a Group 1 or Group 2 storage vessel that is part of an existing source and is also subject to the provisions of 40 CFR part 60 subpart Kb is required to comply only with the requirements of 40 CFR part 60 subpart Kb.

(2) After the compliance dates specified in paragraph (h) of this section a Group 1 storage vessel that is part of a new source and is subject to 40 CFR part 60, subpart Kb is required to comply only with this subpart.

(3) After the compliance dates specified in paragraph (h) of this section, a Group 2 storage vessel that is part of a new source and is subject to the control requirements in § 60.112b of 40 CFR part 60, subpart Kb is required to comply only with 40 CFR part 60, subpart Kb.

(4) After the compliance dates specified in paragraph (h) of this section, a Group 2 storage vessel that is part of a new source and is subject to the § 60.110b subpart Kb, but is not required to apply controls by § 63.110b or 63.112b of subpart Kb is required to comply only with this subpart.

(5) After the compliance dates specified in paragraph (h) of this section a Group 1 storage vessel that is also subject to the provisions of 40 CFR part 60, subparts K or Ka is required to only comply with the provisions of this subpart.

(6) After compliance dates specified in paragraph (h) of this section, a Group 2 storage vessel that is subject to the control requirements of 40 CFR part 60, subparts K or Ka is required to only comply with the provisions of 40 CFR part 60, subparts K or Ka.

(7) After the compliance dates specified in paragraph (h) of this section, a Group 2 storage vessel that is subject to 40 CFR part 60, subparts K or Ka, but not to the control requirements of 40 CFR part 60, subparts K or Ka, is required to comply only with this subpart.

(o) Overlap of this subpart CC with other regulations for wastewater.

(1) After the compliance dates specified in paragraph (h) of this section a Group 1 wastewater stream managed in a piece of equipment that is also subject to the provisions of 40 CFR part 60, subpart QQQ is required to comply only with this subpart.

(2) After the compliance dates specified in paragraph (h) of this section a Group 1 or Group 2 wastewater stream that is conveyed, stored, or treated in a wastewater stream management unit that also receives streams subject to the provisions of §§ 63.133 through 63.147 of subpart G wastewater provisions of this part shall comply as specified in paragraphs (o)(2)(i) through (o)(2)(iii) of this section. Compliance with the provisions of paragraph (o)(2) of this section shall constitute compliance with the requirements of this subpart for that wastewater stream.

(i) The provisions in §§ 63.133 through 63.137 and § 63.140 of subpart G for all equipment used in the storage and conveyance of the Group 1 or Group 2 wastewater stream.

(ii) The provisions in both 40 CFR part 61, subpart FF and in §§ 63.138 and 63.139 of subpart G for the treatment and control of the Group 1 or Group 2 wastewater stream.

(iii) The provisions in §§ 63.143 through 63.148 of subpart G for monitoring and inspections of equipment and for recordkeeping and reporting requirements. The owner or operator is not required to comply with the monitoring, recordkeeping, and reporting requirements associated with the treatment and control requirements in 40 CFR part 61, subpart FF, §§ 61.355 through 61.357.

(p) Overlap of subpart CC with other regulations for equipment leaks. After the compliance dates specified in paragraph (h) of this section equipment leaks that are also subject to the provisions of 40 CFR parts 60 and 61 are required to comply only with the provisions specified in this subpart.

(q) For overlap of subpart CC with local or State regulations, the permitting authority for the affected source may allow consolidation of the monitoring, recordkeeping, and reporting requirements under this subpart with the monitoring, recordkeeping, and reporting requirements under other applicable requirements in 40 CFR parts 60, 61, or 63, and in any 40 CFR part 52 approved State implementation plan provided the implementation plan allows for approval of alternative monitoring, reporting, or recordkeeping requirements and provided that the permit contains an equivalent degree of compliance and control.

§ 63.641 Definitions.

All terms used in this subpart shall have the meaning given them in the Clean Air Act, subpart A of this part, and in this section. If the same term is defined in subpart A and in this section, it shall have the meaning given in this section for purposes of this subpart.

Affected source means the collection of emission points to which this subpart applies as determined by the criteria in § 63.640. The term ''affected source,'' as used in this subpart, has the same meaning as the term ''affected source'' in subpart A of this part.

Aliphatic means open-chained structure consisting of paraffin, olefin and acetylene hydrocarbons and derivatives.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator.

By compound means by individual stream components, not by carbon equivalents.

Car-seal means a seal that is placed on a device that is used to change the position of a valve (e.g., from opened to closed) in such a way that the position of the valve cannot be changed without breaking the seal.

Closed vent system means a system that is not open to the atmosphere and is configured of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device or back into the process. If gas or vapor from regulated equipment is routed to a process (e.g., to a petroleum refinery fuel gas system), the process shall not be considered a closed vent system and is not subject to closed vent system standards.

Combustion device means an individual unit of equipment such as a flare, incinerator, process heater, or boiler used for the combustion of organic hazardous air pollutant vapors.

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation. For the purpose of reporting and recordkeeping, connector means joined fittings that are accessible.

Continuous record means documentation, either in hard copy or

computer readable form, of data values measured at least once every hour and recorded at the frequency specified in § 63.654(i).

Continuous recorder means a data recording device recording an instantaneous data value or an average data value at least once every hour.

Control device means any equipment used for recovering, removing, or oxidizing organic hazardous air pollutants. Such equipment includes, but is not limited to, absorbers, carbon adsorbers, condensers, incinerators, flares, boilers, and process heaters. For miscellaneous process vents (as defined in this section), recovery devices (as defined in this section) are not considered control devices.

Delayed coker vent means a vent that is typically intermittent in nature, and usually occurs only during the initiation of the depressuring cycle of the decoking operation when vapor from the coke drums cannot be sent to the fractionator column for product recovery, but instead is routed to the atmosphere through a closed blowdown system or directly to the atmosphere in an open blowdown system. The emissions from the decoking phases of delayed coker operations, which include coke drum deheading, draining, or decoking (coke cutting), are not considered to be delayed coker vents.

Distillate receiver means overhead receivers, overhead accumulators, reflux drums, and condenser(s) including ejector-condenser(s) associated with a distillation unit.

Distillation unit means a device or vessel in which one or more feed streams are separated into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and the vapor phases by vaporization and condensation as they approach equilibrium within the distillation unit. Distillation unit includes the distillate receiver, reboiler, and any associated vacuum pump or steam jet.

Emission point means an individual miscellaneous process vent, storage vessel, wastewater stream, or equipment leak associated with a petroleum refinery process unit; an individual storage vessel or equipment leak associated with a bulk gas terminal or pipeline breakout station classified under Standard Industrial Classification code 2911; a gasoline loading rack classified under Standard Industrial Classification code 2911; or a marine tank vessel loading operation located at a petroleum refinery.

Equipment leak means emissions of organic hazardous air pollutants from a pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, valve, or instrumentation system ''in organic hazardous air pollutant service'' as defined in this section. Vents from wastewater system drains, tank mixers, and sample valves on storage tanks are not equipment leaks.

Flame zone means the portion of a combustion chamber of a boiler or process heater occupied by the flame envelope created by the primary fuel.

Flexible operation unit means a process unit that manufactures different products periodically by alternating raw materials or operating conditions. These units are also referred to as campaign plants or blocked operations.

Flow indicator means a device that indicates whether gas is flowing, or whether the valve position would allow gas to flow, in a line.

Fuel gas system means the offsite and onsite piping and control system that gathers gaseous streams generated by refinery operations, may blend them with sources of gas, if available, and transports the blended gaseous fuel at suitable pressures for use as fuel in heaters, furnaces, boilers, incinerators, gas turbines, and other combustion devices located within or outside of the refinery. The fuel is piped directly to each individual combustion device, and the system typically operates at pressures over atmospheric. The gaseous streams can contain a mixture of methane, light hydrocarbons, hydrogen and other miscellaneous species.

Gasoline loading rack means the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill gasoline cargo tanks.

Group 1 gasoline loading rack means any gasoline loading rack classified under Standard Industrial Classification code 2911 that emits from the vapor collection and processing system 10 milligrams of total organic compounds per liter of gasoline loaded.

Group 1 marine tank vessel means a vessel loaded at any land- or sea-based terminal or structure that loads liquid commodities with vapor pressures greater than or equal to 10.3 kilopascals in bulk onto marine tank vessels, that emits greater than 9.1 megagrams of any individual HAP or 13.6 megagrams of any combination of HAP annually after August 18, 1999.

Group 1 miscellaneous process vent means a miscellaneous process vent for which the volatile organic compound concentration, or the total organic concentration (minus ethane and methane), is greater than or equal to 20 parts per million by volume, and the total volatile organic compound emissions are greater than or equal to 33 kilograms per day for existing and 7 kilograms per day for new sources at the outlet of the final recovery device (if any) and prior to any control device and prior to discharge to the atmosphere.

Group 1 storage vessel means a storage vessel at an existing source that has a design storage capacity greater than or equal to 177 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 10.4 kilopascals and HAP liquid concentration greater than 4 percent by weight total organic HAP; a storage vessel at a new source that has a design storage capacity greater than or equal to 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 3.4 kilopascals and HAP liquid concentration greater than 2 percent by weight total organic HAP; or a storage vessel at a new source that has a design storage capacity greater than or equal to 76 cubic meters and less than 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 77 kilopascals and HAP liquid concentration greater than 2 percent by weight total organic HAP.

Group 1 wastewater stream means a wastewater stream at a petroleum refinery with a total annual benzene loading of 10 megagrams per year or greater as calculated according to the procedures in 40 CFR 61.342 of subpart FF of part 61 that has a flow rate of 0.02 liters per minute or greater, a benzene concentration of 10 parts per million by weight or greater, and is not exempt from control requirements under the provisions of 40 CFR part 61, subpart FF.

Group 2 gasoline loading rack means a gasoline loading rack classified under Standard Industrial Classification code 2911 that does not meet the definition of a Group 1 gasoline loading rack.

Group 2 marine tank vessel means a marine tank vessel that does not meet the definition of a Group 1 marine tank vessel.

Group 2 miscellaneous process vent means a miscellaneous process vent that does not meet the definition of a Group 1 miscellaneous process vent.

Group 2 storage vessel means a storage vessel that does not meet the definition of a Group 1 storage vessel.

Group 2 wastewater stream means a wastewater stream that does not meet the definition of Group 1 wastewater stream.

Hazardous air pollutant or *HAP* means one of the chemicals listed in section 112(b) of the Clean Air Act.

Incinerator means an enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas.

In heavy liquid service means that the piece of equipment is not in gas/vapor service or in light liquid service.

In light liquid service means that the piece of equipment contains a liquid that meets the conditions specified in § 60.593(d) of part 60, subpart GGG.

In organic hazardous air pollutant service means that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP's as determined according to the provisions of § 63.180(d) of subpart H of this part and table 1 of this subpart. The provisions of § 63.180(d) of subpart H also specify how to determine that a piece of equipment is not in organic HAP service.

Maximum true vapor pressure means the equilibrium partial pressure exerted by the stored liquid at the temperature equal to the highest calendar-month average of the liquid storage temperature for liquids stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for liquids stored at the ambient temperature, as determined:

(1) In accordance with methods specified in § 63.111 of subpart G of this part;

(2) From standard reference texts; or

(3) By any other method approved by the Administrator.

Miscellaneous process vent means a gas stream containing greater than 20 parts per million by volume organic HAP that is continuously or periodically discharged during normal operation of a petroleum refining process unit meeting the criteria specified in § 63.640(a). Miscellaneous process vents include gas streams that are discharged directly to the atmosphere, gas streams that are routed to a control device prior to discharge to the atmosphere, or gas streams that are diverted through a product recovery device prior to control or discharge to the atmosphere. Miscellaneous process vents include vent streams from: caustic wash accumulators, distillation tower condensers/accumulators, flash/knockout drums, reactor vessels, scrubber overheads, stripper overheads, vacuum (steam) ejectors, wash tower overheads, water wash accumulators, blowdown condensers/accumulators, and delayed coker vents. Miscellaneous process vents do not include:

(1) Gaseous streams routed to a fuel gas system;

(2) Relief valve discharges;

(3) Leaks from equipment regulated under § 63.648;

(4) Episodic or nonroutine releases such as those associated with startup, shutdown, malfunction, maintenance, depressuring, and catalyst transfer operations;

(5) In situ sampling systems (onstream analyzers);

(6) Catalytic cracking unit catalyst regeneration vents;

(7) Catalytic reformer regeneration vents;

(8) Sulfur plant vents;

(9) Vents from control devices such as scrubbers, boilers, incinerators, and electrostatic precipitators applied to catalytic cracking unit catalyst regeneration vents, catalytic reformer regeneration vents, and sulfur plant vents;

(10) Vents from any stripping operations applied to comply with the wastewater provisions of this subpart, subpart G of this part, or 40 CFR part 61, subpart FF;

(11) Coking unit vents associated with coke drum depressuring at or below a coke drum outlet pressure of 15 pounds per square inch gauge, deheading, draining, or decoking (coke cutting) or pressure testing after decoking; and

(12) Vents from storage vessels.

Operating permit means a permit required by 40 CFR parts 70 or 71.

Organic hazardous air pollutant or *organic HAP* in this subpart, means any of the organic chemicals listed in table 1 of this subpart.

Petroleum-based solvents means mixtures of aliphatic hydrocarbons or mixtures of one and two ring aromatic hydrocarbons.

Periodically discharged means discharges that are intermittent and associated with routine operations. Discharges associated with maintenance activities or process upsets are not considered periodically discharged miscellaneous process vents and are therefore not regulated by the petroleum refinery miscellaneous process vent provisions.

Petroleum refining process unit means a process unit used in an establishment primarily engaged in petroleum refining as defined in the Standard Industrial Classification code for petroleum refining (2911), and used primarily for the following:

(1) Producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants;

(2) Separating petroleum; or

(3) Separating, cracking, reacting, or reforming intermediate petroleum streams.

(4) Examples of such units include, but are not limited to, petroleum-based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units also include sulfur plants.

Plant site means all contiguous or adjoining property that is under common control including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Primary fuel means the fuel that provides the principal heat input (i.e., more than 50 percent) to the device. To be considered primary, the fuel must be able to sustain operation without the addition of other fuels.

Process heater means an enclosed combustion device that primarily transfers heat liberated by burning fuel directly to process streams or to heat transfer liquids other than water.

Process unit means the equipment assembled and connected by pipes or ducts to process raw and/or intermediate materials and to manufacture an intended product. A process unit includes any associated storage vessels. For the purpose of this subpart, process unit includes, but is not limited to, chemical manufacturing process units and petroleum refining process units.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be accomplished. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not considered a process unit shutdown. An unscheduled

work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start up the unit, or would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown is not considered a process unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not considered process unit shutdowns.

Recovery device means an individual unit of equipment capable of and used for the purpose of recovering chemicals for use, reuse, or sale. Recovery devices include, but are not limited to, absorbers, carbon adsorbers, and condensers.

Reference control technology for gasoline loading racks means a vapor collection and processing system used to reduce emissions due to the loading of gasoline cargo tanks to 10 milligrams of total organic compounds per liter of gasoline loaded or less.

Reference control technology for marine vessels means a vapor collection system and a control device that reduces captured HAP emissions by 97 percent.

Reference control technology for miscellaneous process vents means a combustion device used to reduce organic HAP emissions by 98 percent, or to an outlet concentration of 20 parts per million by volume.

Reference control technology for storage vessels means either:

(1) An internal floating roof meeting the specifications of § 63.119(b) of subpart G except for § 63.119 (b)(5) and (b)(6);

(2) An external floating roof meeting the specifications of § 63.119(c) of subpart G except for § 63.119(c)(2);

(3) An external floating roof converted to an internal floating roof meeting the specifications of § 63.119(d) of subpart G except for § 63.119(d)(2); or

(4) A closed-vent system to a control device that reduces organic HAP emissions by 95-percent, or to an outlet concentration of 20 parts per million by volume.

(5) For purposes of emissions averaging, these four technologies are considered equivalent.

Reference control technology for wastewater means the use of:

(1) Controls specified in §§ 61.343 through 61.347 of subpart FF of part 61;

(2) A treatment process that achieves the emission reductions specified in table 7 of this subpart for each individual HAP present in the wastewater stream or is a steam stripper that meets the specifications in § 63.138(g) of subpart G of this part; and

(3) A control device to reduce by 95 percent (or to an outlet concentration of 20 parts per million by volume for combustion devices) the organic HAP emissions in the vapor streams vented from treatment processes (including the steam stripper described in paragraph (2) of this definition) managing wastewater.

Refinery fuel gas means a gaseous mixture of methane, light hydrocarbons, hydrogen, and other miscellaneous species (nitrogen, carbon dioxide, hydrogen sulfide, etc.) that is produced in the refining of crude oil and/or petrochemical processes and that is separated for use as a fuel in boilers and process heaters throughout the refinery.

Relief valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage.

Research and development facility means laboratory and pilot plant operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Storage vessel means a tank or other vessel that is used to store organic liquids that are in organic HAP service. Storage vessel does not include:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere;

(3) Vessels with capacities smaller than 40 cubic meters;

(4) Bottoms receiver tanks; or

(5) Wastewater storage tanks. Wastewater storage tanks are covered under the wastewater provisions.

Temperature monitoring device means a unit of equipment used to monitor temperature and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 °C), whichever is greater.

Total annual benzene means the total amount of benzene in waste streams at a facility on an annual basis as determined in § 61.342 of 40 CFR part 61, subpart FF.

Total organic compounds or *TOC*, as used in this subpart, means those compounds excluding methane and ethane measured according to the procedures of Method 18 of 40 CFR part 60, appendix A. Method 25A may be used alone or in combination with Method 18 to measure TOC as provided in § 63.645 of this subpart.

Wastewater means water or wastewater that, during production or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product and is discharged into any individual drain system. Examples are feed tank drawdown; water formed during a chemical reaction or used as a reactant; water used to wash impurities from organic products or reactants; water used to cool or quench organic vapor streams through direct contact; and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

§ 63.642 General standards.

(a) Each owner or operator of a source subject to this subpart is required to apply for a part 70 or part 71 operating permit from the appropriate permitting authority. If the EPA has approved a State operating permit program under part 70, the permit shall be obtained from the State authority. If the State operating permit program has not been approved, the source shall apply to the EPA Regional Office pursuant to part 71.

(b) [Reserved]

(c) Table 6 of this subpart specifies the provisions of subpart A of this part that apply and those that do not apply to owners and operators of sources subject to this subpart.

(d) Initial performance tests and initial compliance determinations shall be required only as specified in this subpart.

(1) Performance tests and compliance determinations shall be conducted according to the schedule and procedures specified in this subpart.

(2) The owner or operator shall notify the Administrator of the intention to conduct a performance test at least 30 days before the performance test is scheduled.

(3) Performance tests shall be conducted according to the provisions of § 63.7(e) except that performance tests shall be conducted at maximum representative operating capacity for the process. During the performance test, an owner or operator shall operate the control device at either maximum or minimum representative operating conditions for monitored control device

parameters, whichever results in lower emission reduction.

(4) Data shall be reduced in accordance with the EPA-approved methods specified in the applicable section or, if other test methods are used, the data and methods shall be validated according to the protocol in Method 301 of appendix A of this part.

(e) Each owner or operator of a source subject to this subpart shall keep copies of all applicable reports and records required by this subpart for at least 5 years except as otherwise specified in this subpart. All applicable records shall be maintained in such a manner that they can be readily accessed. Records for the most recent 2 years shall be retained onsite at the source or shall be accessible from a central location by computer. The remaining 3 years of records may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, floppy disk, magnetic tape, or microfiche.

(f) All reports required under this subpart shall be sent to the Administrator at the addresses listed in § 63.13 of subpart A of this part. If acceptable to both the Administrator and the owner or operator of a source, reports may be submitted on electronic media.

(g) The owner or operator of an existing source subject to the requirements of this subpart shall control emissions of organic HAP's to the level represented by the following equation:

$$E_A = 0.02\Sigma EPV_1 + \Sigma EPV_2 + 0.025\Sigma ES_1 + \Sigma ES_2 + \Sigma EGLR_{1C} + \Sigma EGLR_2 + (R)\Sigma EMV_1 + \Sigma EMV_2 + \Sigma EWW_{1C} + \Sigma EWW_2$$

where:

E_A=Emission rate, megagrams per year, allowed for the source.

$0.02\Sigma EPV_1$=Sum of the residual emissions, megagrams per year, from all Group 1 miscellaneous process vents, as defined in § 63.641.

ΣEPV_2=Sum of the emissions, megagrams per year, from all Group 2 process vents, as defined in § 63.641.

$0.05\Sigma ES_1$=Sum of the residual emissions, megagrams per year, from all Group 1 storage vessels, as defined in § 63.641.

ΣES_2=Sum of the emissions, megagrams per year, from all Group 2 storage vessels, as defined in § 63.641.

$\Sigma EGLR_{1C}$=Sum of the residual emissions, megagrams per year, from all Group 1 gasoline loading racks, as defined in § 63.641.

$\Sigma EGLR_2$=Sum of the emissions, megagrams per year, from all Group 2 gasoline loading racks, as defined in § 63.641.

$(R)\Sigma EMV_1$=Sum of the residual emissions, megagrams per year, from all Group 1 marine tank vessels, as defined in § 63.641.

R=0.03 for existing sources, 0.02 for new sources except offshore loading terminals, and 0.05 for new offshore loading terminals.

ΣEMV_2=Sum of the emissions, megagrams per year, from all Group 2 marine tank vessels, as defined in § 63.641.

ΣEWW_{1C}=Sum of the residual emissions from all Group 1 wastewater streams, as defined in § 63.641. This term is calculated for each Group 1 stream according to the equation for EWWic in § 63.652(h)(6).

ΣEWW_2=Sum of emissions from all Group 2 wastewater streams, as defined in § 63.641.

The emissions level represented by this equation is dependent on the collection of emission points in the source. The level is not fixed and can change as the emissions from each emission point change or as the number of emission points in the source change.

(h) The owner or operator of a new source subject to the requirements of this subpart shall control emissions of organic HAP's to the level represented by the equation in paragraph (g) of this section.

(i) The owner or operator of an existing source shall demonstrate compliance with the emission standard in paragraph (g) of this section by following the procedures specified in paragraph (k) of this section for all emission points, or by following the emissions averaging compliance approach specified in paragraph (l) of this section for specified emission points and the procedures specified in paragraph (k) of this section for all other emission points within the source.

(j) The owner or operator of a new source shall demonstrate compliance with the emission standard in paragraph (h) of this section only by following the procedures in paragraph (k) of this section. The owner or operator of a new source may not use the emissions averaging compliance approach.

(k) The owner or operator of an existing source may comply, and the owner or operator of a new source shall comply, with the miscellaneous process vent provisions in §§ 63.643 through 63.645, the storage vessel provisions in § 63.646, the wastewater provisions in § 63.647, the gasoline loading rack provisions in § 63.650, and the marine tank vessel loading operation provisions in § 63.651 of this subpart.

(1) The owner or operator using this compliance approach shall also comply with the requirements of § 63.654 as applicable.

(2) The owner or operator using this compliance approach is not required to calculate the annual emission rate specified in paragraph (g) of this section.

(l) The owner or operator of an existing source may elect to control some of the emission points within the source to different levels than specified under §§ 63.643 through 63.647, §§ 63.650 and 63.651 by using an emissions averaging compliance approach as long as the overall emissions for the source do not exceed the emission level specified in paragraph (g) of this section. The owner or operator using emissions averaging shall meet the requirements in paragraphs (l)(1) and (l)(2) of this section.

(1) Calculate emission debits and credits for those emission points involved in the emissions average according to the procedures specified in § 63.652; and

(2) Comply with the requirements of §§ 63.652, 63.653, and 63.654, as applicable.

(m) A State may restrict the owner or operator of an existing source to using only the procedures in paragraph (k) of this section to comply with the emission standard in paragraph (g) of this section. Such a restriction would preclude the source from using an emissions averaging compliance approach.

§ 63.643 Miscellaneous process vent provisions.

(a) The owner or operator of a Group 1 miscellaneous process vent as defined in § 63.641 shall comply with the requirements of either paragraphs (a)(1) or (a)(2) of this section.

(1) Reduce emissions of organic HAP's using a flare that meets the requirements of § 63.11(b) of subpart A of this part.

(2) Reduce emissions of organic HAP's, using a control device, by 98 weight-percent or to a concentration of 20 parts per million by volume, on a dry basis, corrected to 3 percent oxygen, whichever is less stringent. Compliance can be determined by measuring either organic HAP's or TOC's using the procedures in § 63.645.

(b) If a boiler or process heater is used to comply with the percentage of reduction requirement or concentration limit specified in paragraph (a)(2) of this section, then the vent stream shall be introduced into the flame zone of such

a device, or in a location such that the required percent reduction or concentration is achieved. Testing and monitoring is required only as specified in § 63.644(a) and § 63.645 of this subpart.

§ 63.644 Monitoring provisions for miscellaneous process vents.

(a) Except as provided in paragraph (b) of this section, each owner or operator of a Group 1 miscellaneous process vent that uses a combustion device to comply with the requirements in § 63.643(a) shall install the monitoring equipment specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section, depending on the type of combustion device used. All monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications.

(1) Where an incinerator is used, a temperature monitoring device equipped with a continuous recorder is required.

(i) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) Where a flare is used, a device (including but not limited to a thermocouple, an ultraviolet beam sensor, or an infrared sensor) capable of continuously detecting the presence of a pilot flame is required.

(3) Any boiler or process heater with a design heat input capacity greater than or equal to 44 megawatt or any boiler or process heater in which all vent streams are introduced into the flame zone is exempt from monitoring.

(4) Any boiler or process heater less than 44 megawatts design heat capacity where the vent stream is not introduced into the flame zone is required to use a temperature monitoring device in the firebox equipped with a continuous recorder.

(b) An owner or operator of a Group 1 miscellaneous process vent may request approval to monitor parameters other than those listed in paragraph (a) of this section. The request shall be submitted according to the procedures specified in § 63.654(h). Approval shall be requested if the owner or operator:

(1) Uses a control device other than an incinerator, boiler, process heater, or flare; or

(2) Uses one of the control devices listed in paragraph (a) of this section, but seeks to monitor a parameter other than those specified in paragraph (a) of this section.

(c) The owner or operator of a Group 1 miscellaneous process vent using a vent system that contains bypass lines that could divert a vent stream away from the control device used to comply with paragraph (a) of this section shall comply with either paragraph (c)(1) or (c)(2) of this section. Equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, pressure relief valves needed for safety reasons, and equipment subject to § 63.648 are not subject to this paragraph.

(1) Install, calibrate, maintain, and operate a flow indicator that determines whether a vent stream flow is present at least once every hour. Records shall be generated as specified in § 63.654(h) and (i). The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream away from the control device to the atmosphere; or

(2) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

(d) The owner or operator shall establish a range that ensures compliance with the emissions standard for each parameter monitored under paragraphs (a) and (b) of this section. In order to establish the range, the information required in § 63.654(f)(1)(ii) shall be submitted in the Notification of Compliance Status report.

(e) Each owner or operator of a control device subject to the monitoring provisions of this section shall operate the control device in a manner consistent with the minimum and/or maximum operating parameter value or procedure required to be monitored under paragraphs (a) and (b) of this section. Operation of the control device in a manner that constitutes a period of excess emissions, as defined in § 63.654(g)(6), or failure to perform procedures required by this section shall constitute a violation of the applicable emission standard of this subpart.

§ 63.645 Test methods and procedures for miscellaneous process vents.

(a) To demonstrate compliance with § 63.643, an owner or operator shall follow § 63.116 except for § 63.116(d) and (e) of subpart G of this part except as provided in paragraphs (b) through (d) of this section.

(b) All references to § 63.113(a)(1) or (a)(2) in § 63.116 of subpart G of this part shall be replaced with § 63.643(a)(1) or (a)(2), respectively.

(c) In § 63.116(c)(4)(ii)(C) of subpart G of this part, organic HAP's in the list of HAP's in table 1 of this subpart shall be considered instead of the organic HAP's in table 2 of subpart F of this part.

(d) All references to § 63.116(b)(1) or (b)(2) shall be replaced with paragraphs (d)(1) and (d)(2) of this section, respectively.

(1) Any boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(2) Any boiler or process heater in which all vent streams are introduced into the flame zone.

(e) For purposes of determining the TOC emission rate, as specified under paragraph (f) of this section, the sampling site shall be after the last product recovery device (as defined in § 63.641 of this subpart) (if any recovery devices are present) but prior to the inlet of any control device (as defined in § 63.641 of this subpart) that is present, prior to any dilution of the process vent stream, and prior to release to the atmosphere.

(1) Methods 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling site.

(2) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter.

(f) Except as provided in paragraph (g) of this section, an owner or operator seeking to demonstrate that a process vent TOC mass flow rate is less than 33 kilograms per day for an existing source or less than 6.8 kilograms per day for a new source in accordance with the Group 2 process vent definition of this subpart shall determine the TOC mass flow rate by the following procedures:

(1) The sampling site shall be selected as specified in paragraph (e) of this section.

(2) The gas volumetric flow rate shall be determined using Methods 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

(3) Method 18 or Method 25A of 40 CFR part 60, appendix A shall be used to measure concentration; alternatively, any other method or data that has been validated according to the protocol in Method 301 of appendix A of this part may be used. If Method 25A is used, and the TOC mass flow rate calculated from the Method 25A measurement is greater than or equal to 33 kilograms per day for an existing source or 6.8 kilograms per day for a new source, Method 18 may be used to determine

any non-VOC hydrocarbons that may be deducted to calculate the TOC (minus non-VOC hydrocarbons) concentration and mass flow rate. The following procedures shall be used to calculate parts per million by volume concentration:

(i) The minimum sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15-minute intervals during the run.

(ii) The TOC concentration (C_{TOC}) is the sum of the concentrations of the individual components and shall be computed for each run using the following equation if Method 18 is used:

$$C_{TOC} = \frac{\sum_{i=1}^{x}\left(\sum_{j=1}^{n} C_{ji}\right)}{X}$$

where:

C_{TOC}=Concentration of TOC (minus methane and ethane), dry basis, parts per million by volume.

C_{ji}=Concentration of sample component j of the sample i, dry basis, parts per million by volume.

n=Number of components in the sample.

x=Number of samples in the sample run.

(4) The emission rate of TOC (minus methane and ethane) (E_{TOC}) shall be calculated using the following equation if Method 18 is used:

$$E = K_2\left[\sum_{j=1}^{n} C_j M_j\right]Q_s$$

where:

E=Emission rate of TOC (minus methane and ethane) in the sample, kilograms per day.

K_2=Constant, 2.494 x 10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram per gram) (minutes per hour), where the standard temperature (standard cubic meter) is at 20 °C.

C_j=Concentration on a dry basis of organic compound j in parts per million as measured by Method 18 of 40 CFR part 60, appendix A, as indicated in paragraph (f)(3) of this section. C_j includes all organic compounds measured minus methane and ethane.

M_j=Molecular weight of organic compound j, gram per gram-mole.

Q_s=Vent stream flow rate, dry standard cubic meters per minute, at a temperature of 20 °C.

(5) If Method 25A is used the emission rate of TOC (ETOC) shall be calculated using the following equation:

$E=K_2\ C_{TOC}\ Q_s$

where:

E=Emission rate of TOC (minus methane and ethane) in the sample, kilograms per day.

K_2=Constant, 2.494 x 10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram per gram) (minutes per hour), where the standard temperature (standard cubic meter) is at 20 °C.

C_{TOC}=Concentration of TOC on a dry basis in parts per million volume as measured by Method 25A of 40 CFR part 60, appendix A, as indicated in paragraph (f)(3) of this section.

Q_s=Vent stream flow rate, dry standard cubic meters per minute, at a temperature of 20 °C.

(g) Engineering assessment may be used to determine the TOC emission rate for the representative operating condition expected to yield the highest daily emission rate.

(1) Engineering assessment includes, but is not limited to, the following:

(i) Previous test results provided the tests are representative of current operating practices at the process unit.

(ii) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(iii) TOC emission rate specified or implied within a permit limit applicable to the process vent.

(iv) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(A) Use of material balances based on process stoichiometry to estimate maximum TOC concentrations;

(B) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities; and

(C) Estimation of TOC concentrations based on saturation conditions.

(v) All data, assumptions, and procedures used in the engineering assessment shall be documented.

(h) The owner or operator of a Group 2 process vent shall recalculate the TOC emission rate for each process vent, as necessary, whenever process changes are made to determine whether the vent is in Group 1 or Group 2. Examples of process changes include, but are not limited to, changes in production capacity, production rate, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. For purposes of this paragraph, process changes do not include: process upsets; unintentional, temporary process changes; and changes that are within the range on which the original calculation was based.

(1) The TOC emission rate shall be recalculated based on measurements of vent stream flow rate and TOC as specified in paragraphs (e) and (f) of this section, as applicable, or on best engineering assessment of the effects of the change. Engineering assessments shall meet the specifications in paragraph (g) of this section.

(2) Where the recalculated TOC emission rate is greater than 33 kilograms per day for an existing source or greater than 6.8 kilograms per day for a new source, the owner or operator shall submit a report as specified in § 63.654 (c), (d), (e), (f), or (g), or (h) and shall comply with the appropriate provisions in § 63.643 by the dates specified in § 63.640.

§ 63.646 Storage vessel provisions.

(a) Each owner or operator of a Group 1 storage vessel subject to this subpart shall comply with the requirements of §§ 63.119 through 63.121 of subpart G of this part except as provided in paragraphs (b) through (m) of this section.

(b) As used in this section, all terms not defined in § 63.641 shall have the meaning given them in 40 CFR part 63, subparts A or G. The Group 1 storage vessel definition presented in § 63.641 shall apply in lieu of the Group 1 storage vessel definitions presented in tables 5 and 6 of § 63.119 of subpart G of this part.

(1) An owner or operator may use good engineering judgement or test results to determine the stored liquid weight percent total organic HAP for purposes of group determination. Data, assumptions, and procedures used in the determination shall be documented.

(2) When an owner or operator and the Administrator do not agree on whether the weight percent organic HAP in the stored liquid is above or below 4 percent for existing sources and 2 percent for new sources, Method 18 of 40 CFR part 60, appendix A shall be used.

(c) The following paragraphs do not apply to storage vessels at existing sources subject to this subpart: § 63.119 (b)(5), (b)(6), (c)(2), and (d)(2).

(d) References shall be replaced as specified in paragraphs (d)(1) through (d)(9) of this section.

(1) All references to § 63.100(k) of subpart F of this part (or the schedule provisions and the compliance date) shall be replaced with § 63.640(h),

(2) All references to April 22, 1994 shall be replaced with August 18, 1995.

(3) All references to December 31, 1992 shall be replaced with July 15, 1994.

(4) All references to the compliance dates specified in § 63.100 of subpart F shall be replaced with § 63.640 (h) through (m).

(5) All references to § 63.150 in § 63.119 of subpart G of this part shall be replaced with § 63.652.

(6) All references to § 63.113(a)(2) of subpart G shall be replaced with § 63.643(a)(2) of this subpart.

(7) All references to § 63.126(b)(1) of subpart G shall be replaced with § 63.422(b) of subpart R of this part.

(8) All references to § 63.128(a) of subpart G shall be replaced with § 63.425, paragraphs (a) through (c) and (e) through (h) of subpart R of this part.

(9) All references to § 63.139(d)(1) in § 63.120(d)(1)(iii) of subpart G shall be replaced with § 61.355 of subpart FF of part 61.

(e) When complying with the inspection requirements of § 63.120 of subpart G of this part, owners and operators of storage vessels at existing sources subject to this subpart are not required to comply with the provisions for gaskets, slotted membranes, and sleeve seals.

(f) The following paragraphs (f)(1), (f)(2), and (f)(3) of this section apply to Group 1 storage vessels at existing sources:

(1) If a cover or lid is installed on an opening on a floating roof, the cover or lid shall remain closed except when the cover or lid must be open for access.

(2) Rim space vents are to be set to open only when the floating roof is not floating or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting.

(3) Automatic bleeder vents are to be closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports.

(g) Failure to perform inspections and monitoring required by this section shall constitute a violation of the applicable standard of this subpart.

(h) References in §§ 63.119 through 63.121 to § 63.122(g)(1), § 63.151, and references to initial notification requirements do not apply.

(i) References to the Implementation Plan in § 63.120, paragraphs (d)(2) and (d)(3)(i) shall be replaced with the Notification of Compliance Status report.

(j) References to the Notification of Compliance Status report in § 63.152(b) shall be replaced with § 63.654(f).

(k) References to the Periodic Reports in § 63.152(c) shall be replaced with § 63.654(g).

(l) The State or local permitting authority can waive the notification requirements of §§ 63.120(a)(5), 63.120(a)(6), 63.120(b)(10)(ii), and 63.120(b)(10)(iii) for all or some storage vessels at petroleum refineries subject to this subpart. The State or local permitting authority may also grant permission to refill storage vessels sooner than 30 days after submitting the notifications in §§ 63.120(a)(6) or 63.120(b)(10)(iii) for all storage vessels at a refinery or for individual storage vessels on a case-by-case basis.

§ 63.647 Wastewater provisions.

(a) Except as provided in paragraph (b) of this section, each owner or operator of a Group 1 wastewater stream shall comply with the requirements of §§ 61.340 through 61.355 of 40 CFR part 61, subpart FF for each process wastewater stream that meets the definition in § 63.641.

(b) As used in this section, all terms not defined in § 63.641 shall have the meaning given them in the Clean Air Act or in 40 CFR part 61, subpart FF, § 61.341.

(c) Each owner or operator required under subpart FF of 40 CFR part 61 to perform periodic measurement of benzene concentration in wastewater, or to monitor process or control device operating parameters shall operate in a manner consistent with the minimum or maximum (as appropriate) permitted concentration or operating parameter values. Operation of the process, treatment unit, or control device resulting in a measured concentration or operating parameter value outside the permitted limits shall constitute a violation of the emission standards. Failure to perform required leak monitoring for closed vent systems and control devices or failure to repair leaks within the time period specified in subpart FF of 40 CFR part 61 shall constitute a violation of the standard.

§ 63.648 Equipment leak standards.

(a) Each owner or operator of an existing source subject to the provisions of this subpart shall comply with the provisions of 40 CFR part 60 subpart VV and paragraph (b) of this section except as provided in paragraphs (a)(1), (a)(2), and (c) through (i) of this section. Each owner or operator of a new source subject to the provisions of this subpart shall comply with subpart H of this part except as provided in paragraphs (c) through (i) of this section.

(1) For purposes of compliance with this section, the provisions of 40 CFR part 60, subpart VV apply only to equipment in organic HAP service, as defined in § 63.641 of this subpart.

(2) Calculation of percentage leaking equipment components for subpart VV of 40 CFR part 60 may be done on a process unit basis or a sourcewide basis. Once the owner or operator has decided, all subsequent calculations shall be on the same basis unless a permit change is made.

(b) The use of monitoring data generated before August 18, 1995 to qualify for less frequent monitoring of valves and pumps as provided under 40 CFR part 60 subpart VV or subpart H of this part and paragraph (c) of this section (i.e., quarterly or semiannually) is governed by the requirements of paragraphs (b)(1) and (b)(2) of this section.

(1) Monitoring data must meet the test methods and procedures specified in § 60.485(b) of 40 CFR part 60, subpart VV or § 63.180(b)(1) through (b)(5) of subpart H of this part except for minor departures.

(2) Departures from the criteria specified in § 60.485(b) of 40 CFR part 60 subpart VV or § 63.180(b)(1) through (b)(5) of subpart H of this part or from the monitoring frequency specified in subpart VV or in paragraph (c) of this section (such as every 6 weeks instead of monthly or quarterly) are minor and do not significantly affect the quality of the data. An example of a minor departure is monitoring at a slightly different frequency (such as every 6 weeks instead of monthly or quarterly). Failure to use a calibrated instrument is not considered a minor departure.

(c) In lieu of complying with the existing source provisions of paragraph (a) in this section, an owner or operator may elect to comply with the requirements of §§ 63.161 through 63.169, 63.171, 63.172, 63.175, 63.176, 63.177, 63.179, and 63.180 of subpart H of this part except as provided in paragraphs (c)(1) through (c)(10) and (e) through (i) of this section.

(1) The instrument readings that define a leak for light liquid pumps subject to § 63.163 of subpart H of this part and gas/vapor and light liquid valves subject to § 63.168 of subpart H of this part are specified in table 2 of this subpart.

(2) In phase III of the valve standard, the owner or operator may monitor valves for leaks as specified in paragraphs (c)(2)(i) or (c)(2)(ii) of this section.

(i) If the owner or operator does not elect to monitor connectors, then the owner or operator shall monitor valves according to the frequency specified in table 8 of this subpart.

(ii) If an owner or operator elects to monitor connectors according to the provisions of § 63.649, paragraphs (b),

(c), or (d), then the owner or operator shall monitor valves at the frequencies specified in table 9 of this subpart.

(3) The owner or operator shall decide no later than the first required monitoring period after the phase I compliance date specified in § 63.640(h) whether to calculate the percentage leaking valves on a process unit basis or on a sourcewide basis. Once the owner or operator has decided, all subsequent calculations shall be on the same basis unless a permit change is made.

(4) The owner or operator shall decide no later than the first monitoring period after the phase III compliance date specified in § 63.640(h) whether to monitor connectors according to the provisions in § 63.649, paragraphs (b), (c), or (d).

(5) Connectors in gas/vapor service or light liquid service are subject to the requirements for connectors in heavy liquid service in § 63.169 of subpart H of this part (except for the agitator provisions). The leak definition for valves, connectors, and instrumentation systems subject to § 63.169 is 1,000 parts per million.

(6) In phase III of the pump standard, except as provided in paragraph (c)(7) of this section, owners or operators that achieve less than 10 percent of light liquid pumps leaking or three light liquid pumps leaking, whichever is greater, shall monitor light liquid pumps monthly.

(7) Owners or operators that achieve less than 3 percent of light liquid pumps leaking or one light liquid pump leaking, whichever is greater, shall monitor light liquid pumps quarterly.

(8) An owner or operator may make the election described in paragraphs (c)(3) and (c)(4) of this section at any time except that any election to change after the initial election shall be treated as a permit modification according to the terms of part 70 of this chapter.

(9) When complying with the requirements of § 63.138(e)(3)(i) of subpart H of this part, non-repairable valves shall be included in the calculation of percent leaking valves the first time the valve is identified as leaking and non-repairable. Otherwise, a number of non-repairable valves up to a maximum of 1 percent per year of the total number of valves in organic HAP service up to a maximum of 3 percent may be excluded from calculation of percent leaking valves for subsequent monitoring periods. When the number of non-repairable valves exceeds 3 percent of the total number of valves in organic HAP service, the number of non-repairable valves exceeding 3 percent of the total number shall be included in the calculation of percent leaking valves.

(10) If in phase III of the valve standard any valve is designated, as described in 40 CFR 60.4685(e)(2), as having no detectable emissions the owner or operator has the option of following the provisions of § 60.482–7(f) of subpart VV of part 60. If an owner or operator chooses to comply with the provisions of 40 CFR 60.482–7(f), the valve is exempt from the valve monitoring provisions of § 63.168 of subpart H of this part.

(d) Upon startup of new sources, the owner or operator shall comply with § 63.163(a)(1)(ii) of subpart H of this part for light liquid pumps and § 63.168(a)(1)(ii) of subpart H of this part for gas/vapor and light liquid valves.

(e) For reciprocating pumps in heavy liquid service, owners and operators are not required to comply with the requirements in § 63.169 of subpart H of this part.

(f) Reciprocating pumps in light liquid service are exempt from §§ 63.163 and 60.482 if recasting the distance piece or reciprocating pump replacement is required.

(g) Compressors in hydrogen service are exempt from the requirements of paragraphs (a) and (c) of this section if an owner or operator demonstrates that a compressor is in hydrogen service.

(1) Each compressor is presumed not to be in hydrogen service unless an owner or operator demonstrates that the piece of equipment is in hydrogen service.

(2) For a piece of equipment to be considered in hydrogen service, it must be determined that the percentage hydrogen content can be reasonably expected always to exceed 50 percent by volume.

(i) For purposes of determining the percentage hydrogen content in the process fluid that is contained in or contacts a compressor, the owner or operator shall use either:

(A) Procedures that conform to those specified in § 60.593(b)(2) of 40 part 60, subpart GGG.

(B) Engineering judgment to demonstrate that the percentage content exceeds 50 percent by volume, provided the engineering judgment demonstrates that the content clearly exceeds 50 percent by volume.

(*1*) When an owner or operator and the Administrator do not agree on whether a piece of equipment is in hydrogen service, the procedures in paragraph (g)(2)(i)(A) of this section shall be used to resolve the disagreement.

(*2*) If an owner or operator determines that a piece of equipment is in hydrogen service, the determination can be revised only by following the procedures in paragraph (g)(2)(i)(A) of this section.

(h) Each owner or operator of a source subject to the provisions of this subpart must maintain all records for a minimum of 5 years.

(i) Reciprocating compressors are exempt from seal requirements if recasting the distance piece or compressor replacement is required.

§ 63.649 Alternative means of emission limitation: Connectors in gas/vapor service and light liquid service.

(a) If an owner or operator elects to monitor valves according to the provisions of § 63.648(c)(2)(ii), the owner or operator shall implement one of the connector monitoring programs specified in paragraphs (b), (c), or (d) of this section.

(b) *Random 200 connector alternative.* The owner or operator shall implement a random sampling program for accessible connectors of 2.0 inches nominal diameter or greater. The program does not apply to inaccessible or unsafe-to-monitor connectors, as defined in § 63.174 of subpart H. The sampling program shall be implemented source-wide.

(1) Within the first 12 months after the phase III compliance date specified in § 63.640(h), a sample of 200 connectors shall be randomly selected and monitored using Method 21 of 40 CFR part 60, appendix A.

(2) The instrument reading that defines a leak is 1,000 parts per million.

(3) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected except as provided in paragraph (e) of this section. A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(4) If a leak is detected, the connector shall be monitored for leaks within the first 3 months after its repair.

(5) After conducting the initial survey required in paragraph (b)(1) of this section, the owner or operator shall conduct subsequent monitoring of connectors at the frequencies specified in paragraphs (b)(5)(i) through (b)(5)(iv) of this section.

(i) If the percentage leaking connectors is 2.0 percent or greater, the owner or operator shall survey a random sample of 200 connectors once every 6 months.

(ii) If the percentage leaking connectors is 1.0 percent or greater but less than 2.0 percent, the owner or

operator shall survey a random sample of 200 connectors once per year.

(iii) If the percentage leaking connectors is 0.5 percent or greater but less than 1.0 percent, the owner or operator shall survey a random sample of 200 connectors once every 2 years.

(iv) If the percentage leaking connectors is less than 0.5 percent, the owner or operator shall survey a random sample of 200 connectors once every 4 years.

(6) Physical tagging of the connectors to indicate that they are subject to the monitoring provisions is not required. Connectors may be identified by the area or length of pipe and need not be individually identified.

(c) *Connector inspection alternative.* The owner or operator shall implement a program to monitor all accessible connectors in gas/vapor service that are 2.0 inches (nominal diameter) or greater and inspect all accessible connectors in light liquid service that are 2 inches (nominal diameter) or greater as described in paragraphs (c)(1) through (c)(7) of this section. The program does not apply to inaccessible or unsafe-to-monitor connectors.

(1) Within 12 months after the phase III compliance date specified in § 63.640(h), all connectors in gas/vapor service shall be monitored using Method 21 of 40 CFR part 60 appendix A. The instrument reading that defines a leak is 1,000 parts per million.

(2) All connectors in light liquid service shall be inspected for leaks. A leak is detected if liquids are observed to be dripping at a rate greater than three drops per minute.

(3) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected except as provided in paragraph (e) of this section. A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(4) If a leak is detected, connectors in gas/vapor service shall be monitored for leaks within the first 3 months after repair. Connectors in light liquid service shall be inspected for indications of leaks within the first 3 months after repair. A leak is detected if liquids are observed to be dripping at a rate greater than three drops per minute.

(5) After conducting the initial survey required in paragraphs (c)(1) and (c)(2) of this section, the owner or operator shall conduct subsequent monitoring at the frequencies specified in paragraphs (c)(5)(i) through (c)(5)(iii) of this section.

(i) If the percentage leaking connectors is 2.0 percent or greater, the owner or operator shall monitor or inspect, as applicable, the connectors once per year.

(ii) If the percentage leaking connectors is 1.0 percent or greater but less than 2.0 percent, the owner or operator shall monitor or inspect, as applicable, the connectors once every 2 years.

(iii) If the percentage leaking connectors is less than 1.0 percent, the owner or operator shall monitor or inspect, as applicable, the connectors once every 4 years.

(6) The percentage leaking connectors shall be calculated for connectors in gas/vapor service and for connectors in light liquid service. The data for the two groups of connectors shall not be pooled for the purpose of determining the percentage leaking connectors.

(i) The percentage leaking connectors shall be calculated as follows:

$$\% C_L=[(C_L-C_{AN})/C_t+C_c)]\times 100$$

where:

$\% C_L$=Percentage leaking connectors.

C_L=Number of connectors including nonrepairables, measured at 1,000 parts per million or greater, by Method 21 of 40 CFR part 60, Appendix A.

C_{AN}=Number of allowable nonrepairable connectors, as determined by monitoring, not to exceed 3 percent of the total connector population, C_t.

C_t=Total number of monitored connectors, including nonrepairables, in the process unit.

C_c=Optional credit for removed connectors=0.67×net number (i.e., the total number of connectors removed minus the total added) of connectors in organic HAP service removed from the process unit after the applicability date set forth in § 63.640(h)(4)(iii) for existing process units, and after the date of start-up for new process units. If credits are not taken, then C_c=0.

(ii) Nonrepairable connectors shall be included in the calculation of percentage leaking connectors the first time the connector is identified as leaking and nonrepairable. Otherwise, a number of nonrepairable connectors up to a maximum of 1 percent per year of the total number of connectors in organic HAP service up to a maximum of 3 percent may be excluded from calculation of percentage leaking connectors for subsequent monitoring periods.

(iii) If the number of nonrepairable connectors exceeds 3 percent of the total number of connectors in organic HAP service, the number of nonrepairable connectors exceeding 3 percent of the total number shall be included in the calculation of the percentage leaking connectors.

(7) Physical tagging of the connectors to indicate that they are subject to the monitoring provisions is not required. Connectors may be identified by the area or length of pipe and need not be individually identified.

(d) *Subpart H program.* The owner or operator shall implement a program to comply with the provisions in § 63.174 of this part.

(e) Delay of repair of connectors for which leaks have been detected is allowed if repair is not technically feasible by normal repair techniques without a process unit shutdown. Repair of this equipment shall occur by the end of the next process unit shutdown.

(1) Delay of repair is allowed for equipment that is isolated from the process and that does not remain in organic HAP service.

(2) Delay of repair for connectors is also allowed if:

(i) The owner or operator determines that emissions of purged material resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair, and

(ii) When repair procedures are accomplished, the purged material would be collected and destroyed or recovered in a control device.

(f) Any connector that is designated as an unsafe-to-repair connector is exempt from the requirements of paragraphs (b)(3) and (b)(4), (c)(3) and (c)(4), or (d) of this section if:

(1) The owner or operator determines that repair personnel would be exposed to an immediate danger as a consequence of complying with paragraphs (b)(3) and (b)(4), (c)(3) and (c)(4), of this section; or

(2) The connector will be repaired before the end of the next scheduled process unit shutdown.

(g) The owner or operator shall maintain records to document that the connector monitoring or inspections have been conducted as required and to document repair of leaking connectors as applicable.

§ 63.650 Gasoline loading rack provisions.

(a) Except as provided in paragraphs (b) through (c) of this section, each owner or operator of a gasoline loading rack classified under Standard Industrial Classification code 2911 located within a contiguous area and under common control with a petroleum refinery shall comply with subpart R, §§ 63.421, 63.422(a) through (d), 63.425(a) through (c), 63.425(e) through (h), 63.427(a) and (b), and

63.428(b), (c), (g)(1), and (h)(1) through (h)(3).

(b) As used in this section, all terms not defined in § 63.641 shall have the meaning given them in subpart A or in 40 CFR part 63, subpart R. The § 63.641 definition of ''affected source'' applies under this section.

(c) Gasoline loading racks regulated under this subpart are subject to the compliance dates specified in § 63.640(h).

§ 63.651 Marine tank vessel loading operation provisions.

(a) Except as provided in paragraphs (b) through (c) of this section, each owner or operator of a marine tank vessel loading operation located at a petroleum refinery shall comply with the requirements of §§ 63.560 through 63.567 of 40 CFR part 63, subpart Y.

(b) As used in this section, all terms not defined in § 63.641 shall have the meaning given them in subpart A or in 40 CFR part 63, subpart Y. The § 63.641 definition of ''affected source'' applies under this section.

(c) The Initial Notification Report under § 63.567(b) is not required.

§ 63.652 Emissions averaging provisions.

(a) This section applies to owners or operators of existing sources who seek to comply with the emission standard in § 63.642(g) by using emissions averaging according to § 63.642(l) rather than following the provisions of §§ 63.643 through 63.647, and §§ 63.650 and 63.651. Existing marine tank vessel loading operations unable to comply with the standard by using emissions averaging are those marine tank vessels subject to 40 CFR 63.562(e) of this part and the Valdez Marine Terminal source.

(b) The owner or operator shall develop and submit for approval an Implementation Plan containing all of the information required in § 63.653(d) for all points to be included in an emissions average. The Implementation Plan shall identify all emission points to be included in the emissions average. This must include any Group 1 emission points to which the reference control technology (defined in § 63.641) is not applied and all other emission points being controlled as part of the average.

(c) The following emission points can be used to generate emissions averaging credits if control was applied after November 15, 1990 and if sufficient information is available to determine the appropriate value of credits for the emission point:

(1) Group 2 emission points;

(2) Group 1 storage vessels, Group 1 wastewater streams, Group 1 gasoline loading racks, Group 1 marine tank vessels, and Group 1 miscellaneous process vents that are controlled by a technology that the Administrator or permitting authority agrees has a higher nominal efficiency than the reference control technology. Information on the nominal efficiencies for such technologies must be submitted and approved as provided in paragraph (i) of this section; and

(3) Emission points from which emissions are reduced by pollution prevention measures. Percentages of reduction for pollution prevention measures shall be determined as specified in paragraph (j) of this section.

(i) For a Group 1 emission point, the pollution prevention measure must reduce emissions more than the reference control technology would have had the reference control technology been applied to the emission point instead of the pollution prevention measure except as provided in paragraph (c)(3)(ii) of this section.

(ii) If a pollution prevention measure is used in conjunction with other controls for a Group 1 emission point, the pollution prevention measure alone does not have to reduce emissions more than the reference control technology, but the combination of the pollution prevention measure and other controls must reduce emissions more than the reference control technology would have had it been applied instead.

(d) The following emission points cannot be used to generate emissions averaging credits:

(1) Emission points already controlled on or before November 15, 1990 unless the level of control is increased after November 15, 1990, in which case credit will be allowed only for the increase in control after November 15, 1990;

(2) Group 1 emission points that are controlled by a reference control technology unless the reference control technology has been approved for use in a different manner and a higher nominal efficiency has been assigned according to the procedures in paragraph (i) of this section. For example, it is not allowable to claim that an internal floating roof meeting only the specifications stated in the reference control technology definition in § 63.641 (i.e., that meets the specifications of § 63.119(b) of subpart G but does not have controlled fittings per § 63.119 (b)(5) and (b)(6) of subpart G) applied to a storage vessel is achieving greater than 95 percent control;

(3) Emission points on shutdown process units. Process units that are shut down cannot be used to generate credits or debits;

(4) Wastewater that is not process wastewater or wastewater streams treated in biological treatment units. These two types of wastewater cannot be used to generate credits or debits. Group 1 wastewater streams cannot be left undercontrolled or uncontrolled to generate debits. For the purposes of this section, the terms ''wastewater'' and ''wastewater stream'' are used to mean process wastewater; and

(5) Emission points controlled to comply with a State or Federal rule other than this subpart, unless the level of control has been increased after November 15, 1990 above what is required by the other State or Federal rule. Only the control above what is required by the other State or Federal rule will be credited. However, if an emission point has been used to generate emissions averaging credit in an approved emissions average, and the point is subsequently made subject to a State or Federal rule other than this subpart, the point can continue to generate emissions averaging credit for the purpose of complying with the previously approved average.

(e) For all points included in an emissions average, the owner or operator shall:

(1) Calculate and record monthly debits for all Group 1 emission points that are controlled to a level less stringent than the reference control technology for those emission points. Equations in paragraph (g) of this section shall be used to calculate debits.

(2) Calculate and record monthly credits for all Group 1 or Group 2 emission points that are overcontrolled to compensate for the debits. Equations in paragraph (h) of this section shall be used to calculate credits. Emission points and controls that meet the criteria of paragraph (c) of this section may be included in the credit calculation, whereas those described in paragraph (d) of this section shall not be included.

(3) Demonstrate that annual credits calculated according to paragraph (h) of this section are greater than or equal to debits calculated for the same annual compliance period according to paragraph (g) of this section.

(i) The initial demonstration in the Implementation Plan that credit-generating emission points will be capable of generating sufficient credits to offset the debits from the debit-generating emission points must be made under representative operating conditions.

(ii) After the compliance date, actual operating data will be used for all debit and credit calculations.

(4) Demonstrate that debits calculated for a quarterly (3-month) period according to paragraph (g) of this section are not more than 1.30 times the credits for the same period calculated according to paragraph (h) of this section. Compliance for the quarter shall be determined based on the ratio of credits and debits from that quarter, with 30 percent more debits than credits allowed on a quarterly basis.

(5) Record and report quarterly and annual credits and debits in the Periodic Reports as specified in § 63.654(g)(8). Every fourth Periodic Report shall include a certification of compliance with the emissions averaging provisions as required by § 63.654(g)(8)(iii).

(f) Debits and credits shall be calculated in accordance with the methods and procedures specified in paragraphs (g) and (h) of this section, respectively, and shall not include emissions from the following:

(1) More than 20 individual emission points. Where pollution prevention measures (as specified in paragraph (j)(1) of this section) are used to control emission points to be included in an emissions average, no more than 25 emission points may be included in the average. For example, if two emission points to be included in an emissions average are controlled by pollution prevention measures, the average may include up to 22 emission points.

(2) Periods of startup, shutdown, and malfunction as described in the source's startup, shutdown, and malfunction plan required by § 63.6(e)(3) of subpart A of this part.

(3) For emission points for which continuous monitors are used, periods of excess emissions as defined in § 63.654(g)(6)(i). For these periods, the calculation of monthly credits and debits shall be adjusted as specified in paragraphs (f)(3)(i) through (f)(3)(iii) of this section.

(i) No credits would be assigned to the credit-generating emission point.

(ii) Maximum debits would be assigned to the debit-generating emission point.

(iii) The owner or operator may use the procedures in paragraph (l) of this section to demonstrate to the Administrator that full or partial credits or debits should be assigned.

(g) Debits are generated by the difference between the actual emissions from a Group 1 emission point that is uncontrolled or is controlled to a level less stringent than the reference control technology, and the emissions allowed for Group 1 emission point. Debits shall be calculated as follows:

(1) The overall equation for calculating sourcewide debits is:

$$\text{Debits} = \sum_{i=1}^{n}\left(\text{EPV}_{\text{iACTUAL}} - (0.02)\,\text{EPV}_{\text{iu}}\right) + \sum_{i=1}^{n}\left(\text{ES}_{\text{iACTUAL}} - (0.05)\,\text{ES}_{\text{iu}}\right) + \sum_{i=1}^{n}\left(\text{EGLR}_{\text{iACTUAL}} - \text{EGLR}_{\text{iC}}\right) + \sum_{i=1}^{n}\left(\text{EMV}_{\text{iACTUAL}} - (0.03)\,\text{EMViu}\right)$$

where:

Debits and all terms of the equation are in units of megagrams per month, and

$EPV_{iACTUAL}$=Emissions from each Group 1 miscellaneous process vent i that is uncontrolled or is controlled to a level less stringent than the reference control technology. This is calculated according to paragraph (g)(2) of this section.

(0.02) EPV_{iu}=Emissions from each Group 1 miscellaneous process vent i if the reference control technology had been applied to the uncontrolled emissions, calculated according to paragraph (g)(2) of this section.

$ES_{iACTUAL}$=Emissions from each Group 1 storage vessel i that is uncontrolled or is controlled to a level less stringent than the reference control technology. This is calculated according to paragraph (g)(3) of this section.

(0.05) ES_{iu}=Emissions from each Group 1 storage vessel i if the reference control technology had been applied to the uncontrolled emissions, calculated according to paragraph (g)(3) of this section.

$EGLR_{iACTUAL}$=Emissions from each Group 1 gasoline loading rack i that is uncontrolled or is controlled to a level less stringent than the reference control technology. This is calculated according to paragraph (g)(4) of this section.

$EGLR_{ic}$=Emissions from each Group 1 gasoline loading rack i if the reference control technology had been applied to the uncontrolled emissions. This is calculated according to paragraph (g)(4) of this section.

EMV_{ACTUAL}=Emissions from each Group 1 marine tank vessel i that is uncontrolled or is controlled to a level less stringent than the reference control technology. This is calculated according to paragraph (g)(5) of this section.

(0.03) EMV_{iu}=Emissions from each Group 1 marine tank vessel i if the reference control technology had been applied to the uncontrolled emissions calculated according to paragraph (g)(5) of this section.

n=The number of Group 1 emission points being included in the emissions average. The value of n is not necessarily the same for each kind of emission point.

(2) Emissions from miscellaneous process vents shall be calculated as follows:

(i) For purposes of determining miscellaneous process vent stream flow rate, organic HAP concentrations, and temperature, the sampling site shall be after the final product recovery device, if any recovery devices are present; before any control device (for miscellaneous process vents, recovery devices shall not be considered control devices); and before discharge to the atmosphere. Method 1 or 1A of part 60, appendix A shall be used for selection of the sampling site.

(ii) The following equation shall be used for each miscellaneous process vent i to calculate EPV_{iu}:

$$\text{EPV}_{\text{iu}} = \left(2.494 \times 10^{-9}\right)\text{Qh}\left(\sum_{j=1}^{n} C_j M_j\right)$$

where:

EPV_{iu}=Uncontrolled process vent emission rate from miscellaneous process vent i, megagrams per month.

Q=Vent stream flow rate, dry standard cubic meters per minute, measured using Methods 2, 2A, 2C, or 2D of part 60 appendix A, as appropriate.

h=Monthly hours of operation during which positive flow is present in the vent, hours per month.

C_j=Concentration, parts per million by volume, dry basis, of organic HAP j as measured by Method 18 of part 60 appendix A.

M_j=Molecular weight of organic HAP j, gram per gram-mole.

n=Number of organic HAP's in the miscellaneous process vent stream.

(A) The values of Q, C_j, and M_j shall be determined during a performance test conducted under representative operating conditions. The values of Q, C_j, and M_j shall be established in the Notification of Compliance Status report and must be updated as provided in paragraph (g)(2)(ii)(B) of this section.

(B) If there is a change in capacity utilization other than a change in monthly operating hours, or if any other change is made to the process or product recovery equipment or operation such that the previously measured values of Q, C_j, and M_j are no longer representative, a new performance test shall be conducted to determine new representative values of Q, C_j, and M_j. These new values shall be used to calculate debits and credits from the time of the change forward, and the new values shall be reported in the next Periodic Report.

(iii) The following procedures and equations shall be used to calculate $EPV_{iACTUAL}$:

(A) If the vent is not controlled by a control device or pollution prevention measure, $EPV_{iACTUAL} = EPV_{iu}$, where EPV_{iu} is calculated according to the procedures in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(B) If the vent is controlled using a control device or a pollution prevention measure achieving less than 98-percent reduction,

$$EPV_{iACTUAL} = EPV_{iu} \times \left(1 - \frac{\text{Percent reduction}}{100\%}\right)$$

(*1*) The percent reduction shall be measured according to the procedures in § 63.116 of subpart G if a combustion control device is used. For a flare meeting the criteria in § 63.116(a) of subpart G, or a boiler or process heater meeting the criteria in § 63.645(d) of this subpart or § 63.116(b) of subpart G, the percentage of reduction shall be 98 percent. If a noncombustion control device is used, percentage of reduction shall be demonstrated by a performance test at the inlet and outlet of the device, or, if testing is not feasible, by a control design evaluation and documented engineering calculations.

(*2*) For determining debits from miscellaneous process vents, product recovery devices shall not be considered control devices and cannot be assigned a percentage of reduction in calculating $EPV_{iACTUAL}$. The sampling site for measurement of uncontrolled emissions is after the final product recovery device.

(*3*) Procedures for calculating the percentage of reduction of pollution prevention measures are specified in paragraph (j) of this section.

(3) Emissions from storage vessels shall be calculated as specified in § 63.150(g)(3) of subpart G.

(4) Emissions from gasoline loading racks shall be calculated as follows:

(i) The following equation shall be used for each gasoline loading rack i to calculate $EGLR_{iu}$:

$$EGLR_{iu} = \left(1.20 \times 10^{-7}\right)\frac{SPMG}{T}$$

where:

$EGLR_{iu}$=Uncontrolled transfer HAP emission rate from gasoline loading rack i, megagrams per month

S=Saturation factor, dimensionless (see table 33 of subpart G).

P=Weighted average rack partial pressure of organic HAP's transferred at the rack during the month, kilopascals.

M=Weighted average molecular weight of organic HAP's transferred at the gasoline loading rack during the month, gram per gram-mole.

G=Monthly volume of gasoline transferred from gasoline loading rack, liters per month.

T=Weighted rack bulk liquid loading temperature during the month, degrees kelvin (degrees Celsius °C + 273).

(ii) The following equation shall be used for each gasoline loading rack i to calculate the weighted average rack partial pressure:

$$P = \frac{\sum_{1}^{j=n}\left(P_j\right)\left(G_j\right)}{G}$$

where:

P_j=Maximum true vapor pressure of individual organic HAP transferred at the rack, kilopascals.

G=Monthly volume of organic HAP transferred, liters per month, and

$$G = \sum_{1}^{j=n} G_j$$

G_j=Monthly volume of individual organic HAP transferred at the gasoline loading rack, liters per month.

n=Number of organic HAP's transferred at the gasoline loading rack.

(iii) The following equation shall be used for each gasoline loading rack i to calculate the weighted average rack molecular weight:

$$M = \frac{\sum_{1}^{j=n} (M_j)(G_j)}{G}$$

where:

M_j=Molecular weight of individual organic HAP transferred at the rack, gram per gram-mole.

G, G_j, and n are as defined in paragraph (g)(4)(ii) of this section.

(iv) The following equation shall be used for each gasoline loading rack i to calculate the monthly weighted rack bulk liquid loading temperature:

$$T = \frac{\sum_{1}^{j=n} (T_j)(G_j)}{G}$$

T_j=Average annual bulk temperature of individual organic HAP loaded at the gasoline loading rack, kelvin (degrees Celsius °C+273).

G, G_j, and n are as defined in paragraph (g)(4)(ii) of this section.

(v) The following equation shall be used to calculate $EGLR_{ic}$:

$$EGLR_{ic} = 1 \times 10^{-8}\, G$$

G is as defined in paragraph (g)(4)(ii) of this section.

(vi) The following procedures and equations shall be used to calculate $EGLR_{iACTUAL}$:

(A) If the gasoline loading rack is not controlled, $EGLR_{iACTUAL}$=$EGLR_{iu}$, where $EGLR_{iu}$ is calculated using the equations specified in paragraphs (g)(4)(i) through (g)(4)(iv) of this section.

(B) If the gasoline loading rack is controlled using a control device or a pollution prevention measure not achieving the requirement of less than 10 milligrams of TOC per liter of gasoline loaded,

$$EMV_{iu} = \sum_{i=1}^{m} (Q_i)(F_i)(P_i)$$

(*1*) The percent reduction for a control device shall be measured according to the procedures and test methods specified in § 63.128(a) of subpart G. If testing is not feasible, the percentage of reduction shall be determined through a design evaluation according to the procedures specified in § 63.128(h) of subpart G.

(*2*) Procedures for calculating the percentage of reduction for pollution prevention measures are specified in paragraph (j) of this section.

(5) Emissions from marine tank vessel loading shall be calculated as follows:

(i) The following equation shall be used for each marine tank vessel i to calculate EMV_{iu}:

$$EMV_{iu} = \sum_{i=1}^{m} (Q_i)(F_i)(P_i)$$

where:

EMV_{iu}=Uncontrolled marine tank vessel HAP emission rate from marine tank vessel i, megagrams per month.

Q_i=Quantity of commodity loaded (per vessel type), liters.

F_i=Emission factor, megagrams per liter.

P_i=Percent HAP.

m=Number of combinations of commodities and vessel types loaded.

Emission factors shall be based on test data or emission estimation procedures specified in § 63.565(l) of subpart Y.

(ii) The following procedures and equations shall be used to calculate $EMV_{iACTUAL}$:

(A) If the marine tank vessel is not controlled, $EMV_{iACTUAL}$=EMV_{iu}, where EMV_{iu} is calculated using the equations specified in paragraph (g)(5)(i) of this section.

(B) If the marine tank vessel is controlled using a control device or a pollution prevention measure achieving less than 97-percent reduction,

$$EMV_{iACTUAL} = EMV_{iu}\left(\frac{1 - \text{Percent reduction}}{100\%}\right)$$

(*1*) The percent reduction for a control device shall be measured according to the procedures and test methods specified in § 63.565(c) of subpart Y. If testing is not feasible, the percentage of reduction shall be determined through a design evaluation according to the procedures specified in § 63.128(h) of subpart G.

(*2*) Procedures for calculating the percentage of reduction for pollution prevention measures are specified in paragraph (j) of this section.

(h) Credits are generated by the difference between emissions that are allowed for each Group 1 and Group 2 emission point and the actual emissions from a Group 1 or Group 2 emission point that has been controlled after November 15, 1990 to a level more stringent than what is required by this subpart or any other State or Federal rule or statute. Credits shall be calculated as follows:

(1) The overall equation for calculating sourcewide credits is:

$$\begin{aligned}
\text{Credits} = {} & D\sum_{i=1}^{n}\left((0.02)\,EPV1_{iu} - EPV1_{iACTUAL}\right) + D\sum_{i=1}^{m}\left(EPV2_{iBASE} - EPV2_{iACTUAL}\right) D\sum_{i=1}^{n}\left((0.05)\,ES1_{iu} - ES1_{iACTUAL}\right) \\
& + D\sum_{i=1}^{m}\left(ES2_{iBASE} - ES2_{iACTUAL}\right) + D\sum_{i=1}^{n}\left(EGLR_{ic} - EGLR1_{iACTUAL}\right) + D\sum_{i=1}^{m}\left(EGLR2_{iBASE} - EGLR2_{iACTUAL}\right) \\
& + D\sum_{i=1}^{n}\left((0.03)\,EMV1_{iu} - EMV1_{iACTUAL}\right) + D\sum_{i=1}^{m}\left(EMV2_{iBASE} - EMV2_{iACTUAL}\right) + D\sum_{i=1}^{n}\left(EWW1_{ic} - EWW1_{iACTUAL}\right) \\
& + D\sum_{i=1}^{m}\left(EWW2_{iBASE} - EWW2_{iACTUAL}\right)
\end{aligned}$$

where:

Credits and all terms of the equation are in units of megagrams per month, the baseline date is November 15, 1990, and

D=Discount factor=0.9 for all credit-generating emission points except those controlled by a pollution prevention measure, which will not be discounted.

$EPV1_{iACTUAL}$=Emissions for each Group 1 miscellaneous process vent i that is controlled to a level more stringent than the reference control technology, calculated according to paragraph (h)(2) of this section.

(0.02) $EPV1_{iu}$=Emissions from each Group 1 miscellaneous process vent i if the reference control technology had been applied to the uncontrolled emissions. $EPV1_{iu}$ is calculated according to paragraph (h)(2) of this section.

$EPV2_{iBASE}$=Emissions from each Group 2 miscellaneous process vent; at the baseline date, as calculated in paragraph (h)(2) of this section.

$EPV2_{iACTUAL}$=Emissions from each Group 2 miscellaneous process vent that is controlled, calculated according to paragraph (h)(2) of this section.

$ES1_{iACTUAL}$=Emissions from each Group 1 storage vessel i that is controlled to a level more stringent than the reference control technology, calculated according to paragraph (h)(3) of this section.

(0.05) $ES1_{iu}$=Emissions from each Group 1 storage vessel i if the reference control technology had been applied to the uncontrolled emissions. $ES1_{iu}$ is calculated according to paragraph (h)(3) of this section.

$ES2_{iACTUAL}$=Emissions from each Group 2 storage vessel i that is controlled, calculated according to paragraph (h)(3) of this section.

$ES2_{iBASE}$=Emissions from each Group 2 storage vessel i at the baseline date, as calculated in paragraph (h)(3) of this section.

$EGLR1_{iACTUAL}$=Emissions from each Group 1 gasoline loading rack i that is controlled to a level more stringent than the reference control technology, calculated according to paragraph (h)(4) of this section.

$EGLR_{ic}$=Emissions from each Group 1 gasoline loading rack i if the reference control technology had been applied to the uncontrolled emissions. $EGLR_{iu}$ is calculated according to paragraph (h)(4) of this section.

$EGRL2_{iACTUAL}$=Emissions from each Group 2 gasoline loading rack i that is controlled, calculated according to paragraph (h)(4) of this section.

$EGLR2_{iBASE}$=Emissions from each Group 2 gasoline loading rack i at the baseline date, as calculated in paragraph (h)(4) of this section.

$EMV1_{iACTUAL}$=Emissions from each Group 1 marine tank vessel i that is controlled to a level more stringent than the reference control technology, calculated according to paragraph (h)(4) of this section.

(0.03)$EMV1_{iu}$=Emissions from each Group 1 marine tank vessel i if the reference control technology had been applied to the uncontrolled emissions. $EMV1_{iu}$ is calculated according to paragraph (h)(5) of this section.

$EMV2_{iACTUAL}$=Emissions from each Group 2 marine tank vessel i that is controlled, calculated according to paragraph (h)(5) of this section.

$EMV2_{iBASE}$=Emissions from each Group 2 marine tank vessel i at the baseline date, as calculated in paragraph (h)(5) of this section.

$EWW1_{iACTUAL}$=Emissions from each Group 1 wastewater stream i that is controlled to a level more stringent than the reference control technology, calculated according to paragraph (h)(6) of this section.

$EWW1_{ic}$=Emissions from each Group 1 wastewater stream i if the reference control technology had been applied to the uncontrolled emissions, calculated according to paragraph (h)(6) of this section.

$EWW2_{iACTUAL}$=Emissions from each Group 2 wastewater stream i that is controlled, calculated according to paragraph (h)(6) of this section.

$EWW2_{iBASE}$=Emissions from each Group 2 wastewater stream i at the baseline date, calculated according to paragraph (h)(6) of this section.

n=Number of Group 1 emission points included in the emissions average. The value of n is not necessarily the same for each kind of emission point.

m=Number of Group 2 emission points included in the emissions average. The value of m is not necessarily the same for each kind of emission point.

(i) For an emission point controlled using a reference control technology, the percentage of reduction for calculating credits shall be no greater than the nominal efficiency associated with the reference control technology, unless a higher nominal efficiency is assigned as specified in paragraph (h)(1)(ii) of this section.

(ii) For an emission point controlled to a level more stringent than the reference control technology, the nominal efficiency for calculating credits shall be assigned as described in paragraph (i) of this section. A reference control technology may be approved for use in a different manner and assigned a higher nominal efficiency according to the procedures in paragraph (i) of this section.

(iii) For an emission point controlled using a pollution prevention measure, the nominal efficiency for calculating credits shall be determined as described in paragraph (j) of this section.

(2) Emissions from process vents shall be determined as follows:

(i) Uncontrolled emissions from miscellaneous process vents, $EPV1_{iu}$, shall be calculated according to the procedures and equation for EPV_{iu} in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(ii) Actual emissions from miscellaneous process vents controlled using a technology with an approved nominal efficiency greater than 98 percent or a pollution prevention measure achieving greater than 98 percent emission reduction, $EPV1_{iACTUAL}$, shall be calculated according to the following equation:

$$EPV1_{iACTUAL} = EPV1_{iu}\left(1 - \frac{\text{Nominal efficiency}\%}{100\%}\right)$$

(iii) The following procedures shall be used to calculate actual emissions from Group 2 process vents, $EPV2_{iACTUAL}$:

(A) For a Group 2 process vent controlled by a control device, a recovery device applied as a pollution prevention project, or a pollution prevention measure, if the control achieves a percentage of reduction less than or equal to a 98 percent reduction,

$$EPV2_{iACTUAL} = EPV2_{iu} \times \left(1 - \frac{\text{Percent reduction}}{100\%}\right)$$

(*1*) $EPV2_{iu}$ shall be calculated according to the equations and procedures for EPV_{iu} in paragraphs (g)(2)(i) and (g)(2)(ii) of this section except as provided in paragraph (h)(2)(iii)(A)(*3*) of this section.

(*2*) The percentage of reduction shall be calculated according to the procedures in paragraphs (g)(2)(iii)(B)(*1*) through (g)(2)(iii)(B)(*3*) of this section except as provided in paragraph (h)(2)(iii)(A)(*4*) of this section.

(*3*) If a recovery device was added as part of a pollution prevention project, $EPV2_{iu}$ shall be calculated prior to that recovery device. The equation for EPV_{iu} in paragraph (g)(2)(ii) of this section shall be used to calculate $EPV2_{iu}$; however, the sampling site for measurement of vent stream flow rate and organic HAP concentration shall be at the inlet of the recovery device.

(*4*) If a recovery device was added as part of a pollution prevention project, the percentage of reduction shall be demonstrated by conducting a performance test at the inlet and outlet of that recovery device.

(B) For a Group 2 process vent controlled using a technology with an approved nominal efficiency greater than a 98 percent or a pollution prevention measure achieving greater than 98 percent reduction,

$$EPV2_{iACTUAL} = EPV2_{iu}\left(1 - \frac{\text{Nominal efficiency}\%}{100\%}\right)$$

(iv) Emissions from Group 2 process vents at baseline, $EPV2_{iBASE}$, shall be calculated as follows:

(A) If the process vent was uncontrolled on November 15, 1990, $EPV2_{iBASE}=EPV2_{iu}$, and shall be calculated according to the procedures and equation for EPV_{iu} in paragraphs (g)(2)(i) and (g)(2)(ii) of this section.

(B) If the process vent was controlled on November 15, 1990,

$$EPV2_{BASE} = EPV2_{iu}\left(1 - \frac{\text{Percent reduction}\%}{100\%}\right)$$

where $EPV2_{iu}$ is calculated according to the procedures and equation for EPV_{iu} in paragraphs (g)(2)(i) and (g)(2)(ii) of this section. The percentage of reduction shall be calculated according to the procedures specified in paragraphs (g)(2)(iii)(B)(*1*) through (g)(2)(iii)(B)(*3*) of this section.

(C) If a recovery device was added to a process vent as part of a pollution prevention project initiated after November 15, 1990, $EPV2_{iBASE}=EPV2_{iu}$, where $EPV2_{iu}$ is calculated according to paragraph (h)(2)(iii)(A)(*3*) of this section.

(3) Emissions from storage vessels shall be determined as specified in § 63.150(h)(3) of subpart G, except as follows:

(i) All references to § 63.119(b) in § 63.150(h)(3) of subpart G shall be replaced with: § 63.119 (b) or § 63.119(b) except for § 63.119(b)(5) and (b)(6).

(ii) All references to § 63.119(c) in § 63.150(h)(3) of subpart G shall be replaced with: § 63.119(c) or § 63.119(c) except for § 63.119(c)(2).

(iii) All references to § 63.119(d) in § 63.150(h)(3) of subpart G shall be replaced with: § 63.119(d) or § 63.119(d) except for § 63.119(d)(2).

(4) Emissions from gasoline loading racks shall be determined as follows:

(i) Uncontrolled emissions from Group 1 gasoline loading racks, $EGLR1_{iu}$, shall be calculated according to the procedures and equations for $EGLR_{iu}$ as described in paragraphs (g)(4)(i) through (g)(4)(iv) of this section.

(ii) Emissions from Group 1 gasoline loading racks if the reference control technology had been applied, $EGLR_{ic}$, shall be calculated according to the procedures and equations in paragraph (g)(4)(v) of this section.

(iii) Actual emissions from Group 1 gasoline loading racks controlled to less than 10 milligrams of TOC per liter of gasoline loaded; $EGLR_{iACTUAL}$, shall be calculated according to the following equation:

$$EGLR1_{iACTUAL} = EGLR1_{iu}\left(1 - \frac{\text{Nominal efficiency}}{100\%}\right)$$

(iv) The following procedures shall be used to calculate actual emissions from Group 2 gasoline loading racks, $EGLR2_{iACTUAL}$:

(A) For a Group 2 gasoline loading rack controlled by a control device or a pollution prevention measure achieving emissions reduction but where emissions are greater than the 10 milligrams of TOC per liter of gasoline loaded requirement,

$$EGLR2_{iACTUAL} = EGLR2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right)$$

(*1*) $EGLR2_{iu}$ shall be calculated according to the equations and procedures for $EGLR_{iu}$ in paragraphs (g)(4)(i) through (g)(4)(iv) of this section.

(*2*) The percentage of reduction shall be calculated according to the procedures in paragraphs (g)(4)(vi)(B)(*1*) and (g)(4)(vi)(B)(*2*) of this section.

(B) For a Group 2 gasoline loading rack controlled by using a technology with an approved nominal efficiency greater than 98 percent or a pollution prevention measure achieving greater than a 98-percent reduction,

$$EGLR2_{iACTUAL} = EGLR2_{iu}\left(1 - \frac{\text{Nominal efficiency}}{100\%}\right)$$

(v) Emissions from Group 2 gasoline loading racks at baseline, $EGLR2_{iBASE}$, shall be calculated as follows:

(A) If the gasoline loading rack was uncontrolled on November 15, 1990, $EGLR2_{iBASE}=EGLR2_{iu}$, and shall be calculated according to the procedures and equations for $EGLR_{iu}$ in paragraphs (g)(4)(i) through (g)(4)(iv) of this section.

(B) If the gasoline loading rack was controlled on November 15, 1990,

$$EGLR2_{iBASE} = EGLR2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right)$$

where $EGLR2_{iu}$ is calculated according to the procedures and equations for $EGLR_{iu}$ in paragraphs (g)(4)(i) through (g)(4)(iv) of this section. Percentage of reduction shall be calculated according to the procedures in paragraphs (g)(4)(vi)(B)(*1*) and (g)(4)(vi)(B)(*2*) of this section.

(5) Emissions from marine tank vessels shall be determined as follows:

(i) Uncontrolled emissions from Group 1 marine tank vessels, $EMV1_{iu}$, shall be calculated according to the procedures and equations for EMV_{iu} as described in paragraph (g)(5)(i) of this section.

(ii) Actual emissions from Group 1 marine tank vessels controlled using a technology or pollution prevention measure with an approved nominal efficiency greater than 97 percent, $EMV_{iACTUAL}$, shall be calculated according to the following equation:

$$EMV1_{iACTUAL} = EMV1_{iu}\left(1 - \frac{\text{Nominal efficiency}}{100\%}\right)$$

(iii) The following procedures shall be used to calculate actual emissions from Group 2 marine tank vessels, $EMV2_{iACTUAL}$:

(A) For a Group 2 marine tank vessel controlled by a control device or a pollution prevention measure achieving a percentage of reduction less than or equal to 97 percent reduction,

$$EMV2_{iACTUAL} = EMV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right)$$

(*1*) $EMV2_{iu}$ shall be calculated according to the equations and procedures for EMV_{iu} in paragraph (g)(5)(i) of this section.

(*2*) The percentage of reduction shall be calculated according to the procedures in paragraphs (g)(5)(ii)(B)(*1*) and (g)(5)(ii)(B)(*2*) of this section.

(B) For a Group 2 marine tank vessel controlled using a technology or a pollution prevention measure with an approved nominal efficiency greater than 97 percent,

$$EMV2_{iACTUAL} = EMV2_{iu}\left(1 - \frac{\text{Nominal efficiency}}{100\%}\right)$$

(iv) Emissions from Group 2 marine tank vessels at baseline, $EMV2_{iBASE}$, shall be calculated as follows:

(A) If the marine terminal was uncontrolled on November 15, 1990, $EMV2_{iBASE}$ equals $EMV2_{iu}$, and shall be calculated according to the procedures and equations for EMV_{iu} in paragraph (g)(5)(i) of this section.

(B) If the marine tank vessel was controlled on November 15, 1990,

$$EMV2_{iBASE} = EMV2_{iu}\left(1 - \frac{\text{Percent reduction}}{100\%}\right)$$

where $EMV2_{iu}$ is calculated according to the procedures and equations for EMV_{iu} in paragraph (g)(5)(i) of this section. Percentage of reduction shall be calculated according to the procedures in paragraphs (g)(5)(ii)(B)(*1*) and (g)(5)(ii)(B)(*2*) of this section.

(6) Emissions from wastewater shall be determined as follows:

(i) For purposes of paragraphs (h)(4)(ii) through (h)(4)(vi) of this section, the following terms will have the meaning given them in paragraphs (h)(6)(i)(A) through (h)(6)(i)(C) of this section.

(A) *Correctly suppressed* means that a wastewater stream is being managed according to the requirements of §§ 61.343 through 61.347 or § 61.342(c)(l)(iii) of 40 CFR part 61, subpart FF, as applicable, and the emissions from the waste management units subject to those requirements are routed to a control device that reduces HAP emissions by 95 percent or greater.

(B) *Treatment process* has the meaning given in § 61.341 of 40 CFR part 61, subpart FF except that it does not include biological treatment units.

(C) *Vapor control device* means the control device that receives emissions vented from a treatment process or treatment processes.

(ii) The following equation shall be used for each wastewater stream i to calculate EWW_{ic}:

$$EWW_{ic} = \left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left(1-Fr_m\right)Fe_m HAP_{im} + (0.05)\left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left(Fr_m HAP_{im}\right)$$

where:

EWW_{ic} = Monthly wastewater stream emission rate if wastewater stream i were controlled by the reference control technology, megagrams per month.

Q_i = Average flow rate for wastewater stream i, liters per minute.

H_i = Number of hours during the month that wastewater stream i was generated, hours per month.

Fr_m=Fraction removed of organic HAP m in wastewater, from table 7 of this subpart, dimensionless.

Fe_m=Fraction emitted of organic HAP m in wastewater from table 7 of this subpart, dimensionless.

s=Total number of organic HAP's in wastewater stream i.

HAP_{im}=Average concentration of organic HAP m in wastewater stream i, parts per million by weight.

(A) HAP_{im} shall be determined for the point of generation or at a location downstream of the point of generation. Wastewater samples shall be collected using the sampling procedures specified in Method 25D of 40 CFR part 60, appendix A. Where feasible, samples shall be taken from an enclosed pipe prior to the wastewater being exposed to the atmosphere. When sampling from an enclosed pipe is not feasible, a minimum of three representative samples shall be collected in a manner to minimize exposure of the sample to the atmosphere and loss of organic HAP's prior to sampling. The samples collected may be analyzed by either of the following procedures:

(*1*) A test method or results from a test method that measures organic HAP concentrations in the wastewater, and that has been validated pursuant to section 5.1 or 5.3 of Method 301 of appendix A of this part may be used; or

(*2*) Method 305 of appendix A of this part may be used to determine C_{im}, the average volatile organic HAP concentration of organic HAP m in wastewater stream i, and then HAP_{im} may be calculated using the following equation: $HAP_{im}=C_{im}/Fm_m$, where Fm_m for organic HAP m is obtained from table 7 of this subpart.

(B) Values for Q_i, HAP_{im}, and C_{im} shall be determined during a performance test conducted under representative conditions. The average value obtained from three test runs shall be used. The values of Q_i, HAP_{im}, and C_{im} shall be established in the Notification of Compliance Status report and must be updated as provided in paragraph (h)(6)(i)(C) of this section.

(C) If there is a change to the process or operation such that the previously measured values of Q_i, HAP_{im}, and C_{im} are no longer representative, a new performance test shall be conducted to determine new representative values of Q_i, HAP_{im}, and C_{im}. These new values shall be used to calculate debits and credits from the time of the change forward, and the new values shall be reported in the next Periodic Report.

(iii) The following equations shall be used to calculate $EWW1_{iACTUAL}$ for each Group 1 wastewater stream i that is correctly suppressed and is treated to a level more stringent than the reference control technology.

(A) If the Group 1 wastewater stream i is controlled using a treatment process or series of treatment processes with an approved nominal reduction efficiency for an individually speciated HAP that is greater than that specified in table 7 of this subpart, and the vapor control device achieves a percentage of reduction equal to 95 percent, the following equation shall be used:

$$EWW1_{iACTUAL} = \left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-PR_{im}\right)\right] + 0.05\left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[HAP_{im}PR_{im}\right]$$

Where:

$EWW_{iACTUAL}$=Monthly wastewater stream emission rate if wastewater stream i is treated to a level more stringent than the reference control technology, megagrams per month.

PR_{im}=The efficiency of the treatment process, or series of treatment processes, that treat wastewater stream i in reducing the emission potential of organic HAP m in wastewater, dimensionless, as calculated by:

$$PR_{im} = \frac{HAP_{im\text{-}in} - HAP_{im\text{-}out}}{HAP_{im\text{-}in}}$$

Where:

$HAP_{im\text{-}in}$=Average concentration of organic HAP m, parts per million by weight, as defined and determined according to paragraph (h)(6)(ii)(A) of this section, in the wastewater entering the first treatment process in the series.

$HAP_{im\text{-}out}$=Average concentration of organic HAP m, parts per million by weight, as defined and determined according to paragraph (h)(6)(ii)(A) of this section, in the wastewater exiting the last treatment process in the series.

All other terms are as defined and determined in paragraph (h)(6)(ii) of this section.

(B) If the Group 1 wastewater stream i is not controlled using a treatment process or series of treatment processes with an approved nominal reduction efficiency for an individually speciated HAP that is greater than that specified in table 7 of this subpart, but the vapor control device has an approved nominal efficiency greater than 95 percent, the following equation shall be used:

$$EWW1_{iACTUAL} = \left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-A_m\right)\right]+\left(1-\frac{\text{Nominal efficiency }\%}{100}\right)\left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[HAP_{im}A_m\right]$$

Where:

Nominal efficiency=Approved reduction efficiency of the vapor control device, dimensionless, as determined according to the procedures in § 63.652(i).

A_m=The efficiency of the treatment process, or series of treatment processes, that treat wastewater stream i in reducing the emission potential of organic HAP m in wastewater, dimensionless.

All other terms are as defined and determined in paragraphs (h)(6)(ii) and (h)(6)(iii)(A) of this section.

(*1*) If a steam stripper meeting the specifications in the definition of reference control technology for wastewater is used, A_m shall be equal to the value of Fr_m given in table 7 of this subpart.

(*2*) If an alternative control device is used, the percentage of reduction must be determined using the equation and methods specified in paragraph (h)(6)(iii)(A) of this section for determining PR_{im}. If the value of PR_{im} is greater than or equal to the value of Fr_m given in table 7 of this subpart, then A_m equals Fr_m unless a higher nominal efficiency has been approved. If a higher nominal efficiency has been approved for the treatment process, the owner or operator shall determine $EWW1_{iACTUAL}$ according to paragraph (h)(6)(iii)(B) of this section rather than paragraph (h)(6)(iii)(A) of this section. If PR_{im} is less than the value of FR_m given in table 7 of this subpart, emissions averaging shall not be used for this emission point.

(C) If the Group 1 wastewater stream i is controlled using a treatment process or series of treatment processes with an approved nominal reduction efficiency for an individually speciated hazardous air pollutant that is greater than that specified in table 7 of this subpart, and the vapor control device has an approved nominal efficiency greater than 95 percent, the following equation shall be used:

$$EWW1_{iACTUAL} = \left(6.0*10^{-8}\right)Q_i H_i\sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-PR_{im}\right)\right]+\left(1-\frac{\text{Nominal efficiency}\%}{100}\right)\left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[HAP_{im}PR_{im}\right]$$

where all terms are as defined and determined in paragraphs (h)(6)(ii) and (h)(6)(iii)(A) of this section.

(iv) The following equation shall be used to calculate $EWW2_{iBASE}$ for each Group 2 wastewater stream i that on November 15, 1990 was not correctly suppressed or was correctly suppressed but not treated:

$$EWW2_{iBASE} = \left(6.0\times10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}Fe_m HAP_{im}$$

Where:

$EWW2_{iBASE}$=Monthly wastewater stream emission rate if wastewater stream i is not correctly suppressed, megagrams per month.

Q_i, H_i, s, Fe_m, and HAP_{im} are as defined and determined according to paragraphs (h)(6)(ii) and (h)(6)(iii)(A) of this section.

(v) The following equation shall be used to calculate $EWW2_{iBASE}$ for each Group 2 wastewater stream i on November 15, 1990 was correctly suppressed. $EWW2_{iBASE}$ shall be calculated as if the control methods being used on November 15, 1990 are in place and any control methods applied after November 15, 1990 are ignored. However, values for the parameters in the equation shall be representative of present production levels and stream properties.

$$EWW2_{iBASE} = \left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[Fe_m HAP_{im}\left(1-PR_{im}\right)\right]+\left(1-\frac{R_i}{100\%}\right)\left(6.0*10^{-8}\right)Q_i\,H_i\sum_{m=1}^{s}\left[HAP_{im}PR_{im}\right]$$

where R_i is calculated according to paragraph (h)(6)(vii) of this section and all other terms are as defined and determined according to paragraphs (h)(6)(ii) and (h)(6)(iii)(A) of this section.

(vi) For Group 2 wastewater streams that are correctly suppressed, $EWW2_{iACTUAL}$ shall be calculated according to the equation for $EWW2_{iBASE}$ in paragraph (h)(6)(v) of this section. $EWW2_{iACTUAL}$ shall be calculated with all control methods in place accounted for.

(vii) The reduction efficiency, R_i, of the vapor control device shall be demonstrated according to the following procedures:

(A) Sampling sites shall be selected using Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate.

(B) The mass flow rate of organic compounds entering and exiting the control device shall be determined as follows:

(*1*) The time period for the test shall not be less than 3 hours during which at least three runs are conducted.

(*2*) A run shall consist of a 1-hour period during the test. For each run:

(*i*) The volume exhausted shall be determined using Methods 2, 2A, 2C, or 2D of 40 CFR part 60 appendix A, as appropriate;

(*ii*) The organic concentration in the vent stream entering and exiting the control device shall be determined using Method 18 of 40 CFR part 60, appendix A. Alternatively, any other test method validated according to the procedures in Method 301 of appendix A of this part may be used.

(*3*) The mass flow rate of organic compounds entering and exiting the control device during each run shall be calculated as follows:

$$E_a = \frac{0.0416}{10^6 \times m}\left[\sum_{p=1}^{m} V_{ap}\left(\sum_{p=1}^{n} C_{aip}MW_i\right)\right]$$

$$E_b = \frac{0.0416}{10^6 \times m}\left[\sum_{p=1}^{m} V_{bp}\left(\sum_{p=1}^{n} C_{bip}MW_i\right)\right]$$

Where:

E_a=Mass flow rate of organic compounds exiting the control device, kilograms per hour.

E_b=Mass flow rate of organic compounds entering the control device, kilograms per hour.

V_{ap}=Average volumetric flow rate of vent stream exiting the control device during run p at standards conditions, cubic meters per hour.

V_{bp} = Average volumetric flow rate of vent stream entering the control device during run p at standards conditions, cubic meters per hour.

p = Run.

m = Number of runs.

C_{aip} = Concentration of organic compound i measured in the vent stream exiting the control device during run p as determined by Method 18 of 40 CFR part 60 appendix A, parts per million by volume on a dry basis.

C_{bip} = Concentration of organic compound i measured in the vent stream entering the control device during run p as determined by Method 18 of 40 CFR part 60, appendix A, parts per million by volume on a dry basis.

MW_i = Molecular weight of organic compound i in the vent stream, kilograms per kilogram-mole.

n = Number of organic compounds in the vent stream.

0.0416 = Conversion factor for molar volume, kilograms-mole per cubic meter at 293 kelvin and 760 millimeters mercury absolute.

(C) The organic reduction efficiency for the control device shall be calculated as follows:

$$R = \frac{E_b - E_a}{E_b} \times 100$$

Where:

R = Total organic reduction efficiency for the control device, percentage.

E_b = Mass flow rate of organic compounds entering the control device, kilograms per hour.

E_a = Mass flow rate of organic compounds exiting the control device, kilograms per hour.

(i) The following procedures shall be followed to establish nominal efficiencies. The procedures in paragraphs (i)(1) through (i)(6) of this section shall be followed for control technologies that are different in use or design from the reference control technologies and achieve greater percentages of reduction than the percentages of efficiency assigned to the reference control technologies in § 63.641.

(1) In those cases where the owner or operator is seeking permission to take credit for use of a control technology that is different in use or design from the reference control technology, and the different control technology will be used in more than three applications at a single plant site, the owner or operator shall submit the information specified in paragraphs (i)(1)(i) through (i)(1)(iv) of this section to the Administrator in writing:

(i) Emission stream characteristics of each emission point to which the control technology is or will be applied including the kind of emission point, flow, organic HAP concentration, and all other stream characteristics necessary to design the control technology or determine its performance;

(ii) Description of the control technology including design specifications;

(iii) Documentation demonstrating to the Administrator's satisfaction the control efficiency of the control technology. This may include performance test data collected using an appropriate EPA method or any other method validated according to Method 301 of appendix A of this part. If it is infeasible to obtain test data, documentation may include a design evaluation and calculations. The engineering basis of the calculation procedures and all inputs and

assumptions made in the calculations shall be documented; and

(iv) A description of the parameter or parameters to be monitored to ensure that the control technology will be operated in conformance with its design and an explanation of the criteria used for selection of that parameter (or parameters).

(2) The Administrator shall determine within 120 calendar days whether an application presents sufficient information to determine nominal efficiency. The Administrator reserves the right to request specific data in addition to the items listed in paragraph (i)(1) of this section.

(3) The Administrator shall determine within 120 calendar days of the submittal of sufficient data whether a control technology shall have a nominal efficiency and the level of that nominal efficiency. If, in the Administrator's judgment, the control technology achieves a level of emission reduction greater than the reference control technology for a particular kind of emission point, the Administrator will publish a **Federal Register** notice establishing a nominal efficiency for the control technology.

(4) The Administrator may grant conditional permission to take emission credits for use of the control technology on requirements that may be necessary to ensure operation and maintenance to achieve the specified nominal efficiency.

(5) In those cases where the owner or operator is seeking permission to take credit for use of a control technology that is different in use or design from the reference control technology and the different control technology will be used in no more than three applications at a single plant site, the information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this section can be submitted to the permitting authority for the source for approval instead of the Administrator.

(i) In these instances, use and conditions for use of the control technology can be approved by the permitting authority. The permitting authority shall follow the procedures specified in paragraphs (i)(2) through (i)(4) of this section except that, in these instances, a **Federal Register** notice is not required to establish the nominal efficiency for the different technology.

(ii) If, in reviewing the submittal, the permitting authority believes the control technology has broad applicability for use by other sources, the permitting authority shall submit the information provided in the application to the Director of the EPA Office of Air Quality Planning and Standards. The Administrator shall review the technology for broad applicability and may publish a **Federal Register** notice; however, this review shall not affect the permitting authority's approval of the nominal efficiency of the control technology for the specific application.

(6) If, in reviewing an application for a control technology for an emission point, the Administrator or permitting authority determines the control technology is not different in use or design from the reference control technology, the Administrator or permitting authority shall deny the application.

(j) The following procedures shall be used for calculating the efficiency (percentage of reduction) of pollution prevention measures:

(1) A pollution prevention measure is any practice that meets the criteria of paragraphs (j)(1)(i) and (j)(1)(ii) of this section.

(i) A pollution prevention measure is any practice that results in a lesser quantity of organic HAP emissions per unit of product released to the atmosphere prior to out-of-process recycling, treatment, or control of emissions while the same product is produced.

(ii) Pollution prevention measures may include: Substitution of feedstocks that reduce HAP emissions, alterations to the production process to reduce the volume of materials released to the environment, equipment modifications; housekeeping measures, and in-process recycling that returns waste materials directly to production as raw materials. Production cutbacks do not qualify as pollution prevention.

(2) The emission reduction efficiency of pollution prevention measures implemented after November 15, 1990 can be used in calculating the actual emissions from an emission point in the debit and credit equations in paragraphs (g) and (h) of this section.

(i) For pollution prevention measures, the percentage of reduction used in the equations in paragraphs (g)(2) and (g)(3) of this section and paragraphs (h)(2) through (h)(4) of this section is the difference in percentage between the monthly organic HAP emissions for each emission point after the pollution prevention measure for the most recent month versus monthly emissions from the same emission point before the pollution prevention measure, adjusted by the volume of product produced during the two monthly periods.

(ii) The following equation shall be used to calculate the percentage of reduction of a pollution prevention measure for each emission point.

$$\text{Percent reduction} = \frac{E_B - \dfrac{\left(E_{pp} \times P_B\right)}{P_{pp}}}{E_B} \times 100\%$$

Where:

Percent reduction=Efficiency of pollution prevention measure (percentage of organic HAP reduction).

E_B=Monthly emissions before the pollution prevention measure, megagrams per month, determined as specified in paragraphs (j)(2)(ii)(A), (j)(2)(ii)(B), and (j)(2)(ii)(C) of this section.

E_{pp}=Monthly emissions after the pollution prevention measure, megagrams per month, as determined for the most recent month, determined as specified in paragraphs (j)(2)(ii)(D) or (j)(2)(ii)(E) of this section.

P_B=Monthly production before the pollution prevention measure, megagrams per month, during the same period over which E_B is calculated.

P_{pp}=Monthly production after the pollution prevention measure, megagrams per month, as determined for the most recent month.

(A) The monthly emissions before the pollution prevention measure, E_B, shall be determined in a manner consistent with the equations and procedures in paragraphs (g)(2), (g)(3), (g)(4), and (g)(5) of this section for miscellaneous process vents, storage vessels, gasoline loading racks, and marine tank vessels.

(B) For wastewater, E_B shall be calculated as follows:

$$E_B = \sum_{i=1}^{n} \left[\left(6.0 * 10^{-8}\right) Q_{Bi} H_{Bi} \sum_{m=1}^{s} Fe_m HAP_{Bim} \right]$$

where:

n=Number of wastewater streams.

Q_{Bi}=Average flow rate for wastewater stream i before the pollution prevention measure, liters per minute.

H_{Bi}=Number of hours per month that wastewater stream i was discharged before the pollution prevention measure, hours per month.

s=Total number of organic HAP's in wastewater stream i.

Fe_m=Fraction emitted of organic HAP m in wastewater from table 7 of this subpart, dimensionless.

HAP_{Bim}=Average concentration of organic HAP m in wastewater stream i, defined and determined according to paragraph (h)(6)(ii)(A)(*2*) of this section, before the pollution prevention measure, parts per million by weight, as measured before the implementation of the pollution measure.

(C) If the pollution prevention measure was implemented prior to July 14, 1994, records may be used to determine E_B.

(D) The monthly emissions after the pollution prevention measure, E_{pp}, may be determined during a performance test or by a design evaluation and documented engineering calculations. Once an emissions-to-production ratio has been established, the ratio can be used to estimate monthly emissions from monthly production records.

(E) For wastewater, E_{pp} shall be calculated using the following equation:

$$E_{pp} = \sum_{i=1}^{n} \left[\left(6.0 * 10^{-8}\right) Q_{ppi} H_{ppi} \sum_{m=1}^{s} Fe_m HAP_{ppim} \right]$$

where n, Q, H, s, Fe_m, and HAP are defined and determined as described in paragraph (j)(2)(ii)(B) of this section except that Q_{ppi}, H_{ppi}, and HAP_{ppim} shall be determined after the pollution prevention measure has been implemented.

(iii) All equations, calculations, test procedures, test results, and other information used to determine the percentage of reduction achieved by a pollution prevention measure for each emission point shall be fully documented.

(iv) The same pollution prevention measure may reduce emissions from multiple emission points. In such cases, the percentage of reduction in emissions for each emission point must be calculated.

(v) For the purposes of the equations in paragraphs (h)(2) through (h)(6) of this section used to calculate credits for emission points controlled more stringently than the reference control technology, the nominal efficiency of a pollution prevention measure is equivalent to the percentage of reduction of the pollution prevention measure. When a pollution prevention measure is used, the owner or operator of a source is not required to apply to the Administrator for a nominal efficiency and is not subject to paragraph (i) of this section.

(k) The owner or operator shall demonstrate that the emissions from the emission points proposed to be included in the average will not result in greater hazard or, at the option of the State or local permitting authority, greater risk to human health or the environment than if the emission points were controlled according to the provisions in §§ 63.643 through 63.647, and §§ 63.650 and 63.651.

(1) This demonstration of hazard or risk equivalency shall be made to the satisfaction of the State or local permitting authority.

(i) The State or local permitting authority may require owners and operators to use specific methodologies and procedures for making a hazard or risk determination.

(ii) The demonstration and approval of hazard or risk equivalency may be made according to any guidance that the EPA makes available for use.

(2) Owners and operators shall provide documentation demonstrating the hazard or risk equivalency of their proposed emissions average in their Implementation Plan.

(3) An emissions averaging plan that does not demonstrate an equivalent or lower hazard or risk to the satisfaction of the State or local permitting authority shall not be approved. The State or local permitting authority may require such adjustments to the emissions averaging plan as are necessary in order to ensure that the average will not result in greater hazard or risk to human health or the environment than would result if the emission points were controlled according to §§ 63.643 through 63.647, and §§ 63.650 and 63.651.

(4) A hazard or risk equivalency demonstration shall:

(i) Be a quantitative, bona fide chemical hazard or risk assessment;

(ii) Account for differences in chemical hazard or risk to human health or the environment; and

(iii) Meet any requirements set by the State or local permitting authority for such demonstrations.

(l) For periods of excess emissions, an owner or operator may request that the provisions of paragraphs (l)(1) through (l)(4) of this section be followed instead of the procedures in paragraphs (f)(3)(i) and (f)(3)(ii) of this section.

(1) The owner or operator shall notify the Administrator of excess emissions in the Periodic Reports as required in § 63.654(g)(6).

(2) The owner or operator shall demonstrate that other types of monitoring data or engineering calculations are appropriate to establish that the control device for the emission point was operating in such a fashion to warrant assigning full or partial credits and debits. This demonstration shall be made to the Administrator's satisfaction, and the Administrator may establish procedures for demonstrating compliance that are acceptable.

(3) The owner or operator shall provide documentation of the period of excess emissions and the other type of monitoring data or engineering calculations to be used to demonstrate that the control device for the emission point was operating in such a fashion to warrant assigning full or partial credits and debits.

(4) The Administrator may assign full or partial credit and debits upon review of the information provided.

§ 63.653 Monitoring, recordkeeping, and implementation plan for emission averaging.

(a) For each emission point included in an emissions average, the owner or operator shall perform testing, monitoring, recordkeeping, and reporting equivalent to that required for Group 1 emission points complying with §§ 63.643 through 63.647, and §§ 63.650 and 63.651. The specific requirements for miscellaneous process vents, storage vessels, wastewater, gasoline loading racks, and marine tank vessels are identified in paragraphs (a)(1) through (a)(7) of this section.

(1) The source shall implement the following testing, monitoring, recordkeeping, and reporting procedures for each miscellaneous process vent equipped with a flare, incinerator, boiler, or process heater:

(i) Conduct initial performance tests to determine the percentage of reduction as specified in § 63.645 of this subpart and § 63.116 of subpart G; and

(ii) Monitor the operating parameters specified in § 63.644, as appropriate for the specific control device.

(2) The source shall implement the following procedures for each miscellaneous process vent, equipped with a carbon adsorber, absorber, or condenser but not equipped with a control device:

(i) Determine the flow rate and organic HAP concentration using the methods specified in § 63.115 (a)(1) and (a)(2), § 63.115 (b)(1) and (b)(2), and § 63.115(c)(3) of subpart G; and

(ii) Monitor the operating parameters specified in § 63.114 of subpart G, as appropriate for the specific recovery device.

(3) The source shall implement the following procedures for each storage vessel controlled with an internal floating roof, external roof, or a closed vent system with a control device, as appropriate to the control technique:

(i) Perform the monitoring or inspection procedures in § 63.646 of this subpart and § 63.120 of subpart G; and

(ii) For closed vent systems with control devices, conduct an initial design evaluation as specified in § 63.646 of this subpart and § 63.120(d) of subpart G.

(4) For each gasoline loading rack that is controlled, perform the testing and monitoring procedures specified in §§ 63.425 and 63.427 of subpart R of this part.

(5) For each marine tank vessel that is controlled, perform the compliance, monitoring, and performance testing, procedures specified in §§ 63.563, 63.564, and 63.565 of subpart Y of this part.

(6) The source shall implement the following procedures for wastewater emission points, as appropriate to the control techniques:

(i) For wastewater treatment processes, conduct tests as specified in § 61.355 of subpart FF of part 60;

(ii) Conduct inspections and monitoring as specified in §§ 61.343 through 61.349 and § 61.354 of 40 CFR part 61, subpart FF.

(7) If an emission point in an emissions average is controlled using a pollution prevention measure or a device or technique for which no monitoring parameters or inspection procedures are specified in §§ 63.643 through 63.647 and §§ 63.650 and 63.651, the owner or operator shall establish a site-specific monitoring parameter and shall submit the information specified in § 63.654(h)(4) in the Implementation Plan.

(b) Records of all information required to calculate emission debits and credits and records required by § 63.654 shall be retained for 5 years.

(c) Notifications of Compliance Status report, Periodic Reports, and other reports shall be submitted as required by § 63.654.

(d) Each owner or operator of an existing source who elects to comply with § 63.654 (g) and (h) by using emissions averaging for any emission points shall submit an Implementation Plan.

(1) The Implementation Plan shall be submitted no later than 18 months prior to the compliance date in § 63.640(h). This information may be submitted in an operating permit application, in an amendment to an operating permit application, in a separate submittal, or in any combination of the three. If an owner or operator submits the information specified in paragraph (d)(2) of this section at different times, and/or in different submittals, later submittals may refer to earlier submittals instead of duplicating the previously submitted information.

(2) The Implementation Plan shall include the information specified in paragraphs (d)(2)(i) through (d)(2)(ix) of this section for all points included in the average.

(i) The identification of all emission points in the planned emissions average and notation of whether each emission point is a Group 1 or Group 2 emission point as defined in § 63.641.

(ii) The projected annual emission debits and credits for each emission point and the sum for the emission points involved in the average calculated according to § 63.652. The annual projected credits must be greater than the projected debits, as required under § 63.652(e)(3).

(iii) The specific control technology or pollution prevention measure that will be used for each emission point included in the average and date of application or expected date of application.

(iv) The specific identification of each emission point affected by a pollution prevention measure. To be considered a pollution prevention measure, the criteria in § 63.652(j)(1) must be met. If the same pollution prevention measure reduces or eliminates emissions from multiple emission points in the average, the owner or operator must identify each of these emission points.

(v) A statement that the compliance demonstration, monitoring, inspection, recordkeeping, and reporting provisions in paragraphs (a), (b), and (c) of this section that are applicable to each emission point in the emissions average will be implemented beginning on the date of compliance.

(vi) Documentation of the information listed in paragraphs (d)(2)(vi)(A) through (d)(2)(vi)(D) of this section for each emission point included in the average.

(A) The values of the parameters used to determine whether each emission point in the emissions average is Group 1 or Group 2.

(B) The estimated values of all parameters needed for input to the emission debit and credit calculations in § 63.652 (g) and (h). These parameter values or, as appropriate, limited ranges for the parameter values, shall be specified in the source's Implementation Plan as enforceable operating conditions. Changes to these parameters must be reported in the next Periodic Report.

(C) The estimated percentage of reduction if a control technology achieving a lower percentage of reduction than the efficiency of the reference control technology, as defined in § 63.641, is or will be applied to the emission point.

(D) The anticipated nominal efficiency if a control technology achieving a greater percentage emission reduction than the efficiency of the reference control technology is or will be applied to the emission point. The procedures in § 63.652(i) shall be followed to apply for a nominal efficiency.

(vii) The information specified in § 63.654(h)(4) for:

(A) Each miscellaneous process vent controlled by a pollution prevention measure or control technique for which monitoring parameters or inspection procedures are not specified in

paragraphs (a)(1) or (a)(2) of this section; and

(B) Each storage vessel controlled by a pollution prevention measure or a control technique other than an internal or external floating roof or a closed vent system with a control device.

(viii) Documentation of the information listed in paragraphs (d)(2)(viii)(A) through (d)(2)(viii)(G) of this section for each process wastewater stream included in the average.

(A) The information used to determine whether the wastewater stream is a Group 1 or Group 2 wastewater stream.

(B) The estimated values of all parameters needed for input to the wastewater emission credit and debit calculations in § 63.652(h)(6).

(C) The estimated percentage of reduction if the wastewater stream is or will be controlled using a treatment process or series of treatment processes that achieves an emission reduction less than or equal to the emission reduction specified in table 7 of this subpart.

(D) The estimated percentage of reduction if a control technology achieving less than or equal to 95 percent emission reduction is or will be applied to the vapor stream(s) vented and collected from the treatment processes.

(E) The estimated percentage of reduction if a pollution prevention measure is or will be applied.

(F) The anticipated nominal efficiency if the owner or operator plans to apply for a nominal efficiency under § 63.652(i). A nominal efficiency shall be applied for if:

(*1*) A control technology is or will be applied to the wastewater stream and achieves an emission reduction greater than the emission reduction specified in table 7 of this subpart; or

(*2*) A control technology achieving greater than 95 percent emission reduction is or will be applied to the vapor stream(s) vented and collected from the treatment processes.

(G) For each pollution prevention measure, treatment process, or control device used to reduce air emissions of organic HAP's from wastewater and for which no monitoring parameters or inspection procedures are specified in § 63.647, the information specified in § 63.654(h)(4) shall be included in the Implementation Plan.

(ix) Documentation required in § 63.652(k) demonstrating the hazard or risk equivalency of the proposed emissions average.

(3) The Administrator shall determine within 120 calendar days whether the Implementation Plan submitted presents sufficient information. The Administrator shall either approve the Implementation Plan, request changes, or request that the owner or operator submit additional information. Once the Administrator receives sufficient information, the Administrator shall approve, disapprove, or request changes to the plan within 120 calendar days.

§ 63.654 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to the wastewater provisions in § 63.647 shall comply with the recordkeeping and reporting provisions in §§ 61.356 and 61.357 of 40 CFR part 61 subpart FF. There are no additional reporting and recordkeeping requirements for wastewater under this subpart unless a wastewater stream is included in an emissions average. Recordkeeping and reporting for emissions averages are specified in § 63.653 and in paragraphs (f)(5) and (g)(8) of this section.

(b) Each owner or operator subject to the gasoline loading rack provisions in § 63.650 shall comply with the recordkeeping and reporting provisions in § 63.428 (b) and (c), (g)(1), and (h)(1) through (h)(3) of subpart R of this part. These requirements are summarized in table 4 of this subpart. There are no additional reporting and recordkeeping requirements for gasoline loading racks under this subpart unless a loading rack is included in an emissions average. Recordkeeping and reporting for emissions averages are specified in § 63.653 and in paragraphs (f)(5) and (g)(8) of this section.

(c) Each owner or operator subject to the marine tank vessel loading operation standards in § 63.651 shall comply with the recordkeeping and reporting provisions in §§ 63.566 and 63.567(a) and § 63.567 (c) through (i) of subpart Y of this part. These requirements are summarized in table 5 of this subpart. There are no additional reporting and recordkeeping requirements for marine tank vessel loading operations under this subpart unless marine tank vessel loading operations are included in an emissions average. Recordkeeping and reporting for emissions averages are specified in § 63.653 and in paragraphs (f)(5) and (g)(8) of this section.

(d) Each owner or operator subject to the equipment leaks standards in § 63.648 shall comply with the recordkeeping and reporting provisions in paragraphs (d)(1) through (d)(3) of this section.

(1) Sections 60.486 and 60.487 of subpart VV of part 60, or §§ 63.181 and 63.182 of subpart H of this part except for § 63.182, paragraphs (b), (c)(2), and (c)(4).

(2) The Notification of Compliance Status report required by § 63.182(c) of subpart H and the initial semiannual report required by § 60.487(b) of 40 CFR part 60, subpart VV shall be submitted within 150 days of the compliance date specified in § 63.640(h); the requirements of subpart H of this part are summarized in table 3 of this subpart.

(3) An owner or operator who determines that a compressor qualifies for the hydrogen service exemption in § 63.646 shall also keep a record of the demonstration required by § 63.646.

(e) Each owner or operator of a source subject to this subpart shall submit the reports listed in paragraphs (e)(1) through (e)(3) of this section except as provided in paragraph (h)(5) of this section, and shall keep records as described in paragraph (i) of this section.

(1) A Notification of Compliance Status report as described in paragraph (f) of this section;

(2) Periodic Reports as described in paragraph (g) of this section; and

(3) Other reports as described in paragraph (h) of this section.

(f) Each owner or operator of a source subject to this subpart shall submit a Notification of Compliance Status report within 150 days after the compliance dates specified in § 63.640(h). This information may be submitted in an operating permit application, in an amendment to an operating permit application, in a separate submittal, or in any combination of the three. If the required information has been submitted before the date 150 days after the compliance date specified in § 63.640(h), a separate Notification of Compliance Status report is not required within 150 days after the compliance dates specified in § 63.640(h). If an owner or operator submits the information specified in paragraphs (f)(1) through (f)(5) of this section at different times, and/or in different submittals, later submittals may refer to earlier submittals instead of duplicating and resubmitting the previously submitted information.

(1) The Notification of Compliance Status report shall include the information specified in paragraphs (f)(1)(i) through (f)(1)(v) of this section.

(i) For storage vessels, this report shall include the information specified in paragraphs (f)(1)(i)(A) through (f)(1)(i)(D) of this section.

(A) Identification of each storage vessel subject to this subpart, whether the vessel is Group 1 or Group 2, and the method of compliance for each Group 1 storage vessel that is not included in an emissions average (i.e.,

internal floating roof, external floating roof, or closed-vent system and control device).

(B) If a closed vent system and a control device other than a flare is used to comply with § 63.646 the owner or operator shall submit:

(*1*) A description of the parameter or parameters to be monitored to ensure that the control device is being properly operated and maintained, an explanation of the criteria used for selection of that parameter (or parameters), and the frequency with which monitoring will be performed; and either

(*2*) The design evaluation documentation specified in § 63.120(d)(1)(i) of subpart G, if the owner or operator elects to prepare a design evaluation; or

(*3*) If the owner or operator elects to submit the results of a performance test, identification of the storage vessel and control device for which the performance test will be submitted, and identification of the emission point(s) that share the control device with the storage vessel and for which the performance test will be conducted.

(C) If a closed vent system and control device other than a flare is used, the owner or operator shall submit:

(*1*) The operating range for each monitoring parameter. The specified operating range shall represent the conditions for which the control device is being properly operated and maintained.

(*2*) If a performance test is conducted instead of a design evaluation, results of the performance test demonstrating that the control device achieves greater than or equal to the required control efficiency. A performance test conducted prior to the compliance date of this subpart can be used to comply with this requirement, provided that the test was conducted using EPA methods and that the test conditions are representative of current operating practices.

(D) If a closed vent system and a flare is used, the owner or operator shall submit:

(*1*) Flare design (e.g., steam-assisted, air-assisted, or nonassisted);

(*2*) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.120(e) of subpart G of this part; and

(*3*) All periods during the compliance determination when the pilot flame is absent.

(ii) For miscellaneous process vents, identification of each miscellaneous process vent subject to this subpart, whether the process vent is Group 1 or Group 2, and the method of compliance for each Group 1 miscellaneous process vent that is not included in an emissions average (e.g., use of a flare or other control device meeting the requirements of § 63.643(a)).

(iii) For miscellaneous process vents controlled by control devices required to be tested under § 63.645 of this subpart and § 63.116(c) of subpart G of this part, performance test results including the information in paragraphs (f)(1)(iii)(A) and (B) of this section. Results of a performance test conducted prior to the compliance date of this subpart can be used provided that the test was conducted using the methods specified in § 63.645 and that the test conditions are representative of current operating conditions.

(A) The percentage of reduction of organic HAP's or TOC, or the outlet concentration of organic HAP's or TOC (parts per million by volume on a dry basis corrected to 3 percent oxygen), determined as specified in § 63.116(c) of subpart G of this part; and

(B) The value of the monitored parameters specified in table 10 of this subpart, or a site-specific parameter approved by the permitting authority, averaged over the full period of the performance test,

(iv) For miscellaneous process vents controlled by flares, performance test results including the information in paragraphs (f)(1)(iv)(A) and (B) of this section;

(A) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.645 of this subpart and § 63.116(a) of subpart G of this part, and

(B) A statement of whether a flame was present at the pilot light over the full period of the compliance determination.

(v) For equipment leaks complying with § 63.648(c) (i.e., complying with the requirements of subpart H of this part), the Notification of Compliance Report Status report information required by § 63.182(c) of subpart H and whether the percentage of leaking valves will be reported on a process unit basis or a sourcewide basis.

(2) If initial performance tests are required by §§ 63.643 through 63.653 of this subpart, the Notification of Compliance Status report shall include one complete test report for each test method used for a particular source.

(i) For additional tests performed using the same method, the results specified in paragraph (f)(1) of this section shall be submitted, but a complete test report is not required.

(ii) A complete test report shall include a sampling site description, description of sampling and analysis procedures and any modifications to standard procedures, quality assurance procedures, record of operating conditions during the test, record of preparation of standards, record of calibrations, raw data sheets for field sampling, raw data sheets for field and laboratory analyses, documentation of calculations, and any other information required by the test method.

(iii) Performance tests are required only if specified by §§ 63.643 through 63.653 of this subpart. Initial performance tests are required for some kinds of emission points and controls. Periodic testing of the same emission point is not required.

(3) For each monitored parameter for which a range is required to be established under § 63.120(d) of subpart G of this part for storage vessels or § 63.644 for miscellaneous process vents, the Notification of Compliance Status report shall include the information in paragraphs (f)(3)(i) through (f)(3)(iii) of this section.

(i) The specific range of the monitored parameter(s) for each emission point;

(ii) The rationale for the specific range for each parameter for each emission point, including any data and calculations used to develop the range and a description of why the range ensures compliance with the emission standard.

(A) If a performance test is required by this subpart for a control device, the range shall be based on the parameter values measured during the performance test supplemented by engineering assessments and manufacturer's recommendations. Performance testing is not required to be conducted over the entire range of permitted parameter values.

(B) If a performance test is not required by this subpart for a control device, the range may be based solely on engineering assessments and manufacturers' recommendations.

(iii) A definition of the source's operating day for purposes of determining daily average values of monitored parameters. The definition shall specify the times at which an operating day begins and ends.

(4) Results of any continuous monitoring system performance evaluations shall be included in the Notification of Compliance Status report.

(5) For emission points included in an emissions average, the Notification of Compliance Status report shall include

the values of the parameters needed for input to the emission credit and debit equations in § 63.652(g) and (h), calculated or measured according to the procedures in § 63.652(g) and (h), and the resulting credits and debits for the first quarter of the year. The first quarter begins on the compliance date specified in § 63.640.

(g) The owner or operator of a source subject to this subpart shall submit Periodic Reports no later than 60 days after the end of each 6-month period when any of the compliance exceptions specified in paragraphs (g)(1) through (g)(6) of this section occur. The first 6-month period shall begin on the date the Notification of Compliance Status report is required to be submitted. A Periodic Report is not required if none of the compliance exceptions specified in paragraphs (g)(1) through (g)(6) of this section occurred during the 6-month period unless emissions averaging is utilized. Quarterly reports must be submitted for emission points included in emissions averages, as provided in paragraph (g)(8) of this section. An owner or operator may submit reports required by other regulations in place of or as part of the Periodic Report required by this paragraph if the reports contain the information required by paragraphs (g)(1) through (g)(8) of this section.

(1) For storage vessels, Periodic Reports shall include the information specified for Periodic Reports in paragraph (g)(2) through (g)(5) of this section except that information related to gaskets, slotted membranes, and sleeve seals is not required for storage vessels that are part of an existing source.

(2) An owner or operator who elects to comply with § 63.646 by using a fixed roof and an internal floating roof or by using an external floating roof converted to an internal floating roof shall submit the results of each inspection conducted in accordance with § 63.120(a) of subpart G of this part in which a failure is detected in the control equipment.

(i) For vessels for which annual inspections are required under § 63.120(a)(2)(i) or (a)(3)(ii) of subpart G of this part, the specifications and requirements listed in paragraphs (g)(2)(i)(A) through (g)(2)(i)(C) of this section apply.

(A) A failure is defined as any time in which the internal floating roof is not resting on the surface of the liquid inside the storage vessel and is not resting on the leg supports; or there is liquid on the floating roof; or the seal is detached from the internal floating roof; or there are holes, tears, or other openings in the seal or seal fabric; or there are visible gaps between the seal and the wall of the storage vessel.

(B) Except as provided in paragraph (g)(2)(i)(C) of this section, each Periodic Report shall include the date of the inspection, identification of each storage vessel in which a failure was detected, and a description of the failure. The Periodic Report shall also describe the nature of and date the repair was made or the date the storage vessel was emptied.

(C) If an extension is utilized in accordance with § 63.120(a)(4) of subpart G of this part, the owner or operator shall, in the next Periodic Report, identify the vessel; include the documentation specified in § 63.120(a)(4) of subpart G of this part; and describe the date the storage vessel was emptied and the nature of and date the repair was made.

(ii) For vessels for which inspections are required under § 63.120(a)(2)(ii), (a)(3)(i), or (a)(3)(iii) of subpart G of this part (i.e., internal inspections), the specifications and requirements listed in paragraphs (g)(2)(ii)(A) and (g)(2)(ii)(B) of this section apply.

(A) A failure is defined as any time in which the internal floating roof has defects; or the primary seal has holes, tears, or other openings in the seal or the seal fabric; or the secondary seal (if one has been installed) has holes, tears, or other openings in the seal or the seal fabric; or, for a storage vessel that is part of a new source, the gaskets no longer close off the liquid surface from the atmosphere; or, for a storage vessel that is part of a new source, the slotted membrane has more than a 10 percent open area.

(B) Each Periodic Report shall include the date of the inspection, identification of each storage vessel in which a failure was detected, and a description of the failure. The Periodic Report shall also describe the nature of and date the repair was made.

(3) An owner or operator who elects to comply with § 63.646 by using an external floating roof shall meet the periodic reporting requirements specified in paragraphs (g)(3)(i) through (g)(3)(iii) of this section.

(i) The owner or operator shall submit, as part of the Periodic Report, documentation of the results of each seal gap measurement made in accordance with § 63.120(b) of subpart G of this part in which the seal and seal gap requirements of § 63.120(b)(3), (b)(4), (b)(5), or (b)(6) of subpart G of this part are not met. This documentation shall include the information specified in paragraphs (g)(3)(i)(A) through (g)(3)(i)(D) of this section.

(A) The date of the seal gap measurement.

(B) The raw data obtained in the seal gap measurement and the calculations described in § 63.120(b)(3) and (b)(4) of subpart G of this part.

(C) A description of any seal condition specified in § 63.120(b)(5) or (b)(6) of subpart G of this part that is not met.

(D) A description of the nature of and date the repair was made, or the date the storage vessel was emptied.

(ii) If an extension is utilized in accordance with § 63.120(b)(7)(ii) or (b)(8) of subpart G of this part, the owner or operator shall, in the next Periodic Report, identify the vessel; include the documentation specified in § 63.120(b)(7)(ii) or (b)(8) of subpart G of this part, as applicable; and describe the date the vessel was emptied and the nature of and date the repair was made.

(iii) The owner or operator shall submit, as part of the Periodic Report, documentation of any failures that are identified during visual inspections required by § 63.120(b)(10) of subpart G of this part. This documentation shall meet the specifications and requirements in paragraphs (g)(3)(iii)(A) and (g)(3)(iii)(B) of this section.

(A) A failure is defined as any time in which the external floating roof has defects; or the primary seal has holes or other openings in the seal or the seal fabric; or the secondary seal has holes, tears, or other openings in the seal or the seal fabric; or, for a storage vessel that is part of a new source, the gaskets no longer close off the liquid surface from the atmosphere; or, for a storage vessel that is part of a new source, the slotted membrane has more than 10 percent open area.

(B) Each Periodic Report shall include the date of the inspection, identification of each storage vessel in which a failure was detected, and a description of the failure. The Periodic Report shall also describe the nature of and date the repair was made.

(4) An owner or operator who elects to comply with § 63.646 by using an external floating roof converted to an internal floating roof shall comply with the periodic reporting requirements of paragraph (g)(2) of this section.

(5) An owner or operator who elects to comply with § 63.646 by installing a closed vent system and control device shall submit, as part of the next Periodic Report, the information specified in paragraphs (g)(5)(i) through (g)(5)(iii) of this section.

(i) The Periodic Report shall include the information specified in paragraphs (g)(5)(i)(A) and (g)(5)(i)(B) of this section for those planned routine maintenance

operations that would require the control device not to meet the requirements of § 63.119(e)(1) or (e)(2) of subpart G of this part, as applicable.

(A) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next 6 months. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

(B) A description of the planned routine maintenance that was performed for the control device during the previous 6 months. This description shall include the type of maintenance performed and the total number of hours during those 6 months that the control device did not meet the requirements of § 63.119 (e)(1) or (e)(2) of subpart G of this part, as applicable, due to planned routine maintenance.

(ii) If a control device other than a flare is used, the Periodic Report shall describe each occurrence when the monitored parameters were outside of the parameter ranges documented in the Notification of Compliance Status report. The description shall include: Identification of the control device for which the measured parameters were outside of the established ranges, and causes for the measured parameters to be outside of the established ranges.

(iii) If a flare is used, the Periodic Report shall describe each occurrence when the flare does not meet the general control device requirements specified in § 63.11(b) of subpart A of this part and shall include: Identification of the flare that does not meet the general requirements specified in § 63.11(b) of subpart A of this part, and reasons the flare did not meet the general requirements specified in § 63.11(b) of subpart A of this part.

(6) For miscellaneous process vents for which continuous parameter monitors are required by this subpart, periods of excess emissions shall be identified in the Periodic Reports and shall be used to determine compliance with the emission standards.

(i) Period of excess emission means any of the following conditions:

(A) An operating day when the daily average value of a monitored parameter, except presence of a flare pilot flame, is outside the range specified in the Notification of Compliance Status report. Monitoring data recorded during periods of monitoring system breakdown, repairs, calibration checks and zero (low-level) and high-level adjustments shall not be used in computing daily average values of monitored parameters.

(B) An operating day when all pilot flames of a flare are absent.

(C) An operating day when monitoring data required to be recorded in paragraphs (i)(3) (i) and (ii) of this section are available for less than 75 percent of the operating hours.

(D) For data compression systems approved under paragraph (h)(5)(iii) of this section, an operating day when the monitor operated for less than 75 percent of the operating hours or a day when less than 18 monitoring values were recorded.

(ii) For miscellaneous process vents, excess emissions shall be reported for the operating parameters specified in table 10 of this subpart unless other site-specific parameter(s) have been approved by the operating permit authority.

(iii) Periods of startup, shutdown, and malfunction that meet the definitions in § 63.2 of subpart A of this part and periods of performance testing and monitoring system calibration shall not be considered periods of excess emissions. Malfunctions may include process unit, control device, or monitoring system malfunctions.

(7) If a performance test for determination of compliance for a new emission point subject to this subpart or for an emission point that has changed from Group 2 to Group 1 is conducted during the period covered by a Periodic Report, the results of the performance test shall be included in the Periodic Report.

(i) Results of the performance test shall include the percentage of emissions reduction or outlet pollutant concentration reduction (whichever is needed to determine compliance) and the values of the monitored operating parameters.

(ii) The complete test report shall be maintained onsite.

(8) The owner or operator of a source shall submit quarterly reports for all emission points included in an emissions average.

(i) The quarterly reports shall be submitted no later than 60 calendar days after the end of each quarter. The first report shall be submitted with the Notification of Compliance Status report no later than 150 days after the compliance date specified in § 63.640.

(ii) The quarterly reports shall include:

(A) The information specified in this paragraph and in paragraphs (g)(2) through (g)(7) of this section for all storage vessels and miscellaneous process vents included in an emissions average;

(B) The information required to be reported by § 63.428(h)(1) of subpart R of this part for each gasoline loading rack included in an emissions average, unless this information has already been submitted in a separate report;

(C) The information required to be included in quarterly reports by §§ 63.567(f) and 63.567(i)(2) of subpart Y of this part for each marine tank vessel loading operation included in an emissions average, unless the information has already been submitted in a separate report;

(D) Any information pertaining to each wastewater stream included in an emissions average that the source is required to report under the Implementation Plan for the source;

(E) The credits and debits calculated each month during the quarter;

(F) A demonstration that debits calculated for the quarter are not more than 1.30 times the credits calculated for the quarter, as required under §§ 63.652(e)(4);

(G) The values of any inputs to the credit and debit equations in § 63.652 (g) and (h) that change from month to month during the quarter or that have changed since the previous quarter; and

(H) Any other information the source is required to report under the Implementation Plan for the source.

(iii) Every fourth quarterly report shall include the following:

(A) A demonstration that annual credits are greater than or equal to annual debits as required by § 63.652(e)(3); and

(B) A certification of compliance with all the emissions averaging provisions in § 63.652 of this subpart.

(h) Other reports shall be submitted as specified in subpart A of this part and as follows:

(1) Reports of startup, shutdown, and malfunction required by § 63.10(d)(5) of subpart A of this part; and

(2) For storage vessels, notifications of inspections as specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this section;

(i) In order to afford the Administrator the opportunity to have an observer present, the owner or operator shall notify the Administrator of the refilling of each Group 1 storage vessel that has been emptied and degassed.

(A) Except as provided in paragraphs (h)(2)(i) (B) and (C) of this section, the owner or operator shall notify the Administrator in writing at least 30 calendar days prior to filling or refilling of each storage vessel with organic HAP's to afford the Administrator the opportunity to inspect the storage vessel prior to refilling.

(B) Except as provided in paragraph (h)(2)(i)(C) of this section, if the internal inspection required by §§ 63.120(a)(2), 63.120(a)(3), or 63.120(b)(10) of subpart

G of this part is not planned and the owner or operator could not have known about the inspection 30 calendar days in advance of refilling the vessel with organic HAP's, the owner or operator shall notify the Administrator at least 7 calendar days prior to refilling of the storage vessel. Notification may be made by telephone and immediately followed by written documentation demonstrating why the inspection was unplanned. This notification, including the written documentation, may also be made in writing and sent so that it is received by the Administrator at least 7 calendar days prior to the refilling.

(C) The State or local permitting authority can waive the notification requirements of paragraphs (h)(2)(i)(A) and/or (h)(2)(i)(B) of this section for all or some storage vessels at petroleum refineries subject to this subpart. The State or local permitting authority may also grant permission to refill storage vessels sooner than 30 days after submitting the notification required by paragraph (h)(2)(i)(A) of this section, or sooner than 7 days after submitting the notification required by paragraph (h)(2)(i)(B) of this section for all storage vessels, or for individual storage vessels on a case-by-case basis.

(ii) In order to afford the Administrator the opportunity to have an observer present, the owner or operator of a storage vessel equipped with an external floating roof shall notify the Administrator of any seal gap measurements. The notification shall be made in writing at least 30 calendar days in advance of any gap measurements required by § 63.120 (b)(1) or (b)(2) of subpart G of this part. The State or local permitting authority can waive this notification requirement for all or some storage vessels subject to the rule or can allow less than 30 calendar days' notice.

(3) For owners or operators of sources required to request approval for a nominal control efficiency for use in calculating credits for an emissions average, the information specified in § 63.652(h).

(4) The owner or operator who requests approval to monitor a different parameter than those listed in § 63.644 for miscellaneous process vents or who is required by § 63.653(a)(8) to establish a site-specific monitoring parameter for a point in an emissions average shall submit the information specified in paragraphs (h)(4)(i) through (h)(4)(iii) of this section. For new or reconstructed sources, the information shall be submitted with the application for approval of construction or reconstruction required by § 63.5(d) of subpart A and for existing sources, and the information shall be submitted no later than 18 months prior to the compliance date. The information may be submitted in an operating permit application, in an amendment to an operating permit application, or in a separate submittal.

(i) A description of the parameter(s) to be monitored to determine whether excess emissions occur and an explanation of the criteria used to select the parameter(s).

(ii) A description of the methods and procedures that will be used to demonstrate that the parameter can be used to determine excess emissions and the schedule for this demonstration. The owner or operator must certify that they will establish a range for the monitored parameter as part of the Notification of Compliance Status report required in paragraphs (e) and (f) of this section.

(iii) The frequency and content of monitoring, recording, and reporting if: monitoring and recording are not continuous; or if periods of excess emissions, as defined in paragraph (g)(6) of this section, will not be identified in Periodic Reports required under paragraphs (e) and (g) of this section. The rationale for the proposed monitoring, recording, and reporting system shall be included.

(5) An owner or operator may request approval to use alternatives to the continuous operating parameter monitoring and recordkeeping provisions listed in paragraph (i) of this section.

(i) Requests shall be submitted with the Application for Approval of Construction or Reconstruction for new sources and no later than 18 months prior to the compliance date for existing sources. The information may be submitted in an operating permit application, in an amendment to an operating permit application, or in a separate submittal. Requests shall contain the information specified in paragraphs (h)(5)(iii) through (h)(5)(iv) of this section, as applicable.

(ii) The provisions in § 63.8(f)(5)(i) of subpart A of this part shall govern the review and approval of requests.

(iii) An owner or operator may request approval to use an automated data compression recording system that does not record monitored operating parameter values at a set frequency (for example, once every hour) but records all values that meet set criteria for variation from previously recorded values.

(A) The requested system shall be designed to:

(*1*) Measure the operating parameter value at least once every hour.

(*2*) Record at least 24 values each day during periods of operation.

(*3*) Record the date and time when monitors are turned off or on.

(*4*) Recognize unchanging data that may indicate the monitor is not functioning properly, alert the operator, and record the incident.

(*5*) Compute daily average values of the monitored operating parameter based on recorded data.

(B) The request shall contain a description of the monitoring system and data compression recording system including the criteria used to determine which monitored values are recorded and retained, the method for calculating daily averages, and a demonstration that the system meets all criteria of paragraph (h)(5)(iii)(A) of this section.

(iv) An owner or operator may request approval to use other alternative monitoring systems according to the procedures specified in § 63.8(f) of subpart A of this part.

(6) The owner or operator shall submit the information specified in paragraphs (h)(6)(i) through (h)(6)(iii) of this section, as applicable. For existing sources, this information shall be submitted no later than 18 months prior to the compliance date. For a new source, the information shall be submitted with the application for approval of construction or reconstruction required by § 63.5(d) of subpart A of this part. The information may be submitted in an operating permit application, in an amendment to an operating permit application, or in a separate submittal.

(i) The determination of applicability of this subpart to petroleum refining process units that are designed and operated as flexible operation units.

(ii) The determination of applicability of this subpart to any storage vessel for which use varies from year to year.

(iii) The determination of applicability of this subpart to any distillation unit for which use varies from year to year.

(i) Recordkeeping.

(1) Each owner or operator subject to the storage vessel provisions in § 63.646 shall keep the records specified in § 63.123 of subpart G of this part except as specified in paragraphs (i)(1)(i) through (i)(1)(iv) of this section.

(i) Records related to gaskets, slotted membranes, and sleeve seals are not required for storage vessels within existing sources.

(ii) All references to § 63.122 in § 63.123 of subpart G of this part shall be replaced with § 63.654(e),

(iii) All references to § 63.150 in § 63.123 of subpart G of this part shall be replaced with § 63.652.

(iv) If a storage vessel is determined to be Group 2 because the weight percent total organic HAP of the stored liquid is less than or equal to 4 percent for existing sources or 2 percent for new sources, a record of any data, assumptions, and procedures used to make this determination shall be retained.

(2) Each owner or operator required to report the results of performance tests under paragraphs (f) and (g)(7) of this section shall retain a record of all reported results as well as a complete test report, as described in paragraph (f)(2)(ii) of this section for each emission point tested.

(3) Each owner or operator required to continuously monitor operating parameters under § 63.644 for miscellaneous process vents or under §§ 63.652 and 63.653 for emission points in an emissions average shall keep the records specified in paragraphs (i)(3)(i) through (i)(3)(v) of this section unless an alternative recordkeeping system has been requested and approved under paragraph (h) of this section.

(i) The monitoring system shall measure data values at least once every hour.

(ii) The owner or operator shall record either:

(A) Each measured data value; or

(B) Block average values for 1 hour or shorter periods calculated from all measured data values during each period. If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the hourly (or shorter period) block average instead of all measured values.

(iii) Daily average values of each continuously monitored parameter shall be calculated for each operating day and retained for 5 years except as specified in paragraph (i)(3)(iv) of this section.

(A) The daily average shall be calculated as the average of all values for a monitored parameter recorded during the operating day. The average shall cover a 24-hour period if operation is continuous, or the number of hours of operation per day if operation is not continuous.

(B) The operating day shall be the period defined in the Notification of Compliance Status report. It may be from midnight to midnight or another daily period.

(iv) If all recorded values for a monitored parameter during an operating day are within the range established in the Notification of Compliance Status report, the owner or operator may record that all values were within the range and retain this record for 5 years rather than calculating and recording a daily average for that day. For these days, the records required in paragraph (i)(3)(ii) of this section shall also be retained for 5 years.

(v) Monitoring data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or control device operation when monitors are not operating.

(4) All other information required to be reported under paragraphs (a) through (h) of this section shall be retained for 5 years.

§§ 63.655 through 63.679 [Reserved].

Appendix to Subpart CC—Tables

TABLE 1.—HAZARDOUS AIR POLLUTANTS

Chemical name	CAS No.[a]
Benzene	71432
Biphenyl	92524
Butadiene (1,3)	10990
Carbon disulfide	75150
Carbonyl sulfide	463581
Cresol (mixed isomers[b])	1319773
Cresol (m-)	108394
Cresol (o-)	95487
Cresol (p-)	106445
Cumene	98828
Dibromoethane (1,2) (ethylene dibromide)	106934
Dichloroethane (1,2)	107062
Diethanolamine	111422
Ethylbenzene	100414
Ethylene glycol	107211
Hexane	110543
Methanol	67561
Methyl ethyl ketone (2-butanone)	78933
Methyl isobutyl ketone (hexone)	108101
Methyl tert butyl ether	1634044
Naphthalene	91203
Phenol	108952
Toluene	108883
Trimethylpentane (2,2,4)	540841
Xylene (mixed isomers[b])	1330207
xylene (m-)	108383
xylene (o-)	95476
xylene (p-)	106423

[a] CAS number = Chemical Abstract Service registry number assigned to specific compounds, isomers, or mixtures of compounds.

[b] Isomer means all structural arrangements for the same number of atoms of each element and does not mean salts, esters, or derivatives.

TABLE 2.—LEAK DEFINITIONS FOR PUMPS AND VALVES

Standard[a]	Phase	Leak definition (parts per million)
§ 63.163 (pumps)	I	10,000
	II	5,000
	III	2,000
§ 63.168 (valves)	I	10,000
	II	1,000
	III	1,000

[a] Subpart H of this part.

TABLE 3.—EQUIPMENT LEAK RECORDKEEPING AND REPORTING REQUIREMENTS FOR SOURCES COMPLYING WITH § 63.648 OF SUBPART CC BY COMPLIANCE WITH SUBPART H OF THIS PART[a]

Reference (section of subpart H of this part)	Description	Comment
63.181(a)	Recordkeeping system requirements	Except for §§ 63.181(b)(2)(iii) and 63.181(b)(9).
63.181(b)	Records required for process unit equipment	Except for §§ 63.181(b)(2)(iii) and 63.181(b)(9).
63.181(c)	Visual inspection documentation	Except for §§ 63.181(b)(2)(iii) and 63.181(b)(9).
63.181(d)	Leak detection record requirements	Except for § 63.181(d)(8).
63.181(e)	Compliance requirements for pressure tests for batch product process equipment trains.	This subsection does not apply to subpart CC.
63.181(f)	Compressor compliance test records.	
63.181(g)	Closed-vent systems and control device record requirements.	
63.181(h)	Process unit quality improvement program records.	

TABLE 3.—EQUIPMENT LEAK RECORDKEEPING AND REPORTING REQUIREMENTS FOR SOURCES COMPLYING WITH § 63.648 OF SUBPART CC BY COMPLIANCE WITH SUBPART H OF THIS PART [a]—Continued

Reference (section of subpart H of this part)	Description	Comment
63.181(i)	Heavy liquid service determination record.	
63.181(j)	Equipment identification record.	
63.181(k)	Enclosed-vented process unit emission limitation record requirements.	
63.182(a)	Reports.	
63.182(b)	Initial notification report requirements.	
63.182(c)	Notification of compliance status report	Except in § 63.182(2); change ''within 90 days of the compliance dates'' to ''within 150 days of the compliance dates.''
63.182(d)	Periodic report	Except for §§ 63.182 (d)(2)(vii), (d)(2)(viii), and (d)(3).

[a] This table does not include all the requirements delineated under the referenced sections. See referenced sections for specific requirements.

TABLE 4.—GASOLINE DISTRIBUTION EMISSION POINT RECORDKEEPING AND REPORTING REQUIREMENTS [a]

Reference (section of subpart R of this part)	Description	Comment
63.428(b)	Records of test results for each gasoline cargo tank loaded at the facility	
63.428(c)	Continuous monitoring data recordkeeping requirements	
63.428(g)(1)	Semiannual report loading rack information	Required to be submitted with the periodic report required under 40 CFR part 63 subpart CC.
63.428(h)(1) through (h)(3)	Excess emissions report loading rack information	Required to be submitted with the periodic report required under 40 CFR part 63 subpart CC.
63.428(i)	Records and annual reports for facilities meeting § 63.420(c) (emissions screening factor <1.0, but ≥0.5).	The information required under this paragraph is to be submitted with the Periodic Report required under 40 CFR part 63 subpart CC.
63.428(j)	Records and reports for facilities meeting § 63.420(d) (emissions screening factor <0.5).	The information required under this paragraph is to be submitted with the periodic report required under 40 CFR part 63 subpart CC.

[a] This table does not include all the requirements delineated under the referenced sections. See referenced sections for specific requirements.

TABLE 5.—MARINE VESSEL LOADING AND UNLOADING OPERATIONS RECORDKEEPING AND REPORTING REQUIREMENTS [a]

Reference (section of subpart Y of this part)	Description	Comment
63.566(a)	Performance test/site test plan	The information required under this paragraph is to be submitted with the notification of compliance status report required under 40 CFR part 63 subpart CC.
63.566(b)	Performance test data requirements	
63.567(a)	General Provisions (subpart A) applicability	
63.567(c)	Vent system valve bypass recordkeeping requirements	
63.567(d)	Continuous equipment monitoring recordkeeping requirements	
63.567(e)	Flare recordkeeping requirements	
63.567(f)	Quarterly report requirements	The information required under this paragraph is to be submitted with the periodic report required under 40 CFR part 63 subpart CC.
63.567(g)	Marine vessel vapor-tightness documentation	
63.567(h)	Documentation file maintenance	
63.567(i)	Emission estimation reporting and recordkeeping procedures	

[a] This table does not include all the requirements delineated under the referenced sections. See referenced sections for specific requirements.

TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [a]

Reference	Applies to subpart CC	Comment
63.1(a)(1)	Yes	
63.1(a)(2)	Yes	
63.1(a)(3)	Yes	

TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [a]—Continued

Reference	Applies to subpart CC	Comment
63.1(a)(4)	No	Subpart CC (this table) specifies applicability of each paragraph in subpart A to subpart CC.
63.1(a)(5)–63.1(a)(9)	No	
63.1(a)(10)	No	Subpart CC and other cross-referenced subparts specify calendar or operating day.
63.1(a)(11)	Yes	
63.1(a)(12)	Yes	
63.1(a)(13)	Yes	
63.1(a)(14)	Yes	
63.1(b)(1)	No	Subpart CC specifies its own applicability.
63.1(b)(2)	Yes	
63.1(b)(3)	No	
63.1(c)(1)	No	Subpart CC explicitly specifies requirements that apply.
63.1(c)(2)	No	Area sources are not subject to subpart CC.
63.1(c)(3)	No	
63.1(c)(4)	Yes	
63.1(c)(5)	Yes	Except that sources are not required to submit notifications overridden by this table.
63.1(d)	No	
63.1(e)	No	
63.2	Yes	§ 63.641 of subpart CC specifies that if the same term is defined in subparts A and CC, it shall have the meaning given in subpart CC.
63.3	No	Units of measure are spelled out in subpart CC.
63.4(a)(1)–63.4(a)(3)	Yes	
63.4(a)(4)	No	Reserved.
63.4(a)(5)	Yes	
63.4(b)	Yes	
63.4(c)	Yes	
63.5(a)(1)	Yes	Except replace term ''source'' and ''stationary source'' in § 63.5(a)(1) of subpart A with ''affected source.''
63.5(a)(2)	Yes	
63.5(b)(1)	Yes	
63.5(b)(2)	No	Reserved.
63.5(b)(3)	Yes	
63.5(b)(4)	Yes	Except the cross-reference to § 63.9(b) is changed to § 63.9(b)(4) and (5). Subpart CC overrides § 63.9 (b)(2) and (b)(3).
63.5(b)(5)	Yes	
63.5(b)(6)	Yes	
63.5(c)	No	Reserved.
63.5(d)(1)(i)	Yes	Except that the application shall be submitted as soon as practicable before startup but no later than 90 days (rather than 60 days) after the promulgation date of subpart CC if the construction or reconstruction had commenced and initial startup had not occurred before the promulgation of subpart CC.
63.5(d)(1)(ii)	Yes	Except that for affected sources subject to subpart CC, emission estimates specified in § 63.5(d)(1)(ii)(H) are not required.
63.5(d)(1)(iii)	No	Subpart CC requires submittal of the notification of compliance status report in § 63.654(e).
63.5(d)(2)	No	
63.5(d)(3)	Yes	Except § 63.5(d)(3)(ii) does not apply.
63.5(d)(4)	Yes	
63.5(e)	Yes	
63.5(f)(1)	Yes	
63.5(f)(2)	Yes	Except that the ''60 days'' in the cross-referenced § 63.5(d)(1) is changed to ''90 days,'' and the cross-reference to (b)(2) does not apply.
63.6(a)	Yes	
63.6(b)(1)	No	Subpart CC specifies compliance dates for sources subject to subpart CC.
63.6(b)(2)	No	
63.6(b)(3)	Yes	
63.6(b)(4)	No	May apply when standards are proposed under section 112(f) of the Clean Air Act.
63.6(b)(5)	No	§ 63.654(d) of subpart CC includes notification requirements.
63.6(b)(6)	No	
63.6(b)(7)	No	
63.6(c)(1)	No	§ 63.640 of subpart CC specifies the compliance date.
63.6(c)(2)–63.6(c)(4)	No	

TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [a]—Continued

Reference	Applies to subpart CC	Comment
63.6(c)(5)	Yes	
63.6(d)	No	
63.6(e)	Yes	Does not apply to Group 2 emission points.[b]
63.6(f)(1)	Yes	
63.6(f)(2)(i)	Yes	
63.6(f)(2)(ii)	Yes	Subpart CC specifies the use of monitoring data in determining compliance with subpart CC.
63.6(f)(2)(iii) (A), (B), and (C)	Yes	
63.6(f)(2)(iii)(D)	No	
63.6(f)(2)(iv)	Yes	
63.6(f)(2)(v)	Yes	
63.6(f)(3)	Yes	
63.6(g)	Yes	
63.6(h)	No	Subpart CC does not require opacity and visible emission standards.
63.6(i)	Yes	Except for § 63.6(i)(15), which is reserved.
63.6(j)	Yes	
63.7(a)(1)	No	Subpart CC specifies required testing and compliance demonstration procedures.
63.7(a)(2)	No	Test results must be submitted in the notification of compliance status report due 150 days after compliance date, as specified in § 63.654(d) of subpart CC.
63.7(a)(3)	Yes	
63.7(b)	No	
63.7(c)	No	
63.7(d)	Yes	
63.7(e)(1)	Yes	
63.7(e)(2)	Yes	
63.7(e)(3)	No	Subpart CC specifies test methods and procedures.
63.7(e)(4)	Yes	
63.7(f)	No	Subpart CC specifies applicable methods and provides alternatives.
63.7(g)	No	Performance test reporting specified in § 63.654(d).
63.7(h)(1)	Yes	
63.7(h)(2)	Yes	
63.7(h)(3)	Yes	Yes, except site-specific test plans shall not be required, and where § 63.7(g)(3) specifies submittal by the date the site-specific test plan is due, the date shall be 90 days prior to the notification of compliance status report in § 63.654(d).
63.7(h)(4)	No	
63.7(h)(5)	Yes	
63.8(a)	No	
63.8(b)(1)	Yes	
63.8(b)(2)	No	Subpart CC specifies locations to conduct monitoring.
63.8(b)(3)	Yes	
63.8(c)(1)(i)	Yes	
63.8(c)(1)(ii)	No	Addressed by periodic reports in § 63.654(e) of subpart CC.
63.8(c)(1)(iii)	Yes	
63.8(c)(2)	Yes	
63.8(c)(3)	Yes	
63.8(c)(4)	No	Subpart CC specifies monitoring frequency in § 63.641 and § 63.654(g)(3) of subpart CC.
63.8(c)(5)–63.8(c)(8)	No	
63.8(d)	No	
63.8(e)	No	
63.8(f)(1)	Yes	
63.8(f)(2)	Yes	
63.8(f)(3)	Yes	
63.8(f)(4)(i)	No	Timeframe for submitting request is specified in § 63.654(f)(4) of subpart CC.
63.8(f)(4)(ii)	Yes	
63.8(f)(4)(iii)	No	
63.8(f)(5)(i)	Yes	
63.8(f)(5)(ii)	No	
63.8(f)(5)(iii)	Yes	
63.8(f)(6)	No	Subpart CC does not require continuous emission monitors.
63.8(g)	No	Subpart CC specifies data reduction procedures in § 63.654(h)(3).
63.9(a)	Yes	Except that the owner or operator does not need to send a copy of each notification submitted to the Regional Office of the EPA as stated in § 63.9(a)(4)(ii).

TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [a]—Continued

Reference	Applies to subpart CC	Comment
63.9(b)(1)(i)	No	Specified in § 63.654(d)(2) of subpart CC.
63.9(b)(1)(ii)	No	
63.9(b)(2)	No	An initial notification report is not required under subpart CC.
63.9(b)(3)	No	
63.9(b)(4)	Yes	Except that the notification in § 63.9(b)(4)(i) shall be submitted at the time specified in § 63.654(d)(2) of subpart CC.
63.9(b)(5)	Yes	Except that the notification in § 63.9(b)(5) shall be submitted at the time specified in § 63.654(d)(2) of subpart CC.
63.9(c)	Yes	
63.9(d)	Yes	
63.9(e)	No	
63.9(f)	No	
63.9(g)	No	
63.9(h)	No	Subpart CC § 63.652(d) specifies notification of compliance status report requirements.
63.9(i)	Yes	
63.9(j)	No	
63.10(a)	Yes	
63.10(b)(1)	No	§ 63.644(d) of subpart CC specifies record retention requirements.
63.10(b)(2)(i)	Yes	
63.10(b)(2)(ii)	Yes	
63.10(b)(2)(iii)	No	
63.10(b)(2)(iv)	Yes	
63.10(b)(2)(v)	Yes	
63.10(b)(2)(vi)–(ix)	No	
63.10(b)(2)(x)	Yes	
63.10(b)(2)(xii)–(xiv)	No	
63.10(b)(3)	No	
63.10(c)	No	
63.10(d)(1)	No	
63.10(d)(2)	No	§ 63.654(d) of subpart CC specifies performance test reporting.
63.10(d)(3)	No	
63.10(d)(4)	Yes	
63.10(d)(5)(i)	Yes [b]	Except that reports required by § 63.10(d)(5)(i) may be submitted at the same time as periodic reports specified in § 63.654(e) of subpart CC.
63.10(d)(5)(ii)	Yes [b]	
63.10(e)	No	
63.10(f)	Yes	
63.11–63.15	Yes	

[a] Wherever subpart A specifies ''postmark'' dates, submittals may be sent by methods other than the U.S. Mail (e.g., by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.
[b] The plan, and any records or reports of startup, shutdown, and malfunction do not apply to Group 2 emission points.

TABLE 7.—FRACTION MEASURED (F_m), FRACTION EMITTED (F_e), AND FRACTION REMOVED (Fr) FOR HAP COMPOUNDS IN WASTEWATER STREAMS

Chemical name	CAS No.[a]	F_m	F_e	Fr
Benzene	71432	1.00	0.80	0.99
Biphenyl	92524	0.86	0.45	0.99
Butadiene (1,3-)	106990	1.00	0.98	0.99
Carbon disulfide	75150	1.00	0.92	0.99
Cumene	98828	1.00	0.88	0.99
Dichloroethane (1,2-) (Ethylene dichloride)	107062	1.00	0.64	0.99
Ethylbenzene	100414	1.00	0.83	0.99
Hexane	110543	1.00	1.00	0.99
Methanol	67561	0.85	0.17	0.31
Methyl ethyl ketone (2-Butanone)	78933	0.99	0.48	0.95
Methyl isobutyl ketone (Hexone)	108101	0.98	0.53	0.99
Methyl tert-butyl ether	1634044	1.00	0.57	0.99
Naphthalene	91203	0.99	0.51	0.99
Trimethylpentane (2,2,4-)	540841	1.00	1.00	0.99
Xylene (m-)	108383	1.00	0.82	0.99
Xylene (o-)	95476	1.00	0.79	0.99
Xylene (p-)	106423	1.00	0.82	0.99

[a] CAS numbers refer to the Chemical Abstracts Service registry number assigned to specific compounds, isomers, or mixtures of compounds.

TABLE 8.—VALUE MONITORING FREQUENCY FOR PHASE III

Performance level Leaking valves [a] (%)	Valve monitoring frequency
≥4	Monthly or QIP.[b]
<4	Quarterly.
<3	Semiannual.
<2	Annual.

[a] Percent leaking valves is calculated as a rolling average of two consecutive monitoring periods.
[b] QIP=Quality improvement program. Specified in § 63.175 of subpart H of this part.

TABLE 9.—VALVE MONITORING FREQUENCY FOR ALTERNATIVE

Performance level Leaking valves [a] (%)	Valve monitoring frequency under § 63.649 alternative
≥5	Monthly or QIP.[b]
<5	Quarterly.
<4	Semiannual.
<3	Annual.

[a] Percent leaking valves is calculated as a rolling average of two consecutive monitoring periods.
[b] QIP=Quality improvement program. Specified in § 63.175 of subpart H of this part.

TABLE 10.—MISCELLANEOUS PROCESS VENTS—MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC HAP EMISSIONS OR A LIMIT OF 20 PARTS PER MILLION BY VOLUME

Control device	Parameters to be monitored [a]	Recordkeeping and reporting requirements for monitored parameters
Thermal incinerator	Firebox temperature [b] (63.644(a)(1)(i)).	1. Continuous records [c]. 2. Record and report the firebox temperature averaged over the full period of the performance test—NCS [d]. 3. Record the daily average firebox temperature for each operating day [e]. 4. Report all daily average temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected [f]—PR [g].
Catalytic incinerator	Temperature upstream and downstream of the catalyst bed (63.644(a)(1)(ii)).	1. Continuous records [c]. 2. Record and report the upstream and downstream temperatures and the temperature difference across the catalyst bed averaged over the full period of the performance test—NCS [d]. 3. Record the daily average upstream temperature and temperature difference across the catalyst bed for each operating day [e]. 4. Report all daily average upstream temperatures that are outside the range established in the NCS or operating permit—PR [g]. 5. Report all daily average temperature differences across the catalyst bed that are outside the range established in the NCS or operating permit—PR [g]. 6. Report all operating days when insufficient monitoring data are collected [f].
Boiler or process heater with a design heat capacity less than 44 megawatts where the vent stream is *not* introduced into the flame zone [h,i].	Firebox temperature [b] (63.644(a)(4)).	1. Continuous records [c]. 2. Record and report the firebox temperature averaged over the full period of the performance test—NCS [d]. 3. Record the daily average firebox temperature for each operating day [e]. 4. Report all daily average firebox temperatures that are outside the range established in the NCS or operating permit and all operating days when insufficient monitoring data are collected [f]—PR [g].
Flare	Presence of a flame at the pilot light (63.644(a)(2)).	1. Hourly records of whether the monitor was continuously operating and whether a pilot flame was continuously present during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS [d].

TABLE 10.—MISCELLANEOUS PROCESS VENTS—MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC HAP EMISSIONS OR A LIMIT OF 20 PARTS PER MILLION BY VOLUME—Continued

Control device	Parameters to be monitored [a]	Recordkeeping and reporting requirements for monitored parameters
		3. Record the times and durations of all periods when all pilot flames for a flare are absent or the monitor is not operating. 4. Report the times and durations of all periods when all pilot flames for a flare are absent or the monitor is not operating.
All control devices	Presence of flow diverted to the atmosphere from the control device (63.644(c)(1)) *or*.	1. Hourly records of whether the flow indicator was operating and whether flow was detected at any time during each hour. 2. Record and report the times and durations of all periods when the vent stream is diverted through a bypass line or the monitor is not operating—PR [g].
	Monthly inspections of sealed valves [63.644(c)(2)].	1. Records that monthly inspections were performed. 2. Record and report all monthly inspections that show the valves are not closed or the seal has been changed—PR [g].

[a] Regulatory citations are listed in parentheses.
[b] Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.
[c] "Continuous records" is defined in § 63.641.
[d] NCS = Notification of compliance status report described in § 63.654.
[e] The daily average is the average of all recorded parameter values for the operating day. If all recorded values during an operating day are within the range established in the NCS or operating permit, a statement to this effect can be recorded instead of the daily average.
[f] When a period of excess emission is caused by insufficient monitoring data, as described in § 63.654(g)(6)(i) (C) or (D), the duration of the period when monitoring data were not collected shall be included in the Periodic Report.
[g] PR = Periodic Reports described in § 63.654(g).
[h] No monitoring is required for boilers and process heaters with a design heat capacity ≥44 megawatts or for boilers and process heaters where all vent streams are introduced into the flame zone. No recordkeeping or reporting associated with monitoring is required for such boilers and process heaters.
[i] Process vents that are routed to refinery fuel gas systems are not regulated under this subpart. No monitoring, recordkeeping, or reporting is required for boilers and process heaters that combust refinery fuel gas.

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Part IV

Railroad Retirement Board

20 CFR Part 345

Employers' Contributions and Contribution Reports; Proposed Rule

RAILROAD RETIREMENT BOARD

20 CFR Part 345

RIN 3220–AA79

Employers' Contributions and Contribution Reports

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board hereby proposes to revise its regulations under the Railroad Unemployment Insurance Act in order to implement amendments to that Act in 1988 to provide for employers under the RUIA to pay unemployment contributions on the basis of an experience rating system. Prior to amendment, all employers paid contributions at the same rate.

DATES: Comments should be submitted on or before October 17, 1995.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, Bureau of Law, Chicago, Illinois 60611; (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Benefits under the Railroad Unemployment Insurance Act (RUIA) are funded by contributions paid by employers, as defined in section 1(a) of the RUIA and part 301 of this chapter. For calendar years through 1990, all employers, with the exception of commuter railroads, paid contributions at the same rate. Title VII of Public Law 100–647 amended section 8(a) of the RUIA to provide for a contribution rate based upon an employer's experience. The experience rating system provided by section 8(a) of the RUIA is phased in beginning with calendar year 1991. For 1991 and 1992, a transitional rate of contribution applies to each employer. Effective January 1, 1993, each employer will have an experience-based rate of contribution. A ''new employer'' rate of contribution will be computed for an employer that becomes subject to the RUIA after December 31, 1989.

The experience rating system that goes into effect January 1, 1993 is based upon recommendations made by the Railroad Unemployment Compensation Committee (RUCC), which was established by Section 504 of the Railroad Retirement Solvency Act of 1983 (Public Law 98–76). The RUCC was required to review all aspects of the unemployment insurance system under the RUIA, including the method by which benefit costs under the RUIA were funded. In its report dated June 29, 1984, the RUCC recommended that railroad unemployment insurance contributions be put on an experience rating system utilizing what is termed a ''reserve-benefit ratio method'' of measuring experience. The methodology contemplates that each employer will pay contributions at a rate consisting of a basic rate, plus 0.65 percent to cover the administrative expenses incurred by the Railroad Retirement Board, plus the amount of any surcharge that becomes applicable when the balance to the credit of the railroad unemployment insurance account declines to certain specified levels.

The basic rate referred to above consists of three components. The first component is the allocated-experience rate and is based upon benefit payments that are charged to each employer. The purpose of this rate is to ensure that each employer is ultimately responsible for the cost of benefits paid to its own employees. The second component is the unallocated-experience element, which covers benefit payments that are not chargeable to any employer. Its purpose is to ensure that responsibility for benefit charges that, by law, cannot be allocated to a single employer is fairly shared. The third component covers risk-shared benefit payments, that is, benefits that are chargeable to a base year employer but the contributions to cover the cost of those benefits cannot be collected immediately because of the imposition of a maximum contribution rate. Risk-sharing picks up the income that otherwise would be lost because of the maximum rate of contribution. Eventually, the lost income will be paid by the employers that were at the maximum rate because the reserve-ratio component assures that, over time, each employer will contribute amounts equal to all benefit payments charged to it.

This proposed rule consists of five subparts. Proposed Subpart A contains some general provisions and definitions, and proposed Subpart B restates and revises existing part 345 and sets forth the requirements for filing reports of contributions and the manner in which contributions are to be collected.

Proposed Subpart C implements the provisions of section 8(a)(17) and (18) of the RUIA, which require the Board to establish individual employer records and to prescribe regulations relating to the establishment and discontinuance of joint employer records. Proposed Subpart C also prescribes the regulations required by section 8(a)(19) of the RUIA, relating to the establishment of employer records in the event of mergers, consolidations, or other changes in employer identity, including changes resulting from a sale or transfer of assets, reincorporation, or abandonment.

Proposed Subpart D explains the experience rating system under the RUIA and the methods that the Board will follow in computing each employer's rate of contribution under that system. This subpart also explains the computation of transition rates of contribution and new employer contribution rates.

Proposed Subpart E explains how the Board will charge base year employers with benefit payments made under the RUIA, the handling of adjustments to those charges, and the process for notifying base year employers of the charges.

Section By Section Analysis

Subpart A—General Provisions and Definitions

Section 345.101 sets forth the general requirement that employers (except for a local lodge or division of a railway labor organization) covered under the RUIA must pay a contribution on compensation paid to their employees in order to fund unemployment and sickness benefits payable under that statute. It revises the present § 345.1.

Section 345.102 provides that where an employee is employed by two or more employers (other than a subordinate unit of a railway organization) the employers may prorate the amount of contributions due based upon the amount of compensation paid to the employee. It simplifies the provisions presently found in § 345.2(b).

Section 345.103 provides that an employer's rate of contributions shall be based upon his ''experience'' as defined in Subpart D. It revises the present § 345.2(a).

Section 345.105 is a new section which sets forth the statutory exception which exempts employee representatives, as defined in part 205 of this chapter, from paying contributions on their salaries. It also provides that contributions are the sole obligation of the employer and may not be deducted from the employee's wages.

Section 345.106 is a new section which contains definitions relevant to this part.

Subpart B—Reporting and Collecting Contributions

Section 345.110 follows § 345.4 of the present regulation and provides that the reports of compensation filed under part 209 of this chapter shall be used to establish an employee's compensation record under the RUIA.

Section 345.111 is essentially the same as the present § 345.5 and provides for the filing of a quarterly contribution report by employers. It eliminates the annual report and provides that an affiliated group of employers may file a consolidated quarterly contribution report.

Section 345.112 provides that an employer's final contribution report shall be filed within 60 days after the last payment of wages. It is essentially the same as the present § 345.6.

Section 345.113 provides that the contribution report must be filed by a responsible officer of the employer. It is the same as the present § 345.7.

Section 345.114 provides that the quarterly contribution report must be filed on a form approved by the Board unless the failure to use such form was due to reasonable cause and not due to willful neglect. It follows the present § 345.8.

Section 345.115 provides that an employer shall file the quarterly contributions report with the Chief Financial Officer on or before the last day of the month following the end of the quarter. It is essentially the same as the present § 345.9 except that the provisions for waiving interest or penalty resulting from a late report are found in §§ 345.122 and 345.123, respectively.

Section 345.116 simplifies the present § 345.10 and provides that payment or deposit of contributions due shall be in accordance with instructions provided by the Board.

Section 345.117 permits rounding to the nearest cent when paying contributions. It reflects a provision found in the RUIA and is identical to the present § 345.11.

Section 345.118 provides that an employer who underpays or overpays his contributions may take an interest free adjustment on the contribution report due after discovery of the error. It is essentially the same as the present § 345.12, except that it contains a clarification which provides that if an employer fails to adjust an underpayment in accordance with the section, he shall be liable for interest on the underpayment from the time the adjustment should have been made until the underpayment is made.

Section 345.119 provides that if an employer cannot adjust an overpayment of contributions as provided for in § 345.118 he may claim a refund for the overpayment. No claim for refund shall be honored if filed more than three years after the contribution report containing the error was required to be filed or more than two years after payment of the erroneous contribution, whichever is later. This section follows the present § 345.13, but clarifies that no interest shall be paid on the refund and that any claim for refund shall be offset by any contributions due the Board by the employer claiming the refund. However, where the overpayment of contributions is the result of Board error in computing employer's contribution rate under Subpart D, the Board will pay interest in accord with section 6621 of the Internal Revenue Code.

The Labor Member of the Railroad Retirement Board does not support the authority contained in § 345.118(c)(3) of the proposed regulation for the payment of interest, under certain circumstances, to railroad employers who have overpaid their contributions due under the Railroad Unemployment Insurance Act. There is no express statutory language in the Railroad Unemployment Insurance Act authorizing the payment of interest, but rather, the authority is derived from a provision in the Internal Revenue Code, which is incorporated by reference. The Labor Member is of the opinion that the regulation should follow the current regulation of the Railroad Retirement Board, which does not provide for the payment of interest. In addition to the lack of express statutory authority for the payment of interest, the Labor Member believes that it is inequitable to authorize the payment of interest to railroad employers who have overpaid their contributions when there is no authority for the Railroad Retirement Board to pay interest to beneficiaries who have been underpaid benefits under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Section 345.120 revises the present § 345.14 and provides that if any contribution is not paid when due the Board may assess the amount due (whether or not the deficiency is adjustable as an underpayment under § 345.118). The assessment is the creation of an account receivable by the Chief Financial Officer. The amount assessed may be collected, after notice and demand, by any remedy available under law, but must be collected within 10 years after assessment. In collecting an assessment the Board may use any remedy available under the Internal Revenue Code for collecting railroad retirement taxes.

Section 345.121 is the same as the present § 345.15 and permits the Board to make an assessment of contributions (jeopardy assessment) before the return of contributions is due in order to protect the interest of the United States.

Section 345.122 follows the present § 345.15 which provides that interest of one percent a month, or fraction thereof, shall accrue on contributions not paid on time or not adjusted in a timely manner under § 345.118. Because the interest provision in the RUIA is really a penalty provision, that is, it assesses a fixed rate regardless of the market rate of interest, a new provision is added which permits the Chief Financial Officer to waive interest when equity warrants.

Section 345.123 follows the present § 345.19 and provides for penalties for delinquent and false contribution reports.

Section 345.124 is a new section which provides that an employer may seek administrative review of any determination made by the Chief Financial Officer with regard to amounts due under this part. A request for review, however, does not stay the employer's obligation to make or continue to file reports as required under this part.

Section 345.125 revises the present § 345.24 to alleviate the burden on employees to keep supporting records back to 1939. Under the proposed regulation an employer must keep records which support his contribution reports for five calendar years after the date the report was required to be filed.

Section 345.126 is identical to the present § 345.18 and provides that any amount due from an employer under this part is a lien on the employer's property in favor of the United States.

Subpart C—Individual Employer Records

Section 345.201 provides that effective January 1, 1990, the Board will establish a ''record'' for each employer composed of the employer's contribution and benefit ''experience'' and his share of the system ''experience'' to determine the employer's experience based contribution rate.

Section 345.202 provides that two or more employers under common control may consolidate their respective employer records and be treated as one employer.

Section 345.203 provides that in the event of a merger of two employers the surviving employer's record shall consist of the combination of the individual employer records of the employers participating in the merger.

Section 345.204 provides that in the case of sale or transfer of assets by an employer, the record of the selling employer shall be prorated among the employers receiving the assets in accordance with the agreement of sale, subject to Board approval.

Section 345.205 provides that a reorganization which does not involve a

merger does not affect the employer records of the entities involved in the reorganization.

Section 345.206 provides that an employer who temporarily ceases its common carrier activities, but is not a defunct employer, shall continue to maintain an employer record during the period of inactivity.

Section 345.207 provides that in the case of an employer who permanently ceases operations (defunct employer) that employer's net cumulative contribution balance and net cumulative benefit balance shall be transferred to the system unallocated charge balance, that is, the employer's ''experience'' is spread among all employers.

Section 345.208 provides that annually the Board shall publish notice of system unallocated charges and credits.

Subpart D—Contribution Rates

Section 345.301 provides that effective January 1, l993, each employer's contribution rate will be computed based upon his benefit and contribution experience as computed under this subpart.

Section 345.302 defines the terms used in the experience rate contribution.

Section 345.303 sets forth in a step-by-step manner the computation of the experience rate.

Section 345.304 provides that new employers shall have a phased in experience rate and sets forth the computation of this rate.

Section 345.305 provides that annually the Board shall notify each employer of his contribution rate as computed under this subpart and of the components that make up that rate.

Section 345.306 provides that upon request the Board will make available to each employer the data used to determine the employer's contribution rate.

Section 345.307 provides a procedure under which an employer may protest his rate. Such a procedure may include a hearing and any final decision of the Board is subject to judicial review. During pendency of the appeal the employer shall pay at the protested rate. Should the employer prevail in the protest, he will be refunded the overpaid contributions or may take a credit in the amount of the overpayment against future contributions due as provided for in section 345.118 of this part.

Subpart E—Benefit Charging

Section 345.401 provides that all benefits paid to an employee for his or her days of unemployment or sickness will be charged to the base year employer of the employee.

Section 345.402 provides that unemployment benefits paid for days of unemployment resulting from a strike or work stoppage will not be charged to the employee's base year employer, but shall be charged to the system unallocated charge balance.

Section 345.403 explains how benefits paid are charged if the employee had more than one base year employer.

Section 345.404 provides that benefits previously charged shall be adjusted if later recovered by the Board because they were erroneously paid. However, no adjustment shall be made where recovery of the benefits has been waived, or to the extent that recovery is not made because the debt is determined uncollectible or because it was compromised.

Section 345.405 provides that the Board will notify an employer when a claim for benefits is made and when such benefits are paid. In addition, each quarter the Board will provide each employer with a report of its cumulative benefit balance.

Section 345.406 provides that the cumulative benefit balance of a defunct employer shall be added to the system unallocated charge balance.

The Board has determined that this is not a major rule under Executive Order No. 12866; therefore no regulatory impact analysis is required. The information collection requirements contained in this rule have been approved by the Office of Management and Budget under control numbers 3220–0008 and 3220–0012.

List of Subjects in 20 CFR Part 345

Railroad employers, Railroad unemployment benefits.

For the reasons set out in the preamble, title 20, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

1. Part 345 is proposed to be revised to read as follows:

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Subpart A—General Provisions and Definitions

Sec.
345.101 Requirement for contribution.
345.102 Multiple employer limitation.
345.103 Rate of contribution.
345.104 Employees and employee representatives not liable.
345.105 Definitions.

Subpart B—Reporting and Collecting Contributions

345.110 Reports of compensation of employees.
345.111 Contribution reports.
345.112 Final contribution reports.
345.113 Execution of contribution reports.
345.114 Prescribed forms for contribution reports.
345.115 Place and time for filing contribution reports.
345.116 Payment of contributions.
345.117 When fractional part of cent may be disregarded.
345.118 Adjustments.
345.119 Refunds.
345.120 Assessment and collection of contributions or underpayments of contributions.
345.121 Jeopardy assessment.
345.122 Interest.
345.123 Penalty for delinquent or false contribution reports.
345.124 Right to appeal.
345.125 Records.
345.126 Liens.

Subpart C—Individual Employer Records

345.201 Individual employer record defined.
345.202 Consolidated employer records.
345.203 Merger or combination of employers.
345.204 Sale or transfer of assets.
345.205 Reincorporation.
345.206 Abandonment.
345.207 Defunct employer.
345.208 System records.

Subpart D—Contribution Rates

345.301 Introduction.
345.302 Definition of terms and phrases used in experience rating.
345.303 Computation of rate.
345.304 New-employer contribution rates.
345.305 Notification and proclamations.
345.306 Availability of information.
345.307 Rate protest.

Subpart E—Benefit Charging

345.401 General rule.
345.402 Strikes or work stoppages.
345.403 Multiple base year employers.
345.404 Adjustments.
345.405 Notices to base year employers.
345.406 Defunct employer.

Authority: 45 U.S.C. 362(l).

Subpart A—General Provisions and Definitions

§ 345.101 Requirement for contribution.

Every employer, as defined in part 301 of this chapter, shall pay to the Railroad Retirement Board a contribution with respect to the compensation paid to an employee in any calendar month for service by such employee (except for service to a local lodge or division of a railway labor organization). For the purposes of this part, the term ''compensation'' is defined in part 302 of this chapter. The compensation subject to contribution is the gross amount of compensation paid

to an employee for service in any month, not to exceed the amount of the monthly compensation base (MCB), as defined in part 302 of this chapter. The amount of contribution payable by each employer is to be computed and paid pursuant to the provisions of this part.

§ 345.102 Multiple employer limitation.

(a) The contributions required by this part shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of the MCB; and

(b) Each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by the employer to such employee bears to the total compensation paid in such month by all such employers to such employee.

(c) In the event that the compensation paid by such employers to the employee in such month is less than the MCB, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

§ 345.103 Rate of contribution.

(a) Each employer will have an experience-rated rate of contribution computed by the Board under the provisions of section 8(a)(l)(C) of the Railroad Unemployment Insurance Act. See Subpart D of this part.

(b) Notwithstanding paragraph (a) of this section the rate of contribution applicable to an employer that first becomes subject to this part after December 31, 1989, will be computed by the Board in accordance with section 8(a)(l)(D) of the Railroad Unemployment Insurance Act. See Subpart D of this part.

§ 345.104 Employees and employee representatives not liable.

The amount of contributions for which an employer is liable under this part shall not be deducted from an employee's compensation, and the Board will not recognize any agreement under which an employee assumes liability for such contributions. Employee representatives under part 205 of this chapter are not employees for purposes of the Railroad Unemployment Insurance Act and are not liable for payment of contributions under this part.

§ 345.105 Definitions.

(a) *Chief Financial Officer.* References in this part to the Board's Chief Financial Officer mean the Chief Financial Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. The Chief Financial Officer shall be responsible for assessing, collecting, and depositing contributions due from employers under this part.

(b) *Monthly compensation base.* For the purposes of this part, the monthly compensation base (MCB) is the maximum monthly amount of compensation per employee that is subject to contribution pursuant to this part. On or before December 1 of each year, the Board will compute the amount of the MCB in accordance with section 1(i) of the Railroad Unemployment Insurance Act and part 302 of this chapter, and will publish notice of the amount so computed in the **Federal Register** within 10 days after such computation has been made. Information as to the amount of the MCB should be requested from the Board's Chief Financial Officer.

(c) *Month defined.* (1) For the purposes of this part, if the date prescribed for filing a report or paying a contribution is the last day of a calendar month, each succeeding calendar month or fraction thereof during which the failure to file or pay the contribution continues shall constitute a month.

(2) If the date prescribed for filing the report or paying the contribution is a date other than the last day of a calendar month, the period that terminates with the date numerically corresponding thereto in the succeeding calendar month and each such successive period shall constitute a month. If, in the month of February, there is no date corresponding to the date prescribed for filing the report or paying, the period from such date in January through the last day of February shall constitute a month. Thus, if a report is due on January 30, the first month shall end on February 28 (or 29 if a leap year), and the succeeding months shall end on March 30, April 30, etc.

(3) If a report is not timely filed or a contribution is not timely paid, the fact that the date prescribed for filing the report or paying the contribution, or the corresponding date in any succeeding calendar month, falls on a Saturday, Sunday, or a legal holiday is immaterial in determining the number of months.

(d) *Reference to forms.* Any reference in this part to any prescribed reporting or other form of the Board includes a reference to any other form of the Board prescribed in substitution for such prescribed form.

(e) *Showing reasonable cause.* For purposes of this part if an employer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, then the delay is due to reasonable cause. A failure to pay any amount due under this part within the prescribed time will be considered to be due to reasonable cause to the extent that the employer has made a satisfactory showing that he exercised ordinary business care and prudence in providing for payment but nevertheless was unable to pay on time.

Subpart B—Reporting and Collecting Contributions

§ 345.110 Reports of compensation of employees.

The provisions of part 209 of this chapter shall be applicable to the reporting of compensation under the Railroad Unemployment Insurance Act to the same extent and in the same manner as they are applicable to the reporting of compensation under the Railroad Retirement Act.

§ 345.111 Contribution reports.

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, every employer shall, for each calendar quarter of each year, prepare a contribution report, in duplicate, on Form DC–1.

(2) Contribution reports of employers who are required by State law to pay compensation on a weekly basis shall include with respect to such compensation all payroll weeks in which all or the major part of the compensation falls within the period for which the reports are required.

(b) *Compensation to be reported on Form DC–1.* Employers shall enter on the employer's quarterly contribution report, prior to any additions or subtractions, the amount of creditable compensation appearing on payrolls or other disbursement documents for the corresponding quarter as the amount of creditable compensation from which the contribution payable for that quarter is to be computed.

(Approved by the Office of Management and Budget under control number 3220–0012.)

§ 345.112 Final contribution reports.

Upon termination of employer status, as determined under part 301 of this chapter, the last contribution report of the employer shall be so indicated by checking the box on the Form DC–1 entitled ''Final Report''. Such

contribution report shall be filed with the Board on or before the sixtieth day after the final date for which there is payable compensation with respect to which contribution is required. The period covered by each such contribution report shall be plainly written thereon, indicating the final date for which compensation is payable. There shall be executed as part of each such final contribution report a statement giving the address at which compensation records will be kept and the name of the person keeping the records.

(Approved by the Office of Management and Budget under control number 3220–0012.)

§ 345.113 Execution of contribution reports.

Each contribution report on Form DC–1 shall be signed by:

(a) The individual, if the employer is an individual;

(b) The president, vice president, or other duly authorized officer, if the employer is a corporation; or

(c) A responsible and duly authorized member or officer having knowledge of its affairs if the employer is a partnership or other unincorporated organization.

§ 345.114 Prescribed forms for contribution reports.

Each employer's contribution report, together with any prescribed copies and supporting data, shall be filled out in accordance with the instructions and regulations applicable thereto. The prescribed forms may be obtained from the Board. An employer will not be excused from making a contribution report for the reason that no form has been furnished to such employer. Application should be made to the Board for the prescribed forms in ample time to have the contribution report prepared, verified, and filed with the Board on or before the due date. Contribution reports that have not been so prepared will not be accepted and shall not be considered filed for purposes of § 345.115 of this part. In case the prescribed form has not been obtained, a statement made by the employer disclosing the period covered and the amount of compensation with respect to which the contribution is required may be accepted as a tentative contribution report if accompanied by the amount of contribution due. If filed within the prescribed time, the statements so made will relieve the employer from liability for any penalty imposed under this part for the delinquent filing of the contribution report *provided* that the failure to file a contribution report on the prescribed form was due to reasonable cause and not due to willful neglect, *and provided further,* that within 30 days after receipt of the tentative report such tentative report is supplemented by a contribution report made on the proper form.

(Approved by the Office of Management and Budget under control number 3220–0012.)

§ 345.115 Place and time for filing contribution reports.

Each employer shall file its contribution report with the Chief Financial Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois, 60611. The employer's contribution report for each quarterly period shall be filed on or before the last day of the calendar month following the period for which it is made. If such last day falls on Saturday, Sunday, or a national legal holiday, the report may be filed on the next following business day. If mailed, reports must be postmarked on or before the date on which the report is required to be filed.

§ 345.116 Payment of contributions.

(a) The contribution required to be reported on an employer's contribution report is due and payable to the Board without assessment or notice, at the time fixed for filing the contribution report as provided for in § 345.115 of this part.

(b) An employer shall deposit the contributions required under this part in accord with instructions issued by the Railroad Retirement Board. At the direction of the Board, the Secretary of the Treasury shall credit such contributions to the Railroad Unemployment Insurance Account in accord with section 10 of the Railroad Unemployment Insurance Act and to the Railroad Unemployment Insurance Administration Fund in accord with section 11 of the Railroad Unemployment Insurance Act.

§ 345.117 When fractional part of cent may be disregarded.

In the payment of employers' contributions to the Board a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

§ 345.118 Adjustments.

(a) *In general.* If more or less than the correct amount of an employer's contribution is paid with respect to any compensation, proper adjustments with respect to the contributions shall be made, without interest, in subsequent contribution payments by the same employer, as provided for in this section.

(b) *Compensation adjustment.* A compensation adjustment is the amount of any adjustment reported by an employer on Form BA–4. See part 209 of this chapter.

(c) *Adjustment of contributions.* (1) All adjustments of contributions based on compensation adjustments shall be accounted for by the employer on the contribution report for the same quarter in which the Form BA–4 reflecting the compensation adjustments is filed with the Board.

(2) If less than the correct amount of contributions is paid for any previous calendar quarter or calendar year because of an error that does not constitute a compensation adjustment as defined in paragraph (b) of this section, the employer shall adjust the error by—

(i) Reporting the additional contribution on the next report filed after discovery of the error; and

(ii) Paying the amount thereof to the Board at the time such report is filed.

(3) If more than the correct amount of contributions is paid for any previous calendar quarter or calendar year because of an error that does not constitute a compensation adjustment as defined in paragraph (b) of this section, the employer shall adjust the error by applying the excess payment as a credit against the contribution due on the next report filed after discovery of the error. However, if the overpayment cannot be adjusted because the employer is no longer required to file a report or because the overpayment to be adjusted exceeds the amount of contribution due on the employer's next report, the employer may file for a refund of the amount which cannot be adjusted as provided for in this section. If the overpayment is the result of an incorrect contribution rate as determined by the Board, the employer may file for a refund of the amount of overpayment or may take an adjustment as provided for in this section.

(d) *Limitations on adjustments.* No overpayment shall be adjusted under this section after the expiration of three years from the time the contribution report was required to be filed, or two years from the time the contribution was paid, whichever of such periods expires the later, or if no contribution report was filed, two years from the time the contribution was paid. Any underpayment not adjusted within the time limits as set forth in paragraph (c) of this section shall be adjusted on the employer's next contribution report or reported immediately on a supplemental return. Interest shall accrue on such underpayment as provided for in § 345.122 of this part from the time the adjustment should

have been made under paragraph (c) of this section to date of payment. However, no underpayment shall be adjusted under this section after the receipt from the Board of formal notice and demand.

§ 345.119 Refunds.

(a) *In general.* If more than the correct amount of the employer's contribution is paid with respect to any compensation and the overpayment may not be adjusted in accordance with § 345.118 of this part, the amount of the overpayment shall be refunded in accordance with this section.

(b) *When permitted.* A claim for refund may be made only when the overpayment cannot be adjusted in accordance with the procedure set forth in § 345.118.

(c) *Form of claim.* A claim for refund shall be directed to the Chief Financial Officer and shall set forth all grounds in detail and all facts alleged in support of the claim, including the amount and date of each payment to the Board of the contribution to the Board, and the period covered by the contribution report on which such contribution was reported.

(d) *Claim by fiduciary.* If an executor, administrator, guardian, trustee, or receiver files a claim for refund, evidence to establish the legal authority of the fiduciary shall be annexed to the claim filed by such fiduciary under this section.

(e) *Time limit.* No refund shall be allowed after the expiration of three years from the time the contribution report was required to be filed or two years from the time the contribution was paid, whichever of such periods expires the later, or if no contribution report was filed, two years from the time the contribution was paid.

(f) *Interest.* Interest shall be payable on any contribution refunded at the overpayment rate provided for in section 6621 of the Internal Revenue Code of 1986 from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days.

(g) *Refunds reduced by underpayments.* Any overpayment claimed or a refund under this section shall be reduced by the amount of any amount of any contributions previously assessed under § 345.120 of this part, which has not already been collected.

§ 345.120 Assessment and collection of contributions or underpayments of contributions.

(a) If any employer's contribution is not paid to the Board when due or is not paid in full when due, the Board may, as the circumstances warrant, assess the contribution or the deficiency and any interest or penalty applicable under this part (whether or not the deficiency is adjustable as an underpayment under § 345.118 of this part).

(b) The amount of any such assessment will be collected in accordance with the applicable provisions of law. If any employer liable to pay any contribution neglects or refuses to pay the same within ten days after notice and demand, the Board may collect such contribution with such interest and other additional amounts as are required by law, by levy, by administrative offset as authorized by 31 U.S.C. 3716 and in accordance with the procedures set forth in part 367 of this chapter, or by a proceeding in court, but only if the levy is made or proceeding begun:

(1) Within 10 years after assessment of the contribution; or

(2) Prior to the expiration of any period, including extension thereof, for collection agreed upon by the Chief Financial Officer and the employer.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by the provisions of the Railroad Retirement Tax Act and the regulations thereunder, insofar as not inconsistent with the provisions in this part, shall be applicable with respect to the assessment and collection of contributions under this part.

§ 345.121 Jeopardy assessment.

(a) Whenever in the opinion of the Board it becomes necessary to protect the interests of the Government by effecting an immediate reporting and collection of an employer's contribution, the Board will assess the contribution whether or not the time otherwise prescribed by law for filing the contribution report and paying such contribution has expired, together with all penalties and interest thereon. Upon assessment, such contribution, and any penalty, and interest provided for under this part shall be immediately due and payable, and the Board shall thereupon issue immediately a notice and demand for payment of the contribution, penalty, and interest.

(b) The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the Board a bond in an amount equal to the amount with respect to which the stay is desired, and with such sureties as the Board may deem necessary. Such bond shall be conditioned upon the payment of the amount (together with interest and any penalties thereon) the collection of which is stayed, at the time at which, but for the jeopardy assessment, such amount would be due. In lieu of surety or sureties the employer may deposit with the Board bonds or notes of the United States, or bonds or notes fully guaranteed by the United States as to principal and interest, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the Board in case of default to collect or sell such bonds or notes so deposited.

§ 345.122 Interest.

(a) *Rate.* If the employer's contribution is not paid to the Board when due and is not adjusted under § 345.118 of this part, interest accrues at the rate of 1 percent per month, or fraction of a month. Interest on past due contributions from the due date thereof until the date paid will be assessed after payment of the contributions, and notice and demand made upon the employer for payment thereof, in any case in which payment of the contribution is made before assessment under § 345.120.

(b) *Waiver of interest.* The Chief Financial Officer may waive, in whole or in part, any interest imposed by paragraph (a) of this section if in his or her judgment—

(1) There was a reasonable cause and not willful neglect for the late filing, late payment or underpayment, such as: the serious illness or death of an individual with the sole authority to execute the return and payment; fire, casualty, or natural disaster at the place where the railroad unemployment insurance records are kept; or reasons outside the employer's control, such as, the failure of the employer's bank to comply with the employer's filing and payment instructions;

(2) The amount of interest attributed to the delinquency is totally disproportionate to the period of the delay and the amount of contributions paid; and

(3) The employer's past record for timely compliance with railroad unemployment insurance reporting and payment requirements warrants such action considering such factors as the number and extent of delays associated with late reports, payments, and underpayments.

§ 345.123 Penalty for delinquent or false contribution reports.

(a) *Delinquent reports.* Unless waived under paragraph (b) of this section, the failure to file a contribution report on or before the due date shall cause a penalty to accrue of five percent of the amount of such contribution if the failure is for not more than one month, with an

additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

(b) *Waiver of penalty.* The Chief Financial Officer may waive all or a portion of the penalty imposed under paragraph (a) of this section consistent with the criteria applicable to waiver of interest as provided for in § 345.122(b) of this part.

(c) *Penalty on net amount.* For the purpose of paragraph (a) of this section the amount of contribution required to be shown on Form DC–1 shall be reduced by the amount of any part of the contribution that is paid on or before the date prescribed for the payment of the contribution and by the amount of any credit against the contribution that may be claimed upon the DC–1.

(d) *False reports.* If a fraudulent contribution report is made, a penalty equal to 50 percent of the amount of any underpayment shall be imposed on the employer.

§ 345.124 Right to appeal.

(a) Except as otherwise provided, an employer may seek administrative review of any determination with respect to any contribution, interest, or penalty made under this part by filing a request for reconsideration with the Chief Financial Officer within 30 days after the mailing of notice of such determination. An employer shall have a right to appeal to the Board from any reconsideration decision under this section by filing notice of appeal to the Secretary to the Board within 14 days after the mailing of the decision on reconsideration. Upon receipt of a notice of an appeal the Board may designate one of its officers or employees to receive evidence and report to the Board under the procedures set forth in part 319 of this chapter.

(b) *Request for reconsideration.* Any appeal filed under this part shall not relieve the employer from filing any reports or paying any contribution required under this part nor stay the collection thereof. Upon the request of an employer, the Board may relieve the employer of any obligation required under this part pending an appeal. Unless specifically provided by the Board, such relief shall not stay the accrual of interest on any disputed amount as provided for in § 345.122 of this part.

§ 345.125 Records.

Every employer subject to the payment of contributions for any calendar quarter shall, with respect to each such quarter, keep such permanent records as are necessary to establish the total amount of compensation payable to its employees, for a period of at least five calendar years after the date the contribution report to which the compensation relates was required to be filed, or the date the contribution is paid, whichever is later. The record should be in such form as to contain the information required to be shown on the quarterly contribution report. All records required by the regulations in this part shall be kept at a safe and convenient location accessible to inspection by the Board or any of its officers or employees, or by the Inspector General of the Railroad Retirement Board. Such records shall be at all times open for inspection by such officers or employees.

(Approved by the Office of Management and Budget under control number 3220–0012.)

§ 345.126 Liens.

If any employer, after demand, neglects or refuses to pay a contribution required under this part, the amount of such contribution (including any interest, penalties, additional amount, or additions to such contribution, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such employer.

Subpart C—Individual Employer Records

§ 345.201 Individual employer record defined.

Effective January 1, 1990, the Board will establish and maintain a record, hereinafter known as an Individual Employer Record, for each employer subject to this part. As used in this subpart, ''Individual Employer Record'' means a record of each employer's benefit ratio; reserve ratio; 1-year compensation base; 3-year compensation base; unallocated charge; reserve balance; net cumulative contribution balance; and cumulative benefit balance. See § 345.302 of this part for a definition of these terms. Whenever a new employer begins paying compensation with respect to which contributions are payable under this part, the Board will establish and maintain an individual employer record for such employer.

§ 345.202 Consolidated employer records.

(a) *Establishing a consolidated employer record.* Two or more employers that are under common ownership or control may request the Board to consolidate their individual employer records into a joint individual employer record. Such joint individual employer record shall be treated as though it were a single employer record. A request for such consolidation shall be made to the Director of Unemployment and Sickness Insurance, and such consolidation shall be effective commencing with the calendar year following the year of the request.

(b) *Discontinuance of a consolidated employer record.* Two or more employers that have established and maintained a consolidated employer record will be permitted to discontinue such consolidated record only if the individual employers agree to an allocation of the consolidated employer record and such allocation is approved by the Director of Unemployment and Sickness Insurance.

§ 345.203 Merger or combination of employers.

In the event of a merger or combination of two or more employers, or an employer and non-employer, the individual employer record of the employer surviving the merger (or any person that becomes an employer as the result of the merger or combination) shall consist of the combination of the individual employer records of the entities participating in the merger.

§ 345.204 Sale or transfer of assets.

(a) In the event property of an employer is sold or transferred to another employer (or to a person that becomes an employer as the result of the sale or transfer), or is partitioned among two or more employers or persons, the individual employer record of such employer shall be prorated among the employer or employers that receive the property (including any person that becomes an employer by reason of such transaction or partition), in accordance with any agreement among the respective parties (including an agreement that there shall be no proration of the employer record). Such agreement shall be subject to the approval of the Board.

(b) There shall be no transfer of the employer record where an employer abandons a line of track in accordance with the provisions of the Interstate Commerce Act and the applicable regulations thereunder, and a new entity, found by the Board to be an ''employer'' under part 301 of this chapter, is formed to operate or continue service over such line; the Board will assign to such entity a new-employer contribution rate in accordance with section 8(a)(l)(D) of the RUIA and § 345.304 of this part.

§ 345.205 Reincorporation.

The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification will attach to the reincorporated or altered identity.

§ 345.206 Abandonment.

If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subpart without retroactive adjustment.

§ 345.207 Defunct employer.

If the Board determines that an employer has permanently ceased to pay compensation with respect to which contributions are payable under this part, the Board will, on the date of such determination, transfer the employer's net cumulative contribution balance as a subtraction from, and the cumulative benefit balance as an addition to, the system unallocated charge balance and will cancel all other accumulations of the employer. The Board's determination that an employer is defunct will be based on evidence indicating that the employer has ceased all operations as an employer and has terminated its status as an employer. In making its determination, the Board will consider evidence as described in part 202 of this chapter with respect to termination of employer status under the Railroad Retirement Act. Mere failure of an employer to pay contributions due under this part does not indicate that such employer is defunct.

§ 345.208 System records.

Effective January 1, 1990, the Board will establish and maintain records necessary to determine pooled charges, pooled credits, and unallocated charges for the experience rating system and will publish a notice with respect thereto no later than October 15 of each year. See § 345.302 of this part for the definition of these terms.

Subpart D—Contribution Rates

§ 345.301 Introduction.

(a) *General.* Effective January 1, 1993, each employer that is subject to this part will have an experience-rated rate of contribution computed as set forth in § 345.303 of this part. A transitional rate of contribution applies to each such employer for 1991 and 1992, in accordance with § 345.308 of this part. An employer that becomes subject to section 8 of the RUIA after December 31, 1989 will have a ''new-employer'' contribution rate as computed in § 345.304 of this part. An employer's experience-rated contribution rate will be not less than 0.65 percent nor more than 12.5 percent. Not later than October 15 of each year, the Board will notify each employer of its experience-rated contribution rate for the following calendar year.

(b) *Components of an experience-rated contribution rate.* An employer's experience-rated contribution rate for each calendar year beginning with 1993 will be based upon the following charges:

(1) An allocated charge based upon the amount of benefits paid to employees of such employer; this charge is explained in subpart E of this part;

(2) An unallocated charge based upon a proportionate share of the system unallocated charge the computation of which is explained in § 345.302(p) of this part;

(3) A pooled charge, also referred to as risk-sharing, to cover the cost of benefit payments that are chargeable to a base year employer but are not captured by the contribution rate assigned to such employer because it is paying contributions at the maximum rate of contribution; the formula for computing the pooled charge is set forth in § 345.302(j) of this part;

(4) A surcharge of 1.5, 2.5, or 3.5 percent, or a pooled credit, depending on the balance to the credit of the Account as of June 30 of a given year; and

(5) An addition of 0.65 percent to the rate of contribution to cover the expenses incurred by the Board in administering the RUIA.

(c) *Maximum rate of contribution.* Notwithstanding any provision of this part, an employer's contribution rate for any calendar year shall be limited to 12 percent, except when a surcharge of 3.5 percent is in effect with respect to that calendar year. If a 3.5 percent surcharge is in effect, the maximum contribution limit with respect to that calendar year is 12.5 percent. The surcharge rate for a calendar year will be 3.5 percent when the balance to the credit of the Account is less than zero. The Board will compute the surcharge rate in accordance with § 345.302(n) of this part.

§ 345.302 Definition of terms and phrases used in experience-rating.

(a) *Account.* The Railroad Unemployment Insurance Account established by section 10 of the Railroad Unemployment Insurance Act (RUIA) and maintained by the Secretary of the Treasury in the unemployment trust fund established pursuant to section 904 of the Social Security Act. Benefits paid under the RUIA for an employee's days of unemployment or days of sickness are paid from this Account.

(b) *Benefit ratio.* This ratio is computed for each employer as of any given June 30 by dividing all benefits charged to the employer under subpart E of this part during the 12 calendar quarters ending on such June 30 by the employer's three-year compensation base as of such June 30, as computed under paragraph (q) of this section. The ratio is computed to four decimal places.

(c) *Benefits.* Benefits are money payments paid or payable by the Board to a qualified employee with respect to his or her days of unemployment or days of sickness, as provided by the RUIA.

(d) *Compensation.* This term has the meaning given in part 302 of this chapter.

(e) *Contributions.* Contributions are the money payments paid or payable by an employer subject to this part with respect to the compensation paid or payable to employees of such employer.

(f) *Cumulative benefit balance.* An employer's cumulative benefit balance as of any given June 30 is determined by adding:

(1) The net amount of the benefits charged to the employer under subpart E on or after January 1, 1990, and

(2) The cumulative amount of the employer's unallocated charges on and after January 1, 1990, as computed under paragraph (r) of this section.

(g) *Fund.* The Railroad Unemployment Insurance Administration Fund established by section 11 of the RUIA and maintained by the Secretary of the Treasury in the unemployment trust fund established pursuant to section 904 of the Social Security Act. The costs incurred by the Board in administering the RUIA are paid from the Fund.

(h) *Net cumulative contribution balance.* The Board will determine an employer's net cumulative contribution balance as of any given June 30, as follows:

(1) *Step 1.* Compute the sum of all contributions paid by the employer pursuant to this part after December 31, 1989; add that portion of the tax, if any, imposed under 26 U.S.C. 3321(a) that is attributable to the surtax rate under section 7106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (Pub. L. 100–647) and any repayment taxes paid by the employer pursuant to

26 U.S.C. 3321(a) after the outstanding balance of loans made under section 10(d) of the RUIA before October 1, 1985, plus interest, has been paid;

(2) *Step 2.* Subtract an amount equal to the amount of such contributions deposited, pursuant to section 8(i) of the RUIA, to the credit of the Fund; and

(3) *Step 3.* Add an amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under paragraph (k) of this section.

(i) *One-year compensation base.* An employer's one-year compensation base is the aggregate amount of compensation with respect to which the employer is liable for contributions under this part in the four calendar quarters ending on such June 30.

(j) *Pooled charge ratio.* The pooled charge ratio, when applicable, is a pro-rata increase in the rate of contribution assigned to each employer that is not already paying contributions at the maximum rate. A pooled charge will become applicable to each such employer during a calendar year when the Account loses income because one or more other employers are paying contributions at the maximum rate (12 or 12.5 percent) rather than at the higher experience-based rate that their benefit charges would otherwise require. The pooled charge ratio thus picks up the cost of benefits paid to employees of employers whose rate of contribution is capped at the maximum rate. The pooled charge ratio for a calendar year is the same for all employers whose rate is less than the maximum and is computed as follows:

(1) *Step 1.* For each employer paying contributions at the maximum contribution limit under § 345.301(c) of this part, compute the amount of contributions that such employer would have paid if its experience-based rate were applied to its one-year compensation base as of the preceding June 30 and by then deducting from such amount the amount derived by applying the maximum contribution rate to the same one-year compensation base. For the purposes of this computation, the experience-based rate is the rate computed for such employer under §§ 345.303, 345.304, or 345.308 of this part, whichever is applicable.

(2) *Step 2.* After the amount is computed for each employer in accordance with Step 1 of this paragraph (j), add the amounts for all such employers. The aggregate amount so computed represents the amount of contributions not collected by the Account because of the maximum contribution limit.

(3) *Step 3.* For each employer whose experience-based rate of contribution, as computed at Step 3 of § 345.303(a) of this part, is less than zero, the percentage rate by which the employer's rate was raised in order to bring that rate to the minimum rate of zero is multiplied by the employer's 1-year compensation base. The total of the amounts so computed is subtracted from the aggregate amount computed in Step 2 of this paragraph (j).

(4) *Step 4.* Divide the net aggregate amount computed at Step 3 of this paragraph (j) by the system compensation base as of the preceding June 30, excluding from such base the one-year compensation base of each employer whose experience-based contribution rate, computed at Step 6 of § 345.303(a) of this part, exceeds the maximum contribution limit. The result is the pooled charge ratio for the current calendar year. This ratio is computed to four decimal places.

(k) *Pooled credit ratio.* Effective January 1, 1991, and on the first of each subsequent calendar year, the Board will reduce each employer's rate of contribution by the amount of the pooled credit ratio, if any, applicable to such calendar year. This ratio is computed by reference to the accrual balance to the credit of the Account as of the preceding June 30. The Board will determine the amount of the pooled credit ratio, as follows:

(1) *Step 1.* First, the Board computes the accrual balance to the credit of the Account as of close of business on the preceding June 30 in the same manner as under Step 1 of paragraph (n) of this section. There will be a pooled credit ratio for the calendar year if that balance is in excess of the greater of $250 million or of the amount that bears the same ratio to $250 million as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (o) of this section.

(2) *Step 2.* If there is such an excess amount, divide that excess amount by the system compensation base as of the June 30 preceding the calendar year. The result is the pooled credit ratio applicable to each employer for the calendar year involved in the computation. This ratio is computed to four decimal places.

(l) *Reserve balance.* An employer's reserve balance is computed as of any given June 30 by subtracting its cumulative benefit balance as of such June 30 from its net cumulative contribution balance as of such June 30. An employer's net cumulative benefit balance is computed under paragraph (f) of this section and its net cumulative contribution balance under paragraph (h) of this section. An employer's reserve balance may be either positive or negative, depending upon whether its net cumulative contribution balance exceeds its cumulative benefit balance.

(m) *Reserve ratio.* This ratio is computed for each employer as of any given June 30 by dividing its reserve balance as of June 30 by its one-year compensation base as of such June 30. An employer's reserve balance is computed under paragraph (l) of this section and its one-year compensation base under paragraph (i) of this section. This ratio is computed to four decimal places; it may be either a positive or negative figure, depending on whether the employer's reserve balance is a positive or negative figure.

(n) *Surcharge rate.* Effective January 1, 1991, and on the first of each subsequent calendar year, the Board will add to each employer's rate of contribution a surcharge rate of 1.5, 2.5, or 3.5 percent if the accrual balance to the credit of the Account, as of the preceding June 30, falls within the range of balances set forth in Steps 1 and 2 of this paragraph (n). The Board will determine which surcharge rate, if any, is in effect for a calendar year by means of the following computation:

(1) *Step 1.* First, the Board computes the accrual balance to the credit of the Account as of the close of business on the preceding June 30. Such balance will include any amounts in the Account attributable to loans made under section 10(d) of the Act before October 1, 1985, but not the obligation of the Account to repay such loans with interest. For this purpose, the Account will be deemed to include any balance to the credit of the Fund that exceeds $6 million. The surcharge rate, as specified in Step 2 of this paragraph (n), will apply if that balance is less than the greater of $100 million or of the amount that bears the same ratio to $100 million as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (o) of this section.

(2) *Step 2.* If the balance to the credit of the Account is less than the greater of the amounts referred to in the last sentence of Step 1 of this paragraph (n), but is equal to or more than the greater of $50 million or of the amount that bears the same ratio to $50 million as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, then the surcharge rate for the calendar year shall be 1.5 percent. If the balance to the credit of the Account is less than

the greater of the amounts referred to in this Step 2, but greater than or equal to zero, then the surcharge rate for the calendar year shall be 2.5 percent. If the balance to the credit of the Account is less than zero, the surcharge rate for the calendar year shall be 3.5 percent.

(o) *System compensation base.* The system compensation base as of June 30 of each year is the total of the amounts of the one-year compensation bases of all base year employers, computed in accordance with paragraph (i) of this section. Not later than October 15 of each year, the Board will compute the amount of the system compensation base and will publish notice of such amount in the **Federal Register** as soon as practicable thereafter.

(p) *System unallocated charge balance.* This balance, as computed initially for the period January 1 through June 30, 1990 and updated as of June 30 of each subsequent calendar year, represents the net amount of expenditures from, and income to, the Account that cannot be allocated as benefit charges, or adjustments, to the cumulative benefit balances of individual base year employers. The Board computes this balance, as of June 30 of each year, as follows:

(1) *Step 1.* Compute the aggregate amount of all interest paid by the Account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d) of the RUIA, during the 12-month period ending on June 30;

(2) *Step 2.* Add the amount of unemployment benefits paid by reason of strikes or work stoppages growing out of labor disputes and the cumulative benefit balance of any defunct employer;

(3) *Step 3.* Add the aggregate amount of any other benefit payment that is not chargeable to a base year employer pursuant to subpart E of this part and any other expenditure not chargeable to the Fund;

(4) *Step 4.* Subtract the aggregate amount of income to the Account received as a proportionate part of the earnings of the unemployment trust fund, computed in accordance with section 904(e) of the Social Security Act, and all income to the Account received as fines or penalties collected under the RUIA;

(5) *Step 5.* Subtract the aggregate amount of all transfers from the Fund to the Account pursuant to section 11(d) of the RUIA;

(7) *Step 6.* Subtract the aggregate amount of any other cash receipt to the Account that cannot be treated as an adjustment to the benefit charges of a base year employer;

(7) *Step 7.* Subtract the net cumulative contribution balance of any defunct employer, calculated as of the date on which the Board determines that such employer is defunct. After the Board has computed the amount of the system unallocated charge balance as of June 30 of each year, the Board will publish notice of such amount in the **Federal Register** on or before October 15 of such year.

(q) *Three-year compensation base.* An employer's three-year compensation base as of any given June 30 is the aggregate amount of compensation with respect to which the employer is liable for contributions under this part in the 12 calendar quarters ending on such June 30.

(r) *Unallocated charge.* An employer's unallocated charge as of any given June 30 is the amount that, as of such June 30, bears the same ratio to the system unallocated charge balance as the employer's 1-year compensation base bears to the system compensation base. The system unallocated charge balance is computed under paragraph (p) of this section and the system compensation base under paragraph (o) of this section.

§ 345.303 Computation of rate.

(a) With respect to compensation in a calendar year that begins after December 31, 1992, the Board will compute, by October 15, 1992, and by October 15 of each subsequent year, a contribution rate for each employer, in accordance with the following 8-step process:

(1) *Step 1.* Compute the employer's *benefit ratio* as of the preceding June 30;

(2) *Step 2.* Compute the employer's *reserve ratio* as of the preceding June 30 and subtract it from the *benefit ratio*;

(3) *Step 3.* Subtract the *pooled credit ratio* (if any) for the calendar year;

(4) *Step 4.* Multiply the Step 3 result by 100, in order to obtain a percentage rate, and then round such rate to the nearest 100th of one percent. If the rate so computed is zero or less than zero, the percentage rate will be deemed zero at this point;

(5) *Step 5.* Add 0.65 (the administrative charge) to the percentage rate computed through Step 4.

(6) *Step 6.* Add the *surcharge rate* (if any) for the calendar year;

(7) *Step 7.* Add the *pooled charge ratio* (if any) for the calendar year, as computed to four decimal places and multiplied by 100;

(8) *Step 8.* If the rate computed through Step 7 is greater than 12 percent (or 12.5 percent if a surcharge of 3.5 percent is in effect for the calendar year), reduce the percentage rate so computed to 12 percent or 12.5 percent, if appropriate.

(b) The percentage rate computed under paragraph (a) of this section is the employer's rate of contribution for the calendar year in question.

(c)(1) Any computation that is to be made under this section on the basis of a 12-quarter period ending on a given June 30 shall be made on the basis of a period beginning on January 1, 1990, or on the first day of the first calendar quarter that begins after the date on which the employer first began to pay compensation subject to this part, or on July 1 of the third calendar year preceding that June 30, whichever date is later, and ending on that June 30.

(2) The amount computed under paragraph (c)(1) of this section shall be increased to an amount that bears the same ratio to the amount so computed as 12 bears to the number of calendar quarters on which the computation is based.

§ 345.304 New-employer contribution rates.

(a) An employer whose coverage under the RUIA becomes effective after December 31, 1989, is considered a ''new employer'' for the purposes of this part and will be assigned a contribution rate as computed under this section. The Board shall determine whether an employer is a new employer and, if so, the effective date of its coverage under the RUIA and its rate of contribution with respect to compensation paid to employees on and after such effective date.

(b) *Initial contribution rate.* The rate of contribution with respect to compensation paid in calendar months before the end of the first full calendar year that the employer is subject to this part shall be the average contribution rate paid by all employers during the three calendar years preceding the calendar year before the calendar year in which the compensation is paid. The Board will compute the average contribution rate by dividing the aggregate contributions paid by all employers during those three calendar years by the aggregate compensation with respect to which such contributions were paid and by then multiplying the resulting ratio, as computed to four decimal points, by 100.

(c) *Second contribution rate.* The rate of contribution with respect to compensation paid in months in the second full calendar year shall be the smaller of the maximum contribution limit under the RUIA or the percentage rate computed as follows:

$$R = \frac{2(A2)+B}{3}$$

(d) *Third contribution rate.* The rate of contribution with respect to compensation paid in months in the third full calendar year shall be the smaller of the maximum contribution limit under the RUIA or the percentage rate computed as follows:

$$R = \frac{A3+2C}{3}$$

(e) *Subsequent calendar years.* The rate of contribution with respect to months after the third full calendar year shall be determined under § 345.303 of this part.

(f) *Meaning of symbols.* For the purpose of the formulas in paragraphs (c) and (d) of this section, ''R'' is the applicable contribution rate being computed; ''A2'' is the contribution rate that would have been determined under paragraph (b) of this section if the employer's second calendar year had been its first full calendar year; ''A3'' is the contribution rate that would have been determined under paragraph (b) of this section, if the employer's third calendar year had been such employer's first full calendar year; ''B'' is the contribution rate for the employer as determined under § 345.303 of this part for the employer's second full calendar year; and ''C'' is the contribution rate for the employer as determined under § 345.303 of this part for the employer's third full calendar year.

(g) *Special rule for certain computations.* For purposes of computing ''B'' and ''C'' in the formulas in this section, the percentage rate computed under § 345.303 shall not be reduced under Step 8 of that section; and any computations that, under § 345.303, are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter that begins after the date on which the employer first began paying compensation subject to this part and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as four or twelve, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

§ 345.305 Notification and proclamations.

(a) *Quarterly notifications to employers.* Not later than the last day of any calendar quarter that begins after March 31, 1990, the Board will notify each employer of its cumulative benefit balance and its net cumulative contribution balance as of the end of the preceding calendar quarter, as computed in accordance with § 345.302(f) and (h) of this part as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30.

(b) *Annual notifications to employers.* Not later than October 15, 1990, and October 15 of each year thereafter, the Board will notify each employer of its benefit ratio, reserve ratio, one-year compensation base, three-year compensation base, unallocated charge, and reserve balance as of the preceding June 30, as computed in accordance with this part, and of the contribution rate applicable to the employer for the following calendar year as computed under the applicable section of this part.

(c) *Proclamations.* Not later than October 15, 1990, and October 15 of each year thereafter, the Board shall proclaim—

(1) The balance of the credit of the Account as of the preceding June 30 for purposes of computing the pooled credit ratio and the surcharge rate of contribution;

(2) The balance of any advances to the Account under section 10(d) of the RUIA after September 30, 1985, that has not been repaid with interest as provided in such section as of September 30 of that year;

(3) The system compensation base as of that June 30;

(4) The system unallocated charge balance as of that June 30; and

(5) The pooled credit ratio, the pooled charge ratio, and the surcharge rate of contribution, if any, applicable in the following calendar year.

(d) *Publication and notice.* As soon as practical after the Board has determined and proclaimed the amounts specified in paragraph (c) of this section, the Board will publish notice of such amounts in the **Federal Register**. The notifications to employers under paragraphs (a) and (b) of this section will be sent to the employer official designated to receive them.

§ 345.306 Availability of information.

Upon request of an employer subject to this part, the Board will make available to such employer any information that is necessary to verify the accuracy of its rate of contribution, as determined by the Board, including information necessary to verify the accuracy of the data maintained by the Board in the employer's individual employer record.

§ 345.307 Rate protest.

(a) *Request for reconsideration.* An employer may appeal a determination of a contribution rate computed under this part by filing a request for reconsideration with the Director of Unemployment and Sickness Insurance within 90 days after the date on which the Board notified the employer of its rate of contribution for the next ensuing calendar year. Within 45 days of the receipt of a request for reconsideration the Director shall issue a decision on the protest.

(b) *Appeal to the Board.* An employer aggrieved by the decision of the Director of Unemployment and Sickness Insurance under paragraph (a) of this section may appeal to the Board. Such appeal shall be filed with the Secretary to the Board within 30 days after the date on which the Director notified the employer of the decision on reconsideration. The Board may decide such appeal without hearing or in its discretion may refer the matter to a hearings officer pursuant to part 319 of this chapter.

(c) *Decision of the Board final.* Subject to judicial review provided for in section 5(f) of the RUIA, the decision of the Board under paragraph (b) of this section is final with respect to all issues determined therein.

(d) *Waiver of time limits.* A request for reconsideration or appeal under this section shall be forfeited if the request or appeal is not filed within the time prescribed or unless reasonable cause, as defined in this part, for failure to file timely is shown.

(e) *Rate pending review.* Pending review of the protested rate the employer shall continue to pay contributions at such rate. Any adjustment in the contributions paid at such rate as the result of an appeal shall be in accordance with § 345.118 of this part.

Subpart E—Benefit Charging

§ 345.401 General rule.

Effective January 1, 1990, all benefits paid to an employee for his or her days of unemployment or days of sickness will be charged to the base year employer of such employee, except as hereinafter provided in this part. The Board will make the charge by adding the gross amount of the benefits payable to an employee on the basis of a claim for benefits to that employee's base year employer's cumulative benefit balance. The benefit charge does not depend on whether the employee receiving the benefit payment is a current employee of the base year employer.

§ 345.402 Strikes or work stoppages.

If benefits are payable to an employee for days of unemployment resulting from a strike or work stoppage growing out of a labor dispute, the Board will charge the benefit payment to the system unallocated charge balance, not to the cumulative benefit balance of the employee's base year employer. For the purposes of this section, the phrase ''strike or work stoppage growing out of a labor dispute'' does not include an employee's protected refusal to work under section 212(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(b)).

§ 345.403 Multiple base year employers.

(a) *General rules for benefit charging.* All benefits paid to an employee who had more than one base year employer shall be charged to the cumulative benefit balances of such employers, as follows:

(1) If the employer at the time of the claim is the same as the last employer in the base year, benefits will be charged in reverse chronological order, but the amount charged to each base year employer shall not exceed the amount of compensation paid by such employer to the employee in the base year;

(2) In all other cases, benefits will be charged in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employee by all such employers in the base year; benefit charging in accordance with this method shall apply whether the base year employment was with successive employers or with concurrent employers.

(b) *Excess benefit payments.* If, in applying the rule in paragraph (a)(1) of this section, there remain benefit payments, in whole or in part, that cannot be charged to any base year employer, the amount of benefits paid in excess of those chargeable under paragraph (a)(1) shall be charged to the system unallocated charge balance.

(c) *Board records as basis for charging multiple base year employers.* Where an employee has more than one base year employer, the Board will use records compiled on the basis of employer reports filed under § 345.110 of this part for the purpose of determining whether the employer at the time of the claim for benefits is the last employer in the base year, and for other purposes related to benefit charging under this subpart. If, in a particular case, such records do not contain all the data necessary to determine the charge, the Board will request the necessary data from the base year employers who may be liable for the charge.

§ 345.404 Adjustments.

(a) *Recovery of benefits charged to base year employer.* Where the Board recovers a benefit payment that it had previously charged, in whole or in part, to one or more base year employers, the Board will subtract the amount of the recovery from the cumulative benefit balances of the employers of the employee to whom such amount was paid as a benefit in proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

(b) *Recovery of other benefit payments.* Where the Board recovers a benefit payment that was not charged, in whole or in part, to any base year employer, or was made before January 1, 1990, the Board will treat the amount of the recovery as a subtraction from the system unallocated charge balance.

(c) *Payment of interest or other debt collection-related charges.* The Board will not adjust a base year employer's cumulative benefit balance to reflect payment by a debtor of interest or other charges assessed by the Board under § 200.7 of this chapter with respect to the collection of a debt arising from a benefit payment charged to such employer and later found to be recoverable by the Board.

(d) *Limitations.* The Board will adjust a base year employer's cumulative benefit balance only when the Board actually recovers, by cash payment or setoff, a debt that represents a benefit payment that was charged, in whole or in part, to such employer. No adjustment shall be made—

(1) If the Board waives recovery of a debt in accordance with part 340 of this chapter, or

(2) If the Board finds that a debt is uncollectible, or

(3) To the extent of the amount not recovered by the Board by reason of a compromise settlement of a debt.

§ 345.405 Notices to base year employers.

(a) *Prepayment notification.* When the Board receives an employee's claim for unemployment or sickness benefits, the Board will give the employee's base year employer notice of the claim and an opportunity to provide information to the Board with respect to the employee's eligibility for benefits for the period of time covered by the claim.

(b) *Notice of claim determination.* After the base year employer has had an opportunity to provide information in accordance with the prepayment notification process described in paragraph (a) of this section, the office of the Board that is adjudicating the employee's claim for benefits will determine whether to pay or to deny benefits on the claim. Such office will send notice to the base year employer showing what determination was made on the claim. If benefits are found to be payable, the amount of the payment will be charged to the cumulative benefit balance of the base year employer in accordance with the provisions of this subpart. If the base year employer disagrees with the payment of benefits, it may request reconsideration in accordance with part 320 of this chapter.

(c) *Quarterly notice of benefit charges.* As soon as practical following the end of each calendar quarter, the Board will send to each employer a report of its cumulative benefit balance computed as of the end of such quarter. The computation of such balance will reflect the following:

(1) The total amount of unemployment and sickness benefit payments made after December 31, 1989, that have been charged to the employer as the base year employer of the employees who received the benefits; minus

(2) The total amount realized in recovery of such benefits; plus

(3) The total amount of the unallocated charges assigned to such base year employer after December 31, 1989; minus

(4) The total amount realized in recovery of such unallocated charges.

§ 345.406 Defunct employer.

Whenever the Board determines, pursuant to § 345.207 of this part, that an employer is defunct, the Board will add the amount of such employer's benefit charges, as shown in its cumulative benefit balance, to the system unallocated charge balance.

Dated: August 10, 1995.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95–20445 Filed 8–17–95; 8:45 am]

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Friday
August 18, 1995

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1995–96 Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AD41

Migratory Bird Hunting; Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1995–96 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is publishing this final rule to notify the public of the interim conditional approval of bismuth-tin shot for the 1995-96 migratory bird hunting season. Concluded acute toxicity studies, ongoing toxicity reproductive studies undertaken by the Bismuth Cartridge Company, and other pertinent materials indicate that bismuth-tin shot is nontoxic when ingested by waterfowl.

EFFECTIVE DATE: This rule becomes effective on September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, or Keith Morehouse and Pete Poulos, Staff Specialists, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634 ARLSQ, 1849 C Street NW., Washington DC 20240 (703/358-1714).

SUPPLEMENTARY INFORMATION: The Service published a final regulation in the January 3, 1995, **Federal Register** (60 FR 61) to provide for conditional approval of bismuth-tin shot (in a mixture of [nominally] 97-3 percents, respectively) as nontoxic for the taking of waterfowl and coots during the 1994-1995 hunting season. This action was in response to a petition for rulemaking from the Bismuth Cartridge Company received June 24, 1994. The petition requested that the Service modify the provisions of 50 CFR section 20.21(j), to legalize the use of bismuth-tin shot on an interim, conditional basis for both the 1994-95 and the 1995-96 seasons. The petition cited the following reasons in support of the proposal: a) bismuth is nontoxic; b) the proposed rule is conditional; and c) the evidence presented in the record, i.e., the application from the Bismuth Cartridge Company. This petition acknowledged responsibility by the Bismuth Cartridge Company to complete all the nontoxic shot approval tests as outlined in 50 CFR section 20.134. The Service granted conditional approval (effective December 30, 1994) of the use of bismuth-tin shot for the 1994-95 hunting season only. For a complete review of the bismuth-tin shot application and review process, refer to the Supplementary Information Section of the January 3, 1995, **Federal Register** (60 FR 61).

This regulatory action is now taken to further amend Section 20.21(j) to extend the conditional approval for bismuth-tin shot to the 1995-96 hunting season. This is based on a request made to the Fish and Wildlife Service by the Bismuth Cartridge Company on March 20, 1995. Results of the concluded 30-day acute toxicity test and progress made by the Bismuth Cartridge Company in their current reproductive toxicity testing are viewed as justification for extending conditional approval into the next hunting season. A status report of the current reproductive toxicity testing dated July 7, 1995, and received for review by the Office of Migratory Bird Management concludes that as of day 150 of the test ''... we had observed no toxic effects, which we can attribute to ingested Bi shot, on young adult ducks, or their offspring...''

The reproductive toxicity test is being conducted by Dr. Glenn Sanderson and follows a testing protocol reviewed and approved by the Service, with technical assistance provided by the Branch of Environmental Contaminants Research of the Patuxent Environmental Service Center. The general outline of the reproductive toxicity test given below is not a complete description of the testing protocol, but gives the basic outline of the test procedures being conducted:

The test consists of 60 male and 60 female mallards and uses No. 4 lead, steel, and candidate (bismuth-tin) shot. Males and females will be paired randomly and divided into four groups that will be dosed with lead, steel, bismuth-tin, and sham dosed. After diet and light manipulation, birds will be brought into breeding condition. Nests will be checked twice daily with recorded data including clutch initiation, number of eggs laid, egg fertility, egg hatchability, and number of ducklings produced. Eggs collection will continue until 21 uncracked eggs have been collected or until 150 days have elapsed. Eggs will be placed in an incubator and after hatching, ducklings will be examined for signs of intoxication and illness. Blood will be collected with hematocrits determined and the blood analyzed. Livers, kidneys, and gonads from adults will be examined for gross and microscopic lesions, and analyzed for major elements found in the candidate shot and for major essential and trace elements. Livers and kidneys will be collected from ducklings and will be examined for gross and microscopic lesions, and analyzed for major elements contained in the candidate shot and for major essential and trace elements. Blood, liver, kidneys, and gonads will be analyzed by ICP for calcium, potassium, magnesium, zinc, copper, tin, iron, and any metal other than Bismuth or lead. Bismuth and lead in the livers, kidneys, and gonads, and blood will be analyzed by graphite furnace atomic absorption spectrometry.

Since the mid-1970s, the Service has sought to identify shot that, when spent, does not pose a significant hazard to migratory birds and other wildlife. Currently, only steel shot has been approved by the Service Director as nontoxic. The Service believes, however, that there may be other suitable candidate shot materials that could be approved for use as nontoxic shot. The Service is eager to consider these other materials for approval as nontoxic, and does not feel constrained to limit nontoxic shot options.

In summary, this rule extends conditional approval for the use of bismuth-tin shot for waterfowl and coot hunting to the 1995-96 season. Additionally, the applicant, wishing to obtain final unconditional approval for bismuth-tin shot as nontoxic, is required to obtain season-by-season approval until successfully completing the remaining tests required by 50 CFR section 20.134.One additional standard will be applied to the unconditional approval of bismuth-tin shot. Since bismuth is a by-product of the smelting of iron, copper, and tin, it is not surprising that traces of lead may be present in bismuth-tin shot. The Service has initiated discussion with the Branch of Environmental Contaminants Research at the Patuxent Environmental Science Center to determine the maximum environmentally acceptable level of lead in bismuth-tin shot. Once this maximum level is determined, it will be stated in any regulation granting unconditional approval for the use of bismuth-tin shot. It will be the Service's position that any bismuth-tin shot manufactured with lead levels exceeding those stated in the regulation will be considered toxic and therefore, illegal.

We are encouraged by the progress that has been made to develop a noninvasive field testing device to assist law enforcement personnel in detecting the use of illegal shot. Service law enforcement personnel will be asked to assess any noninvasive field testing equipment on the market to determine their utility and accuracy. Final unconditional approval, if otherwise

proper, would be contingent upon the development and availability of a noninvasive field testing shot device.

Public Comments

The June 14 proposed rule (60 FR 31356) invited comments from interested parties. Closing date for receipt of all comments was July 14, 1995. During this 30-day comment period, the Service received 35 comments. These comments consisted of 1 from Flyway Councils, 5 from State fish and wildlife agencies, 10 from other organizations, and 18 from individuals. Of the 35 comments, only the Indiana Department of Natural Resources expressed opposition to the proposed rule. They stated that bismuth-tin shot should not be approved for use until after reproductive toxicity testing was completed and noninvasive field detection procedures were available for law enforcement personnel. The field testing procedure issue was also raised by the New York Department of Conservation, Division of Law Enforcement, that expressed concern that the level of noncompliance with the law ''is apt to increase'' without a viable noninvasive field test; however, this comment did acknowledge some positive aspects to the availability of this alternative shot. The State of South Carolina also expressed concern about the difficulty facing law enforcement personnel when inspecting shot in the field, but otherwise supported the development of alternative shot.

Comments received from the Atlantic Flyway Council and the States of Louisiana and New Jersey were supportive of this regulation. The Atlantic Flyway Council expressed concern that the approval process is confusing to the average hunter and they suggest that the Service make every effort to quickly clarify the legal status of bismuth-tin shot. Several other comments also included a general concern that the approval process was confusing.

Organizations were represented by 10 comments. Support for this proposal came from the California Waterfowl Association, The Wildlife Legislative Fund of America, Ontario Federation of Anglers & Hunters, New Jersey State Federation of Sportsmen's Clubs, Inc., Michigan United Conservation Clubs, New York State Conservation Council Inc., Congressional Sportsmen's Foundation, National Rifle Association of America, Safari Club International and the Congressional Sportsmen's Caucus. These organizations used phrases such as ''strongly supports,'' ''in favor of,'' ''unconditional support,'' and ''unanimously urges'' to endorse this proposal.

Individuals submitted 19 comments that were in favor of this proposal, with several of the comments including statements in opposition to steel shot. A comment from one individual, while not stating opposition to the bismuth-tin proposal per se, expressed the opinion that opposition to steel is not due to the performance of the shot but instead, due to the improper use of the steel shot by the hunter.

Response to Comments

While the comments received expressed minimum opposition to this regulation, there was concern for the difficulty that would be experienced by law enforcement personnel in detecting the shot in the field and in the general procedure/timing of the bismuth-tin shot approval process.

The Service continues to support the development of a noninvasive field detection device to address law enforcement concerns and continues to believe that this is an important component of the alternative shot approval process. It is the current position of the Service to withhold unconditional approval of this shot until a viable fully tested field detection device is available.

The Service recognizes the difficulty that was caused last year when conditional approval of bismuth-tin shot was granted after the start of the 1994-1995 hunting season. As we stated in the January 3, 1995, **Federal Register** (60 FR 61) regulation, conditional approval was dependent on conclusion of the Phase 1 30-day acute toxicity test. The test was concluded after the start of the 1994-1995 hunting season and the Service felt that the effort made by the Bismuth Cartridge Company to complete the testing, warranted immediate approval. With the cooperation of the shot manufacturer, the Service will make every effort to avoid a similar situation from occurring in the future.

The Service anticipates the required toxicity testing and the development of a viable noninvasive field detection device will be concluded in the near future. If test results prove nontoxicity and a field device is readily available to law enforcement personnel, it is anticipated that unconditional approval for the use of this shot can be granted prior to the 1996-1997 hunting season.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500-1508), an Environmental Assessment has been prepared and is available to the public at the Office of Migratory Bird Management at the address under the caption **FOR FURTHER INFORMATION CONTACT**. Based on review and evaluation of the information contained in the Environmental Assessment, the Service determined that the proposed action to amend 50 CFR 20.21(j) to allow conditional use of bismuth-tin an nontoxic shot for the 1995-96 waterfowl hunting season would not be a major Federal action that would significantly affect the quality of the human environment.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''ensure that any action authorized, funded or carried out ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat ...'' Consequently, the Service initiated Section 7 consultation under the ESA for this rulemaking to legalize, on a conditional basis, the use of bismuth-tin shot for hunting waterfowl and coots during the 1995-96 seasons. Completed results of the Service's consultation under Section 7 of the ESA may be inspected by the public in, and will be available to the public from, the Office of Migratory Bird Management, at the address under the caption **FOR FURTHER INFORMATION CONTACT**.

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations and/or governmental jurisdictions. The Service has determined, however, that this rule will have no effect on small entities since the shot to be approved will merely supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. No dislocation or other local effects, with regard to hunters and others, are apt to be evidenced. This rule was not subject to Office of Management and Budget

(OMB) review under Executive Order 12866. This rule does not contain any information collection efforts requiring approval by the OMB under 44 U.S.C. 3504.

Effective Date

This rule reflects the interim approval in the text of section 20.21(j), by restricting permission to use bismuth-tin for the 1995-96 season. Because this rule relieves a restriction, and the current hunting season begins on September 1, 1995, the Service has determined that there is good cause to establish the effective date of this rule as the first day of the hunting season, as authorized under 5 U.S.C. 553(d)(1 and 3).

Authorship

The primary author of this proposed rule is Peter G. Poulos, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, Chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703-711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978); as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a-d and e-j).

2. Section 20.21 is amended by revising paragraphs (j) introductory text and (j)(2) to read as follows:

§20.21 Hunting methods.

* * * * *

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin ([nominally] 97-3 percents, respectively) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in §20.134.

Provided that:

* * * * *

(2) Bismuth-tin shot is legal as nontoxic shot only during the 1995-96 season.

Dated: August 10, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–20462 Filed 8–17–95; 8:45 am]

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federal register

Friday
August 18, 1995

Part VI

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Harvest Information Program; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AD08

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) and State wildlife agencies (States) are cooperatively establishing a national Migratory Bird Harvest Information Program (Program) in which licensed migratory game bird hunters will be required to participate by supplying their names, addresses, and other necessary information to the hunting licensing authority of the State in which they hunt. The purpose of the Program is to improve the quality and extent of information about harvests of migratory game birds in order to better manage these populations. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds in participating States. Hunters' names and addresses will be used to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys.

EFFECTIVE DATE: This rule takes effect on September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Larry J. Hindman, Migratory Bird Harvest Information Program Coordinator, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (410) 827–8612, FAX (410) 827–5186.

SUPPLEMENTARY INFORMATION: The purpose of this final rule is to facilitate the collection of needed information about the harvest of migratory game birds. A proposed rule was published in the March 15, 1995, **Federal Register** (60 FR 14194). This final rule revises the migratory bird hunting regulations to require licensed hunters, as a condition for hunting migratory game birds, to annually provide their names, addresses, and other necessary information to the licensing authority of the State in which they hunt. This information will provide a nationwide sampling frame of migratory bird hunters, from which representative samples of hunters will be selected and asked to participate in voluntary harvest surveys that the Service will conduct annually.

The Service and States are currently implementing this Program over a 5-year period, starting with the 1994-95 hunting season. During this implementation, the requirement to participate in the Program will not apply on Federal Indian Reservations or to tribal members hunting on ceded lands. The participating States will provide the sample frame by annually collecting the name, address, and date of birth of each licensed migratory bird hunter in the State. To reduce survey costs and to identify hunters who hunt less commonly-hunted species, States will also request that each migratory bird hunter provide a brief summary of his or her migratory bird hunting activity for the previous year. States will send this information to the Service, and the Service will sample hunters and conduct national hunter activity and harvest surveys.

A notice of intent to establish the Program was published in the June 24, 1991, **Federal Register** (56 FR 28812). A final rule that established the Program and initiated a 2-year pilot phase in three volunteer States (California, Missouri, and South Dakota) was published in the March 19, 1993, **Federal Register** (58 FR 15093). The pilot phase was completed following the 1993-94 migratory bird hunting seasons in California, Missouri, and South Dakota.

A State/Federal technical group was formed to evaluate Program requirements, the different approaches used by the pilot States, and the Service's survey procedures during the pilot phase. Changes incorporated into the Program as a result of the technical group's evaluation were specified in a final rule, published in the October 21, 1994, **Federal Register** (59 FR 53334), that initiated the implementation phase of the Program.

Currently, all licensed hunters who hunt migratory game birds in participating States are required to have a Program validation, indicating that they have identified themselves as migratory bird hunters and have provided the required information to the State wildlife agency. Hunters must provide the required information to each State in which they hunt migratory birds. Validations are printed on or attached to the annual State hunting license or on a State-specific supplementary permit.

The State/Federal technical group continues to evaluate the Program to determine the adequacy and timeliness of the sample frame and the time burden, cost, and other impacts on hunters, State license agents, State wildlife agencies, and the Service. Emphasis is currently on the time requirement for the sample frame and on alternative survey methods for special groups of unlicensed hunters (e.g., junior and senior hunters).

The names, addresses, and other information for an adequate sample of hunters are needed in time for hunting record forms to be distributed to selected hunters before they forget the details of their hunts. The Service's survey design previously called for participating States to send the required information to the Service within 5 business days of issuance of the hunting license or permit (10 business days if the information is provided in electronic form). Several States expressed concern that they could not meet this time requirement. The Service conducted an experiment during the 1994-95 hunting season to determine whether extending the time requirement would adversely affect the accuracy of survey results. Based on the results of that experiment, participating States are now required to forward the hunter information to the Service within 30 calendar days from the date of license or permit issuance.

Hunters who are exempted from State permit and licensing requirements are not required to participate in the Program. This would include several categories of hunters such as junior hunters, senior hunters, landowners, and other special categories. These exemptions vary on a State-by-State basis. Excluding these hunters from the Program also excludes their harvest from the estimates. While the importance of their harvest depends on how many hunters are excluded and on the number of birds they harvest, excluding these hunters may result in serious bias. As a result, States may require exempted hunters to participate (e.g., Maryland required exempted hunters to obtain permits upon entry to the Program in 1994), and States are encouraged to provide any available information about these groups (for example, junior hunter safety course participant lists, names and addresses of landowners, State harvest estimates for exempted categories) to the Service for use in improving harvest estimates. The methodology used may vary by State and will be incorporated into individual Memoranda of Agreement with the Service.

To protect hunters' privacy, it is the policy of the Service to use the names and addresses only for conducting hunter surveys. Names and addresses will not be used for any other purpose.

All records of hunters' names and addresses will be deleted after the surveys, and no permanent record of names and addresses will be maintained by the Service. State uses of these names and addresses will be governed by State laws.

The provisions of 5 U.S.C. 553(d)(3) provide for a minimum of 30 days for a rule to become effective unless an agency, for good cause, has reason to make it sooner. The Service and the States are currently implementing this Program over a five-year period at the request of the International Association of Fish and Wildlife Agencies. This rule will add Michigan, Oklahoma and Oregon to the list of States already participating. Migratory game bird hunting seasons can begin as early as September 1, 1995. Since migratory game bird hunters would be required to have evidence of current participation in the Program on their person while hunting migratory game birds in these States, the Service finds good cause to make this rule effective on September 1, 1995.

Review of Comments and the Service's Response

Comments on the proposed rule were received from five States. None of the comments questioned the need for the Program or for improved migratory bird harvest estimates. Two States requested a delay in their implementation date. Five States, Arkansas, Louisiana, Michigan, Texas, and Wisconsin, expressed support for the Program.

1. Time Allowed for Providing Names and Addresses to the Service

Comments: Arkansas expressed support for the modification in the time allowed for providing names, addresses, and other information to the Service from within 10 business days to within 30 calendar days of issuance of the State hunting license or permit. Louisiana indicated that the 30-day time period would not substantially improve their ability to provide the Service the names, addresses, dates of birth, and answers to screening questions from licensed migratory bird hunters, and encouraged the Service to consider extending the time frame (to more than 30 days) for providing the required information. They also requested the Service to evaluate the impact of using the names and addresses of hunters from previous hunting seasons as the Program sampling frame.

Service Response: Previously, participating States were to send the required information to the Service within five business days of issuance of the hunting license or permit (10 business days if the information is provided in electronic form). Results of the Service's experiment during the 1994-95 hunting season, however, suggest that a longer reporting period (i.e., 30 days) may not adversely affect the accuracy of survey results. Therefore, the Service will allow States to provide the required information within 30 calendar days of issuance of hunting license or permit. The Service will continue to evaluate the impacts of reporting time on survey results.

2. Require Harvest Estimates from License-Exempt Hunters

Comments: In response to the request for information on unlicensed hunters, only Minnesota and Louisiana responded. Minnesota has identified about 20,000 license-exempt hunters (e.g., hunters 12-15 years old) that have taken hunter safety training. They indicated, however, that they would not be able to include them in the Program sampling frame until 1998. Furthermore, they commented that they are unable to obtain the names and addresses of certain categories of license exempt-hunters (e.g., military personnel on leave, resident landowners, and junior hunters). These categories include a few hundred migratory bird hunters and their migratory bird harvest would be ''negligible.'' Louisiana commented that while they do not support requiring unlicensed hunters to participate in the Program, they would be able to identify a portion of their licensed-exempt hunters using their hunter education program registration. Louisiana also commented that as a data base of migratory bird hunters in the State is developed, it is likely that the required information from senior hunters (e.g., 60 years of age or older) could be maintained using date-of-birth records.

Service Response: The Service does not require States to provide information on license-exempt migratory bird hunters. However, excluding those hunters who are not required to obtain an annual State hunting license from the Program also excludes their harvest from the estimates. As the Service has indicated, the importance of their harvest depends on how many hunters are excluded and on the number of birds taken, and further, that excluding these hunters may result in serious bias. The Service recognizes that these exemptions vary by State and proposes to work with each State as it enters the Program to develop mutually acceptable methods to determine the harvest of migratory birds by these hunter categories.

3. Implementation Phase—Schedule of State Participation

Comment: Texas requested to delay implementation from 1996 to 1997. Texas will implement a major license system change in 1996 and would like to implement the Harvest Information Program after that change has been completed. Likewise, Louisiana requested a delay from 1996 to 1998, also due to anticipated changes in their licensing system.

Service Response: The Service has consistently encouraged States to advance in the implementation schedule, while discouraging any delays. However, the proposed delays by Texas and Louisiana are premised on improved license procedures that will better accommodate the Program. Therefore, a one-year delay will be granted for Texas enabling them to implement the Program in 1997 and a two-year delay will be granted for Louisiana enabling them to enter the Program in 1998.

NEPA Consideration

The establishment of this Harvest Information Program and options have been considered in the ''Environmental Assessment: Migratory Bird Harvest Information Program.'' Copies of this document are available from the Service at the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Regulatory Flexibility Act and the Paperwork Reduction Act

On June 14, 1991, the Assistant Secretary for Fish and Wildlife and Parks concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 USC 601 *et seq.* This rule will eventually affect about 3-5 million migratory game bird hunters when it is fully implemented. It will require licensed migratory game bird hunters to identify themselves and to supply their names, addresses, and birth dates to the State licensing authority. Additional information will be requested in order that they can be efficiently sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a fee to cover their administrative costs. State hunting-license vendors range from small to very large entities and this rule should not economically impact any vendors/agents. Only migratory game bird hunters (individuals) would be

required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0015. The information is required from licensed hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, ms 224 ARLSQ, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0015, Washington, DC 20503.

Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866.

Executive Order 12612—Federalism

The regulations do not have significant Federalism effects as provided in Executive Order 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: (1) some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses; (2) comparable information is not available from all States because States have different survey procedures; (3) currently, many State license lists are not available in time to permit distribution of hunter records early in the hunting season; and (4) budget constraints often prevent States from conducting harvest surveys during certain years or could cause some States to eliminate them completely.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, these regulations do not have significant Federalism effects and do not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing special surveys to meet mutual management needs, and increased cooperation between Federal and State agencies would reduce duplication of survey efforts.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this rule is Paul I. Padding, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, 50 CFR part 20 is amended as set forth below.

PART 20—MIGRATORY BIRD HUNTING

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

Authority: The Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711); the Fish and Wildlife Improvement Act of 1978 (November 8, 1978), as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a-d and e-j).

2. Section 20.20 is amended by revising paragraphs (b) and (e) to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

* * * * *

(b) *General provisions.* Each person hunting migratory game birds in California, Maryland, Michigan, Missouri, Oklahoma, Oregon, and South Dakota shall have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

* * * * *

(e) *Implementation schedule.* The Service is continuing to implement this Program over the next 3-year period from 1996-1998. States must participate on or before the following schedule:

1996—Alabama, Georgia, Idaho, Illinois, Maine, Minnesota, Mississippi, North Carolina, Pennsylvania, Tennessee, and Vermont.

1997—Arizona, Arkansas, Colorado, Florida, Kentucky, Ohio, South Carolina, Texas, Virginia, and Wisconsin.

1998—Alaska, Connecticut, Delaware, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Utah, Washington, West Virginia, and Wyoming.

Dated: August 10, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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Part VII

Department of Housing and Urban Development

24 CFR Part 100

Housing for Older Persons; Defining Significant Facilities and Services; Amendments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 100

[Docket No. FR–3502–F–08]

RIN 2529–AA66

Housing for Older Persons; Defining Significant Facilities and Services; Amendments

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements section 919 of the Housing and Community Development Act of 1992. Section 919 requires the Secretary of HUD to issue ''rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older persons' in such section.'' This final rule amends HUD's regulations governing ''housing for older persons'', to provide the definitions required by section 919.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Sara K. Pratt, Office of Investigations, Office of Fair Housing and Equal Opportunity, Room 5204, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500, telephone (202) 708–0836. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–0113, or 1–800–877–8399 (Federal Information Relay Service TDD). (Other than the ''800'' number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

A. The March 14, 1995 Proposed Rule

On March 14, 1995 (60 FR 13840), HUD published a rule which proposed to implement section 919 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

The Fair Housing Act (Title VIII of the Civil Right Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601–19) (the Act) exempts ''housing for older persons'' from the prohibitions against discrimination because of familial status. Specifically, section 807(b)(2)(C) of the Act exempts housing intended and operated for occupancy by at least one person 55 years of age or older per unit that satisfies certain criteria. The Act requires that the housing facility provide ''significant facilities and services especially designed to meet the physical or social needs of older persons.'' HUD has implemented the ''housing for older persons'' exemption at 24 CFR part 100, subpart E.

Section 919 of the Housing and Community Development Act of 1992, requires the Secretary of HUD to issue rules further defining what are ''significant facilities and services especially designed to meet the physical or social needs of older persons'' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term ''housing for older persons.'' The March 14, 1995 rule proposed to amend subpart E to provide the definitions required by section 919. Specifically, the rule proposed to create a new section establishing the criteria for determining whether a facility or service is ''significant'' or ''specifically designed to meet the physical or social needs of older persons.''[1] This proposed section set forth a ''menu'' of facilities and services which a housing provider could choose to furnish. Another proposed section permitted communities selecting a requisite number and type of facilities and services from the ''menu'' to ''self-certify'' their compliance with the Act. The preamble to the March 14, 1995 proposed rule described in detail the amendments to 24 CFR part 100, subpart E.

The March 14, 1995 proposed rule was HUD's second attempt at implementing the requirements of section 919. An earlier rule, published on July 7, 1994 (59 FR 34902), also proposed to define ''significant facilities and services.'' The July 7, 1994 proposed rule was of great interest to many seniors. By close of business on November 30, 1994, 15,219 comments had been received. Based on the written comments received on the proposed rule, and the comments received at five public meetings held across the country, HUD decided to make significant changes to the July 7, 1994 proposed rule.

[1] The language of section 919 contains the word ''especially'': ''* * * rules defining what are 'significant facilities and services *especially* designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older person' in such section.'' (emphasis added) This final rule uses the word ''specifically'' rather than the word ''especially'' to comply with congressional intent and reflect the actual language of section 807(b)(2) of the Fair Housing Act.

On December 12, 1994 (59 FR 64104), HUD announced it would not proceed to final rulemaking on the July 7, 1994 proposed rule. Instead, HUD issued the March 14, 1995 proposed rule, which addressed the issues raised by the commenters and solicited additional public comment.

B. Discussion of Public Comments on the March 14, 1995 Proposed Rule

The March 14, 1995 proposed rule was of significant interest to the public. By the expiration of the public comment period on May 15, 1995, 1,080 comments had been received. The majority of commenters expressed support for the proposed rule and urged its adoption without further change. Most of these commenters thanked HUD for taking time to listen to the concerns expressed by seniors over the July 7, 1995 proposed rule. An extremely popular form letter, which comprised approximately 61% of the total comments received, read:

> I support the newly proposed rule on Significant Facilities and Services for Housing for Older Persons under the Fair Housing Act. I believe the needs of seniors in senior housing are fairly reflected and supported in the flexibility of the new amendments. The new regulations are simple, clear, and realistic. I appreciate HUD staff's willingness to travel across the country and listen compassionately to testimony. Thank you for responding positively to the valid concerns of seniors and community leaders expressed in the hearings.

As a result of the positive public response, HUD has made very few changes to the March 14, 1995 proposed rule. The following section of the preamble presents a summary of the significant issues raised by the public commenters on the proposed rule, and HUD's responses to these comments.

Preamble's Comparative Analysis Language

Comment. Several commenters were opposed to the language in the preamble to the proposed rule stating that in order to qualify as 55-or-over housing, ''the evidence must show that the housing in question is clearly distinguished from the bulk of other housing (except for other older persons housing) in a particular area.'' (60 FR 13840, 13841). These commenters felt the language would make the proposed self-certification mechanism meaningless. The commenters interpreted this preamble language to mean that the existence of similar facilities and services at family communities in the area would deny 55-or-over status to a community which otherwise meets the

''menu'' requirements of proposed § 100.306.

HUD Response. HUD agrees that this preamble language may be interpreted to negate the effectiveness of self-certification. Accordingly, HUD wishes to emphasize that it is the existence, in the aggregate, of at least ten requisite facilities and services from the ''menu'' set forth in § 100.306 which establishes a community as 55-or-over housing. This is true even if a particular facility or service is also locally available at other types of housing.

The Proposed Definition of ''Occupied By'' Was Unfair

Comment. The definition of ''occupied by'' set forth in proposed § 100.306(e) required that units be occupied by a person 55 years of age or over, not only at the time of the alleged violation, but ''at least 60 days in the preceding year.'' Several commenters believed that this proposed definition would impose unfair burdens on 55-or-over communities in meeting the Act's 80 percent occupancy requirement. The commenters pointed out that it is administratively difficult to determine when property occupants come and go.

HUD Response. HUD concurs with these commenters. HUD has revised the definition of ''occupied by'' set forth in the March 14, 1995 proposed rule by eliminating the 60-day requirement. This final rule defines ''occupied by'' to mean actual occupancy of a unit by one or more persons over 55 years of age or older.

Necessity of Age Verification Procedures

Comment. Several commenters believed that the proposed rule contained contradictory statements regarding the requirement of age verification procedures. The preamble stated that HUD would ''not require the use of age verification procedures.'' (60 FR 13840, 13842). However, proposed § 100.316, which discussed a provider's intent to provide housing for older persons, included age verification procedures in the non-exclusive list of factors HUD will utilize in determining the existence of such intent. One commenter went so far as to suggest that the final rule make age-verification procedures a requirement for establishing intent.

HUD Response. HUD has decided not to impose yet another federal obligation on senior communities by requiring the use of age verification procedures. The Act does not require that age verification procedures be used. Proposed § 100.316 merely stated that routine use of age verification procedures is one way which a community may indicate that it intends to be ''housing for older persons.''

If a community decides to utilize age verification procedures, they must comply with court established requirements. Specifically, the procedures must be enforceable, objective, and consistently applied. Age-verification records must be accurately maintained by the housing provider. The age verification mechanism must provide for a review of current residents, as well as of potential new residents. Furthermore, the age verification procedures must require some form of independent proof to confirm the age of the residents. Driver's licenses or copies of birth certificates are two acceptable methods to confirm age.

In sum, lease applications or other preliminary resident documentation should include a request for age verification data. Housing providers should make it clear to potential residents that the request is made to ensure conformity with the community's policy of maintaining the reliable records necessary for qualifying for the ''housing for older persons'' exemption. Age verification data must be confirmed through objective reliable means that at least one person who will be occupying the property will be 55 years of age or older.

Mandatory Continuation of Terminated Volunteer Services

Comment. Several senior commenters, while supporting the proposed rule's authorization of the use of off-site or volunteer services, expressed worry that housing providers might not take steps to assure the continued availability of these services. These seniors wish housing providers to be required to locate an alternate means of providing the volunteer services, if for some reason the current services are discontinued.

HUD Response. The March 14, 1995 proposed rule, and this final rule, make the housing provider ultimately responsible for providing the significant facilities and services. If volunteer provided facilities and services are discontinued, the housing provider is responsible for ensuring that replacement facilities or services are provided, or the community will no longer qualify for the exemption. HUD does not agree with the commenters that it should require housing providers to continue specific volunteer services which have been terminated. The particular volunteer facilities and services to be provided are best determined by the housing provider and the residents.

Definition of Housing Provider Not Sufficiently Broad

Comment. Two commenters wrote to express their belief that the proposed rule's definition of the term ''housing provider'' was not broad enough to cover unincorporated communities comprised of individual homeowners.

HUD Response. The definition of ''housing provider'' set forth in the March 14, 1995 proposed rule was intended to cover unincorporated communities. This final rule contains a revised definition which clarifies that single family communities may qualify for the exemption through community groups which effectively represent the interests of the residents. Specifically, the revised definition of ''housing provider'' reads: ''The term housing provider includes any person or entity which represents the property owners of a community in their housing interests, including homeowners or resident associations, whether or not there is common ownership or operation of any portion of a community.''

Revision of Impracticability Provisions

Comment. Several commenters believed the impracticability provisions set forth in proposed § 100.310 should be revised. The commenters objected to the statement in proposed § 100.310(b)(1) that ''[d]emonstrating that . . . services and facilities are expensive to provide is not alone sufficient to demonstrate'' impracticability. The commenters believed that this provision unfairly implied that ''true'' senior communities are those that can afford to have a lot of amenities.

HUD Response. HUD does not agree with the commenters. The ''menu'' established by § 100.306(d) and the provisions of § 100.306(e), which permit volunteers to provide facilities and services, effectively address the issue of cost, and will enable properties without large financial resources to qualify for the exemption. It has never been HUD's intention to require communities to provide expensive amenities in order to meet the ''significant facilities and services'' requirement. Moreover, § 100.310(b)(4) lists the income range of the residents as a factor in determining impracticability, allowing evidence of lack of affordability of facilities or services to be considered as part of an impracticability review.

Proposed Rule's Impact on Small Entities

Comment. Two commenters believed the March 14, 1995 proposed rule reflected a harsh attitude toward small 55-or-over communities. Specifically, the commenters felt that the ''menu'' set forth in proposed § 100.306 demonstrated a bias toward larger parks with clubhouses and resident organizations. One of the commenters suggested that communities with fewer than ''40 or 50 spaces'' be exempted from the requirements of the final rule.

HUD Response. HUD does not believe that any special exemptions are required for small 55-or-over communities. The ''menu'' set forth in § 100.306 is sufficiently broad to ensure that small communities may satisfy the ''significant facilities and services'' requirement without undue burden or expense. HUD prepared the list of ''menu'' items by reviewing suggestions made by the public commenters to the July 7, 1994 proposed rule, including the commenters at the five public hearings, as well as by carefully reviewing court decisions dealing with this issue. The ''menu'' is adequately diverse to cover all types of senior properties.

Proposed Rule Imposed an ''Accessibility'' Requirement

Comment. One of the reasons for the strong opposition to the July 7, 1994 proposed rule was the belief among seniors that it erroneously depicted all seniors as physically frail. In developing the March 14, 1995 proposed rule, HUD wished to correct this impression. Accordingly, the preamble to the proposed rule stated that a facility or service does not need to be ''accessible to the disabled in order to be classified as 'significant' or 'specifically designed to meet the physical or social needs of older persons'.'' (60 FR 13840, 13841). However, many senior commenters believed that the rule imposed an accessibility requirement.

Specifically, the commenters objected to the preamble language stating that ''[t]he Department believes that the Act imposes a strict burden upon a person claiming the exemption to provide credible and objective evidence showing that the facilities and services offered by the housing provider were designed, constructed or adapted to meet the particularized needs of older persons.'' (60 FR 13840, 13841). The commenters believed that the requirement that housing providers select two items from category 11, Health/Safety Needs, from the ''menu'' set forth in proposed § 100.306, was further proof of an accessibility criterion for qualification as 55-or-over housing.

HUD Response. The commenters misinterpret the language of the preamble and the proposed rule. It is the existence of the requisite number and type of ''menu'' items, in the aggregate, which qualifies a community for the ''housing for older persons'' exemption. Elimination of category 11 of the ''menu'' would unfairly discriminate against communities which have chosen to provide any of the health/safety related items listed in this category. Inclusion of such a category in the ''menu'' does not imply that all seniors have difficulty with mobility. It simply reflects the fact that some residents of 55-or-over communities may desire the provision of several category 11 items to facilitate their use and enjoyment of the property.

Proposed § 100.306(f) Undermined Self-Certification

Comment. Proposed § 100.306(f) listed the criteria by which HUD will determine if, in the aggregate, the facilities and services provided by a housing provider are ''significant.'' Several commenters objected to this provision, claiming that a housing provider's self-certification would be undermined by the uncertainty of its compliance with proposed § 100.306(f).

HUD Response. HUD does not believe that § 100.306(f) subverts the self-certification procedures set forth in § 100.307. Rather, the criteria listed in § 100.306(f) provide assurance that housing providers will not claim that they are eligible for the exemption based on facilities or services which are virtually non-existent, non-functional or unused. Paragraph (f) of § 100.306 is necessary to assure that the facilities and services are truly available in a meaningful way to residents.

Self-Certification Should Not Be Made Under Penalty of Perjury

Comment. Proposed § 100.307(e) stated that a housing provider shall sign a self-certification notice ''under penalty of perjury of the laws of the United States.'' Several commenters believed that the imposition of civil penalties was sufficient to penalize housing providers posting false self-certification notices.

HUD Response. HUD does not agree that § 100.307(e) imposes an unjust sanction on housing providers who falsify their self-certification notices. Absent evidence indicating that the housing provider has not met the ''menu'' requirements of § 100.306(c), a housing provider who chooses to self-certify will be deemed by HUD to be in compliance with the requirements of the Act. Given the force of a posted self-certification notice, HUD believes it is justified in requiring the high measure of certainty provided by the imposition of perjury sanctions. Paragraph (f) of § 100.307 obligates a housing provider who has posted a self-certification notice to ensure that the listed facilities and services are indeed available.

The Self-Certification Posting Requirements Should Be Revised

Comment. One commenter believed the posting requirements for the self-certification notice should be clarified. Proposed § 100.307(e) required that a copy of the self-certification notice be posted ''in every public or common area where housing transactions are conducted.'' The commenter felt that some housing providers might have difficulty complying with this requirement. For example, in the case of homeowner associations where all developer sales have been completed, the only sales are by individuals, not by the association or a developer. In these instances, there are no common areas where ''housing transactions'' occur.

HUD Response. HUD has not revised § 100.307(e). Paragraph (e) of § 100.307 simply requires that the self-certification notice be posted in every area where housing transactions are conducted. In some instances, this may require that the notice be posted in the unit itself, or at the real estate office handling the listing of the property.

Revision of the Self-Certification Notice

Comment. One commenter suggested several revisions to the posted self-certification notice in order to make it more comprehensible. For example, the commenter suggested that a larger typeface notice might be easier to read for those seniors requiring eye-glasses.

HUD Response. HUD will consider formatting suggestions from the public before printing copies of the self-certification notice for distribution. However, nothing prevents a housing provider from enlarging the self-certification notice and posting the larger version, or otherwise making it available to residents and the public in alternative formats.

Proposed § 100.307(f) Undermined Self-Certification

Comment. Many commenters objected to proposed § 100.307(f), which stated that self-certification notices will not be considered ''conclusive evidence of eligibility for the housing for older persons exemption.'' To many commenters this provision eliminated the main reason for self-certification,

which is to relieve the anxiety older persons feel that they may be violating the law. One of the commenters suggested slightly revising proposed § 100.307(f) so as to make the provision less offensive to seniors. According to this commenter, the ''not conclusive'' phrase should be replaced by a reiteration of HUD's authority to investigate fair housing complaints.

Other commenters urged the elimination of the ''not conclusive'' phrase and the insertion of new language strengthening the effect of the self-certification notice. Specifically, these commenters believed the self-certification notice should shift the burden of proof to complainants during fair housing investigations regarding 55-or-over status.

HUD Response. HUD agrees with the commenters that the ''not conclusive'' phrase may be misinterpreted by the public so as to undermine the certainty provided by a self-certification notice. Accordingly, HUD has revised § 100.307(f) by removing the ''not conclusive'' phrase and replacing it with the statement that ''the posting of a self-certification notice will not preclude the Department from investigating a complaint of alleged housing discrimination where there is evidence that the housing provider fails to comply with the self-certification.''

HUD wishes to emphasize that the purpose of the self-certification mechanism is to provide certainty to 55-or-over communities, not to insulate them from legitimate HUD fair housing investigations. HUD may receive information which suggests that a community does not meet the Act's 80 percent occupancy requirements, or that the self-certification notice is incorrect. In these situations, HUD's investigation will focus initially on the housing provider's own assurances, through the posted self-certification notice, that the requisite facilities and services are provided. If the significant facilities and services listed in the self-certification notice are actually provided and serving the community, the housing provider should not anticipate any difficulties in qualifying for that portion of the exemption. Additionally, if the provider furnishes facilities and services which are not listed on the a self-certification notice (or if no self-certification notice is posted) HUD will still consider all available evidence regarding what facilities and services were available at the time of the alleged discriminatory incident.

HUD wishes to emphasize that nothing in this regulation changes the requirement, set forth by the courts and administrative law judges, that in a judicial or administrative proceeding, the housing provider bears the burden of ultimately proving its eligibility for any exemption under the Act by a preponderance of the evidence.

Proposed Exemptions to 80% Occupancy Requirement Exceed Legal Authority

Comment. Section 807(b)(2)(C)(ii) of the Act, which HUD is implementing in § 100.315, requires ''that at least 80 percent of the units are occupied by at least one person 55 years or older per unit.'' Paragraph (b)(2) of proposed § 100.315 permitted housing with unoccupied units to meet the 80 percent occupancy test, so long as ''at least 80 percent of the occupied units [were] occupied by at least one person 55 years of age or over.'' One commenter believed this provision contradicted the explicit language of the Act and suggested that providers claiming the exemption based on § 100.315(b)(2) be required to reserve all units for occupancy by a person 55 years of age or older.

Furthermore, paragraph (b)(4) of proposed § 100.315(b)(4) permitted housing with an insufficient percentage of units occupied by older persons to meet the 80 percent test, so long as the housing ''reserve[d] all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units [were] occupied'' by older persons. Another commenter objected to this provision, as well as to proposed § 100.315(b)(2), on the grounds that the Act's 80 percent occupancy requirements should be strictly construed. The commenter believed that any exceptions to the 80 percent occupancy requirements set forth in the Act were meant by Congress to apply solely to housing occupied before the Act's effective date.

HUD Response. The Act provides that a property ''shall not fail to meet the requirements for housing for older persons by reason of * * * (B) unoccupied units. * * *'' (42 U.S.C 3607). HUD believes it is justified in interpreting the Act to allow a community which, although it does not currently meet the 80 percent occupancy requirement, reserves all unoccupied units for occupancy by a person 55 years of age or older. This may be the only way for a community which believed that it was ineligible for ''housing for older persons'' status, and which has therefore permitted occupancy by families, to qualify for the exemption. There is no support for the commenter's assertion that this provision of the Act is limited to situations occurring before the Act's effective date. HUD believes that housing which seeks to qualify as ''housing for older persons'' should be able to do so, even if its occupied units do not meet the 80 percent occupancy test. Furthermore, HUD believes such housing should be protected against claims of unlawful discrimination during the qualification process, so long as it provides significant facilities and services, has the requisite intent, and has reserved all unoccupied units for at least one resident 55 years of age or older.

Proposed § 100.310(b)(7) Violated Statutory Authority

Comment. Section 100.310 permitted the granting of a waiver to housing providers in cases where it would be impracticable to furnish ''significant facilities and services.'' Proposed § 100.310(a) required that the persons seeking a waiver also demonstrate ''that such housing is necessary to provide important housing opportunities for older persons.'' Proposed § 100.310(b)(7) would have accorded residents' preferences a weight in the waiver determination. If ''90 percent of the residents of the housing'' had stated that a facility or service was ''not necessary or desired'', this certification would have been relevant as to whether the provider could have claimed an impracticability waiver to the Act's requirements. One commenter felt proposed § 100.310(b)(7) would have exceeded HUD's authority under the Act. The commenter pointed out that the proposed rule would have permitted residents to legitimize discriminatory preferences.

HUD Response: HUD agrees with the commenter. Upon further analysis, HUD has determined that individual residents should not be authorized by regulation to waive the rights of future residents, or the rights of families with children, by voting on the necessity or desirability of a facility or service. Accordingly, proposed § 100.310(b)(7) has been eliminated.

Items Listed in Proposed § 100.306 Were Not Significant

Comment. Many of the commenters believed that the ''menu'' set forth in proposed § 100.306 did not list facilities and services that were ''significant'' or ''specifically designed for the physical or social needs of older persons.'' One of these commenters believed that with almost no effort, most properties could qualify under the March 14, 1995 proposed rule. Since the commenters believed that the requirements of § 100.306 could be easily met, they feared that unscrupulous housing

providers would utilize the rule to disguise their unlawfully discriminatory policies against families with children. These commenters also believed that proposed § 100.306 could possibly be in violation of existing case law, which states that the ''significant facilities and services'' requirement is not met by merely adding minor amenities to a traditional development.

HUD Response. The commenters erroneously focus on the individual items listed in § 100.306(d). It is the existence, in the aggregate, of the requisite number and type of ''menu'' items that satisfies the ''significant facilities and services'' requirement. However, in the development of this final rule, HUD made the determination that some minor revisions to the list of ''menu'' items were necessary. This final rule includes these changes.

Self-Certification May Violate Existing Law

Comment. Proposed § 100.307 permitted housing providers which met the requirements of proposed § 100.306 to self-certify their compliance with the Act's requirements. Several commenters expressed doubts as to the legality of this self-certification mechanism. Some commenters believed proposed § 100.307 established a licensing procedure unauthorized by Congress.

These commenters also noted an apparent inconsistency in the proposed rule's language regarding self-certification. The language of proposed § 100.307 suggested a limited effect for the self-certification, namely the authorization of ''the publication of advertisements, notices or the making of other statements'' necessary to establish the property as 55-or-over housing. The preamble, on the other hand, indicated greater significance for the self-certification, stating that ''absent evidence to the contrary, the Department will assume that those communities which have chosen to self-certify are in compliance with the Act's requirements.'' (60 FR 13840, 13841). The commenters feared that this inconsistency meant HUD intended to shift the burden of proof to complainants to show that the housing met the exemption requirements. In such a case, the preamble language would have exceeded statutory authority, the Act's legislative history, and case-law.

These commenters believed that as an alternative to self-certification, HUD should certify the 55-or-over housing. The commenters believed that only HUD or substantially equivalent state agencies could provide meaningful certification of a community's exempt status. These commenters suggested that at the very least HUD require periodic updates of the self-certification notices.

HUD Response. HUD has not revised the proposed rule as a result of these comments. The rule's self-certification mechanism allows communities to determine with certainty whether they comply with the ''significant facilities and services'' requirement. The posting of a self-certification notice merely identifies for the public those facilities and services on which the provider bases its claim of eligibility for that portion of the ''housing for older persons'' exemption. Self-certification is not, nor was it intended to be, a de-facto licensing procedure.

There was no inconsistency between the language of the proposed rule and the preamble. Absent evidence that the posted self-certification notice is incorrect, HUD will assume that housing providers which have chosen to self-certify are in compliance with the Act. However, HUD will still be required to conduct an investigation when it is provided with information which indicates that the assertions in the self-certification are incorrect or that the property otherwise does not qualify for the ''housing for older persons'' exemption. This rule does not modify in any way the fact that housing providers bear the burden of proving their compliance with the Act's requirements during a judicial or administrative enforcement proceeding.

HUD rejects the commenters' suggestion that HUD certify each property seeking to qualify as housing for older persons. In addition to the fact that such a procedure would be intrusive and involve HUD in the day to day operations of non-federal housing, HUD neither has the resources nor the desire to inspect the many properties which might claim the exemption. Moreover, a HUD-certification procedure might be construed as a de-facto licensing mechanism, which is beyond the scope of HUD's authority under the Act.

While this final rule does not require periodic reviews of self-certification notices, HUD agrees that it is both sensible and necessary for housing providers to periodically update such notices. These reviews would prevent the filing of fair housing complaints from persons claiming the assertions in the posted self-certification notice are false.

Self-Certification Is Misleading and Will Deter Legitimate Complaints

Comment. Some commenters noted that the posting of a self-certification notice would not preclude a legal challenge to the housing community's status as 55-or-over housing. However, these commenters believed that the language of proposed § 100.307 would lead some communities to believe that self-certification immunizes them from such complaints. The commenters felt that the proposed rule's language was misleading and could fuel anti-government sentiment. These commenters felt that self-certification was ''bad public policy.''

The commenters found another possibility for confusion in the language of proposed § 100.307(f), which permitted housing providers which have self-certified to advertise, post notices, or make other statements ''evidencing the operation of the property in question . . . as excluding families with children as described in section 807(b)(2)of the Act.'' The commenters pointed out that this language might be incorrectly interpreted to suggest that the exclusion of children is required by the ''housing for older persons'' exemption.

Furthermore, these commenters feared that a prominently displayed, ''official looking'' self-certification notice would deter families from pursuing legitimate fair housing complaints.

HUD Response. The easy answer to the commenters' ''self certification is bad public policy'' argument is the fact that the vast majority of the commenters applauded HUD's inclusion of a self-certification mechanism in the March 14, 1995 proposed rule. HUD rejects the notion that self-certification will lead housing providers to believe they are ''immunized'' from legitimate fair housing complaints.

HUD reiterates that the purpose of the self-certification provisions is to permit communities to ascertain with confidence whether they comply with the Act's requirements, not to insulate them from HUD investigations of legitimate complaints. A posted self-certification notice is only as good as the facts which underlie it. It is necessary for 55-or-over communities to periodically update the self-certification notices in order for them to have the desired certainty in case a complaint is filed.

The commenters were correct in asserting that the Act does not require the exclusion of children from housing for older persons. Additionally, the Act does not mandate that 100 percent of senior-housing residents be 55 years of age or older. HUD wishes to emphasize that a qualified 55-or-over community may permit the remaining 20 percent of units to be occupied by persons under 55; allow some small number of families

with children to reside in the property; and allow some number of units to be occupied by surviving spouses, or heirs of a senior resident. However, the general intent to be classified as ''housing for older persons'' must be continued, as should careful record keeping, to ensure that the community does not drop below the 80 percent occupancy requirement and to ensure that the requisite intent to be housing for older persons is indicated.

Self-Certification Has Federalism Implications

Comment. One commenter wrote that the easily met requirements of proposed § 100.306 posed a danger to individual property rights. The commenter believed that the proposed rule would allow some, but not all, of the homeowners of a tract or development, without any common interests or privity, to organize an association and restrict free alienation of the property of the nonmembers.

HUD Response. HUD does not agree with the commenter. The courts have upheld the constitutionality of the ''housing for senior persons'' exemption against claims that it amounted to a deprivation of property rights. See *Senior Civil Liberties Association* v. *Kemp,* 965 F.2d 1030 (11th Cir. 1992). This final rule merely authorizes a housing provider to undertake certain actions in order to qualify for the exemption. The rule's self-certification provision has no more impact on Federalism issues than does the exemption itself.

II. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

B. Executive Order 12866

This final rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in this final rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

C. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication and, by approving it, certifies that the final rule will not have a significant impact on a substantial number of small entities.

D. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this final rule does not have potential for significant impact on family-formation, maintenance, and general well-being, and, thus is not subject to review under the Order.

E. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that this final rule will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities among the various levels of government. The Fair Housing Act, and section 919 of the Housing and Community Development Act of 1992 direct HUD to provide further guidance on the meaning of significant facilities and services so that States, local governments, and housing providers will have a better understanding of what housing is exempt from the Fair Housing Act's prohibition against discrimination on the basis of familial status.

F. Regulatory Agenda

This final rule was listed as sequence number 1504 in the Department's Semiannual Regulatory Agenda, published on May 8, 1995 (60 FR 23368, 23373) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 100

Aged, Fair Housing, Individuals with disabilities, Mortgages, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 100 is amended as follows:

PART 100—DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT

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

Authority: 42 U.S.C. 3535(d) and 3600–3620.

Subpart E—Housing for Older Persons

2. In subpart E, § 100.304 is revised, and new §§ 100.305, 100.306, 100.307, 100.310, 100.315 and 100.316 are added, to read as follows:

§ 100.304 55 or over housing.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that, at the time of an alleged violation of the Act, the housing satisfies the requirements of:

(1) Sections 100.304, 100.305, 100.306, 100.315 and 100.316; or

(2) Sections 100.310, 100.315 and 100.316.

(b) With reference to complaints filed pursuant to the Act, this means that the person or entity claiming the exemption must affirmatively prove by a preponderance of evidence as of the date of an alleged violation of the Act that the housing meets the requirements of paragraph (a) of this section.

(c) For purposes of this part, *older persons* means persons 55 years of age or older.

(d) For purposes of this part, *housing provider* means:

(1) The owner or manager of a housing facility; or

(2) The owner or manager of the common and public use areas of a housing facility, where the dwelling units are individually owned.

(3) The term ''housing provider'' may include any person or entity which operates a housing facility. The term ''housing provider'' includes any person or entity which represents the property owners of a community in their housing interests, including homeowners or resident associations, whether or not there is common ownership or operation of any portion of a community.

(e) For purposes of this part, *occupied by* means one or more persons over the age of 55 actually occupying a unit at the time of an alleged violation of the Act.

(f) With reference to self-certifications of compliance with the provisions of this part, the housing provider claiming the exemption for 55 and older housing may demonstrate publicly, by the posting of one of the notices described in § 100.307, compliance with the provisions of this part.

§ 100.305 Criteria.

(a) The provisions regarding familial status in this part shall not apply to

housing intended and operated for occupancy by at least one person 55 years of age or older per unit, pursuant to this part.

(b) The housing shall have significant facilities and services specifically designed to meet the physical or social needs of older persons as described in § 100.306.

(c) At least 80 percent of the units in the housing shall be occupied by at least one person who is at least 55 years of age or older as described in § 100.315.

(d) The housing provider shall publish and adhere to policies and procedures which demonstrate an intent by the housing provider to provide housing for older persons as described in § 100.316. The publication of policies and procedures describing an intent to provide housing as ''adult housing'' shall not suffice for this purpose.

§ 100.306 Significant facilities and services specifically designed for older persons.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, *provided that* the person or entity asserting the exemption affirmatively demonstrates through credible and objective evidence that facilities and services specifically designed to meet the needs of older persons are ''significant''. Significant facilities and services which are specifically designed for older persons are those which actually or predictably benefit the health, safety, social, educational or leisure needs of older persons.

(b) The facilities and services provided by a housing provider are significant and specifically designed to meet the housing needs of older persons when the housing provider meets the criteria found in paragraphs (c), (d), and (e) of this section and complies with the criteria found in paragraph (f) of this section.

(c) A housing provider provides significant facilities and services if it makes available, directly or indirectly, at least 2 facilities or services in at least five categories described in paragraph (d) of this section, including at least 2 of the facilities described in paragraph (d)(10) of this section (category 10) or in paragraph (d)(11) of this section (category 11).

(d) Facilities and services which may be considered for purposes of qualifying for the 55 and older housing exemption are the following:

(1) Category #1 (Social Needs)

Social and Recreational Services provided on a regular, organized basis:

—softball, golf, shuffleboard tournaments, lawn bowling, billiards or similar team activity
—bridge club, card games, organized chess or checkers
—exercise classes— low-impact, stretching, t'ai-chi, swim-therapy
—bingo
—fellowship meetings
—musical theater group
—dances, square dancing, polka, ballroom dancing,
—at least weekly potluck dinners, breakfasts, luncheons, or coffees
—coordinated holiday parties for residents
—Lions club, clubs or classes for sewing, needlepoint, art, gardening, music, books, golf, bowling, photography, travel, etc.
—cooking classes
—crafts classes: ceramics, macrame, woodworking, jewelry, quilting, painting
—field trips—bowling, sightseeing, concerts, plays, hiking, shopping outlets
—fashion shows
—on-site movies or other theatrical events
—liaison/coordination with activities at community-wide senior centers and activities
—emergency meal service for residents who are ill or in need
—organized travel opportunities

(2) Category #2 (Educational Needs)

Continuing education activities:

—at least monthly presentations on subjects such as health care, nutrition, stress management, medicare, insurance, social security, tax preparation, vacation planning, gardening, crime prevention
—consumer protection education
—regularly offered CPR classes
—regularly offered language study classes
—regularly offered videotapes on health care
—courses available at local educational institutions
—library with magazines designed for older persons and material available in large print

(3) Category #3 (Educational Needs)

Information and counseling services:

—providing new residents with package of information about local services of interest to seniors
—bulletin board for exchange of information or services
—printed resident directory provided to each resident
—free information on cable TV programs for residents—internal or external support groups for residents
—seminars on the aging process
—seminars on estate planning, dealing with death or other issues affecting older persons
—on-site legal services
—informational sessions on fire safety, mental health issues, political and environmental issues
—seminars on governmental benefits programs

(4) Category #4 (Physical Needs)

Homemaker services:

—employees assist with housework or yardwork
—organized committee of residents to perform light household tasks or yard work for those who cannot do them themselves
—referrals to housecleaning services
—bill-paying services
—pet care/pet therapy services
—minor home repair service
—tool loan service

(5) Category #5 (Safety Needs)

Outside maintenance/health and safety services:

—on-staff medical personnel with first aid/CPR training
—on-staff repair, maintenance and painting services
—meals on wheels
—snow shoveling and plowing
—system for referrals to doctors or other health care professionals
—regular system to contact residents who are house-bound to make sure they are o.k.
—system for referrals for transportation services for residents
—referrals to income tax preparers
—referrals to repair and maintenance services
—security guards/patrols, organizing neighborhood or block watch
—organizing committee of residents to do household repairs and yard work for those who cannot do them themselves
—exterior lighting and alarm systems monitoring
—vacation house watch
—limited access to property by controlled access gate or similar system

(6) Category #6 (Health Needs)

Emergency and preventative health care programs:

—meetings about nutrition, back care, breast cancer/self-examination/ mammogram, prostate cancer screening, vision care, or other health care topics (see continuing education)

—monthly blood pressure checks
—annual flu vaccine shots available
—periodic vision or hearing tests
—staff or volunteers pick up food from social services for mobility impaired seniors
—organizing committee or buddy system of residents to do errands for people who become ill and/or to stay with sick persons while their spouses do errands
—emergency telephone network, staff or volunteers monitor people who have serious medical problems
—doctor/medical facilities located within two miles of facility
—health care equipment pool for resident use

(7) Category #7 (Social/Health Needs)

Congregate dining:

—available congregate dining for at least one meal each day
—sit-down meal service
—special menus for dietary needs
—activities conducted in conjunction with congregate dining

(8) Category #8 (Transportation)

Transportation to facilitate access to social services:

—transportation provided to doctors' offices, shopping, religious services, outside social or recreational activities
—public bus stop or train station within walking distance and bus schedules and maps available
—organized system to provide transportation for residents who cannot drive
—sign-up board for shared transportation needs
—shared ride services to social events, functions, medical care, shopping

(9) Category #9 (Social Needs)

Services to encourage and assist residents to use available facilities and services:

—volunteer or staff activity planner
—swimming or water aerobics instructors
—dance or exercise instructors
—crafts instructors
—newsletters, newspapers or flyers informing residents of activities, trips, clubs, etc.
—monthly calendar of events
—resident council or committees to encourage participation in activities

(10) Category #10 (Leisure Needs)

Social and Recreational Facilities:

—clubhouse, communal kitchen, or communal dining area
—library with large print books or subscriptions to publications targeted to older persons
—sauna, jacuzzi or whirlpool
—recreation or game room, arts and crafts room, community room or meeting room
—television room for communal use with VCR
—ping pong, pool or billiard tables, shuffleboard courts, horseshoe pits or bocce ball (with functional equipment)
—golf course
—stage, piano and dance floor
—woodworking shop
—restaurant for resident use
—bank
—legal assistance
—travel agency
—convenience store
—barber shop
—dry cleaners
—hair salon
—lapidary
—kiln
—fishing pond

(11) Category #11 (Health/Safety Needs)

Accessible physical environment:

—accessible clubhouse
—at least one accessible bathroom facility in public and common use areas
—ramps (curbs or drainage ditches are cut or ramped to allow wheelchair/walker access)
—ramped sidewalks in public and common use areas; stairs at a minimum
—benches in all public and common use areas
—assigned and designated parking spaces, including handicapped parking
—accessible swimming pool (i.e., ramped entrance to pool area)
—accessible management office
—accessible dining area or activity area
—vans, buses available with wheelchair lifts or easy access for persons with mobility difficulties
—lift to assist in swimming pool use
—Amplifiers provided on at least 25% of public phones

(12) Category #12 (Social, Leisure, Health, Safety or Educational Needs)

Other:

—Any facility or service which is not listed above but which is designed to meet the health, safety, social or leisure needs of persons who are 55 and older and which is actually available to and used by residents of the property.

(e) A housing provider provides significant facilities and services if the facilities and services are provided on the premises by paid staff, resident volunteers, or by agencies, entities or persons other than the housing provider. A housing provider provides significant facilities and services if the facilities or services are provided off the premises by paid staff, resident volunteers, or by agencies, entities or persons other than the housing provider, provided that if facilities or services are made available off the premises, the housing provider, through paid staff, resident volunteers, or by agencies, entities or persons other than the housing provider, shall make available transportation services or coordination of information and transportation resources which ensure that residents are aware of and have ready access to such facilities or services.

(f) In determining whether a housing provider provides significant facilities and services, the Department will evaluate the facilities or services that meet the requirements of § 100.305 by the following criteria to determine whether the facilities in the aggregate and the services in the aggregate are ''significant'':

(1) The extent to which a facility or service can accommodate the older population of the housing facility. The capacity of each facility or service specifically designed to meet the physical or social needs of older persons depends upon but is not limited to such factors as:

(i) The size of the facility in relationship to the scope of the service offered;

(ii) The length of time during which the facility or service is made available or the service is offered;

(iii) The frequency with which the facility or service is made available or the service is offered; and

(iv) Whether the facility or service is offered only at one location or there are a number of locations at which the facility is made available or at which the service is offered.

(2) The extent to which the facility or service will be of benefit to older persons, given the climate and physical setting of the housing facility.

(3) The extent to which the facility or service is actually usable by and regularly available to residents on a day-to-day basis.

§ 100.307 Self-Certification.

(a) A housing provider may indicate, by display of a notice complying with this part, its intent to provide housing for older persons in substantially the same form as the self-certification form which will be made available by the Office of Fair Housing and Equal Opportunity.

(b) Such a notice shall be provided by the Department, and shall include, at a minimum, a certification of compliance with § 100.315 and an indication of the housing provider's intent to provide, and its certification that it does in fact provide, facilities and services which comply with § 100.306.

(c) Such a notice shall be signed by one or more housing providers, with authority to sign.

(d) Such a notice shall be signed under penalty of perjury of the laws of the United States.

(e) Such a notice shall be posted in every public or common area where housing transactions are conducted.

(f) A copy of a current self-certification shall be considered by the Department to be sufficient evidence of compliance with the Act to allow the publication of advertisements, notices or the making of other statements as evidencing the operation of the property in question as housing for older persons and as excluding families with children as described in section 807(b)(2) of the Act. However, the posting of a self-certification notice will not preclude the Department from investigating a complaint of alleged housing discrimination where there is evidence that the housing provider fails to comply with the self-certification.

§ 100.310 Impracticability.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.310 if it is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons.

(b) In order to satisfy the requirements of § 100.310 the housing provider must affirmatively demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of § 100.310:

(1) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.

(2) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.

(3) The geographical or other physical limitations inherent in the property which makes the provisions of facilities or services impracticable.

(4) The income range of the residents of the housing facility.

(5) The demand for housing for older persons in the relevant geographic area.

(6) The vacancy rate of the housing facility.

(7) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area then the housing facility does not meet the requirements of § 100.310.

§ 100.315 80 percent occupancy.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity demonstrates through credible and objective evidence that housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.315 if at least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after March 12, 1989 need not comply with § 100.315 until 25 percent of the units in the facility are occupied.

(b) Housing satisfies the requirements of this section even though:

(1) On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units that are occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.

(2) There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or over.

(3) There are units occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(4) There are insufficient units occupied by at least one person 55 years of age or over to meet the 80 percent requirement, but the housing provider, at the time the exemption is asserted:

(i) Reserves all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units are occupied by at least one person who is 55 and older; and

(ii) Meets the requirements of:

(A) §§ 100.305, 100.306 100.307 and 100.316; or

(B) §§ 100.310, 100.315, and 100.316.

(iii) Where application of the 80 percent rule results in a fraction of a unit, that unit shall be considered to be included in the units which must be occupied by at least one person who is 55 or older.

§ 100.316 Intent to provide housing for older persons.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity proves that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.316 if the owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the housing provider to provide housing for persons 55 years of age or older.

(b) The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of § 100.316:

(1) The manner in which the housing facility is described to prospective residents.

(2) The nature of any advertising designed to attract prospective residents.

(3) The use of age verification procedures.

(4) Lease provisions.

(5) Written rules and regulations.

(6) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

(7) The public posting of the self-certification described in this part.

Note: The following appendix, ''Housing for Older Persons—Self-Certification,'' will not be codified in title 24 of the Code of Federal Regulations.

Dated: July 31, 1995.

Susan Forward,

Deputy Assistant Secretary for Enforcement and Investigations.

BILLING CODE 4210–28–P

U.S. Department of Housing and Urban Development

Housing for Older Persons — Self-Certification

The undersigned hereby certifies that

intends to meet the criteria set forth in the Federal Fair Housing Act in order to qualify as housing for older persons.

This housing facility provides the following facilities and/or services:

Category #1 (Social Needs)
Social and Recreational Services provided on a regular, organized basis

- ❒ softball, golf, shuffleboard tournaments, lawn bowling, billiards, or similar team activities
- ❒ bridge club, organized card games, chess or checkers
- ❒ exercise classes - low-impact, stretching, tai-chi, swim-therapy
- ❒ bingo
- ❒ fellowship meetings
- ❒ musical theater group
- ❒ dances, square dancing, polka, ballroom dancing
- ❒ at least weekly potluck dinners, breakfasts, luncheons, coffees
- ❒ coordinated holiday parties for residents
- ❒ Lions club, clubs or classes for sewing, needlepoint, art, gardening, music, books, golf, bowling photography, travel, etc.
- ❒ cooking classes
- ❒ crafts classes: ceramics, macrame, woodworking, jewelry, quilting, painting
- ❒ field trips - bowling, sightseeing, concerts, plays, hiking, shopping outlets
- ❒ fashion shows
- ❒ on-site movies or other theatrical events
- ❒ liaison/coordination with activities at community-wide senior centers and activities
- ❒ emergency meal service for residents who are ill or in need
- ❒ organized travel opportunities

Category #2 (Educational Needs)
Continuing education activities

- ❒ at least monthly presentations on subjects such as health care, nutrition, stress management, medicare, insurance, social security, tax preparation, vacation planning, gardening, crime prevention
- ❒ consumer protection education
- ❒ regularly offered CPR classes
- ❒ regularly offered language study classes
- ❒ regularly offered videotapes on healthcare
- ❒ courses available at local educational institutions
- ❒ library with magazines for older persons and material available in large print

Category #3 (Educational Needs)
Information and counseling services

- ❒ providing new residents with package of information about local services of interest to seniors
- ❒ bulletin board for exchange of information or services
- ❒ printed resident directory provided to each resident
- ❒ free information on cable TV programs for residents
- ❒ internal or external support groups for residents
- ❒ seminars on the aging process
- ❒ on-site legal services
- ❒ informational sessions on fire safety, mental health issues, political and environmental issues
- ❒ seminars on estate planning, dealing with death or other issues affecting older persons
- ❒ seminars on governmental benefits programs

Category #4 (Physical Needs)
Homemaker services

- ❒ employees assist with housework or yardwork
- ❒ organized committee of residents to perform light household tasks or yard work for those who cannot do them themselves
- ❒ referrals to housecleaning services
- ❒ bill-paying services
- ❒ pet care/pet therapy services
- ❒ minor home repair service
- ❒ tool loan service

Category #5 (Safety Needs)
Outside maintenance/health and safety services

- ❒ on-staff medical personnel with first aid/CPR training
- ❒ on-staff repair, maintenance and painting services
- ❒ meals on wheels
- ❒ lawn care and grass cutting, shrubbery and tree trimming
- ❒ snow shoveling and plowing
- ❒ systems for referrals to doctors or other health care professionals
- ❒ regular system to contact residents who are house-bound to make sure they are o.k.
- ❒ referrals for transportation
- ❒ systems for referras to income tax preparer
- ❒ systems for referras to repair and maintenance services
- ❒ security guards/parols, organizing neighborhood or block watch
- ❒ organizing committee of residents to do household repairs and yard work for those who cannot do them themselves
- ❒ exterior lighting - alarm systems monitoring
- ❒ vacation house watch
- ❒ limited access to property by controlled access gate or similar system

Category #6 (Health Needs)
Emergency and preventative health care programs

- ❒ meetings about nutrition, back care, breast cancer/self-examination/mammogram, prostate cancer screening, vision care, or other health care topics (see continuing education)
- ❒ monthly blood pressure checks
- ❒ annual flu vaccine shots available
- ❒ periodic vision or hearing tests
- ❒ staff or volunteers pick up food from social services for mobility impaired seniors
- ❒ organizing committee or buddy system of residents to do errands for people who become ill and/or to stay with sick persons while their spouses do errands
- ❒ emergency telephone network, staff or volunteers monitor people who have serious medical problems
- ❒ doctor/medical facilities located within two miles of facility
- ❒ health care equipment pool for resident use

This housing facility has determined to provide and does in fact provide at least 10 of the following services and facilities by offering at least 2 facilities or services in at least 5 of the following categories, including specifically at least two facilities from category 10 or from category 11. This housing facility also limits occupancy consistent with the Fair Housing Act which requires that at least 80% of units be occupied by at least one person who is 55 years of age or older. As housing for older persons, we claim an exemption from the provisions of the Fair Housing Act regarding discrimination based on familial status -- that is, the presence of persons under the age of 18.

Category #7 (Social/Health Needs)
Congregate dining

- ❒ available congregate dining for at least one meal each day
- ❒ sit-down meal service
- ❒ special menus for dietary needs
- ❒ activities conducted in conjunction with congregate dining

Category #8 (Transportation)
Transportation to facilitate access to social services

- ❒ transportation provided to doctors' offices, shopping, religious services, outside social or recreational activities
- ❒ public bus stop or train station within walking distance and bus schedules and maps available
- ❒ organized system to provide transportation for residents who cannot drive
- ❒ sign-up board for shared transportation needs
- ❒ shared ride services to social events, functions, medical care, shopping

Category #9 (Social Needs)
Services to encourage and assist residents to use available facilities and services

- ❒ volunteer or staff activity planner
- ❒ swimming or water aerobics instructors
- ❒ dance or exercise instructors
- ❒ crafts instructors
- ❒ newsletters, newspapers or flyers informing residents of activities, trips, clubs, etc.
- ❒ monthly calendar of events
- ❒ resident council or committees to encourage participation in activities

Category #10 (Leisure Needs)
Social and Recreational Facilities

- ❒ clubhouse, communal kitchen, or communal dining area
- ❒ library with large print books or subscriptions to publications targeted to older persons
- ❒ sauna, jacuzzi or whirlpool
- ❒ recreation or game room, arts and crafts room, community room or meeting room
- ❒ television room for communal use with VCR
- ❒ exercise equipment
- ❒ ping pong, pool or billiard tables, shuffleboard courts, horseshoe pits or bocce ball (with functional equipment)
- ❒ golf course
- ❒ stage, piano and dance floor
- ❒ woodworking shop
- ❒ restaurant for resident use
- ❒ bank
- ❒ legal assistance
- ❒ travel agency
- ❒ convenience store
- ❒ barber shop
- ❒ dry cleaners
- ❒ hair salon
- ❒ lapidary
- ❒ kiln
- ❒ fishing pond

Category #11 (Health/Safety Needs)
Accessible physical environment

- ❒ accessible clubhouse
- ❒ at least one accessible bathroom facility in public and common use areas
- ❒ ramps (curbs or drainage ditches are cut or ramped to allow wheelchair/walker access)
- ❒ ramped sidewalks in public and common use areas; stairs at a minimum
- ❒ benches in public and common use areas
- ❒ assigned and designated parking spaces, including handicapped parking
- ❒ accessible swimming pool (i.e., ramped entrance to pool area)
- ❒ accessible management office
- ❒ accessible dining area or activity area
- ❒ vans, buses available with wheelchair lifts or easy access for persons with mobility difficulties
- ❒ Lift to assist in swimming pool use
- ❒ amplifiers provided on at least 25% of public phones

Category #12 (Social, Leisure, Health, Safety or Educational Needs)
Other

- ❒ Any facility or service which is not listed above but which is designed to meet the health, safety, social or leisure needs of persons who are 55 and older and which is actually available to and used by residents of the property. (Describe)

SIGNED UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA:

_____
signature

_____
printed name

_____
title

_____
authorized representative of the above named housing provider

[FR Doc. 95–20222 Filed 8–17–95; 8:45 am]
BILLING CODE 4210–28–C

federal register

Friday
August 18, 1995

Part VIII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 1995.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of August 1, 1995, of 28 rescission proposals and seven deferrals contained in five special messages for FY 1995. These messages were transmitted to Congress on October 18, and December 13, 1994; and on February 6, February 22, and May 2, 1995.

Rescissions (Attachments A and C)

As of August 1, 1995, 28 rescission proposals totaling $1,199.8 million had been transmitted to the Congress. Congress approved 24 of the Administration's rescission proposals in P.L. 104–6 and P.L. 104–19. A total of $845.4 million of the rescissions proposed by the President was rescinded by those measures. Attachment C shows the status of the FY 1995 rescission proposals.

Deferrals (Attachments B and D)

As of August 1, 1995, $1,004.7 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1995.

Information from Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the **Federal Register** cited below:

59 FR 54066, Thursday, October 27, 1994

59 FR 67108, Wednesday, December 28, 1994

60 FR 8842, Wednesday, February 15, 1995

60 FR 12636, Tuesday, March 7, 1995

60 FR 24692, Tuesday, May 9, 1995

Alice M. Rivlin,

Director.

BILLING CODE 3110–01–M

ATTACHMENT A

STATUS OF FY 1995 RESCISSIONS
(in millions of dollars)

	Budgetary Resources
Rescissions proposed by the President.....	1,199.8
Rejected by the Congress.....	---
Amounts rescinded by the FY 1995 Emergency Supplemental Appropriations Act in P.L. 104-6 and P.L. 104-19.....	-845.4
Currently before the Congress.....	354.4

ATTACHMENT B

STATUS OF FY 1995 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President.....	4,699.1
Routine Executive releases through August 1, 1995 (OMB/Agency releases of $3,696.9 million, partially offset by cumulative positive adjustment of $2.5 million).....	-3,694.4
Overturned by the Congress.....	---
Currently before the Congress.....	1,004.7

ATTACHMENT C
Status of FY 1995 Rescission Proposals - As of August 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF AGRICULTURE								
Foreign Agricultural Service								
Public Law 480 program account	R95-1		43,865	2-6-95	43,865	3-28-95	40,000	P.L. 104-19
Public Law 480 grants, title I (OFD), II, and III			98,635	2-6-95	98,635	3-28-95		
Food and Nutrition Service								
Food stamp program	R95-2		2,900	2-6-95	2,900	3-28-95		
DEPARTMENT OF COMMERCE								
National Telecommunications and Information Administration								
Public broadcasting facilities, planning and construction	R95-3		18,000	2-6-95	18,000	3-31-95		
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
School improvement programs	R95-4		138,084	2-6-95	35,000	3-15-95	18,584	P.L. 104-19
	R95-4A		-35,000	2-22-95	103,084	3-30-95	65,000	P.L. 104-6
Office of Vocational and Adult Education								
Vocational and adult education	R95-5		43,888	2-6-95	43,888	3-30-95	43,888	P.L. 104-19
Office of Postsecondary Education								
Higher education	R95-6		26,903	2-6-95	26,903	3-30-95	9,493	P.L. 104-19
College housing and academic facilities program	R95-7		168	2-6-95	168	3-30-95	168	P.L. 104-19
Office of Educational Research and Improvement								
Education research, statistics, and improvement	R95-8		750	2-6-95	750	3-30-95		
Libraries	R95-9		12,942	2-6-95	12,942	3-31-95		
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R95-10		29,147	2-6-95	29,147	3-28-95	29,147	P.L. 104-19

ATTACHMENT C
Status of FY 1995 Rescission Proposals - As of August 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Centers for Disease Control and Prevention								
Disease control, research, and training	R95-11		1,300	2-6-95	1,300	3-28-95	1,300	P.L. 104-19
National Institutes of Health								
National Center for Research Resources	R95-12		1,000	2-6-95	1,000	3-28-95	1,000	P.L. 104-19
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R95-13		439,200	2-6-95	439,200	3-28-95	268,200	P.L. 104-19
Congregate services	R95-14		37,000	2-6-95	37,000	3-28-95	37,000	P.L. 104-19
DEPARTMENT OF JUSTICE								
Federal Prison System								
Salaries and expenses	R95-26		28,037	5-2-95	*		28,037	P.L. 104-19
DEPARTMENT OF LABOR								
Bureau of Labor Statistics								
Salaries and expenses	R95-15		1,100	2-6-95	1,100	3-29-95	700	P.L. 104-19
DEPARTMENT OF TRANSPORTATION								
Federal Railroad Administration								
Local rail freight assistance	R95-16		13,216	2-6-95	13,216	3-31-95	6,563	P.L. 104-6
Office of the Secretary								
Payments to air carriers (Airport and airway trust fund)	R95-17		7,680	2-6-95	*		5,300	P.L. 104-19
Federal Aviation Administration								
Grants-in-aid for airports (Airport and airway trust fund)	R95-27		94,000	5-2-95	*		94,000	P.L. 104-19

* Funds were never withheld from obligation.

ATTACHMENT C
Status of FY 1995 Rescission Proposals - As of August 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
ENVIRONMENTAL PROTECTION AGENCY								
Abatement, control, and compliance	R95-18		11,642	2-6-95	6,835	2-6-95		
	R95-18A		-6,835	2-6-95	4,807	3-28-95	4,807	P.L. 104-19
Water infrastructure financing	R95-18B		3,200	2-6-95	3,200	3-28-95	3,200	P.L. 104-19
Research and development	R95-18C		3,635	2-6-95	3,635	3-28-95	3,635	P.L. 104-19
	R95-18C-1		Language	2-22-95				
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Mission support	R95-19		1,000	2-6-95	1,000	3-28-95	1,000	P.L. 104-19
Construction of facilities	R95-20		27,000	2-6-95	27,000	3-28-95	27,000	P.L. 104-19
Space flight, control, and data communications	R95-28		10,000	5-2-95	10,000	6-26-95	10,000	P.L. 104-19
SMALL BUSINESS ADMINISTRATION								
Salaries and expenses	R95-21		15,000	2-6-95	15,000	4-6-95	15,000	P.L. 104-6
OTHER INDEPENDENT AGENCIES								
Chemical Safety and Hazard Investigation Board								
Salaries and expenses	R95-22		500	2-6-95	500	3-28-95	500	P.L. 104-19
National Science Foundation								
Academic research infrastructure	R95-23		131,867	2-6-95	131,867	3-27-95	131,867	P.L. 104-19
TOTAL RESCISSIONS		**0**	**1,199,824**		**1,111,942**		**845,389**	

ATTACHMENT D
Status of FY 1995 Deferrals - As of August 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 8-1-95
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International fund for Ireland	D95-1	53,300		10-18-94					
	D95-1A		1,173,948	12-13-94	914,167			2,525	315,607
Foreign military financing grants	D95-2	3,139,279		10-18-94	2,524,196				615,083
Foreign military financing program account	D95-3	47,917		10-18-94	42,774				5,143
Military-to-military contact program	D95-4	2,000		10-18-94	2,000				0
Agency for International Development									
International disaster assistance, executive	D95-5	169,998		10-18-94	168,936				1,062
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D95-6	7,319		10-18-94					
	D95-6A		2	2-22-95					7,321
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D95-7	105,300		10-18-94	44,814				60,486
TOTAL, DEFERRALS		3,525,113	1,173,950		3,696,888			2,525	1,004,700

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federal register

Friday
August 18, 1995

Part IX

The President

Proclamation 6816—Women's Equality Day, 1995

Federal Register
Vol. 60, No. 160
Friday, August 18, 1995

Presidential Documents

Title 3—

The President

Proclamation 6816 of August 16, 1995

Women's Equality Day, 1995

By the President of the United States of America

A Proclamation

Seventy-five years ago this Nation took a great step forward by ratifying the 19th Amendment to the Constitution. Twenty-eight simple words—''The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex''—brought to a triumphant conclusion the long decades of struggle waged by generations of suffragists. Looking back from the vantage point of the present, when the contributions and influence of women enrich every facet of our national life, it seems remarkable that as recently as 1920 most American women were still denied their right to full participation in the political activity of this country. Our history continues to remind us that humanity's age-old enemies of ignorance and prejudice are not easily defeated.

But defeated they were, by an army of women and men who, inspired by the staunch courage and unswerving commitment of leaders like Susan B. Anthony, changed people's minds and the course of U.S. history. Using the classic tools of democracy—assembly and petition, exhortation and example, peaceful protest and political shrewdness—these champions of liberty won a lasting victory for civil rights. The fight was hard, the margins slim, and the outcome often in doubt. But after years of effort and sacrifice, after countless acts of courage and conscience, advocates of women's suffrage rejoiced as the Congress proposed an amendment to the Constitution in 1919 and as Tennessee, the last State needed for ratification, approved that amendment on August 18, 1920, by a single vote, when a young legislator heeded his mother's plea to support suffrage. On August 26, 1920, the 19th Amendment was finally proclaimed part of the United States Constitution, fulfilling Susan B. Anthony's pledge that ''failure is impossible.''

Women's Equality Day, while a fitting occasion to commemorate this great victory of wisdom over ignorance, is also a time for sober reflection that American democracy is a work in progress. The Declaration of Independence was only the first step in our long journey toward equality for all Americans. And while we have made much progress, until all women have an equal opportunity to develop their full potential and to make contributions that are accepted and welcomed by our society, our freedom as a Nation will be incomplete.

Let us observe Women's Equality Day, then, both as a celebration of past achievement and a promise for the future: a promise to promote and protect with vigor and vigilance the rights of all our citizens; a promise to decry the policies of exclusion and to pursue the ideal of equality for every American; and a promise to empower all of our people to take their rightful place as full and equal partners in the great American enterprise.

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 August 26, 1995, as ''Women's Equality Day.'' I call upon the citizens of our great Nation to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of August, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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