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

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 41

Enlisted Administrative Separations

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes information in Title 32 of the Code of Federal Regulations concerning enlisted administrative separations. This part has served the purpose for which it was intended in the CFR and is no longer necessary.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: L. Bynum or P. Toppings, 703–697–4111.

SUPPLEMENTARY INFORMATION: DoD Directive 1332.14 (32 CFR part 41) is available via internet at the following address: http://www.defenselink.mil/dodgc/defense__ethics/. Paper copies of the current Directive may be obtained, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

List of Subjects in 32 CFR Part 41

Armed forces reserves, Military personnel.

PART 41—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 41 is removed.

Dated: October 13, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer,

[FR Doc. 98–28137 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA46

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Balance Billing

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule establishes financial protections for TRICARE Prime enrollees in limited circumstances when they receive covered services from a non-network provider.

DATES: This rule is effective March 16, 1998.

ADDRESSES: TRICARE Management Activity, Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, Office of the Assistant Secretary of Defense (Health Affairs)/TRICARE Management Activity, telephone (703) 681–1745.

Questions regarding payment of specific claims under the CHAMPUS allowable charge method should be addressed to the appropriate TRICARE/CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

I. Overview of the Rule

This final rule implements section 731 of the FY 1996 National Defense Authorization Act and section 711 of the FY 1997 National Defense Authorization Act which modified 10 U.S.C. 1079(h) to provide protections for TRICARE Prime enrollees from balance billing situations in limited circumstances. Balance billing can otherwise occur when a provider bills a TRICARE Prime enrollee an actual charge in excess of the allowable amount. Each regional TRICARE managed care support contractor is required to establish a network of civilian providers in areas where TRICARE Prime (the enrollment option) is offered. As is standard for Health Maintenance Organizations, enrollees in TRICARE Prime receive care from network providers. But on occasion, such as when a network provider is not available and they are referred to a non-network provider, or in emergencies, they may receive covered services from non-network providers. This rule provides protection in these situations; TRICARE Prime enrollees will be responsible for their copayments, but not for balance billing by non-participating providers.

Public Comments. The interim final rule was published in the **Federal Register** on February 13, 1998. We received one comment letter. We thank the commenter who approved of the Department's steps taken to further protect TRICARE Prime beneficiaries from the uncertainties of balance billing by non-network providers. The commenter also suggested that we more clearly define balance billing protections for ''out-of-network referrals'' and more specifically state our definition of ''providers'' with respect to references to non-participating providers.

Response. The rule is designed to limit TRICARE Prime beneficiary liability when properly referred by the primary care manager or Health Care Finder for authorized care outside of the TRICARE network in limited instances where there is a lack of network providers, or there is a mistaken referral to an out-of-network provider. Emergency care requires no prior authorization; however, balance billing protections also apply to TRICARE Prime beneficiaries who receive care in an emergency setting from non-network providers. With respect to the request to further define the term ''providers,'' the definition is contained in 199.2 of this part and is generally considered to be a hospital, or other institutional provider, a physician, or other individual professional provider, or other provider of services or supplies.

Provisions of Final Rule. The final rule is consistent with the interim final rule.

II. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a

significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.14 is amended by adding paragraph (h)(1)(i)(D) to read as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(h) *Reimbursement of Individual Health Care Professionals and Other Non-Institutional Health Care Providers.* * * *

(1) *Allowable charge method.* * * *

(i) *Introduction.* * * *

(D) *Special rule for TRICARE Prime Enrollees.* In the case of a TRICARE Prime enrollee (see section 199.17) who receives authorized care from a non-participating provider, the CHAMPUS determined reasonable charge will be the CMAC level as established in paragraph (h)(1)(i)(B) of this section plus any balance billing amount up to the balance billing limit as referred to in paragraph (h)(1)(i)(C) of this section. The authorization for such care shall be pursuant to the procedures established by the Director, OCHAMPUS (also referred to as the TRICARE Support Office).

* * * * *

Dated: October 15, 1998.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28140 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

33 CFR Part 165

[COTP San Juan 98–065]

RIN 2115–AA97

Safety Zone Regulations: Port of Guanica, Guanica, Puerto Rico

AGENCY: U.S. Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing an emergency safety zone for the port of Guanica, Puerto Rico. This safety zone is necessary to protect vessels and the port from navigation hazards associated with downed electrical power cables that stretch into Guanica Bay. Three high tension power cables detached from the western tower and remain attached to the eastern tower. The cables enter the water in vicinity of the Ochoa fertilizer facility and are submerged at an unknown depth possibly within the channel. All vessels are prohibited from anchoring in or transiting within the prescribed safety zone unless specifically authorized by the Captain of the Port San Juan, PR.

EFFECTIVE DATES: This regulation becomes effective at 3 p.m. on October 7, 1998 for the port of Guanica, Puerto Rico, and will remain in effect until 6 p.m. on October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Commanding Officer, Marine Safety Office San Juan, P.O. Box 9023666, Old San Juan, Puerto Rico, 00902–3666, Attention: Lieutenant Commander Dreyfus, or phone (787) 729–6800 x308.

SUPPLEMENTARY INFORMATION:

Background and Purpose

This regulation is necessary to protect vessels from navigation hazards associated with downed electrical power cables that stretch into Guanica Bay. All vessels are prohibited from anchoring in or transiting restricted waters and channels unless specifically authorized by the Captain of the Port San Juan, PR. This regulation does not apply to authorized law enforcement or search and rescue vessels operating within the safety zone. The Captain of the Port San Juan, PR will issue a Marine Safety Information Broadcast Notice to Mariners (BNTM) to notify the marine community of the safety zone and the imposed restrictions. A separate BNTM will be issued to notify when the safety zone is no longer in effect. This regulation begins at 3 p.m. on October 7, 1998 for the port of Guanica.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest and safety since immediate action is needed to protect vessels from an electrical hazard and/or from obstruction.

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

Small Entities: Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considers whether this proposed rule will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a substantial economic impact on a substantial number of small entities as the regulations will only be in effect for a short period.

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

Federalism: This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment: The Coast Guard has considered the environmental impact of this action and has determined, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. This temporary safety zone is established to deal with an emergency situation for which a checklist and Categorical Exclusive Determination is not required.

List of Subjects in 33 CFR Part 165

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

Temporary Regulation

In consideration of the foregoing, Title 33, Code of Federal Regulations, Part 165, Subpart C is amended as follows:

PART 165—[AMENDED]

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

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

2. A new § 165.T07–065 is added to read as follows:

§ 165.T07–065 Safety Zone: The Port of Guanica, Guanica, Pureto Rico.

(a) *Regulated Area.* The following area is designated a safety zone: All navigable waters of Guanica Bay, Guanica, Puerto Rico.

(b) *Regulations:* (1) The waters in Guanica Bay are closed to vessel traffic.

(2) In accordance with the general regulations in § 165.23 of this part, all vessels are prohibited from anchoring in or transiting the waters or channels of Guanica Bay unless specifically authorized by the Captain of the Port San Juan, PR.

(3) This section does not apply to authorized law enforcement or search and rescue vessels operating within the safety zone.

(4) The Captain of the Port San Juan, PR will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and the restrictions imposed. A BNTM will notify the maritime community when the safety zone is no longer in effect.

(c) *Effective Dates.* This section becomes effective at 3 pm on October 7, 1998 for the port of Guanica, Puerto Rico, and will be terminate at 6 pm on October 21, 1998.

Dated: October 7, 1998.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, San Juan, PR.

[FR Doc. 98–28147 Filed 10–20–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX90–1–7360a; FRL–6160–2]

Approval and Promulgation of State Implementation Plan, Texas: Recodification of Regulations to Control Lead Emissions From Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, the EPA is approving the recodification of the Texas State Implementation Plan (SIP) regulations controlling emissions of lead from stationary sources. The recodification consists of a renumbering of the sections and administrative changes to the rules. There are no substantive changes to the rules.

If relevant adverse comments are received on this approval, the EPA will publish a document informing the public that the direct final rule will not take effect, and address the relevant comments received in a subsequent final rule, based on the related proposed rule. No additional opportunity for public comment will be provided.

DATES: This action is effective on December 21, 1998 unless adverse or critical comments are received by November 20, 1998. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** to inform the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission (TNRCC), 12100 Park 35 Circle, Building F, Austin, Texas 78753.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Region 6 Air Planning Section at the above address, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

I. Background

In a letter dated August 21, 1997, the Governor of Texas submitted a recodification of the Texas SIP rules controlling emissions of lead from stationary sources. The current 30 Texas Administrative Code (TAC), Chapter 113, Subchapter B, Section citations and the corresponding recodified citations are listed below.

There have been no substantive changes made to the rules. Administrative changes have been made which update the name of the agency and reflect that the original compliance dates were long passed for facilities affected at the time of the original adoption of the rules.

The Texas lead regulations were previously approved on August 13, 1984, in 49 FR 32184; and August 15, 1984, in 49 FR 32577. At that time, no action was taken on 30 TAC Chapter 113, Sections 111, 112, 113, and 114. The EPA is now merely approving the renumbering system submitted by the State, and continues to take no action on Section 111, 112, 113, and 114.

31 TAC CHAPTER 113 SUBCHAPTER B: LEAD FROM STATIONARY SOURCES

Current citation	Recodified citation	Title
		Nonferrous Smelters in El Paso County
113.41	113.31	Maintenance and Operation of Control Equipment.
113.42	113.32	Areas Accessible to the General Public.
113.43	113.33	Control of Fugitive Dust.
113.51	113.34	Materials Handling and Transfer.
113.52	113.35	Smelting of Lead.
113.53	113.36	Smelting of Copper and Zinc.
113.71	113.37	Lead Emissions Limits for Stacks.
		Lead Smelters in Dallas County.
113.81	113.41	Maintenance and Operation of Control Equipment.
113.83	113.42	Storage of Lead-Containing Materials.

31 TAC CHAPTER 113 SUBCHAPTER B: LEAD FROM STATIONARY SOURCES—Continued

Current citation	Recodified citation	Title
113.84	113.43	Transport of Materials.
113.85	113.44	Fugitive Emissions from Lead Processes.
113.87	113.45	Battery or Lead Reclaiming Operations.
113.88	113.46	Lead Emission Limits for Reverberatory Furnaces and Blast Furnaces.
113.91	113.47	Control of Fugitive Dust.
113.92	113.48	Additional Measures to Reduce Lead Emissions.
		Alternate Controls
113.111	113.51	Alternate Means of Control in El Paso County.
113.112	113.52	Alternate Emission Reductions in El Paso County.
113.113	113.53	Alternate Means of Control in Dallas County.
113.114	113.54	Alternate Emission Reductions in Dallas County.
		Compliance and Control Plan Requirements
113.121	113.61	Compliance with Other Rules in El Paso County.
113.122	113.62	Dates for Control Plan Submission and for Final Compliance in El Paso County.
113.123	311.63	Control Plan Procedure in El Paso County.
113.124	113.64	Reporting Procedure in El Paso County.
113.125	113.65	Compliance with Other Rules in Dallas County.
113.126	113.66	Dates for Control Plan Submission and for Final Compliance in Dallas County.
113.127	113.67	Control Plan Procedure in Dallas County.
113.128	113.68	Reporting Procedure in Dallas County.

II. Final Action

By this action, the EPA is approving the recodification of the Texas SIP regulations controlling emissions of lead from stationary sources.

The EPA has not reviewed the substance of these regulations at this time. These rules were approved into the SIP in previous rulemakings. The EPA is now merely approving the renumbering system submitted by the State. The EPA's approval of the renumbering system, at this time, does not imply any position with respect to the approvability of the substantive rules. To the extent the EPA has issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this recodification, the EPA will continue to require the State to correct any such rule deficiencies despite the EPA's approval of this recodification.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective December 21, 1998 without further notice unless, by November 20, 1998, relevant adverse 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 the proposed action. The EPA will not institute a second comment period. 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 December 21, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for 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.

III. Administrative Requirements

A. Executive Orders (E.O.) 12866 and 13045

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for 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.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because conditional approvals of SIP submittals 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, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory

requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The 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 preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Since this action does not impose any mandate, it is also not subject to Executive Order 12875 concerning Federal mandates.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Executive Order 12866

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

F. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

G. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

H. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 21, 1998. Filing a petition for reconsideration by the Administrator of this conditional interim final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: September 2, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(114) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(114) Recodified regulations of Texas Administrative Code, Title 30, Chapter 113, Subchapter B, controlling lead emissions from stationary sources, and submitted by the Governor in a letter dated August 21, 1997.

(i) Incorporation by reference.

(A) Texas Natural Resource Conservation Commission (TNRCC) order adopting amendments to the State Implementation Plan; Docket Number 97–0143–RUL, issued July 9, 1997.

(B) Texas Administrative Code, Title 30, Chapter 113, Subchapter B, entitled ''Lead from Stationary Sources,'' adopted by the TNRCC on July 9, 1997. Newly recodified sections 113.31, 113.32, 113.33, 113.34, 113.35, 113.36, 113.37, 113.41, 113.42, 113.43, 113.44, 113.45, 113.46, 113.47, 113.48, 113.52, 113.61, 113.62, 113.63, 113.64, 113.65, 113.66, 113.67, and 113.68.

(ii) Additional material. TNRCC certification letter dated June 25, 1997, and signed by Gloria Vasquez, Chief Clerk, TNRCC.

[FR Doc. 98–28114 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA122–4078a; FRL–6178–2]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Withdrawal of Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of adverse comment, EPA is withdrawing the direct final rule for the approval of revisions to the Pennsylvania State Implementation Plan (SIP). EPA published the direct final rule on September 16, 1998 (63 FR 49436), approving revisions to supplement Pennsylvania's enhanced motor vehicle emissions inspection and maintenance (I/M) program. As stated in that **Federal Register** document, if adverse comments were received by October 16, 1998, a timely withdrawal would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action and issue a final rule based on the parallel proposal also published on September 16, 1998 (63 FR 49517). In a separate document appearing in the *Proposed Rules* section, EPA is announcing extension of the comment period on this action.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by e-mail at rehn.brian@epamail.epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 8, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 98–28112 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6176–6]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Idaho has applied for final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). This authorization addresses regulations promulgated between July 1, 1993 and July 1, 1996 with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments and Containers (Subpart CC standards). The EPA has reviewed Idaho's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comment is received during the review and comment period provided in this rule, EPA's decision to authorize Idaho's hazardous waste program revision will take effect.

DATES: This Final authorization for Idaho will become effective without further notice on January 19, 1999, if the EPA receives no adverse comment by November 20, 1998. Should the EPA receive adverse written comment, the EPA will withdraw this rule before the effective date by publishing a timely withdrawal in the **Federal Register**.

ADDRESSES: Mail written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM–122, Seattle, WA 98101, phone, (206) 553–0256. Copies of the materials submitted by Idaho are available during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553–1289 and the Idaho Department of Health and Welfare, Division of Environmental Quality, Planning and Evaluation Division, 1410 N. Hilton, Boise, Idaho 83706, phone, (208) 373–0502 (Refer to Docket numbers: 0105–9401, 0105–9502, 0105–9601; contact is Pam Smolczynski).

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA, 98101; phone (206) 553–0256.

SUPPLEMENTARY INFORMATION:

A. Background

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

B. Idaho

Effective on April 9, 1990 (55 FR 11015, March 26, 1990), Idaho was granted final base authorization for those non-HSWA (Hazardous and Solid Waste Amendments of 1984) and HSWA requirements promulgated as of July 1, 1987, and interim authorization for the HSWA Corrective Action provisions promulgated as of July 1, 1987. Final authorization for those HSWA Corrective Action provisions was granted effective on June 5, 1992 (57 FR 11580, April 6, 1992). Effective on August 10, 1992 (57 FR 24757, June 11, 1992), Idaho was granted final authorization for those HSWA and non-HSWA provisions promulgated as of July 1, 1990. On March 30, 1995, Idaho was granted final authorization for HSWA and non-HSWA provisions promulgated as of July 1, 1993.

Through two codification actions dated December 6, 1990 (55 FR 50327), and June 11, 1992 (57 FR 24757), the EPA has codified at 40 CFR 272 Subpart N all authorization actions for the State of Idaho RCRA program, which reflect non-HSWA and HSWA requirements promulgated as of June 30, 1990.

On September 17, 1996, the Administrator of the Idaho Division of Environmental Quality submitted a revised application to obtain final authorization for those non-HSWA and HSWA requirements promulgated as of July 1, 1995. This application was determined complete on October 10, 1996. On October 11, 1996 a petition was submitted to the EPA asking that the EPA initiate withdrawal proceedings of Idaho's's authorization to administer Subtitle C of RCRA. The petition claimed that Idaho's Environmental Audit Protection Act warranted program withdrawal. Idaho's Environmental

Audit Protection Act expired on December 31, 1997 rendering the basis of the petition's assertions moot. No withdrawal proceedings were initiated.

On October 3, 1997, Idaho submitted an updated program revision application, seeking authorization of its September 17, 1996 program revision amending it with additional regulations in accordance with 40 CFR 271.21. The EPA reviewed Idaho's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for Idaho's Authorization. Consequently, the EPA intends to grant Final Authorization for the program modifications contained in the revision.

The public may submit written comments on EPA's final decision until November 20, 1998. Copies of Idaho's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

If the EPA does not receive adverse written comment pertaining to Idaho's program revision by the end of the comment period, the authorization of Idaho's revision will become effective 90 days from the date this document is published and EPA will take no further action on the companion document appearing in the Proposed Rules Section of today's **Federal Register**. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective date. The EPA will then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. The EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

This revision maintains Idaho's regulatory equivalency with the federal RCRA program by incorporating by reference all delegable hazardous waste regulations revised between July 1, 1993 through July 1, 1996 with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (59 FR 62896). The following table identifies all the Federal provisions being requested for authorization and are effective state law.

Federal Citation as incorporated by Idaho with Idaho annotations and exceptions	State rule Citation (IDAPA)
40 CFR Part 260	
All subparts as of July 1, 1996. For the purposes of 40 CFR 260.22, **Federal Register** shall be defined as the Idaho Administrative Bulletin.	16.01.05.004
40 CFR Part 261	
All subparts including appendices as of July 1, 1996. Idaho has adopted a state-specific rule which delists chemically stabilized K061 waste at EnviroSafe Services of Idaho, Inc	16.01.05.005
40 CFR Part 262	
All subparts as of July 1, 1996 except reference to 40 CFR 265 Subpart CC and that advance notification, annual reports, and exception reports in accordance with 262.53, 262.55, and 262.56 shall be filed with the EPA Regional Administrator and the Director of IDHW shall be copied. All references to EPA in 262.51, 262.54(g)(1) and 262.57(b) shall remain defined as EPA. In addition to the Emergency Notification Requirements in 40 CFR 262.34(a)(4), the State Communications Center must also be contacted at 1–800–362–8000	16.01.05.006
40 CFR Part 263	
All subparts as of July 1, 1996.	16.01.05.007
40 CFR Part 264	
All subparts as of July 1, 1996 except 264.149, 264.150, 264.301(l) and Subpart CC. All references to the Regional Administrator in 264.12(a) shall be defined as the EPA Regional Administrator	16.01.05.008
40 CFR Part 265	
All subparts except Subpart R, Subpart CC, 265.149 and 265.150 as of July 1, 1996	16.01.05.009
40 CFR Part 266	
All subparts except Subparts A and B as of July 1, 1996	16.01.05.010
40 CFR Part 268	
All subparts except 268.1(e)(3), 268.5, 268.6, and 268.42(b)as of July 1, 1996. If the Administrator of EPA grants a case-by-case variance pursuant to 268.5, that variance will simultaneously create the same case-by-case variance in the equivalent Idaho rule	16.01.05.011
40 CFR Part 270	
All subparts as of July 1, 1996 except reference to 40 CFR 264 Subpart CC and 40 CFR 265 Subpart CC. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5) and 270.72(b)(5), EPA shall remain defined as EPA	16.01.05.012
40 CFR Part 273	
All subparts as of July 1, 1996	16.01.05.016
40 CFR Part 279	
All subparts as of July 1, 1996	16.01.05.015
40 CFR Part 124	
Subparts A and B only as of July 1, 1996, except that the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b) and 124.10(c)(1)(ii) EPA shall remain defined as EPA	16.01.05.013
RCRA 3005(j)	16.01.05.014
RCRA 3006(f)	16.01.05.997

The State of Idaho is not being authorized to operate in any Indian country.

C. Decision

I conclude that Idaho's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the EPA grants Idaho Final Authorization to operate its hazardous waste program as revised. Idaho now has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Any subsequent changes to the Federal program that occurred after July 1, 1996 are not part of Idaho's authorized RCRA program. Idaho also has primary enforcement responsibilities, although the EPA retains the right to conduct inspections under section 3007 of RCRA, 42 U.S.C. 6927, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6928, 6934 and 6973.

D. Codification in Part 272

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

E. Unfunded Mandates

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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act or any other statute, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is not required, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. Today's rule does not impose any federal requirements on regulated entities, whether large or small. Instead, today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program. Today's rule carries out Congress' intent under RCRA that states should be authorized to implement their own hazardous waste programs as long as those programs are equivalent to, and no less stringent than, the Federal hazardous waste program. In this case, to the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law, not because of any new Federal requirement imposed pursuant to today's rule.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

G. Submission to Congress and the Comptroller General

Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Executive Order 12866

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

I. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

J. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be '''economically significant''' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

K. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the

Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

L. Paperwork Reduction Act

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

M. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113 section 12(d) (15 U.S.C. 272) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be standards inconsistent with applicable law or otherwise impractical. Voluntary consensus standard are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

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

List of Subjects in 40 CFR Part 271

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

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

Dated: October 6, 1998.

Chuck Clarke,

Regional Administrator, U.S. Environmental Protection Agency, Region 10.

[FR Doc. 98–27702 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–44

[FPMR Amdt. H–200]

RIN 3090–AG77

Donations To Service Educational Activities

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This document amends the regulation issued by GSA for donations made to educational activities of special interest to the armed services. The amendment is necessary to comply with subsection 203(j)(2) of the Federal Property and Administrative Services Act of 1949, as amended. Subsection 203(j)(2) requires all donations of surplus property under the control of the Department of Defense (DOD) to service educational activities (SEAs) to be made through State Agencies for Surplus Property (SASPs). Currently, SEAs acquire property directly from DOD disposal facilities.

EFFECTIVE DATE: This rule is effective December 21, 1998.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Director, Personal Property Management Policy Division (202–501–3846).

SUPPLEMENTARY INFORMATION: This rule finalizes the proposed amendments to 41 CFR 101–44.4 that were published for comment at 63 FR 42310 on August 7, 1998. Since no comments were received, the proposed revisions are being issued as a final rule without change.

Under this rule, the SASPs will assume responsibilities that were previously performed by the DOD including: (1) Distributing the donated property to the SEAs; (2) conducting utilization surveys and reviews during the period of restriction to ensure that donated property is being used by the SEA donees for the purposes for which it was donated; and (3) monitoring compliance by the SEA donees with the conditions specified in § 101–44.208 (except for §§ 101–44.208(a)(3) and (4)).

Additionally, it is important to note that the SEAs are not subject to any additional terms, conditions, reservations, or restrictions imposed by the SASPs. This exemption is provided by subsection 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)(4)(E)). Therefore, new §§ 101–44.400(c)(5) and 101–44.401(b) specifically state that regulatory provisions at §§ 101–44.208(a)(3) and (4) governing the imposition by SASPs of additional terms, conditions, reservations, or restrictions do not apply to donations of surplus DOD personal property to eligible SEAs.

This rule is not a major rule for the purposes of Executive Order 12866. This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

The Paperwork Reduction Act does not apply because the rule does not impose recordkeeping or information collection requirements or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501–3520. This rule also is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

The rule is written in a new, simpler to read and understand, question and answer format. In the new format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

List of Subjects in 41 CFR Part 101–44

Government property management, Reporting requirements, Surplus Government property.

For the reasons stated in the preamble, GSA amends 41 CFR part 101–44 as follows:

PART 101–44—DONATION OF PERSONAL PROPERTY

1. The authority citation for 41 CFR part 101–44 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Subpart 101–44.4 is revised to read as follows:

Subpart 101–44.4—Donations to Service Educational Activities

Sec.
101–44.400 What are the responsibilities of DOD, GSA, and State agencies in the Service Educational Activity (SEA) donation program?
101–44.401 How is property for SEAs allocated and distributed?
101–44.402 May SEAs acquire non-DOD property?
101–44.403 What if a provision in this subpart conflicts with another provision in this part 101–44?

Subpart 101–44.4—Donations to Service Educational Activities

§ 101–44.400 What are the responsibilities of DOD, GSA, and State agencies in the Service Educational Activity (SEA) donation program?

(a) *Department of Defense.* The Secretary of Defense is responsible for:

(1) Determining the types of surplus personal property under DOD control that are usable and necessary for SEAs.

(2) Setting eligibility requirements for SEAs and making eligibility determinations.

(3) Providing surplus personal property under the control of DOD for transfer by GSA to State agencies for distribution to SEAs.

(b) *General Services Administration.* The Administrator of General Services is responsible for transferring surplus personal property designated by DOD to State agencies for donation to eligible SEAs.

(c) *State agencies.* State agency directors are responsible for:

(1) Verifying that an activity seeking to obtain surplus DOD personal property is an SEA designated as eligible by DOD to receive surplus personal property.

(2) Locating, screening, and acquiring from GSA surplus DOD personal property usable and necessary for SEA purposes.

(3) Distributing surplus DOD property fairly and equitably among SEAs and other eligible donees in accordance with established criteria.

(4) Keeping a complete and accurate record of all DOD property distributed to SEAs and furnishing GSA this information as required in § 101–44.4701(e).

(5) Monitoring compliance by SEA donees with the conditions specified in § 101–44.208 (except §§ 101–44.208(a)(3) and (4), which do not apply to donations of surplus DOD personal property to SEAs).

§ 101–44.401 How is property for SEAs allocated and distributed?

(a) *Allocations.* GSA will make allocations in accordance with subpart 101–44.2 of this part, unless DOD requests that property be allocated through a State agency for donation to a specific SEA. Those requests will be honored unless a request is received from an applicant with a higher priority.

(b) *Distributions.* State agencies must observe all the provisions of § 101–44.208, except §§ 101–44.208(a)(3) and (4), when distributing surplus DOD personal property to eligible SEAs.

§ 101–44.402 May SEAs acquire non-DOD property?

Generally no. Surplus property generated by Federal civil agencies is not eligible for donation to SEAs, unless the SEAs also qualify under § 101–44.207 to receive donations of surplus personal property.

§ 101–44.403 What if a provision in this subpart conflicts with another provision in this part 101–44?

The provisions of this subpart shall prevail.

Dated: October 9, 1998.

David J. Barram,

Administrator of General Services.

[FR Doc. 98–28261 Filed 10–20–98; 8:45 am]

BILLING CODE 6820–24–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 97–113; FCC 98–254]

Electronic Filing of Documents in Rulemaking Proceedings

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: On reconsideration, the Commission is deleting from the Electronic Filing of Documents in Rulemaking Proceedings the requirement that comments filed electronically over the Internet include the telephone number of the commenting party. This ruling will allow individuals to file comments electronically without revealing their telephone numbers and will encourage the use of electronic filing.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel, 202–418–1720.

SUPPLEMENTARY INFORMATION:

1. The Commission has under its consideration a petition for reconsideration of its Report and Order in *Electronic Filing of Documents in Rulemaking Proceedings,* 13 FCC Rcd 11322, 63 FR 24121 (1998) (*ECFS Order*), which adopted rules permitting the electronic filing of comments in rulemaking proceedings. Petitioner David B. Popkin requests that we eliminate the requirement that individuals filing comments electronically via the Internet include their telephone number on the comments. Mr. Popkin believes individuals, including amateur radio operators, may wish to keep their telephone number which may be unlisted) non-public. For the reasons discussed, the petition is granted.

2. As Mr. Popkin correctly observes, a commenter's telephone number is not required on non-electronically filed comments in rulemaking proceedings. Thus, parties filing comments in rulemaking proceedings that wish to keep their telephone number private can always file comments on paper rather than electronically. However, we do not want to interpose any barriers to anyone filing comments in rulemaking proceedings electronically, and wish to encourage use of the ECFS. On reconsideration, we will delete the requirement in section 1.419(e), 47 CFR 1.419(e), that telephone numbers be provided on all electronically-filed comments in rulemaking proceedings. The telephone number instead will be optional on the ECFS interface and the e-mail template, neither of which is made part of the public record. We note that our action here applies to the filing of comments in rulemaking proceedings only, as telephone numbers may be required in other regulatory contexts.

3. We further note that section 1.419(e) also requires electronic comment filers to provide their ''street address.'' We will take this opportunity to change this requirement to ''mailing address'' to accommodate those filers that use post office boxes rather than street addresses. We also will insert the phrase ''and other documents'' in section 1.419(e), consistent with other paragraphs of section 1.419.

4. In the *ECFS Order,* we certified that the rules ''will not have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). We supplement that certification to include the amendment of section 1.419(e) adopted here. The changes to section 1.419(e) relieve burdens on electronic filers or simply clarify the language of the rule, and therefore will not have a significant economic impact on a substantial number of small entities.

5. Accordingly, it is ordered that the Petition for Reconsideration is granted.

6. It is further ordered that pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), Part 1 of the Commission's Rules is AMENDED as set forth in the Rule Changes, effective upon publication in the Federal Register. These rule changes are procedural rules and relieve restrictions on electronic comment filers. We therefore find that the rule amendments should be made effective upon publication. *See* 5 U.S.C. 553(d)(1).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 207, 303 and 309(j) unless otherwise noted.

2. Section 1.419 is amended by revising paragraph (e) to read as follows:

§ 1.419 Form of comments and replies; number of copies.

* * * * *

(e) Comments and replies and other documents filed in electronic form by a party represented by an attorney shall include the name and mailing address of at least one attorney of record. Parties not represented by an attorney that file comments and replies and other documents in electronic form shall provide their name and mailing address.

[FR Doc. 98–27885 Filed 10–20–98; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1817, 1834, and 1852

Phased Acquisitions

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to revise its existing coverage on phased acquisitions and down-selections to reflect changes in NASA Procedures and Guidance (NPG) 7120.5A, NASA Program and Project Management Processes and Requirements. In addition, the revision also includes: relocation of the NFS coverage from Part 1834, Major System Acquisition, to 1817, Special Contracting Methods, to more accurately reflect the subject matter; and editorial revisions to the text and associated contract clauses to eliminate redundancies and improve readability. All of these changes are considered non substantive in that they do not affect the existing phased acquisition/down-selection procedures.

DATES: This rule is effective October 21, 1998.

ADDRESSES: Kenneth A. Sateriale, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Sateriale, (202) 3580491.

SUPPLEMENTARY INFORMATION:

Background

NPG 7120.5A, NASA Program and Project Management Processes and Requirements, is the primary internal document governing NASA program management. Revision A supersedes the previous version. The revision includes new terminology that makes obsolete some references, such as program phase designations and definitions, in the NFS coverage on phased acquisitions. Editorial and administrative changes to the NFS are required to ensure complete compatibility with the revised NPG.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) since the changes do no more than align NFS terminology to that in Agency internal documents and make editorial revisions to delete redundancies and improve readability. The rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1817, 1834, and 1852

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1817, 1834, and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1817, 1834, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1817—SPECIAL CONTRACTING METHODS

Subpart 1817.73 [Added]

2. Subpart 1817.73 is added to read as follows:

Subpart 181734.730 Phased Acquisition

181734.7300 Definitions.
1817.7301 Down-selctions in phased acquisitions.
1817.7301–1 Pre-solicitation planning.
1817.7301–2 Evaluation factors.
1817.7301–3 Down-selection milestones.
1817.7301–4 Synopsis.
1817.7301–5 Progressive competition.
1817.7302 Contract clauses.

Subpart 1817.73—Phased Acquisition

1817.7300 Definitions.

(a) *Down-selection.* In a phased acquisition, the process of selecting contractors for later phases from among the preceding phase contractors.

(b) *Phased Acquisition.* An incremental acquisition implementation comprised of several distinct phases where the realization of program/project objectives requires a planned, sequential acquisition of each phase. The phases may be acquired separately, in combination, or through a down-selection strategy.

(c) *Progressive Competition.* A type of down-selection strategy for a phased acquisition. In this method, a single solicitation is issued for all phases of the program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

1817.7301 Down-selections in phased acquisitions.

1817.7301–1 Pre-solicitation planning.

(a) The rationale for the use of the down-selection technique shall be thoroughly justified in the acquisition planning requirement. Because the initial phase solicitation will also lead to subsequent phase award(s), the decision to use a downselection strategy must be made prior to release of the initial solicitation. Accordingly, all phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or ASM minutes.

(b) If there is no direct link between successful performance in the preceding

phase and successful performance in a subsequent phase, down-selection is inappropriate. In this case, the phases should be contracted for separately without a down-selection.

(c) With one exception, both the initial and subsequent phase(s) of an acquisition down-selection process are considered to be full and open competition if the procedures in 1817.7301–4 and 1817.7301–5 (if using the progressive competition technique) are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205 and 1804.570–2.

1817.7301–2 Evaluation factors.

A separate set of evaluation factors must be developed for each phase in a down-selection competition. Since these competitive down-selection strategies anticipate that a preceding phase contractor will be the subsequent phase contractor, the evaluation factors for initial phase award must specifically include evaluation of the offerors' abilities to perform all phases.

1817.7301–3 Down-selection milestones.

(a) When sufficient programmatic and technical information is available to all potential offerors, proposal evaluation and source selection activities need not be delayed until completion of a given phase. These activities should commence as early as practicable. The initial phase contracts should be structured to allow for down-selection at a discrete performance milestone (e.g., a significant design review or at contract completion) of a design maturity sufficient to allow for an informed selection decision. This will avoid time gaps between phases and eliminate unnecessary duplication of effort.

(b) The appropriate contract structure must reflect program technical objectives as well as schedule considerations. For example, if a two-phased acquisition strategy calls for formal completion of initial phase effort at Preliminary Design Review (PDR), but it is not financially practical or technically necessary for subsequent phase award and performance to carry all initial phase contractors through PDR, the initial phase contracts should be structured with a basic period of performance through a significant, discrete milestone before PDR with a priced option for effort from that milestone to PDR. The downselection would occur at the earlier milestone, the PDR option exercised only for the down-selection winner, and the subsequent phase performance begun at the completion of the PDR option.

1817.7301–4 Synopsis.

(a) Each phase of a phased acquisition not performed in-house must be synopsized in accordance with FAR 5.201 and must include all the information required by FAR 5.207. Time gaps between phases should be minimized by early synopsis of subsequent phase competition. The synopsis for the initial competitive phase should also state the following:

(1) The Government plans to conduct a phased acquisition involving a competitive down-selection process. (Include a description of the process and the phases involved.)

(2) Competitions for identified subsequent phases will build on the results of previous phases.

(3) The award criteria for subsequent phases will include demonstrated completion of specified previous phase requirements.

(4) The Government expects that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s). Proposals for the subsequent phase(s) will be requested from these contractors.

(5) The Government intends to issue (or not issue) a new, formal solicitation(s) for subsequent phase(s). If new solicitations are not planned, the acquisition must be identified as a ''progressive competition'' (see 1817.7301–5), and the mechanism for providing pertinent subsequent phase proposal information (e.g., statements of work, specifications, proposal preparation instructions, and evaluation factors for award) must be described.

(6) Each subsequent phase of the acquisition will be synopsized in accordance with FAR 5.201 and 5.203.

(7) Notwithstanding the expectation that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s), proposals from all responsible sources submitted by the specified due date will be considered. In order to contend for subsequent phase awards, however, such prospective offerors must demonstrate a design maturity equivalent to that of the prior phase contractors. Failure to fully and completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(b) In addition to the information in paragraph (a) of this section, the synopsis for the subsequent phase(s) must identify the current phase contractors.

1817.7301–5 Progressive competition.

(a) To streamline the acquisition process, the preferred approach for NASA phased acquisitions is the ''progressive competition'' down-selection technique in which new, formal solicitations are not issued for phases subsequent to the initial phase. Subsequent phase proposals are requested by less formal means, normally by a letter accompanied by the appropriate proposal preparation and evaluation information.

(b) When using the progressive competition technique, if a prospective offeror other than one of the preceding phase contractors responds to the synopsis for a subsequent phase and indicates an intention to submit a proposal, the contracting officer shall provide to that offeror all the material furnished to the preceding phase contractors necessary to submit a proposal. This information includes the preceding phase solicitation, contracts, and system performance and design requirements, as well as all proposal preparation instructions and evaluation factors. In addition, the prospective offeror must be advised of all requirements necessary for demonstration of a design maturity equivalent to that of the preceding phase contractors.

(c) A key feature of the progressive competition technique is that a formal solicitation is normally not required. However, when the Government requirements or evaluation procedures change so significantly after release of the initial phase solicitation that a substantial portion of the information provided in the initial phase synopsis, solicitation, or contracts is no longer valid, a new solicitation shall be issued for the next phase.

(d) Subsequent phase proposals should be requested by a letter including the following:

(1) A specified due date for the proposals along with a statement that the late proposal information in paragraph (c)(3) of FAR 52.215–1, Instructions to Offerors—Competitive Acquisition, applies to the due date.

(2) Complete instructions for proposal preparation, including page limitations, if any.

(3) Final evaluation factors.

(4) Any statement of work, specifications, or other contract requirements that have changed since the initial solicitation.

(5) All required clause changes applicable to new work effective since the preceding phase award.

(6) Any representations or certifications, if required.

(7) Any other required contract updates (e.g., small and small disadvantaged business goals).

(e) Certain factors may clearly dictate that the progressive competition technique should not be used. For example, if it is likely that NASA may introduce a design concept independent of those explored by the preceding phase contractors, it is also likely that a new, formal solicitation is necessary for the subsequent phase and all potential offerors should be solicited. In this circumstance, progressive competition is inappropriate.

1817.7302 Contract clauses.

(a) The contracting officer shall insert the clause at 1852.217–71, Phased Acquisition Using Down-Selection Procedures, in solicitations and contracts for phased acquisitions using down-selection procedures other than the progressive competition technique described in 1817.7301–5. The clause may be modified as appropriate if the acquisition has more than two phases. The clause shall be included in the solicitation for each phase and in all contracts except that for the final phase.

(b) The contracting officer shall insert the clause at 1852.217–72, Phased Acquisition Using Progressive Competition Down-Selection Procedures, in solicitations and contracts for phased acquisitions using the progressive competition technique described in 1817.7301–5. The clause may be modified as appropriate if the acquisition has more than two phases. The clause shall be included in the initial phase solicitation and all contracts except that for the final phase.

PART 1834—MAJOR SYSTEM ACQUISITION

1834.003 [Amended]

3. Section 1834.003(a) is revised to read as follows:

1834.003 Responsibilities.

(a) NASA's implementation of OMB Circular No. A–109, Major Systems Acquisitions, and FAR Part 34 is contained in this part and in NASA Policy Directive (NPD) 7120.4, ''Program/Project Management,'' and NASA Procedures and Guidance (NPG) 7120.5, '' NASA Program and Project Management Processes and Requirements''.

1834.70 [Removed]

4. Subpart 1834.70 is removed.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.217–71 and 1852.217–72 [Added]

5. Sections 1852.217–71 and 1852.217–72 are added to read as follows:

1852.217–71 Phased acquisition using down-selection procedures.

As prescribed in 1817.7302(a), insert the following clause:

Phased Acquisition Using Down-Selection Procedures (Insert Month and Year of Federal Register Publication)

(a) This solicitation is for the acquisition of _____ [insert Program title]. The acquisition will be conducted as a two-phased procurement using a competitive down-selection technique between phases. In this technique, two or more contractors will be selected for Phase 1. It is expected that the single contractor for Phase 2 will be chosen from among these contractors after a competitive down-selection.

(b) Phase 1 is for the _____ [insert purpose of phase]. Phase 2 is for _____ [insert general Phase 2 goals].

(c) The competition for Phase 2 will be based on the results of Phase 1, and the award criteria for Phase 2 will include successful completion of Phase 1 requirements.

(d) NASA will issue a separate, formal solicitation for Phase 2 that will include all information required for preparation of proposals, including the final evaluation factors.

(e) Phase 2 will be synopsized in the Commerce Business Daily (CBD) in accordance with FAR 5.201 and 5.203 unless one of the exceptions in FAR 5.202 applies. Notwithstanding NASA's expectation that only the Phase 1 contractors will be capable of successfully competing for Phase 2, all proposals will be considered. Any other responsible source may indicate its desire to submit a proposal by responding to the Phase 2 synopsis, and NASA will provide that source a solicitation.

(f) To be considered for Phase 2 award, offerors must demonstrate a design maturity equivalent to that of the Phase 1 contractors. This, demonstration shall include the following Phase 1 deliverables upon which Phase 2 award will be based: _____ [(insert the specific Phase 1 deliverables]. Failure to fully and completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(g) The following draft Phase 2 evaluation factors are provided for your information. Please note that these evaluation factors are not final, and NASA reserves the right to change them at any time up to and including the date upon which Phase 2 proposals are solicited.

[Insert draft Phase 2 evaluation factors (and subfactors and elements, if available), including demonstration of successful completion of Phase 1 requirements.]

(h) Although NASA will request Phase 2 proposals from Phase contractors, submission of the Phase 2 proposal is not a requirement of the Phase 1 contract. Accordingly, the costs of preparing these proposals shall not be a direct charge to the Phase 1 contract or any other Government contract.

(i) The anticipated schedule for conducting this phased procurement is provided for your information. These dates are projections only and are not intended to commit NASA to complete a particular action at a given time. [Insert dates below].

Phase 1 award—
Phase 2 synopsis—
Phase 2 proposal requested—
Phase 2 proposal receipt—
Phase 2 award—

(End of clause)

1852.217–72 Phased acquisition using progressive competition down-selection procedures.

As prescribed in 1817.7302(b), insert the following clause:

Phased Acquisition Using Progressive Competition Down-Selection Procedures (Insert Month and Year of Federal Register Publication)

(a) This solicitation is for the acquisition of _____ [insert Program title]. The acquisition will be conducted as a two-phased procurement using a progressive competition down-selection technique between phases. In this technique, two or more contractors will be selected for Phase

1. It is expected that the single contractor for Phase 2 will be chosen from among these contractors after a competitive down-selection.

(b) Phase 1 is for the _____ [insert purpose of phase]. Phase 2 is for _____ [insert general Phase 2 goals].

(c) The competition for Phase 2 will be based on the results of Phase 1, and the award criteria for Phase 2 will include successful completion of Phase 1 requirements.

(d) NASA does not intend to issue a separate, formal solicitation for Phase 2. Instead, Phase 2 proposals will be requested from the Phase 1 contractors by means of _____ [indicate method of requesting proposals, e.g., by a letter]. All information required for preparation of Phase 2 proposals, including the final evaluation criteria and factors, will be provided at that time.

(e) Phase 2 will be synopsized in the Commerce Business Daily (CBD) in accordance with FAR 5.201 and 5.203 unless one of the exceptions in FAR 5.202 applies. Notwithstanding NASA's expectation that only the Phase 1 contractors will be capable of successfully competing for Phase 2, all proposals will be considered. Any other responsible source may indicate its desire to submit a proposal by responding to the Phase 2 synopsis, and NASA will provide that source to all the material furnished to the Phase 1 contractors that is necessary to submit a proposal.

(f) To be considered for Phase 2 award, offerors must demonstrate a design maturity equivalent to that of the Phase 1 contractors.

This, demonstration shall include the following Phase 1 deliverables upon which Phase 2 award will be based: _____ [insert the specific Phase 1 deliverables]. Failure to fully and completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(g) The following draft Phase 2 evaluation factors are provided for your information. Please note that these evaluation factors are not final, and NASA reserves the right to change them at any time up to and including the date upon which Phase 2 proposals are requested. Any such changes in evaluation factors will not necessitate issuance of a new, formal solicitation for Phase 2.

[Insert draft Phase 2 evaluation factors (and subfactors and elements, if available), including demonstration of successful completion of Phase 1 requirements.]

(h) Although NASA will request Phase 2 proposals from Phase 1 contractors, submission of the Phase 2 proposal is not a requirement of the Phase 1 contract. Accordingly, the costs of preparing these proposals shall not be a direct charge to the Phase 1 contract or any other Government contract.

(i) The anticipated schedule for conducting this phased procurement is provided for your information. These dates are projections only and are not intended to commit NASA to complete a particular action at a given time. [Insert dates below].

Phase 1 award—
Phase 2 synopsis—
Phase 2 proposal requested—
Phase 2 proposal receipt—
Phase 2 award—

(End of clause)

1852.234–70 and 1852.234–71 [Removed]

6. Sections 1852.234–70 and 1852.234–71 are removed.

[FR Doc. 98–28240 Filed 10–20–98; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216, 227, and 600

[I.D. 091498A]

Atlantic Pelagic Fishery; Marine Mammals; Endangered and Threatened Fish and Wildlife; Public Workshops

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

ACTION: Notice of public workshops.

SUMMARY: NMFS announces the dates and locations of four additional workshops for longline vessel operators scheduled during 1998. NMFS held one workshop on October 9, 1998, in New Bedford, MA. Additional workshops will be held through February 1999, to meet requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA). The purpose of the workshops is to educate longliners on avoidance, handling, and release techniques for marine mammals and sea turtles and to provide information and receive feedback on different management options in the pelagic longline fishery.

DATES: The workshop dates are:

1. October 23, 1998, 9 a.m. to 5 p.m., Montauk, NY.
2. November 19, 1998, 9 a.m. to 5 p.m., Nags Head Beach, NC.
3. December 11, 1998, 9 a.m. to 5 p.m., Charleston, SC.
4. December 17, 1998, 9 a.m. to 5 p.m., Barnegat Light, NJ.

Workshop dates for 1999 will be announced in the **Federal Register** once they are scheduled.

ADDRESSES: The workshop locations are:

1. Montauk—Firehouse, 12 Flamingo Avenue, Montauk, NY 11954.
2. Nags Head Beach–-Comfort Inn South, 8031 Old Oregon Inlet Road, Nags Head Beach, NC 27959.
3. Charleston–-NMFS Charleston Laboratories, 219 Fort Johnson Road, Charleston, SC 29412.
4. Barnegat Light-–Firehouse, West 10th Street (corner of West 10th Street and Central Avenue), Barnegat Light, NJ 08006.

Workshop locations for 1999 will be announced in the **Federal Register** once they are scheduled.

FOR FURTHER INFORMATION CONTACT: Rebecca Lent, 301–713–2347, Cathy Eisele, 301–713–2322, or Therese Conant, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Introduction

NMFS will conduct workshops with owners/operators in the pelagic longline fishery throughout the Northeast and Mid-Atlantic. The purpose of the workshop is threefold: To supplement information gathered in a survey of fishery participants to evaluate alternatives for a comprehensive management system for pelagic longline fishery; to implement the recommendations of the NMFS Biological Opinion to hold workshops for vessel operators in order to reduce mortality of incidentally caught sea turtles; and to meet the requirements of the Atlantic Offshore Cetacean Take Reduction Team to hold workshops to educate pelagic longline vessel operators on marine mammal release and avoidance techniques.

Background

1. Section 304 of the Magnuson-Stevens Act requires NMFS to evaluate the feasibility of implementing changes to the management system for the Atlantic pelagic longline fishery. These requirements include (1) forming a pelagic longline advisory panel (Longline AP) to assist in the collection and evaluation of information relevant to future management of the fishery; (2) preparing a report evaluating the feasibility of implementing a comprehensive management system for the pelagic longline fishery, including consideration of limited access and individual fishing quota systems; and (3) conducting a survey and holding workshops with affected fishery participants to gather input on future management of the fishery.

NMFS formed the Longline AP in April 1997 and, with the assistance of the Longline AP, prepared a report to Congress outlining the feasibility of implementing several types of comprehensive management systems (''Study of the Feasibility of Implementing a Comprehensive Management System for the Pelagic Longline Fishery for Atlantic HMS,'' December 30, 1997). NMFS hereby gives notice of the first of a series of workshops that will be held with pelagic longline fishery participants to gather input on the feasibility of implementing a comprehensive management system for the fishery. The portion of the workshop dealing with endangered species and marine mammals will be conducted by NMFS personnel. The portion of the workshop evaluating alternatives for a comprehensive management system will be conducted by non-NMFS staff from the University of Hawaii and the University of Maryland.

The Longline AP identified the following seven areas of concern that should be considered in evaluating a future management system for the pelagic longline fishery: Overfished stocks; effects of international fisheries; effort control; bycatch reduction; the need to evaluate discrete gear harvests on a range of species; the need to improve communication among managers, the public, and the fishery; and reliance on historical data that may be inadequate. Management systems considered in the report to Congress are as follows: Open access; limited access to the shark and swordfish and bigeye, albacore, yellowfin, and skipjack tunas fisheries; and individual quota programs. One purpose of the workshops is to solicit input from fishery participants regarding the areas

of concern and management systems outlined in the report to Congress.

2. Section 118 of the MMPA requires NMFS to convene Take Reduction Teams (TRT) to develop plans for reducing the mortality and serious injury of marine mammals incidental to commercial fisheries. NMFS established the Atlantic Offshore Cetacean TRT in 1996, and the TRT developed a draft plan to reduce bycatch of the strategic marine mammal stocks taken in the U.S. Atlantic pelagic longline and driftnet fisheries. The TRT recommended that workshops be conducted to educate vessel owner/operators and crew members about strategies for reducing incidental harvest of marine mammals, guidelines for releasing entangled animals, and the MMPA and its implementing regulations. Another purpose of these workshops is to provide a forum for information exchange regarding successful strategies for reducing incidental takes of marine mammals. Although participation is not mandatory under the MMPA, it is likely that attendance at these workshops will be a requirement of NMFS' proposed Atlantic Offshore Cetacean Take Reduction Plan.

3. Section 7 of the ESA requires all Federal agencies to ensure that any action, funded, authorized, or carried out, is not likely to jeopardize the continued existence of any listed species. If such action adversely affects a listed marine species under NMFS jurisdiction, a consultation must be conducted, and NMFS must provide a written biological opinion on the effects. A consultation was conducted on the Atlantic Pelagic Fishery, and NMFS concluded in the biological opinion (May 29, 1997; amended July 10, 1998) that the longline component of the Atlantic Pelagic Fishery was likely to adversely affect, but not jeopardize, the continued existence of listed sea turtles. The opinion requires NMFS to develop a schedule of workshops throughout the geographical range of the fishery to educate vessel operators on appropriate sea turtle resuscitation, and handling and release techniques. All vessel operators must attend a workshop before commencing fishing operation in September 2000. Thus, for purposes of the ESA, participation in at least one workshop is mandatory.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rebecca Lent (see **FOR FURTHER INFORMATION CONTACT**).

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

Dated: October 15, 1998.

Gary C. Matlock,

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

[FR Doc. 98–28210 Filed 10–16–98; 1:13 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 101698A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Offshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the amount of the 1998 pollock total allowable catch (TAC) apportioned to vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 19, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

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

In accordance with § 679.20(c)(3)(iii), the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) established the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the BSAI as 667,388 metric tons (mt).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the BSAI will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 662,388 mt, and is setting aside the remaining 5,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The fleet has already taken the amount of the 1998 pollock TAC apportioned to vessels catching pollock for processing by the offshore component in the Bering Sea subarea of the BSAI. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: October 16, 1998.

Richard W. Surdi,

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

[FR Doc. 98–28209 Filed 10–16–98; 1:13 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 203
Wednesday, October 21, 1998

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 51

[Docket Number FV–98–302]

Table Grapes (European or Vinifera Type); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the United States Standards for Grades of Table Grapes (European or Vinifera Type). These standards are issued under the Agricultural Marketing Act of 1946. The proposal would change the specific varietal reference throughout the standard from the present ''Superior Seedless'' to ''Sugraone.'' This revision will result in a benefit to the table grape industry by providing a uniform, apropos reference ensuring proper application of the grade standards.

DATES: Comments must be received by December 21, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2065 South Building, Washington, DC 20090–6456; Fax (202) 720–8871; E-mail Francis—J.OSullivan@usda.gov. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720–2185.

SUPPLEMENTARY INFORMATION: The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

AMS provides inspection and grading services and issues grade and quality standards for commodities such as grapes. The agency does not determine varietal names for such commodities. However, in 1995 the Agricultural Marketing Service (AMS) received a request from Sun World International, Inc. (Sunworld) to replace the varietal reference ''Superior Seedless'' with ''Sugraone'' in the table grape standards in 7 CFR Part 51.880—51.914. Sunworld, a grower/shipper with proprietary rights to the term ''Superior,'' advised AMS that ''Superior Seedless'' was a registered trademark name and not the varietal name for this table grape variety. ''Sugraone,'' according to Sunworld, was the correct varietal name. On March 15, 1995, therefore, when AMS issued a proposed rule (**Federal Register**, Vol. 60, No. 50, pp. 13889—14200) to change the bunch size requirements for the U.S. No. 1 Institutional grade, the agency also proposed to change the varietal name designation, assuming that this revision was purely a technical step to keep the standard consistent with current industry terminology.

In proposing to change the wording to reflect ''Sugraone'' as a varietal name AMS intended to correct what the agency understood to be an out-of-date reference in the grade standards. However, after reviewing the comments pertaining to the proposed change and conducting further research on this question, AMS found that the varietal name issue was a complicated one involving a number of interests.

Ten comments were received as a result of the March 19, 1996, proposal pertaining to this specific issue from growers, shippers, and/or receivers. Five comments were in favor of the proposed change, five were against the change. The comments in favor of the change stated that it would promote consistency in regard to international trade of the table grape. The comments in opposition were generally of the view that the change would create confusion in regard to international trade. Based on the comments, AMS withdrew the proposal to change the name ''Superior Seedless'' to ''Sugraone'' when the final rule was published (**Federal Register**, Vol. 61, No. 54, pp. 11125–11127) on March 19, 1996.

Sunworld believes that because of the current widespread use of ''Sugraone'' as the varietal name by the table grape industry, trade associations, and various government agencies, AMS should reconsider this decision. In support of its view, Sunworld argues: (1) As a result of a decision by the California Department of Food and Agriculture (CDFA)(No. L–9607066; August 9, 1996), the California table grape industry, which grows and ships the entire U.S. production of this variety, now uses the varietal reference ''Sugraone;'' (2) The proposal would eliminate any confusion in the use of the appropriate varietal name worldwide; (3) The proposed change furthers the objectives of the Uruguay Round Agreement by harmonizing the identity of the grape; and (4) By adopting the name ''Sugraone'' the U.S. would be consistent with terms used by most relevant international organizations. Additionally, Sunworld notes that as a result of the California State Administrative Hearing and resultant change to the California regulations, both buyers and sellers of table grapes now recognize ''Sugraone'' as the designated varietal name. For example, the Produce Marketing Association Electronic Identification Board has issued a Price Look-Up (PLU) number for the ''Sugraone'' variety of table grape.

AMS therefore proposes that sections 51.882, 51.884, and 51.885 of the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) be amended to change the varietal name to ''Sugraone.''

The actual grade requirements for this variety will remain unchanged. Accordingly, the proposed revision will have no substantive effect in the application of grade standards to regulated domestic and imported grapes under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674), specifically those at 7 CFR part 925, and 7 CFR part 944, or grapes regulated under the Export Grape and

Plum Act (7 U.S.C. 591–599). In addition, as the maturity requirements in the U.S. grade standards have been established by incorporating the applicable portions of the California Code of Regulations (Title 3, Subchapter 4, Fresh Fruits, Nuts and Vegetables, Article 25 Table Grapes and Raisins, February 28, 1992) and since California has revised these state regulations by replacing ''Superior Seedless'' with ''Sugraone,'' Section 51.888 (a)(2) of the U.S. standard will also be revised to incorporate by reference the new California regulations (The California Code of Regulations, Title 3, Subchapter 4, Fresh Fruits, Nuts, and Vegetables, Article 25 Table Grapes and Raisins, November 16, 1996).

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities and AMS has prepared this initial regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

This rule will revise the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) that were issued under the Agricultural Marketing Act of 1946. Although, the regulations under Marketing Order No. 925 (7 CFR Part 925), as issued under the Agricultural Marketing Agreement Act of 1937, reference the U.S. standards for Grades of Table Grapes (European or Vinifera Type), the revision being proposed in this action changes only the varietal name appearing in the standards and has no substantive effect on the standards themselves or the marketing order. Specifically the grade, size, and maturity requirements of this marketing order are those listed in the U.S. standards, 7 CFR 51.884, this rulemaking leaves them unchanged. Similarly, as Section 8e of the Agricultural Marketing Agreement Act of 1937 requires, whenever the Secretary of Agriculture issues grade, size, quality or maturity regulations under domestic marketing orders for certain specified commodities, the same or comparable regulations on imports of those commodities be issued, this proposed revision would apply to but have no practical effect upon imported grapes.

The U.S. Standards for Grade of Table Grapes (European or Vinifera Type) are also referenced in Export Grape and Plum Act and the regulations issued thereunder (7 CFR Part 35). The Export Grape and Plum Act was created to promote the foreign trade of the U.S. in grapes and plums, to protect the reputation of American-grown grapes and plums in foreign markets, to prevent deception of misrepresentation as to the quality of such products moving in foreign commerce, and to provide for the commercial inspection of such products entering such commerce and for other purposes. The regulations issued under the act require that any such variety for export to destinations in various countries throughout the world must meet the minimum requirement of either the U.S. Fancy Table or U.S. No. 1 Table grape grade. As, the proposed revision leaves those requirements unchanged, this rulemaking will have no effect on the application of the regulations for table grapes for export.

According to 1997 USDA National Agricultural Statistics Service reports, there are approximately 800 fresh market table grape growers/shippers in the United States which produced 939,665 short tons of table grapes (all varieties). Of these 800 growers/handlers, approximately 650 are from California and produce approximately 80 percent (750,000 short tons) of the crop. Approximately 10 growers from Arizona produced 2 percent (23,000 short tons) of the 1997 fresh market table grape crop. The bulk of the remaining 18 percent of production was produced by the remaining three of the top five States of table grape production: Georgia, Arkansas, and New York. In 1997, California produced approximately 26,572 short tons of the ''Sugraone'' variety, representing approximately 3 percent of the total U.S. table grape production and 100 percent of the U.S. production of this variety.

Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The table grape industry is characterized by growers and handlers whose farming operations generally involve more than one type (such as fresh market utilization versus processed market utilization) and variety of table grape, and whose income from farming operations is not exclusively dependent on one table grape variety or even one commodity. Typical table grape growers and shippers produce multiple varieties of fresh market table grapes and juice grapes within a single year. Therefore, it is difficult to obtain an exact number of table grape growers and, more specifically, sugraone table grape growers and shippers, that can be classified as small entities based on the SBA's definition. However, the majority of the producers do have annual receipts greater than $500,000. Additionally, there are approximately 127 importers that receive an average of $2.8 million in grape revenue. (Table grapes received by these importers are subject to the requirements of Section 8e of the Agricultural Marketing Agreement Act of 1937 referenced above.) Therefore, it is estimated that the majority of table grape growers do not fit the SBA's definition of a small entity while the majority of handlers/importers are small entities.

This rule changes the reference of ''Superior Seedless'' to ''Sugraone'' for the purpose of applying the appropriate grade standard requirements. The actual requirements for this variety will remain unchanged. Further, USDA does not determine or issue varietal names for table grapes. The changes being proposed are merely technical; the references are necessary to provide inspection personnel and other parties using the grade standards with clear, concise, up-to-date information. Specifically, in Sec. 51.882 U.S. Fancy, paragraph (i)(1)(ii), ''Superior Seedless'' will be changed to ''Sugraone.'' Accordingly, in Sec. 51.884 U.S. No. 1 Table, paragraph (i)(1)(i), which specifies berry size for the U.S. No. 1 Table grade, ''Superior Seedless'' will also be changed to ''Sugraone.'' A similar change will be made to Sec. 51.885 U.S. No. 1 Institutional, paragraph (h)(1)(i), which also references berry size for that particular grade.

Finally, as the maturity requirements specified in the standards incorporate applicable portions of The California Code of Regulations, and the State has revised these regulations by replacing ''Superior Seedless'' with ''Sugraone,'' Section 51.888 (a)(2) of the U.S. grade standards will be revised to incorporate the new state regulations by reference to The California Code of Regulations, Title 3, Subchapter 4, Fresh Fruits, Nuts, and Vegetables, Article 25 Table Grapes and Raisins, November 16, 1996.

The benefits of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

Alternatives were considered for this action. One alternative would be to not issue a proposed rule. However, as the popularity of this variety increases, and as imports of this variety also increase,

the exposure and frequency of this varietal designation will also increase. Since the purpose of these standards is to expedite the marketing of agricultural commodities, not changing this reference could result in confusion in terms of the proper application of the U.S. grade standards.

This proposed action will make the standards more consistent and uniform with marketing trends and commodity characteristics. This proposed action will not impose any additional reporting or recordkeeping requirements on either small or large grape producers, handlers, or importers. In addition, other than discussed above, the Department has not identified any Federal rules that duplicate, overlap, or conflict with this rule. Accordingly, AMS proposes to amend the United States Standards for Grades of Table Grapes (European or Vinifera Type) as follows.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR Part 51 is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 51.882 [Amended]

2. In part 51, § 51.882 (i)(1)(ii) is amended by removing the words ''Superior Seedless'' and adding in their place the word ''Sugraone.''

§ 51.884 [Amended]

3. Section 51.884 (i)(1)(i) is amended by removing the words ''Superior Seedless'' and adding in their place ''Sugraone.''

§ 51.885 [Amended]

4. Section 51.885 (h)(1)(i) is amended by removing the words ''Superior Seedless'' and adding in their place ''Sugraone.''

§ 51.888 [Amended]

5. In § 51.888, paragraph (a)(2), the words ''February 28, 1992'' are revised to read ''November 16, 1996.''

Dated: October 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–28238 Filed 10–20–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52 and 72

RIN 3150–AF94

Changes, Tests, and Experiments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations concerning the authority for licensees of production or utilization facilities, such as nuclear reactors, and independent spent fuel storage facilities, to make changes to the facility or procedures, or to conduct tests or experiments, without prior NRC approval. The proposed rule would clarify which changes, tests and experiments conducted at a licensed facility require evaluation, and the criteria that determine when NRC approval is needed before such changes to a licensed facility can be implemented. The proposed rule would also add definitions for terms that have been subject to differing interpretations, reorganize the rule language for clarity, and revise the criteria for when prior NRC approval is needed. The Commission is also seeking comment on several specific issues as discussed below.

DATES: Submit comments by December 21, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. ATTN: Rulemakings and Adjudications Staff.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays.

FOR FURTHER INFORMATION CONTACT: Eileen McKenna, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2189. (emm@nrc.gov) or Naiem Tanious, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–6103 (nst@nrc.gov).

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Rule Topics and Issues
A. Organization of the rule requirements
B. Change to the facility as described in the Safety Analysis Report
C. Change to the procedures as described in the Safety Analysis Report
D. Tests and experiments not described in the Safety Analysis Report
E. Safety Analysis Report
F. Probability of occurrence or consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased
G. More than a minimal increase in probability or consequences
H. Possibility of an accident of a different type from any previously evaluated in the Safety Analysis Report may be created
I. Possibility of a malfunction of a different type from any previously evaluated in the Safety Analysis Report may be created
J. Margin of safety as defined in the basis for any technical specification is Reduced
K. Safety Evaluation
L. Reporting and record keeping requirements
M. Part 72 changes
III. Section by Section Analysis
IV. Commission Voting Record on SECY–98–171
V. Rule Language Proposed by the Nuclear Energy Institute
VI. Request for Public Comments
VII. Availability of Documents and Electronic Access
VIII. Finding of No Significant Environmental Impact
IX. Paperwork Reduction Act Statement
X. Regulatory Analysis
XI. Regulatory Flexibility Certification
XII. Backfit Analysis
XIII. Criminal Penalties
XIV. Compatibility Agreement State Regulations

I. Background

The existing requirements governing the authority of production and utilization facility licensees to make changes to their facilities and procedures, or to conduct tests or experiments, without prior NRC approval are contained in 10 CFR 50.59. (Comparable provisions exist in 10 CFR 72.48 for licensees of facilities for the independent storage of spent nuclear fuel and high-level radioactive waste. This proposed rulemaking affects the requirements for 10 CFR parts 50, 52 and 72; for simplicity, the discussion will focus primarily on the language in 10 CFR 50.59). These regulations provide that licensees may make changes to the facility or procedures as described in the safety analysis report, or conduct tests or experiments not described in the safety analysis report, without prior Commission approval, unless the proposed change, test or experiment involves a change to the Technical Specifications incorporated in the license or an unreviewed safety

question. Section 50.59(a)(2), as currently codified, states:

''A proposed change, test or experiment shall be deemed to involve an unreviewed safety question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased; or (ii) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created; or (iii) if the margin of safety as defined in the basis for any technical specification is reduced''.

The rule also specifies record keeping and reporting requirements associated with such changes, tests or experiments.

In order to understand the reasons for the provisions of the current rule, and how the Commission proposes to revise it, it is helpful to understand how this process fits within the overall requirements undergirding licensing and oversight of nuclear reactors.

Overview of Licensing Process

The application for an operating license includes the final safety analysis report (FSAR) which is to contain: a description of the facility; the design bases and limits on operation; and the safety analysis for the structures, systems, and components (SSC) and of the facility as a whole. The safety analysis emphasizes performance requirements, analytical bases and technical justifications, and evaluations that show how safety functions will be accomplished. Design bases include the specific functions that the SSC need to perform, the parameters that need to be controlled to assure the function, and the range of values for these parameters. As part of the FSAR, the applicant is required to propose, for NRC approval, Technical Specifications(TS) that will become part of the license.

The NRC issues a license after finding, among other things, that the plant has been built according to its design and can be operated within its design limits. The NRC prepares a safety evaluation report that documents the basis for its findings, including its review of the design information provided in the FSAR (and supporting documents) and the applicable acceptance criteria (established either in regulations, standards or guidance documents). In some cases, the NRC staff performs independent analyses to confirm the adequacy of the facility design to meet regulatory requirements. One example of this practice is the staff calculation of radiological consequences (doses) for design basis accidents.

The licensee is required to operate the facility in accordance with NRC regulations and with requirements contained in the license. The license describes the facility in general terms, and includes specific conditions imposed on the facility and the licensee, as well as incorporates the TS. Section 50.36 of the regulations defines for inclusion in the TS, those limits and parameters of most immediate significance for protection of public health and safety: safety limits, limiting safety system settings, limiting conditions for operation, surveillance requirements, and design features to which changes would have a significant effect on safety, and administrative controls. The TS are derived from the safety analysis, evaluations, and design bases described in the FSAR. Any changes to the TS must receive NRC review and approval before they are made.

Engineering evaluations demonstrate that the fundamental safety principles of the plant design are met. Design basis events play a central role in plant design. These are a combination of postulated challenges and failure events against which plants are designed to ensure adequate and safe plant response. Design basis events are defined as conditions of normal operation, anticipated operational occurrences and design basis accidents, external events and natural phenomena for which the plant has been designed to ensure the integrity of the pressure boundary, the capability to shutdown safely, and the capability to prevent or mitigate the consequences of accidents. For events with high frequency, NRC requires that consequences be low (such as by preventing fuel damage). For more severe, but less probable accidents, the allowable consequences are higher, but must still meet the regulatory guidelines established in 10 CFR part 100. Adequacy of the reactor design is evaluated by consideration of postulated design basis events viewed as sufficiently credible that the facility should be designed to prevent or mitigate their effects.

During the design process, plant response is evaluated using assumptions that are intended to be conservative to account for uncertainties in analysis or data. In the Final Safety Analysis Report (FSAR), analyses are done conservatively to account for uncertainties in the design, construction, and operation of nuclear power plants. These conservatisms are introduced into FSAR analyses in numerous ways. For example, some computer codes model systems and processes in a simplified but bounding fashion. Analysis input assumptions are typically worst case values (consistent with the design and operating limits) of instrument drift or error, temperature, pressure, fluid volume and enthalpy, flow rate, system response time, heat transfer rate and heat capacity, reactivity coefficients, power history and decay heat. An FSAR analysis also typically assumes the worst-case single-active failure of equipment.

National standards and other regulatory policies, such as defense-in-depth, constitute additional engineering considerations that influence plant design and operation. Commensurate with expected frequency and consequences of challenges to the system, defense-in-depth could require: (1) Multiple means to accomplish safety functions and prevent release of radioactive material (multiple barriers); (2) reasonable balance among prevention of core damage, prevention of containment failure and consequence mitigation; (3) system redundancy; (4) independence; and (5) diversity.

Various margins exist in a facility design. These margins are based on, for example, assumptions of initial conditions, conservatisms in computer modeling and codes, allowance for instrument drift and system response time, redundancy and independence of components in safety trains, and plant response during operating transient and accident conditions. Margin is provided by meeting codes and standards or alternatives approved for use by NRC, including the safety analysis acceptance criteria in the FSAR and in supporting analyses. Not all margin that exists falls within the purview of ''reduction in margin of safety [1] as defined in the basis for any technical specification.''

When a plant is licensed, the NRC states in its Safety Evaluation Report (SER) why it found each FSAR analysis acceptable. An FSAR analysis may be accepted because it was considered to be adequately conservative and because the NRC's acceptance criteria for that analysis are met. Frequently, the SER states specific conditions the NRC relied upon for concluding that the analysis was conservative. Examples of such conditions may be the use of an NRC-approved computer code, correlation, or setpoint methodology, specific limitations on one or more input assumptions, or penalties put into a calculation to account for uncertainties. In addition to being stated in a plant-

[1] Margin of safety is not defined in the regulations, although it is mentioned in § 50.34(a) (''the margins of safety during normal operations and transient conditions anticipated during the life of the facility''); § 50.92(c) (''No significant hazards considerations if the proposed amendment would not involve a significant reduction in a margin of safety'') as well as § 50.59.

specific SER, these conditions may be found in other safety evaluations such as for an analysis method proposed by a topical report.

Changes to the basis for licensing occur over the life of the plant through promulgation of new rules, plant-specific license amendments and other analyses and reviews that may be conducted, such as in response to NRC bulletins and generic letters. The NRC prepares a safety evaluation for many of these issues based upon either licensee requests for changes or licensee responses to NRC requests for information. The licensee is required to periodically update the final safety analysis report to reflect effects of these changes so that the safety analysis report (as updated) remains a complete and accurate description and analysis of the facility such that it can serve as the reference document for evaluation of changes made under 10 CFR 50.59.

10 CFR 50.59 Evaluation Process

Section 50.59 was promulgated in 1962 to allow licensees to make certain changes that affect systems, structures, components, or procedures described in the SAR without prior approval provided certain conditions were met. In 1968, the rule was revised to modify some of the criteria for when approval was required. The intent of the § 50.59 process is to permit licensees to make changes to the facility, provided the changes maintain the level of safety documented in the original licensing basis, such as in the safety analysis report. The process is thus structured around the licensing approach of design basis events (anticipated operational occurrences and accidents); safety-related mitigation systems, and consequence calculations for the design basis accidents. Margins and equipment functionality, reliability and availability also may be impacted by facility changes. Therefore, the criteria for requiring NRC approval were directly related to: (1) Preserving licensing assumptions concerning initiation of design basis events by not allowing a different type of initiating event or probability of occurrence larger than previously considered; (2) preserving effectiveness (reliability) of the mitigation systems by not allowing introduction of different equipment malfunctions and by limiting increases in probability of malfunction, or reductions in the margin of safety (which reflects the capability of the system); and (3) preserving acceptability of consequences by limiting increases in consequences of the postulated design basis events.

Implementation Guidance

In 1989, an industry guidance document, NSAC–125, ''Guidelines for 10 CFR 50.59 Safety Evaluations'' was published to assist licensees in the conduct of the evaluations required under § 50.59. The NRC neither endorsed nor disapproved this document. While the staff concluded that the evaluation process established in NSAC–125 was generally sound, the staff was unable to endorse the document because of some inconsistencies between the implementation guidance and the language of § 50.59.

On October 31, 1997, the Nuclear Energy Institute (NEI) submitted for staff review a revised guidance document, NEI 96–07, ''Guidelines for 10 CFR 50.59 Safety Evaluations.'' This document is an updated version of NSAC–125 that NEI modified in response to some of the staff positions, and other implementation issues arising from licensee use of the NSAC–125 guidance. Along with the submittal of the guidance document, NEI included an industry-wide initiative that would require industry adoption and implementation of the revised guidance by June 1998. The NRC provided comments to NEI concerning this guidance in a letter dated January 9, 1998. This letter noted that certain aspects of this guidance were unacceptable for implementation of § 50.59 as presently written.

Staff efforts to develop guidance on implementation of § 50.59 were prompted by a reassessment of the 10 CFR 50.59 evaluation process, conducted in 1995, that examined existing guidance and practice, with the goal of identifying how the process could be improved, or where additional guidance was needed. The staff provided an action plan to the Commission on April 15, 1996, outlining the actions the staff proposed to complete with respect to guidance and oversight of implementation of § 50.59. The staff review identified a number of areas in which the meaning of the rule language is not clear, or where staff and industry interpretations (such as those in NSAC–125) are different. In SECY–97–035, dated February 12, 1997, the staff forwarded to the Commission proposed regulatory guidance on implementation of § 50.59. In this SECY, the staff presented positions on a number of topic areas. These positions in some cases reaffirmed existing regulatory practice or clarified staff expectations, and in other areas, established positions where guidance did not previously exist. In its proposed guidance, the staff compared its proposed regulatory guidance to industry guidance contained in NSAC–125. In accordance with a Commission Staff Requirements Memorandum dated April 25, 1997, the staff guidance was published in the **Federal Register** as draft NUREG–1606 (Proposed Regulatory Guidance Related to Implementation of 10 CFR 50.59), for public comment on May 7, 1997 (62 FR 24947).

In response to the **Federal Register** notice, many comments were submitted that voiced strong opposition to a number of the positions proposed by the staff. These comments were summarized in Attachment 1 to SECY–97–205, Integration and Evaluation of Results from Recent Lessons-Learned Reviews, dated September 10, 1997. Since that time, the NRC has conducted a more detailed review of the comments and concludes that some issues can be resolved through guidance, while in other areas, rulemaking is necessary to clarify the implementation issues. A copy of this analysis of comments is available for review in the NRC Public Document Room. As noted, the staff concluded that rulemaking was necessary to resolve some of the issues associated with implementation of the rule.

II. Proposed Rule Topics and Issues

The NRC is proposing rulemaking on § 50.59 (and § 72.48) to address a number of issues concerning implementation of the current rule, and suitability of the criteria that determine when an unreviewed safety question exists. The implementation issues primarily relate to cases involving judgment as to whether a proposed change requires NRC approval before it can be implemented. The differing interpretations of the rule as it relates to an increase in probability of an accident, or an increase in consequences have contributed to disputed inspection and enforcement findings. Too stringent an interpretation of the meaning of the requirements could result in diversion of licensee and staff resources for review of inconsequential changes. Too high a threshold for NRC review could lead to erosion of safety margins without NRC review, particularly from the cumulative effect of more than one change. In developing the proposed rule, the Commission has carefully weighed these matters in trying to establish an appropriate threshold for NRC review.

Conforming changes are proposed in other portions of the rules, including § 50.66, 50.71(e) for production and utilization facilities licensed under part 50. Conforming changes are also

required in § 72.212(b)(4) and Appendices A and B to part 52 (Design Certification Rules for ABWR and System 80+ respectively).

In addition, the Commission is proposing to make parallel changes applicable to facilities for independent spent fuel storage facilities licensed in accordance with part 72. These changes are included in the sections below (in some cases, the discussion of the issue focuses on § 50.59 for simplicity; except where noted, the discussion is also applicable to the changes for § 72.48). As part of the proposed changes to part 72, the Commission is also proposing to extend the change control process authority granted to ISFSI or MRS license holders (in § 72.48) to holders of NRC Certificates of Compliance (CoC) for a spent fuel storage cask design.

In addition to changes to the requirements within §§ 50.59 and 72.48, the Commission is also proposing to rearrange certain provisions of these rules to provide a more logical structure. These changes do not affect the substance of the requirements, but rather affect only where they are located and how they are stated. These organizational changes are discussed first, followed by discussion of each of the issues where revisions to requirements are proposed by this rulemaking. The proposed rule revisions are presented in the order that the issues currently arise in the regulations.

A. Organization of the Rule Requirements

The organizational changes being proposed include the following:

(1) Applicability

In the existing rule, language concerning applicability to different facilities is contained in three different paragraphs. These facilities are: Production and utilization facilities (including power and non-power reactors) that are authorized to operate, and reactors (both power and non-power) that have permanently ceased operations. The Commission proposes to place all of these provisions in one paragraph that is clearly labeled ''Applicability.'' [2]

(2) Form of prior Commission approval

Existing § 50.59(a) refers to the need for prior Commission approval of changes, tests, and experiments under certain conditions, but the method of receiving that approval is not discussed until paragraph (c), which states that the licensee shall submit an application for amendment under § 50.90. The Commission proposes to combine these two paragraphs and to revise the regulation to state more clearly that a licensee must apply for and obtain a license amendment, pursuant to § 50.90, before implementing such changes, tests, or experiments. This organizational change to the rule of combining (existing) paragraphs (a) and (c) will also facilitate some of the other proposed changes, such as the criteria for when approval is needed.

(3) Criteria for needing Commission approval of changes, tests and experiments and Unreviewed Safety Question (USQ) designation

The Commission proposes to remove the reference in the rule to the term ''unreviewed safety question'' and instead to refer to the need to obtain a license amendment. The Commission believes that the terminology of ''USQ'' has sometimes led to confusion about the purpose of the evaluation required by § 50.59. Some licensees have concluded that if they determined a change was safe, there could be no need for NRC approval.

The Commission notes that the purpose of performing evaluations against the criteria specified in § 50.59 is to identify possible changes that might affect the basis for licensing of the facility so that any changes that might pose a safety concern are either reviewed by the NRC or not implemented by the licensee. This evaluation process will thus distinguish those changes which by their nature do not raise safety concerns and therefore do not require prior NRC approval to confirm their safety, from those that must be reviewed by the NRC to independently confirm their safety before implementation. To avoid confusion between a determination of safety and a determination of the need for NRC approval, the Commission proposes to revise § 50.59 to delete use of the term ''unreviewed safety question'' and instead to list the criteria (in new § 50.59(c)(2)) that require prior Commission approval, in the form of a license amendment. It is also noted that many facility technical specifications refer to unreviewed safety question determinations and such TS should ultimately be revised in accordance with the final wording of § 50.59. The deletion of reference to USQ also requires a number of conforming changes to other parts of the regulations, including Part 52 (Appendices A and B), in which the term is presently used.

This proposed rule would revise the existing compound statements contained with the evaluation criteria to state each specific criterion individually. This will make the regulation more consistent with how it is generally implemented by licensees. Changes to the criteria are discussed in the sections below.

Finally, the Commission would simplify existing § 50.59(c) by removing the following statement: ''The holder of a license . . . who desires (1) a change to its technical specifications . . . shall submit an application for amendment of his license pursuant to § 50.90.'' This statement refers to changes to the TS not associated with a change, test or experiment. The Commission concludes that a more suitable place for this provision is within § 50.90, and therefore as part of this rulemaking, proposes to modify § 50.90 to state that if a licensee wishes to amend its license (including the TS incorporated into it), the licensee must file an application as specified in § 50.90. Revised § 50.59(c)(i) would be revised to state that if a proposed change, test, or experiment would involve a TS change, the § 50.90 process must be followed in order to change the technical specification such that the proposed change, test or experiment may be implemented.

B. Change to the Facility as Described in the Safety Analysis Report

Section 50.59 states that ''changes to the facility as described in the safety analysis report'' must be evaluated to determine whether prior approval is needed before implementation. As discussed in NUREG–1606 and in the comment discussions, a common understanding between the NRC and the industry on what constitutes a ''change to the facility as described in the safety analysis report'' is necessary for effective functioning of the review process. Guidance on preparation of § 50.59 evaluations provides the means for review of the effects of changes, but these reviews are not conducted if the activity is not considered to be a ''change . . .'' The Commission concludes that modification of an existing provision (e.g., SSC, design requirement, analysis method or

[2] Section 50.59(a) refers to holders of a license authorizing operation of a production or utilization facility. Section 50.59(d) explicitly refers to power reactor licensees who have submitted certification of permanent cessation of operation required under § 50.82(a)(1)(i). As noted in § 50.82(a)(iii), for power reactors whose licenses were modified to allow possession but not operation, before the effective date of this rule (that is of § 50.82), the certification of § 50.82(a)(1)(i) shall be deemed to have been submitted. Section 50.59(e) refers to non-power reactors whose license no longer authorizes operation. The net effect is that § 50.59 applies to both power and nonpower reactors, whether authorized to operate or no longer authorized to operate (and to other production or utilization facilities).

parameter), additions, and removals (physical removals or non-reliance on a system to meet a requirement) are all changes to the facility as described in the final safety analysis. The Commission believes that additions to the facility which were not previously evaluated, could adversely impact facility performance and the bases upon which the NRC previously determined the acceptability of the design as described in the SAR. Accordingly, the Commission concludes that additions should be considered ''changes to the facility as described in the SAR'' in order to assure that such changes are subject to evaluation using the § 50.59 criteria for determining whether prior NRC review and approval are necessary.

Differences in interpretation have occurred about whether changes that do not actually change the physical plant (the ''hardware'') require a § 50.59 evaluation. As an example, consider a change being made to the basis (documented in the SAR) for demonstrating adequacy of the facility without a physical change to the facility. Such changes might include changes to evaluative methods, acceptance standards, procurement specifications, or other information for SSC described in the FSAR. The Commission believes that § 50.59 does apply to the requirements for design, construction and operation, and the safety analyses for the facility that are documented in the FSAR. Section 50.34(b), ''Final safety analysis report,'' requires the FSAR to contain a presentation of the design bases and the limits on its operation, a description and analysis of the SSC of the facility, with emphasis upon performance requirements, the bases, with technical justifications therefore, upon which such requirements have been established, and the evaluations required to show that safety functions will be accomplished. The original licensing decision was based in part upon the margins provided by performance requirements, analysis methods and assumptions described in the SAR, and reviewed by the staff in the SER. Therefore, the Commission concludes that changes to such information (e.g., performance requirements, methods of operation, the bases upon which the requirements have been established, and the evaluations) should be considered to constitute a change to the ''facility as described in the SAR'' in order to assure that such changes are subject to evaluation using the § 50.59 criteria for determining whether prior NRC review and approval are necessary.

If changes to methods and assumptions were not controlled, a licensee might revise its analyses and then subsequently conclude that a later facility change did not require NRC approval because the results of the (new) analysis with this change were bounded by the previous analysis. This proposed rulemaking would add definitions in § 50.59 of ''change'' and of ''facility as described in the final safety analysis report(as updated)'' to more explicitly establish that evaluation is required for changes to the analyses and bases for the facility as well as for physical or hardware changes to the facility.

Accordingly, the Commission proposes to add the following as definitions in section § 50.59:

Change means a modification, addition, or removal.

Facility as described in the final safety analysis report (as updated) means (i) the structures, systems, and components (SSC) that are described in the final safety analysis report (as updated), (ii) design or performance requirements or methods of operation for such SSC required to be included or described in the final safety analysis report (as updated), and (iii) evaluations or methods of evaluation required to be included in the FSAR (as updated) for such SSC that demonstrate that their intended functions will be accomplished or that their design bases can be met.

The Commission endorses the staff's previously stated position (in draft NUREG–1606) about what constitutes a single change, as compared to packaging of several changes with offsetting effects. Interdependent changes (i.e., where a second change is caused by the first, with respect to function or performance), can be treated as a single change, whereas treating as one change the combination of changes (whether to the facility directly or to the safety analysis) to offset one that would otherwise require prior approval is not an appropriate application of § 50.59.

C. Change to the Procedures as Described in the Safety Analysis Report

The Commission proposes to provide a definition of ''procedures as described in the safety analysis report'' in order to have definitions in the rule for all the major terms and criteria. This definition would include the evaluations demonstrating that requirements are met, such as assumed operator actions and response times.

The Commission also notes that § 50.34(b) states that the final SAR is to contain the managerial and administrative controls to be used to meet Appendix B (Quality Assurance), and plans for coping with emergencies, per Appendix E. Section 50.59 applies to changes to procedures as described in the SAR. Quality assurance and emergency planning program requirements are subject to the change control provisions of §§ 50.54(a) and 50.54(q) respectively. Based on this set of rule provisions, it could be inferred that changes to quality assurance or emergency plans would require both a § 50.59 evaluation and a § 50.54 [either (a) or (q)] evaluation. The § 50.54[3] regulations provide criteria and reporting requirements specific to the plans and which were promulgated after § 50.59. To reduce duplication of effort, the Commission proposes that changes to these programs be governed by § 50.54 requirements, and that a § 50.59 evaluation would not be required unless other information described in the FSAR is also being changed. The proposed rule would add language to specifically exclude from the scope of § 50.59 changes to procedures where other more specific requirements and criteria have been established by regulation for controlling these changes (e.g., for information required by § 50.34(b)(6) (ii) and (v)), through a provision in the § 50.59(c)(1) of the proposed rule.

The proposed definition for ''procedures as described in the final safety analysis report (as updated)'' is as follows:

Procedures as described in the final safety analysis report (as updated) means information in the final safety analysis report (as updated) regarding how systems, structures and components are operated and controlled (including assumed operator actions and response times), including assumed operator actions and response times, and information on conduct of operations.

D. Tests and Experiments Not Described in the Safety Analysis Report

Section 50.59 also discusses the conduct of tests or experiments not described in the safety analysis report. ''Test'' is, of course, subject to many meanings including both routine verifications of function, and also more unusual evolutions. In the former category, there are many tests that are conducted that are not explicitly described in the SAR. For example, a licensee conducts tests of component and system performance that verify the

[3] Section 50.54(p) establishes change control requirements for safeguards contingency plans. While these plans are part of the application submitted pursuant to § 50.34, they are not part of the FSAR, and thus § 50.59 would not apply to these plans.

SSCs perform the functions as described or required. (Performance of tests is typically controlled by procedure.) However, there also may be tests of new materials or means of plant operation that may put the plant in a situation that has not been previously evaluated and that could affect the capability of SSC to perform their required functions. The existing rule was designed to ensure that the latter type of tests would be reviewed before they were conducted. Therefore, to assure that there is clear definition with respect to the tests that are subject to prior NRC review and approval before they are conducted, the Commission proposes that a definition of ''tests and experiments not described in the safety analysis report'' be provided in § 50.59 as follows:

Tests or experiments not described in the final safety analysis report (as updated) means any activity where the reactor or any of its systems, structures, or components are used or controlled in a manner which cannot be shown to be within (i) the controlling parameters of their design bases as described in the final safety analysis report (as updated) or (ii) consistent with the analyses in the final safety analysis report (as updated).

E. Safety Analysis Report

In developing the proposed rule changes, the Commission noted the varying references to the safety analysis report within related sections of part 50. For example, in § 50.59, the phrase used is ''safety analysis report,'' in § 50.66, the reference is to the ''updated final safety analysis report;'' and § 50.71(e) refers to the updated FSAR. (Other sections and parts generally refer to the final safety analysis report (e.g. part 55), but this is not universally true (e.g. § 50.54(a)). For purposes of § 50.59, ''safety analysis report'' refers to the current revision of the FSAR, so that the changes are evaluated against the most complete and accurate description of the facility. When performing evaluations, a licensee needs to consider changes already made for which the FSAR update has not yet been submitted to the NRC. The Commission emphasizes the need for as current a reference base as possible for § 50.59 evaluations, in order that the evaluations appropriately consider other changes already made that may have impacted the facility or procedures. However, a licensee is not required to submit an update to its FSAR in the form specified by § 50.71(e) except at the required frequency. To enhance consistency, the Commission is proposing to revise the rule language in these sections to add a definition of the final safety analysis report (as updated) and to clarify in the evaluation criteria that evaluations need to account for changes made through other processes that have not yet been included in an update to the FSAR. The Commission did not use ''Updated FSAR'' for this purpose in order to take into account two special circumstances: (1) Nonpower reactors, who are not required to submit updates to the FSAR, although they still need to consider other changes previously made when performing § 50.59 evaluations, and (2) a plant licensed to operate, during the period between initial licensing and the first update. This revision is reflected in the definitions in the earlier sections and in the following sections. The definition also refers to ''Final Hazards Summary Report,'' which is the applicable document for some early plants whose application was submitted before the regulatory term ''safety analysis report'' was adopted.

The proposed definition is as follows:

Final safety analysis report (as updated) means the final safety analysis report (or Final Hazards Summary Report) submitted in accordance with § 50.34, as amended and supplemented, and as modified as a result of changes made pursuant to § 50.59 and § 50.90, and, as applicable, § 50.71 (e) and (f).

F. Probability of Occurrence or Consequences of an Accident or Malfunction of Equipment Important to Safety Previously Evaluated in the Safety Analysis Report may be Increased

The current language of the rule states that an unreviewed safety question exists when the probability of occurrence or consequences of an accident or malfunction of equipment important to safety previously evaluated may be increased [emphasis added]. Many of the concerns with current implementation relate to the appropriate interpretation of the words ''probability of occurrence . . . or consequences . . . may be increased.'' In the draft NUREG–1606, the NRC staff stated that the plain reading of the words would mean that uncertainty about whether there has been an increase must lead to the conclusion that the criterion is met. As a result of trying to deal with the question of uncertainty, licensees were placed in the position of having to prove there could not be an increase, even when there was no reason to believe that the proposed change, test or experiment would have that effect. A similar problem was experienced in considering whether the possibility of an accident or malfunction of a different type may be created.

Many of the commenters on the staff's proposed positions viewed this as overly restrictive and stated that it would result in many changes requiring prior NRC approval that are below the level of significance warranting such review. The position espoused in the revised industry guidance document (NEI 96–07) is that an increase in probability or consequences must be discernable in order for approval to be needed. The Commission concludes that the plain reading of the existing rule language is not consistent with this interpretation.

Although the current rule language would not permit discernable increases in probability or consequences, the Commission has concluded that at minimum, this would be a reasonable standard for requiring prior approval of changes, tests or experiment for increases in probability of occurrence of an accident or malfunction. The existing rule language dates from early in the development of reactor regulation, where with the knowledge base at the time, the then-AEC found it appropriate to set a very low threshold for changes. Over the last thirty years, the Commission has garnered experience with implementation of § 50.59 and insights from probabilistic risk assessments, both of which indicate that this threshold can be adjusted without adversely impacting safety. Further, the analytical capabilities to calculate probabilities have greatly advanced, such that the effect of even minor changes on probabilities can be evaluated. Therefore, the Commission proposes to revise existing paragraph § 50.59(a)(2)(i) of the rule by replacing ''may be increased'' with ''would result in more than a minimal increase,'' in order to provide that there must be a clearly discernable change to require approval, the ''minimal increase'' concept is described in the next section. As noted above, the (a)(2) paragraph would be broken into four statements and renumbered as (c)(2)(i) through (iv).

G. More than a Minimal Increase in Probability or Consequences

The Commission notes that § 50.59 permits changes that do not otherwise require approval (such as would be the case if the provisions being changed are in TS or license, quality assurance or emergency plans, or inservice inspection and testing programs). Because the information being revised is of less immediate importance to public health and safety, and in consideration of the conservatisms in NRC design and analysis requirements, acceptance criteria, and the precision with which safety analyses are performed, ''minimal'' variations in probability of occurrence or consequences of accidents and malfunctions should not affect the

basis for the licensing decision. This conclusion is based upon the qualitative consideration of probability during plant licensing; accident probabilities were assessed in relative frequencies; equipment failures were generally postulated to gauge the robustness of the design, without estimating their likelihood of occurrence. Therefore, minimal increases in probability could not even have been identifiable, and could not impact the conclusions reached about acceptability of the facility design. Radiological consequences for accidents are calculated and reported at a level of precision such that minimal increases also would not impact the safety determination. The Commission therefore concludes that the proposed criteria would provide reasonable assurance that those changes that would affect the NRC's basis for licensing would be identified as requiring NRC approval before implementation. The revised criteria would also provide some degree of flexibility for licensees to make changes with smaller impacts without the need to obtain a license amendment.

On the other hand, the Commission intends to limit the amount of increase in probability or consequences of accidents such that it remains substantially less than a ''significant increase'' as referred to in § 50.92 (in accordance with § 50.92, a license amendment involving a significant increase in the probability or consequences of an accident previously evaluated involves a ''significant hazards considerations;'' any hearing for an amendment constituting a ''significant hazards consideration'' must be completed prior to the grant of the amendment.) The standard in the proposed rule is qualitative (probability or consequences no more than minimally increased). The intent of this proposed rule is to allow changes that are small enough that they would not affect the facility's licensing basis, or adversely affect safety performance. While the proposed rule would allow minimal increases, licensee still must meet applicable regulatory limits and other acceptance criteria to which they are committed (such as contained in Regulatory Guides, etc.) Because the ''more than minimal'' standard allows for there to be a discernable increase, NRC needs to establish a point beyond which one would conclude that the increase is not minimal. The following guidance is offered, including values as to when the Commission would conclude that the revised criteria are not met. Quantitative calculations are not required except for those instances in which a licensee offers other than qualitative arguments as part of its evaluation.

Probability of Occurrence of an Accident

The current guidance in NEI 96–07 states: ''Where a change in probability is so small or the uncertainties in determining whether a change in probability has occurred are such that it cannot be reasonably concluded that the probability has actually changed (i.e. there is no clear trend towards increasing the probability), the change need not be considered an increase in probability.'' The Commission believes this satisfies the proposed NRC standard.

In order to be considered as a minimal increase, the resulting probability (considering the change, test or experiment) must still satisfy the event frequency classification provided in the licensee's FSAR (as updated), e.g., for an anticipated operational occurrence (expected once a year) or for a design basis accident (not expected during life of plant, but sufficiently credible to require mitigation).

Probability of Equipment Malfunction

The Commission believes that the probability of malfunction is more than minimally increased if a new failure mode as likely as existing modes is introduced. The determination should be made either at the component level, or consistent with the failure modes and effects analyses, taking into account single failure assumptions, and the level of the change being made.

Guidance in NEI 96–07 states: ''Where a change in probability is so small or the uncertainties in determining whether a change in probability has occurred are such that it cannot be reasonably concluded that the probability has actually changed (i.e. there is no clear trend towards increasing the probability), the change need not be considered an increase in probability.'' The Commission believes this satisfies this criterion.

The probability of malfunction of equipment important to safety previously evaluated in the FSAR (as updated) is no more than minimally increased if ''design bases'' assumptions and requirements are still satisfied (i.e., the seismic or wind loadings, qualification specifications, procurement requirements). As part of this guidance, note that NRC concludes that licensees can treat changes in external hazard design requirements as potentially affecting equipment malfunction probability rather than as ''accident probability.''

Consequences of Accident or Malfunction

Guidance in NEI 96–07 states: ''Where a change in consequences is so small or the uncertainties in determining whether a change in consequences has occurred are such that it cannot be reasonably concluded that the consequences have actually changed (i.e. there is no clear trend towards increasing the consequences), the change need not be considered an increase in consequences.'' The NRC believes this satisfies the revised NRC standard.

If a licensee has performed an analysis with certain bounding assumptions, and the change would increase a specific parameter from its present value to a different value that is still bounded by the value assumed in the analysis, NRC concludes that such a change satisfies the criteria of no more than a minimal increase in consequences.

As a quantitative measure, the Commission is considering some options. One would be to establish that a 0.5 rem increase in calculated dose as a result of the change be used to assess whether a minimal increase has occurred. This range of change would generally be in the decimal place for accident analyses where doses are reported in rem. The facility must still satisfy applicable acceptance values (e.g., the SRP) or regulatory requirements (e.g., part 100) for the particular accident. If a licensee would need to change its design basis assumptions or analytical methods, or both, to demonstrate that the change in consequences is less than 0.5 rem, then the NRC does not view the change as minimal and would expect the licensee to submit a license amendment for such a change.

In addition, the Commission is considering a graduated approach, consistent with the concept of ''minimal'' being small enough so as not to impact the basis for acceptability. When the facility is far from the limit, a larger increase can be accommodated without concern about impact on the basis for acceptability. The values proposed take into account such factors as differences between licensee calculated values and staff estimation of existing performance, potential for a single change with a large increase, or for several ''minimal'' increases to approach the regulatory limits. The specific proposal offered for comment is:

Example using 300 rem thyroid dose as the limit.

Existing calculated dose	''Minimal'' change	Pre-change	After the change
<50% of limit	≤10% increase	140 rem	170 rem.
≤80% of limit	≤5% increase	205 rem	220 rem.
more than 80%	≤1% increase (NTE limit)	245 rem	248 rem.

A third option under consideration, similar to option 2, would limit the fraction of remaining margin that can be consumed by a particular change. By defining ''minimal'' as being 10% of the remaining margin between current conditions and acceptance guidelines, the amount of change would decrease as the limit is approached, and the limit could not be exceeded.

Cumulative Effect

The Commission is concerned about the cumulative effect of minimal increases. Since some increases are allowed, the Commission believes that the proposed process would place greater importance on: (1) Complete and accurate SAR updating; (2) the licensee's evaluation process taking into account other changes made since last update; (3) the licensee's screening process examining plant changes to determine whether they are indeed changes requiring evaluation; and (4) reporting requirements so that staff can assess the ongoing nature of cumulative impact.

The issue then becomes how the NRC can best oversee the process such that several ''minimal'' changes do not result in unacceptable results. The Commission has decided to require licensees to report effects of changes in a different manner to facilitate evaluation of cumulative effect, as discussed in a later section on reporting requirements, in which the Commission proposes to require that the SAR update in accordance with § 50.71(e) discuss the effects of the changes upon calculated doses and other information.

H. Possibility of an Accident of a Different Type from any Previously Evaluated in the Safety Analysis Report may be Created

As noted in Section F above, the uncertainty connected with demonstrating that no accident or malfunction may have been created is a major source of confusion and difficulty in implementing the existing rule; and is unnecessary for purposes of identifying when NRC review of a change is needed. Accordingly, the Commission proposes that the language in existing § 50.59(a)(2)(ii) be revised as discussed below in this section and the following one. As noted earlier, the Commission is proposing to separate the requirements into distinct criteria for clarity. This criterion would now read ''if a possibility for an accident of a different type from any previously evaluated in the final safety analysis report (as updated) is created.'' Under the proposed rule, a license amendment would be needed only if the licensee reasonably concluded that the possibility of an accident of a different type is created. This contrasts with the current rule, which would require a license amendment if the licensee is uncertain or unable to reasonably conclude that a new accident of a different type is not created. The Commission concludes that this proposed rule change will still identify those proposed changes, tests, or experiments that the NRC should review, without also including other changes of lesser significance that may be viewed as meeting the existing criteria.

Need for Definition of Accident

In determining whether a proposed change requires prior NRC approval under § 50.59, the rule refers to whether ''accidents'' previously evaluated in the SAR are impacted, or whether an accident of a different type may be created (see also § 50.92 criteria for ''no significant hazards consideration)''. Those accidents evaluated in the SAR, that is, those events that a plant must show that it can withstand, are derived from a number of regulatory requirements, and the safety analyses are included in the FSAR.

The regulations and NRC guidance documents, refer to ''a design basis accident'' (§ 50.36), to design basis events (§ 50.49), to loss-of-coolant accidents (Appendix A), to anticipated operational occurrences (Appendix A) and to accidents that could result in release of significant quantities of radioactive fission products (part 100). The PSAR, and by extension the FSAR, pursuant to § 50.34, is to contain ''analysis and evaluation of the design and performance of SSC of the facility with the objective of assessing the risk to public health and safety resulting from operation of the facility and including determination of (i) the margins of safety during normal operations and transient conditions anticipated during the life of the facility and (ii) the adequacy of SSC provided for the prevention of accidents and the mitigation of the consequences of accidents.'' RG 1.70 states that the FSAR is to include postulated anticipated operational occurrences; postulated off-design transients that induce fuel failures above those expected for normal operational experience, and design basis accidents. The Standard Review Plan for Chapter 15, refers to anticipated operational occurrences and to postulated accidents, and also to ''transients and accidents'' (the SRP notes that other events, such as response to external phenomena, are covered in other chapters).

Design basis accident(s) has been used in regulatory practice both singularly and generally. The regulations also include the concept of a design basis accident (DBA), for purposes of evaluating siting, which is an assumed fission product release, based upon a major accident that would result in potential hazards not exceeded by those from any accident considered credible. Such accidents have generally been assumed to result in substantial meltdown of the core with subsequent release of appreciable quantities of fission products. The set of ''accidents'' that a plant must postulate for purposes of FSAR design and safety analyses, including LOCA, other pipe ruptures, rod ejection, etc., are often referred to as ''design basis accidents''.

The terms of accidents and transients are often used in regulatory documents (as for example in Chapter 15 of the Standard Review Plan), where transients are viewed as the more likely, low consequence events and accidents as more serious. In the context of probabilistic risk assessment, transients are typically viewed as initiating events, and accidents as the sequences that result from various combinations of plant and safety system response.

However, the meaning of the term ''accident'' as it is used more generally in Part 50, is somewhat obscured by the

use of the term ''design basis event.'' In § 50.49, design basis event is defined as:

> normal operations including anticipated operational occurrences, design basis accidents, external events, natural phenomena (earthquakes, tornados, hurricanes, floods, tsunami and seiches), for which the plant must be designed to ensure safety-related functions.

In view of the range of language presently used to describe the types of events evaluated as part of the licensing basis, the Commission is contemplating the need to clarify its intent as to the extent of events that are within the purview of the criteria in § 50.59 and in § 72.48). For purposes of stimulating discussion, the Commission offers two proposals. One would be to set forth a definition for the term ''accident'' as follows:

> an initiating event or combination of events and/or conditions that could occur from equipment failure, human error, natural or manmade hazards which challenges the integrity of one or more fission product barriers (fuel, reactor coolant system, release of radionuclides (confinement/containment)), required to be analyzed and/or accounted for by the Commission and addressed in the licensee's safety analysis report.

Such a definition would make it clear that the Commission's intent in referring to ''accidents'' in § 50.59 (and in § 72.48) is to refer to the design basis accidents that are addressed in the SAR. The second approach is to add the phrase ''design basis accident'' into the existing criteria. This could be done for each of the three criteria that refer to ''accident'' or just for the one on accident of a different type. Since the criteria on probability and consequences also contain language about ''previously evaluated in the SAR,'' there may be less need for a reference to ''design basis accident'' in these criteria. The proposed rule language includes use of the phrase ''design basis accident'' in the one criterion, for purposes of obtaining public comment.

I. Possibility of a Malfunction of a Different Type from any Previously Evaluated in the Safety Analysis Report may be Created

In a similar fashion, the Commission proposes to modify the remaining part of existing § 50.59(a)(2)(ii), concerning malfunctions of a different type by creating a new criterion that would read ''if a possibility for a malfunction of equipment important to safety with a different result than any evaluated previously in the final safety analysis report (as updated) *is* created.'' This criterion involves three revisions to the existing rule. The first change is the use of the phrase ''is created'' which would require a determination that the possibility has been created, rather than uncertainty as to exclusion.

The second change is to insert the words ''of equipment important to safety.'' The existing rule does not provide this characterization within paragraph (ii), but it is included in paragraph (i). It has generally been inferred that the statement in paragraph (ii) is an abbreviated version of that in paragraph (i). A review of the history of the 1968 rulemaking adopting revisions to § 50.59 did not disclose any discussion suggesting that the Commission intended to distinguish between the (a)(2)(i) and the (a)(2)(ii) criteria with respect to the scope of equipment covered. Therefore, the Commission concludes that the rule was intended to apply to the same scope of equipment in each cases, and therefore, proposes to include the words in this criterion to eliminate any doubt.

The final change is being proposed in response to the comments on the staff-proposed guidance (NUREG–1606) on the interpretation of malfunction (of equipment important to safety) of a different type. The commenters believe that the cause of the malfunction should be a consideration in determining whether the probability of the malfunction may have increased, and that a malfunction of a different type would only be created if the effects of the malfunction are not already bounded by the FSAR analysis. The recent industry guidance states that if a component were subject to failure from a new failure mode but the failure of the component is already considered in the safety analysis, then there would not be a failure of a different type. The Commission does not agree that the industry interpretation is consistent with the rule as written, which refers to creation or possibility of a malfunction of a different type, not of a different result. However, the Commission recognizes that in its reviews, equipment malfunctions are generally postulated as potential single failures to evaluate plant performance; thus, the focus of the NRC review was on the result, rather than the cause/type of malfunction. Unless the equipment would fail in a way not already evaluated in the safety analysis, there is no need for NRC review of the change that led to the new type of malfunction. Therefore, as the third change in § 50.59(a)(2)(ii), the Commission is proposing to change the phrase ''of a different type'' to ''with a different result''. Therefore, this criterion would read: ''if a possibility for a malfunction of equipment important to safety with a different result . . . is created.''

In implementing this position, attention must be given to whether the malfunction is evaluated at the component level or the overall system level. While the evaluation should take into account the level that was previously evaluated in terms of malfunctions and resulting event initiators or mitigation impacts, it also needs to consider the nature of the change. Thus for instance, if failures were previously postulated on a train level because the trains were independent, a change that introduces a cross-tie might need to be evaluated to see whether new outcomes have been introduced. The staff has provided guidance on this issue in Generic Letter (GL) 95–02, concerning replacement of analog systems with digital instrumentation. The GL states that in considering whether new types of failures are created, this must be done at the level of equipment being replaced—not at the overall system level. Further, it is not sufficient for a licensee to state that since failure of a system or train was postulated in the SAR, any other equipment failure is bounded by this assumption, unless there is some assurance that the mode of failure can be detected and that there are no consequential effects (electrical interference, materials interactions, etc), such that it can be reasonably concluded that the SAR analysis was truly bounding and applicable. Otherwise, the Commission would conclude that there was increase in probability of malfunction or that a malfunction with a different result has been created.

J. Margin of Safety as Defined in the Basis for any Technical Specification is Reduced

Two criteria in the current regulations (§ 50.59) specifically focus upon accidents and equipment malfunction (creation, consequences and likelihood) as the measures for determining when a change requires prior NRC approval. However, the phrases ''margin of safety'' and ''as defined in the basis for any technical specification'' in the third criterion have been the subject of differing interpretations because the rule does not define what constitutes a margin of safety or a basis for any technical specification in the context of §§ 50.59 and 72.48. In addition, some have questioned the need for the third criterion on ''margin of safety.''

The Commission has under consideration a number of proposals on margin. In the proposed rule text specifically being offered for comment, one option has been inserted so that commenters can examine the

relationship of this aspect of the proposed rule to other changes being offered. This should not be viewed as meaning that this option is preferred by the Commission. The range of options under consideration is discussed in more detail below.

Questions of margin are commonly judged in terms of the degree of confidence that the response of the facility, or of particular SSC, to postulated challenges is acceptable. Various margins exist in a facility design. These margins are based on, for example, assumptions of initial conditions, conservatisms in computer modeling and codes, allowance for instrument drift and system response time, redundancy and independence of components in safety trains, and plant response during operating transient and accident conditions. Margin to conditions that might be detrimental to safety is also determined by establishing acceptance criteria to be met for response to various accidents and transients. Acceptance criteria are established at a value that accounts for uncertainty about physical properties and other variability and thus provides margin to unacceptable plant conditions. Margins are built into the facility to account for routine plant fluctuations and transients. Margins are also built into the plant to establish the regulatory envelope within which a plant has demonstrated its ability to respond to a spectrum of design basis accidents. It is in this category termed the ''regulatory envelope,'' that the NRC believes that regulatory oversight of changes in margin may be needed from the standpoint of § 50.59. Thus the Commission notes that not all margins fall within the purview in which changes to the margin require prior NRC approval. As part of this rulemaking, the Commission wants to clarify which margins fall within the regulatory envelope and how possible reductions in margin resulting from facility or procedure changes, or from conduct of tests and experiments should be evaluated.

In defining in the rule a standard for NRC review and approval of changes to margins in the regulatory envelope, the Commission may want to preserve the NRC's ability to review changes when there is a potentially significant reduction in a margin of safety,[4] but clearly would not want to unduly affect licensee operations. Therefore, for this proposed rulemaking, the Commission is offering the public the opportunity to comment on a range of options for treating margin. Commenters are requested to present opinions about the merits, or concerns about the specific proposals, or both, and also to offer any other suggestions for wording.

Option 1: Control Inputs to Analyses and Methods that Establish TS

The Commission believes it is reasonable to interpret the specific reference to ''basis for any technical specification'' in the 1968 rulemaking that added the ''margin of safety'' criterion as preserving the margins in the analyses that established the TS requirements. For instance, the minimum plant performance conditions and configurations stated in the TS are the limiting conditions for operation, limiting safety system settings, and safety limits. Margins of safety exist within the safety analyses as a result of the specific input assumptions, methods, or other limits that were used. These parameters and methods were proposed by the licensee and reviewed by NRC to account for uncertainties, instrumentation response, and ranges of possible operating conditions. Because § 50.59 requires prior NRC approval for a change to the TS, a change that could invalidate the basis upon which the TS values were established should also receive prior approval. In accordance with this interpretation, changes that invalidate these specific conditions described in the FSAR for analyses that established the TS requirement (such as a limiting condition of operation, or a limiting safety system setting) would reduce the margin of safety associated with the TS.

Under this option, the Commission would conclude that the analyses and information in the FSAR establish the basis for the margins of safety for the TS. Thus, the Commission would propose to add a definition for ''reduction in margin of safety associated with any technical specification'' and to conform the criterion for needing a license amendment in new § 50.59(c)(2). The existing terminology of ''basis for any TS'' would be replaced by ''associated with any TS.''

The following definition would be added:

Reduction in margin of safety associated with any technical specification means that the input assumptions, analytical methods, acceptance conditions, criteria and limits of the safety analyses, presented in the final safety analysis report (as updated), that established any technical specification requirement, are altered in a nonconservative manner.

Although this option would maintain the safety analyses that underlie the TS, this approach would also have the effect of giving input values and assumptions the weight of TS, which is inconsistent with the philosophy in § 50.36 of establishing TS only on those values of most immediate safety importance. In many instances, changes to inputs can be accommodated by other available margins so that the licensing envelope is preserved.

Option 2: Delete ''margin of safety'' as a Criterion.

Under this option, the Commission would delete any criterion focusing upon margins. Instead, the Commission would rely upon the other criteria in § 50.59, as well as the regulatory requirement that all changes to TS be reviewed and approved by the NRC, to assure that there are no significant adverse changes to margins in design and operation. The Commission would argue that there is no need for prior review of changes that do not satisfy any of the other evaluation criteria in view of ''risk-informed'' insights and greater understanding of the margins that exist through meeting the body of regulatory requirements. The Commission seeks comment on whether any of the other evaluation criteria should be revised were this approach to be adopted.

Option 3: Control margins associated with results of analyses

Instead of focusing on the inputs to safety analyses, another interpretation would be to examine the results of the safety analyses, and to determine whether changes to operational characteristics or other information described in the FSAR (as updated) would reduce the level of protection afforded by the TS (i.e., by the limiting safety system settings and limiting conditions of operation), as reflected in the results of safety analyses.

As part of the licensing review for a facility, the NRC established a level of required performance (which will be referred to in this discussion as acceptance criteria) for certain physical parameters, such as those that define the integrity of the fission product barriers (fuel cladding, reactor coolant system boundary and containment). Satisfying these acceptance criteria (or regulatory limits) produces a margin of safety to loss of barrier integrity. The safety analyses presented in the FSAR (as updated) demonstrate that the response of the barriers to the postulated accidents, transients, and malfunctions meets the acceptance criteria. For

[4] In accordance with 10 CFR 50.92(c)(3), license amendments involving a significant reduction in a margin of safety do not meet the criteria for a ''no significant hazards consideration'' determination; thus, changes involving a significant reduction in a margin of safety are not to be performed under 10 CFR 50.59.

certain of these parameters, TS safety limits have been established; these safety limits are limits upon important process variables that are found necessary to reasonably protect the integrity of physical barriers that guard against the uncontrolled release of radioactivity.

However, for other parameters, a licensee must determine the licensing basis of the parameter in question by reviewing the plant-specific safety analyses. The acceptance criterion is that value approved by the NRC for a particular parameter or process variable (e.g., ASME Code stress limits, a departure from nucleate boiling ratio limit or maximum critical power ratio limit or containment design pressure). These acceptance criteria may be stated in the FSAR, may be in NRC regulations, or may be presented in the NRC Standard Review Plan. (Note: This approach may require some licensees to revise their FSAR to accurately describe the regulatory values for the set of critical parameters. For example, licensees would need to identify the expected operating or design values and then specify the minimum performance capabilities for the related parameters, which cannot be modified with NRC review).

In constructing the requirements for controlling margin through consideration of results of analyses, there are three aspects to take into account: (a) Which results/parameters are to be controlled through the § 50.59 process, (b) the degree of change to be allowed without review, and (c) how the changes should be evaluated in demonstrating that the criterion is satisfied.

In the sections below, these three aspects are separately discussed in order to amplify upon the issues under consideration. However, any rule language option would need to include some provision for each of the three aspects.

(a) Which parameters should be controlled?

The margins of safety that would be controlled by the 10 CFR 50.59 process can be characterized in different ways.

OPTION 3(A)(1)—Safety and Regulatory Limits

The margin between regulatory limits and the failure of physical barriers is protected in the regulations (and also in the portion of the Technical Specifications (TSs) called ''safety limits''). The margin, as reflected in approved safety and accident analyses, between the protection afforded by the TSs (e.g., the limiting safety system settings and limiting conditions of operations) and the associated regulatory limits is a possible interpretation as to ''the margin of safety as defined in the basis for any TS'', which would be subject to the 10 CFR 50.59 evaluation process. Thus, one proposal under consideration would be to define ''margin of safety'' as follows:

The ''margin of safety as defined in any technical specification'' (margin of safety) is the amount (quantitative or qualitative) of margin between the operation of the facility as described in the technical specifications and the exceedance of safety limits listed in the technical specifications or other regulatory limits. In relation to accident analysis, the margin of safety is typically the difference between calculated parameters (e.g., peak fuel clad temperature, maximum RCS pressure, etc.) and the associated regulatory or safety limit. The margin of safety is a product of specific values and limits contained in the technical specifications (which cannot be changed without NRC approval) and other values, such as assumed accident or transient initial conditions or assumed safety system response times, which are not specifically contained in the technical specifications. Any change to the values not specifically contained in the technical specifications must be evaluated for impact on the margin between the calculated result of an accident or transient and the safety or regulatory limit.

With this option, before changing operational characteristics described in the UFSAR (not directly controlled by TS), a safety evaluation must be performed to determine, among other things, if the change results in a reduction in the level of protection afforded by the TS (margin of safety as defined in any TS). Such a reduction would typically occur only if the operational characteristic had been used as a bounding condition in the analysis upon which the selection of TS was based, or in analysis where the acceptability of selected TS values was demonstrated. Licensees could make desired changes to operational characteristics without prior NRC approval, provided that the change does not result in accident analysis results that are nearer the regulatory, or safety, limits than the corresponding results that the NRC used in evaluating the acceptability of the TS during licensing of the facility.

OPTION 3(A)(2)—Fission product barriers—definition

The NRC notes that § 50.36 (requirements for Technical Specifications) has criteria for when TS are to be provided that specifically are tied to design basis accident or transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier. Thus, the margin as defined in the basis for any TS can be reasonably viewed as that margin associated with preserving integrity of these barriers. Therefore, the NRC is also considering a more explicit linkage to the response of the three fission product barriers generally relied upon to provide protection from uncontrolled release of radioactive materials from a reactor facility. Under such a proposal, the text of the rule would explicitly state that it is the response of fission product barriers (fuel, reactor coolant system, and containment) to accidents, transients, and malfunctions that is being controlled.

The following could be given as a definition of margin of safety and of fission product barrier response. Regulatory guidance would explicitly list the parameters (for PWRs and BWRs) that are to be controlled.

The margin of safety for any fission product barrier response is the difference between the calculated value and its associated acceptance criteria. Fission product barrier response means those parameters that must be satisfied in the event of postulated design basis events to demonstrate integrity of the fuel, reactor coolant system and containment system barriers.

The following parameters would be included: Fuel and cladding performance (peak cladding temperature, or energy deposition, DNBR or MCPR, oxidation), RCS performance (pressure, flows, stress), and containment performance (peak pressure, containment leakage).

OPTION 3(A)(3)—Specified Parameters

A variant on the previous option would be to actually list the parameters of interest directly in the criterion for prior review, as for instance, the criterion could read:

(vii) Result in a change to the FSAR (as updated) calculated value of RCS peak pressure, containment peak pressure, or fuel performance (DNBR/MCPR, others), etc.

This variant has the advantage of being more precise, but the rule language would need to be crafted to account for various reactor types.

OPTION 3(A)(4)—Include Mitigation Capability

The Commission is interested in preserving the integrity of both prevention and mitigation capabilities available in the plant, and is therefore considering an option that would include both features within the ''margin'' criterion if the margin criterion is maintained. If this approach were adopted, the definition or the list of parameters would be supplemented with the performance parameters for the

accident mitigation capability of the plant, as for instance, ECCS performance (pressures, flows, actuation values), engineered safety feature performance (flows, pressures, spray effectiveness, system efficiencies).

Finally, in conjunction with any of these approaches, the Commission is also considering whether there are other parameters important to preservation of barriers that should be explicitly defined. For instance, for fuel stored in spent fuel pools, or for the reactor during periods of shutdown or refueling, there may be other analysis results (water level, pool temperature) in lieu of reactor coolant system pressure. Therefore, the Commission seeks input as to whether there are other parameters of interest beyond those previously offered that should be included within the ''margin of safety'' criterion if that criterion is maintained, and how should the rule language be revised to specify what those parameters might be.

(b) Determination of reduction in margin requiring review

Once the parameters of interest are determined, it is also necessary to define when a reduction in margin warranting NRC review and approval has occurred. The Commission is evaluating options ranging from any ''nonconservative change in calculated values,'' to a ''minimal change'' standard, and ultimately an option that would allow increases up to ''specified limits (acceptance criteria)'' for those parameters that may be established in the regulations or NRC guidance (such approaches to the limits might be controlled in a graduated fashion as was discussed in the section of this notice relating to ''minimal increases''). An option for the degree of reduction would be paired with an option (such as one of those listed in (a) above) to provide the text of the rule.

OPTION 3(B)(1)—No Reduction

One approach would be require that the safety analysis, considering the effect of the change, must show that the accident analysis results are not nearer to any safety or regulatory limit, thus, a ''no reduction in margin'' standard. Possible rule text:

Changes, or the net effect of multiple changes, which result in a reduction in the margin of safety require prior NRC approval. Changes, or the net effect of multiple changes, which do not cause a reduction in the margin of safety do not require prior NRC approval.

OPTION 3(B)(2)—Minimal Amount—Definition of Margin Reduction

As discussed in other sections of this notice, the Commission concludes that the revised rule should allow licensees some flexibility in making changes, through development of a ''minimal increase'' standard. In considering margins, the Commission is thus weighing how such a concept could be applied. One option would be that NRC approval would be required for a change, test, or experiment if the output values (calculated in the SAR) are altered by more than a minimal amount. The ''margin'' criterion would be modified to state that a change in calculated result of ''more than a minimal amount'' would require prior review and approval. Either in the rule itself, or in guidance, the Commission would define ''minimal amount'', modeled upon the options offered for minimal increases in consequences (see section II.G. of this notice). For example, there could be a fixed amount (percent change) in margin, as long as regulatory limits are still met. If guidance itemizes the parameters, such guidance could also customize how ''minimal'' should be judged for each particular parameter (allowing greater amounts for certain parameters depending on precision of calculations, sensitivity of results and other considerations).

For instance, the definition of ''margin of safety reduction * * *'' might be stated as follows:

Reduction in margin of safety means that as a result of a change, the [MARGIN] is altered in a nonconservative manner by more than a minimal amount.

OPTION 3(B)(3)—Minimal Determined With Respect to Acceptance Criteria (Available Margin)

It is also possible to achieve this result by removing the language referring to margin of safety (and to TS), and defining ''minimal'' in the rule itself in terms of the results or analyses for barrier response, with respect to meeting the acceptance criteria for those barriers. For example, rule language could read as follows:

License amendment needed if as a result of a change, test or experiment:

(vii) there is more than a 10% reduction in the difference between the calculated value and the acceptance criteria for fission product barrier response to accidents evaluated in the SAR.

If such an approach is followed, the Commission would propose to include a definition of acceptance criteria, such as follows:

Acceptance criteria are those values, established by NRC regulation or review guidance, to which the licensee is committed through its FSAR (as updated), as the basis for acceptability of response to the postulated accident, transient or malfunction.

(c) Evaluation of effect of the change upon analysis results.

The Commission also notes that the results of safety analyses are subject to variance depending upon the assumptions, analysis methods or analytical techniques used. In many instances, these factors were reviewed by the NRC during its licensing deliberations, and their use may have formed part of the basis for the conclusion that acceptable safety margins were demonstrated. Therefore, the Commission wishes to ensure that proposed changes by a licensee would not invalidate these conclusions by requiring a demonstration that the evaluation techniques and analyses are suitable.

To accomplish this, the Commission is considering having as part of whichever definition of ''margin of safety reduction'' is selected the following statement [Option 3(c)]:

All analyses and evaluations for assessing the impacts of proposed changes must be performed using methodology and analytical techniques which are either reviewed and approved by the NRC or which are shown to meet applicable review guidance and standards for such analyses.

The alternative to this proposed language would be to rely upon a licensee's design control processes under their quality assurance requirements and program, to provide the assurance that any evaluative work has been conducted with methods and techniques commensurate with the safety significance of the analyses being performed.

Impacts for Part 72 Changes

Certain of the options discussed above may need to be modified for application to independent spent fuel storage facilities or spent fuel storage cask designs in Part 72. While the overall philosophy would be the same, the particular outputs or barriers that would be specified for reductions in margin would have to be defined in terms of the barriers against release of radioactivity afforded by fuel storage facilities. For instance, these might include calculated fuel temperature or cladding oxidation, and stresses (or pressures) on the cask structure. Comment is also requested on the appropriate parameters for facilities licensed under Part 72.

K. Safety Evaluation

Section 50.59(b)(1) requires licensees to maintain records that must include a written safety evaluation that provides

the bases for the determination that the change, test, or experiment does not involve an unreviewed safety question. Section 50.59(b)(2) requires submittal of a report containing a brief description of any changes, tests, or experiment, including a summary of the safety evaluation of each. In the interest of emphasizing the regulatory purpose of the evaluation required under § 50.59, which led the Commission to propose deletion of the term ''unreviewed safety question,'' the Commission proposes to delete the word ''safety'' in referring to the required evaluation for determining whether the change, test, or experiment requires a license amendment. For purposes of the summary report of tests and experiments submitted to NRC, the staff would propose that the rule specify that a summary of the evaluation be provided (rather than a summary of the safety evaluation).

A similar change is proposed for § 50.71(e), which presently refers to safety evaluations either in support of license amendments or of conclusions that changes did not involve USQs. The Commission proposes to change ''safety evaluation in support of license amendments'' to ''safety analysis in support of license amendments,'' to reduce confusion between the information prepared by the licensee for the amendment (safety analysis) and the NRC review (safety evaluation). The second part of this phrase would be revised to refer to the ''evaluation that changes did not require a license amendment in accordance with § 50.59(c)(2) of this part.'' (In this case, it is a licensee evaluation against the regulatory criteria in § 50.59 that is being referred to). In addition, other minor wording changes are proposed such as with respect to terminology on ''final safety analysis report'' and ''effects of'' (see reporting requirements discussion below). Conforming changes in the appendices to part 52 and in part 72 to revise language to refer to ''evaluation'' are also proposed.

L. Reporting and Recordkeeping Requirements

In view of the ''minimal increase'' criteria in § 50.59, the Commission concludes that the reporting requirements for the SAR update should be enhanced to enable the NRC to better understand the potential cumulative impact of changes that might have been made since the last update. Therefore, the Commission proposes to supplement the reporting requirements on ''effects'' of changes to require that in the FSAR update submittal (with the replacement pages), the licensee shall include a description of each change affecting that part of the SAR that provides sufficient information to document the effect of the change upon the probability or consequences of accidents or malfunctions, or reductions in margin associated with that part of the SAR. Accordingly, the Commission proposes to revise § 50.71(e) to read as follows:

''(e) Each person licensed to operate a nuclear power reactor pursuant to the provisions of § 50.21 or § 50.22 of this part shall update periodically, as provided in paragraphs (e)(3) and (4) of this section, the final safety analysis report (FSAR) originally submitted as part of the application for the operating license, to assure that the information included in the FSAR (as updated) contains the latest information developed. The submittal must describe the effects [1] of: (1) All changes made in the facility or procedures as described in the FSAR; (2) all safety analyses and evaluations performed by the licensee either in support of requested license amendments, or in support of conclusions that changes did not require a license amendment in accordance with § 50.59(c)(2) of this part; (3) all analyses of new safety issues performed by or on behalf of the licensee at Commission request; and (4) the net effect of all changes made since the last update on the safety analyses, including probabilities, consequences, calculated values, system or component performance, that are in the FSAR (as updated). The updated information shall be appropriately located within the update to the FSAR.

Finally, the Commission is proposing a change to the record retention requirements in existing § 50.59 (b)(3) (renumbered by this rulemaking to (c)(3)). The change would add to the requirement that the records of changes to the facility be maintained until the termination of the license, the statement ''or until the termination of a license issued pursuant to 10 CFR part 54, whichever is later.'' This change would make more clear the requirement that records must be maintained through the life of the facility so that they will remain available until such time as they are no longer needed (that is, when the license is terminated, not just at the end of the initial licensing term).

M. Part 72 Changes

In part 72 the Commission is proposing to make conforming changes to § 72.48 with those made to § 50.59 and to expand the scope of § 72.48 so that holders of a Certificate of Compliance (CoC) are also subject to it. In addition to the proposed changes to § 72.48, the Commission proposes to make changes in other sections of part 72. When subpart L—Approval of Spent Fuel Storage Casks, was originally added to part 72, no provisions were included to address potential amendments of CoCs. However, regulations in this area are necessary to provide requirements for certificate holders in instances where a proposed change does not meet the tests of § 72.48, and an amendment to the CoC is necessary. Therefore §§ 72.244 and 72.246 would be added to subpart L, to provide regulations on applying for, and approving, amendments to CoCs. Section 72.248 would also be added to provide regulations for the certificate holder submitting an updated final safety analysis report, which would document the changes it made to procedures or structures, systems, and components under the provisions of § 72.48. The Commission notes that a general licensee is not precluded from loading spent fuel into an approved spent fuel storage cask during the 90-day period allowed for the certificate holder to submit a final safety analysis report. This approach is the same as that required for part 72 license holders to update their final safety analysis report under § 72.70. The Commission also notes, that for dual-purpose spent fuel casks (i.e., casks which have been issued CoCs for transportation and storage under parts 71 and 72, respectively), no regulation equivalent to § 72.48 exists in part 71. Consequently, a certificate holder could make changes to the design of a spent fuel storage cask under the authority of § 72.48 (i.e., without prior NRC approval); however, if the change also affected the transportation aspects of the cask's design and involved a modification to the part 71 certificate, then NRC approval and amendment of the transportation CoC would be required before the cask could be used to transport spent fuel to another site. Additionally, a transportation cask CoC has a term of 5 years, compared to the 20-year term for a storage CoC. Consequently, the Commission envisions that most of this type of change would be captured during the periodic renewal of a transportation CoC and this delay would not have a significant adverse impact on a licensee's ability to transport spent fuel in a dual purpose cask.

In § 72.3 the definition for *independent spent fuel storage installation (ISFSI)* would be revised to remove the tests for evaluation of the acceptability of sharing common utilities and services between the ISFSI and other facilities. The existing requirement in § 72.24(a)—Contents of application: Technical Information,

[1] Effects of changes includes appropriate revisions of descriptions in the FSAR such that the FSAR (as updated) is complete and accurate.

would be revised to reference shared common utilities and services in the applicant's assessment of potential interactions between the ISFSI and another facility. The Commission would remove the existing requirement in § 72.3 for the applicant to evaluate the impact of sharing common utilities and services on the ''other facility.'' The Commission believes that evaluation of the impact on the ''other facility'' should not be part of the licensing process for an ISFSI. Rather, such evaluation should be part of the license amendment process for that ''other facility'' and should be performed under the regulations used to license that ''other facility.''

Changes to § 72.56 would be conforming changes to those made to § 50.90. Changes to § 72.70 are also conforming changes to those made to § 50.71(e); additionally, requirements would be added to § 72.70 on standards for submitting revised Final Safety Analysis Report (FSAR) pages. The Commission notes that the proposed § 72.70 would retain the requirement that the site-specific licensee submit a final safety analysis report at least 90 days prior to the planned receipt of spent fuel or high-level waste. The Commission has not received any requests for exemption from this regulation and believes that this regulation does not impose an undue burden or schedule impact on licensees. The proposed rule also modifies the requirements for filing of updates (through reference to § 72.4) to be consistent with other changes being made to part 72. Changes to § 72.216 for a general licensee are similar to the changes made to § 72.70 for a site-specific licensee and are also conforming changes to those made to § 50.71(e). The Commission also envisions that a general licensee who wishes to adopt a change to the design of a spent fuel storage cask it possesses—which was previously made to the generic design by the certificate holder under the provisions of § 72.48—would be required to perform a separate evaluation under the provisions of § 72.48 to determine the suitability of the change for itself. The changes to §§ 72.9 and 72.86 are conforming changes due to the addition of new §§ 72.244, 72.246, and 72.248.

Changes to part 72 Record keeping requirements would include the clarification that records required by § 72.48 shall also include determinations that significant increases in occupational exposure or unreviewed environmental impacts did not exist, such that a license amendment would have been required. (The existing language linked the written evaluation only to the ''unreviewed safety question'' determination, and thus did not explicitly require Record keeping for the determinations of whether the change would cause a significant increase in occupational exposure or a significant unreviewed environmental impact). Certificate holders would also be required to keep records of such changes as would be allowed under § 72.48.

Requirements in § 72.70 would be established for reporting changes to procedures. The Commission notes that § 72.70 presently requires that the update include[5] a description and analysis of changes in the structures, systems, and components with emphasis upon performance requirements; the bases, with technical justification therefor, upon which such requirements are based; and evaluations showing that safety functions will be accomplished. It also requires an analysis of the significance of any changes to codes, standards, regulations, or regulatory guides which the licensee has committed to meeting the requirements of which are applicable to the design, construction, or operation of the facility. New reporting requirements for certificate holders would be added in §§ 72.244 and 72.248, similar to existing requirements imposed on licensees in §§ 72.56 and 72.70, respectively. New reporting requirements for general licensees would be added as § 72.216(d), similar to existing reporting requirements for site-specific licensees in § 72.70 and proposed requirements for certificate holders in § 72.248. In both of these sections, the Commission is adding a requirement that the entity making a change to the cask, either the general licensee or the certificate holder, provide a copy of the submittal to the other party for their information.

III. Section By Section Analysis

10 CFR Part 50

10 CFR 50.59

As discussed in more detail above, § 50.59 would be restructured and revised to have the following components.

Paragraph (a)—This is a new paragraph that provides definitions of terms such as ''change'', ''facility as described * * *,'' in order to specify more clearly which changes, tests and experiments require further evaluation and how reductions in margin of safety are to be determined. The references to ''safety analysis report'' are being revised to ''final safety analysis report (as updated)'' to state that the evaluations are to be performed that take into account other changes made that have affected the final safety analysis report since its original submittal.

Paragraph (b)—Relocation of existing applicability provisions.

Paragraph (c)(1)—Relocation of existing provisions establishing which changes, tests, or experiments require evaluation, using the defined terms. The terminology of ''unreviewed safety question'' has been replaced by referring to the need to obtain a license amendment. This paragraph also clarifies that the licensee must submit its request for license amendment, and obtain the amendment prior to implementing those changes, tests or experiments that involve TS or otherwise meet the criteria for prior NRC approval as specified in (new) paragraph (c)(2).

Paragraph (c)(2)—Reformatting of the evaluation requirements into seven distinct statements of the criteria and revision of the criteria for when prior NRC approval of a change, test or experiment is required. Specifically, language of ''more than a minimal increase'' was inserted in the criteria concerning increases in probability and consequences, and revisions to the rule requirements were made concerning creation of accidents of a different type and malfunctions of equipment with a different result. Clarification is also being provided that the margins of safety are those associated with TS requirements established by the FSAR analyses, and are not confined to the BASES section of the TS. These revisions clarify the criteria for when prior approval is needed and allow some flexibility for licensees to make changes that would not affect the NRC basis for licensing of the facility.

Paragraph (d)(1)—Renumbered paragraph with record keeping requirements. Also includes change from ''safety evaluation'' to ''evaluation.''

Paragraph (d)(2)—Renumbered paragraph with reporting requirements.

Paragraph (d)(3)—Renumbered and revised paragraph on retention of records, to cover the term of any renewed license.

10 CFR 50.66

The proposed changes for § 50.66 are to conform existing language referring to unreviewed safety questions, and references to updated final safety analysis report, to the language

[5] The similarity in the language between §§ 72.24 and 50.34(a) and between §§ 72.70 and 50.34(b)(2) is noteworthy.

proposed in revised § 50.59 for consistency.

10 CFR 50.71(e)

The proposed changes to this section are to conform language with respect to unreviewed safety question, safety evaluation, and reference to final safety analysis report (as updated), with the proposed language in § 50.59, and to clarify reporting requirements relating to ''effects of'' changes such that cumulative effects of minimal increases in probability and consequences are included in the update to the FSAR.

10 CFR 50.90

A portion of existing § 50.59(c) would be relocated into this section. This change would place the requirements for changes to technical specifications in the rule section on amendments to licenses.

10 CFR Part 52

Appendix A and Appendix B to 10 CFR Part 52

The proposed changes to these sections are to conform references to unreviewed safety question, safety evaluation and the evaluation criteria concerning when prior NRC approval is needed, to the language in the proposed revision to § 50.59.

10 CFR Part 72

10 CFR 72.3

The definition for independent spent fuel storage installation would be revised to remove the tests for evaluation of the acceptability of sharing common utilities and services between the ISFSI and other facilities. (Section 72.24 is also proposed to be revised to include this evaluation).

10 CFR 72.9

Paragraph (b) would be revised as a conforming change to include in the list of information collection requirements the new reporting requirements in §§ 72.244 and 72.248 for reports of changes made by CoC holders and for updates to the safety analysis reports by CoC holders.

10 CFR 72.24

This section would be revised to reference shared common utilities and services in the applicant's assessment of potential interactions between the ISFSI and another facility (previously covered by § 72.3).

10 CFR 72.48

New definitions have been added for terms such as ''change'' and ''facility as described in the Final Safety Analysis Report (as updated).'' The specific criteria in existing paragraph (a)(2) have been revised to separate out the various statements, to insert the language of ''more than a minimal increase,'' and to modify the criterion from ''malfunction of a different type'' to ''malfunction of a different result.'' The text for Record keeping requirements was revised to refer to the need for license or certificate of compliance (CoC) amendments, rather than involving an unreviewed safety question. As part of this revision, the Commission is also clarifying that the records shall also provide a basis for why a proposed change, test, or experiment did not require a license or CoC amendment with respect to significant increases in occupational exposure or significant unreviewed environmental impacts. Additionally, the term ''Final Safety Analysis Report (FSAR) (as updated)'' has been used to provide greater clarity and consistency with § 50.59 and other sections of Part 72. The filing requirements for the summary reports are modified to be consistent with § 72.4 (Communications).

10 CFR 72.56

Existing § 72.48 (c)(2) is being relocated into this section. This is a parallel change to that proposed for § 50.59 and § 50.90, wherein the Commission would place the requirements for changes to license conditions in the rule section on amendments to licenses.

10 CFR 72.70

Paragraphs (a) and (b) would be revised to use the terms ''Final Safety Analysis Report,'' ''FSAR,'' and ''as updated.'' Paragraph (b)(2) would be revised to add changes to procedures to the annual updates of the FSAR. New paragraph (c) would be added to provide requirements on submitting revisions to the FSAR.

10 CFR 72.86

Paragraph (b) currently includes those sections under which criminal sanctions are not issued. This paragraph would be revised by adding §§ 72.244 and 72.246 as a conforming change to reflect that certificate holders who fail to comply with these new sections would not be subject to the criminal penalty provisions of section 223 of the Atomic Energy Act (AEA). New § 72.248 has not been included in paragraph (b) to reflect that certificate holders who fail to comply with this new section would be subject to the criminal penalty provisions of section 223 of the AEA.

10 CFR 72.212(b)(4)

The change to this section is to conform the reference to 10 CFR 50.59 provisions, specifically to change from the terminology of unreviewed safety question to referring to need for license amendment for the facility (that is, the reactor facility at whose site the independent spent fuel storage installation is located).

10 CFR 72.216

New paragraph (d) provides requirements for a general licensee to submit annual updates to a final safety analysis report (FSAR) for the cask or casks approved for spent fuel storage cask that are used by the general licensee. The general licensee is also required to provide a copy of its submittal to the certificate holder. This section is similar to the requirements in §§ 72.70 and 72.248 for submission of annual updates to the FSAR associated with a site-specific Part 72 licensee or a certificate holder, respectively.

10 CFR 72.244

This new section provides requirements for a certificate holder to submit an application to amend the certificate of compliance (CoC). This section is similar to the requirements in § 72.56 for licensees to apply for an amendment to their license.

10 CFR 72.246

This new section provides requirements for approval of an amendment to a CoC. This section is similar to the requirements in § 72.58 for approval of an amendment to a license.

10 CFR 72.248

This new section provides requirements for submittal of annual updates to a FSAR associated with the design of a spent fuel storage cask which has been issued a CoC. This new section also provides that the changes to procedures and structures, systems, and components associated with the spent fuel storage cask and which are made pursuant to § 72.48 would be included in the annual update. The proposed revisions would also require that the certificate holder provide a copy of the FSAR submittal to each general licensee using that cask. This section is similar to the requirements in § 72.70 for submission of annual updates to the FSAR associated with a site-specific part 72 license and new section 72.216 for general licensees to provide updates to the FSAR.

IV. Commission Voting Record on SECY–98–171

The staff forwarded to the Commission a proposed rulemaking package on § 50.59 and related regulations in SECY–98–171, dated July 10, 1998. This document was placed in the Public Document Room on July 29, 1998. Subsequently, the Commission voted to approve issuance of a proposed rule for public comments with several additions and changes that are reflected in this notice. The Commission also directed that the record of their decision on SECY–98–171 be included as part of this notice to clearly inform stakeholders on preliminary positions taken by the Commission. The text of the resultant staff requirements memorandum and of the individual Commissioner vote sheets, is presented below.

Commission SRM on SECY–98–171, Dated September 25, 1998

The Commission has approved publication, for a 60 day public comment period, the proposed rulemaking that would revise 10 CFR 50.59 and related provisions in parts 50, 52 and 72 concerning the processes controlling licensee changes, tests and experiments for production and utilization facilities and for facilities for independent storage of spent nuclear fuel and high-level radioactive waste. The Voting Record, which includes the Commissioner votes and this Staff Requirements Memorandum, should be published in the **Federal Register** notice to clearly inform stakeholders on preliminary positions taken by the Commission (Enclosed).

The Commission also approves the staff's recommendations for handling violations of 10 CFR 50.59 and 72.48, including staff plans for exercise of enforcement discretion, while rulemaking is underway.

The Commission requested that the staff specifically solicit public comment in the **Federal Register** notice on:

1. A wide array of options for the margin of safety criterion (50.59(c)(2)(vii) in the proposed rule) and its definition including: (a) Deleting the criterion and definition, (b) a new definition as described in Chairman Jackson's vote, and (c) an option which would decouple the last criterion from technical specifications and focus instead on a new criterion relating to performance of fission product barriers (e.g., reactor coolant system pressure, containment pressure, etc), with minimal changes being allowed up to specified limits, perhaps utilizing a graduated approach similar to the approaches proposed for other criteria.

2. Options for defining ''minimal'' as it pertains to ''probability of occurrence of an accident'' or ''probability of equipment malfunction.''

3. The definitions of ''facility,'' ''procedures,'' and ''tests or experiments,'' including elimination of the definitions.

4. A clear definition of ''accident.''

(This action scheduled for completion October 9, 1998).

The Commission requests the staff to complete the revised 50.59 rule on an expedited schedule.

(This action scheduled for completion February 19, 1999).

All Commissioners approved in part and disapproved in part the proposed rulemaking on 10 CFR parts 50, 52 and 72 requirements concerning changes, tests and experiments and staff recommendations on changes to other regulations and enforcement policy, and provided additional comments. In their vote sheets, all Commissioners approved the staff's recommendations to approve publication of the proposed rule for public comment, and use of the enforcement discretion guidance in its assessment of severity levels for violations while the rulemaking is underway, and provided some additional comments. In particular, all Commissioners disapproved the staff's proposed margin of safety criterion (§ 50.59(c)(2)(vii) in the proposed rule) and its definition and each Commissioner provided an option for evaluation during the comment period. The Commissioners also specifically requested comments on a number of other issues. Because of the need to finalize this rule as expeditiously as possible and because SECY–98–171 has already been publicly available since July 29, 1998, the Commission agreed to a 60 day comment period, and that the staff complete the revised § 50.59 rule by February 19, 1999. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on September 25, 1998.

Chairman Jackson's Comments on SECY–98–171

I approve, in part, and disapprove, in part, the staffs proposal for rulemaking. I approve the staff's proceeding with issuance of the proposed rule language for public comment in order to support the expedited finalization of a revision to these processes. I disapprove of the specific language proposed by the staff for § 50.59(c)(2)(vii), ''reductions in the margin of safety.''

I agree with the recent letter from ACRS on this rulemaking, in that: (1) 10 CFR 50.59 can accommodate risk-informed decisionmaking. (2) the positions, as presented, on margin of safety may add regulatory burden without a commensurate safety benefit.

I disagree with ACRS in that I believe:

(1) The rulemaking should go out for public comment to foster comment on this high priority issue, and

(2) The regulatory guidance can be worked in parallel with the rulemaking.

I note that a further reason for issuing this package for public comment at this time is that the paper calls for the proper use of enforcement discretion as this rulemaking progresses, thereby providing further stability in the implementation of this rule in the industry.

Further, I propose that the SRM on this SECY, and the voting record, be placed in the FR notice to clearly inform stakeholders on preliminary positions taken by the Commission.

Giving Definition to Minimal

Attached to the recent ACRS letter was ''A Proposal for the Development of a Risk-Informed Framework for 10 CFR 50.59 and Related Matters.'' The proposal forwarded by the ACRS parallels an existing risk-informed approach described in Regulatory Guide 1.174. Regulatory Guide 1.174 describes a method for determining the level of review, based on severe accident implications, for proposed licensing actions. The proposal forwarded by the ACRS describes methodology for creating frequency-consequence curves for Class 1–8 accidents. The proposal states that existing processes could be extended to provide appropriate context for whether the results of a change are ''minimal.'' The proposal also notes that aspects of this type of approach are in use in the international regulatory community. The approach utilized in the proposal forwarded by the ACRS is consistent with the Commission guidance in the Staff Requirements Memorandum of March 24, 1998 on SECY–97–205.

Without commenting on the specifics of the proposal forwarded by the ACRS, I am convinced that changes to nuclear plants can be evaluated in a risk-informed context. Any such approach would benefit from paralleling existing methodology. Careful consideration would be required to ensure that the ''consequence'' and ''frequency'' standards are appropriate for a § 50.59 type application. For instance, ''consequences'' could be evaluated at one of the following levels: Fractional releases, off-site or on-site doses, or

challenges to fission product release barriers. ''Frequency'' could be evaluated for Class 1–8 accidents or for design basis accidents using existing guidelines for risk-informed regulation. The level at which consequences and frequency of events were tracked would also impact the type of parallel, deterministic (e.g., protection of redundancy, defense in depth, etc.), considerations against which changes would have to be evaluated. For instance, evaluating consequences at the level of the loss of a single barrier, or occurrences of accident sequence initiators, might allow elimination of parallel, deterministic, considerations such as ''margin.''

It is of some concern to me that the whole staff has pursued risk-informed approaches to issues like the review of TSs, the use of Graded Quality Assurance, and programs like Inservice Inspection and Inservice Testing, the staff appears to be more reluctant to allow risk-informed approaches if the result is the relinquishment of review and approval authority. Because prior NRC review and approval impacts the cost and schedule of licensed activities, we must ensure that we require such prior review and approval only when justified or required by mandate. We should not limit the application of risk-informed regulation as a means to ensure continued NRC reviews and approvals of licensed activities. This message is complimentary to my oft repeated message to industry that the use of risk information is ''double-edged,'' that is that relief and additional regulatory scrutiny may both result from its use.

Margin of safety

The staff proposes to provide a specific definition of ''Reduction in margin of safety associated with any technical specification,'' and to revise the current provisions of 10 CFR 50.59(a)(2)(iii) to explicitly refer to this definition. While I commend the staff on its efforts to provide clear, definitive, requirements in this proposed rulemaking, I am concerned that the proposed rule is not consistent with policy direction established by the Commission in the SRM dated March 24, 1998. I concur that it is important that the staff has the independence to (and, I believe, has the responsibility to) inform the Commission when there are concerns with Commission guidance (as it did in COMSECY 98–013). However, I believe that when the staff proposes to take action that is inconsistent with Commission direction, it is obliged to provide a clear and complete rationale for the proposed departure. I do not feel that the staff has met that obligation for the ''margin of safety'' aspect of this proposed rule. However, this said, I do not disagree with the staff's conclusion that we should be careful to understand, and maintain, a consistent regulatory basis on ''margin of safety.'' We must proceed in a manner that does not call into question the existing deterministic basis for ''reasonable assurance'' of public safety embodied in plants Technical Specifications (TSs).

My previous discussions with the staff have indicated that it is extremely difficult (and probably not legally defensible) to allow decreases in the ''margin of safety'' when the upper and lower limits between which ''margin'' may exist are not defined in relation to the regulatory requirements for safe operation. Based upon these discussions, I can only assume that the staff is hesitant to allow direct reductions in margin within the ''basis'' for TSs because some such changes could create a de-facto change in the TSs themselves. The staff may also be concerned by the lack of consistency in the ''margin of safety in the basis for TSs'' associated with the different generations of existing licenses (e.g., older customized TSs compared to improved standardized TSs), and associated with the different methods utilized in the technical review and approval of the TS (e.g., some TSs might be based on maintaining margin between accident analysis results and acceptance limits, while other TSs might be based on margin which was built into analytical techniques and methodologies used in the accident and safety analysis, with no ''margin'' between the results and the acceptance limits, etc.).

The staff's proposed method of requiring prior agency approval to changes of input assumptions, analytical methods, etc., for those parameters which affected the selection of TSs, results in the newly controlled parameters being treated essentially the same way as values in the TSs. It also appears that implementation of the staffs proposed control over a broad range of parameters used in the safety analysis would effectively prevent any change to the facility that would result in a ''minimal change in consequence,'' a condition allowed elsewhere in the proposed rule. In other words, it is not clear what type of changes would successfully pass the 10 CFR 50.59 test for allowed ''minimal increases in consequences,'' without failing the test for ''no reductions in the margin of safety.'' I do not believe that the potential safety significance of *all* the parameters to be covered under the proposed definition of a reduction in the margin of safety *always* justify the requirement of prior NRC approval.

The staff should continue to work to establish a technically sound method for allowing licensees to make plant changes where there is only ''minimal'' impact on safety. If fundamental conflicts exist with allowing reductions in some ''margins of safety,'' especially those on which the validity of TSs are based, then staff should provide a clear explanation of this, and should address how other changes to the structure of the regulation, which do not create fundamental conflicts, can be made in a manner which achieves the Commission's objective of removing unnecessary burdens from licensees.

Attachment ''A'' to this vote describes one alternate method for addressing the issue of ''margin of safety.'' This alternative would maintain existing margins of safety (associated with TSs), while providing greater flexibility to licensees in implementing changes to their facilities. This alternative is based on methodology similar to that described in NEI 96–07. This methodology requires evaluating the effect of proposed tests and changes on the accident analysis *results* (rather than inputs, as proposed by the staff), in cases where TSs are based on accident analysis considerations. Prior NRC approval of changes, tests, and experiments would be limited to those cases where there was a net effect on the accident analysis results. The alternative also recognizes the significance of the analytical techniques used in the safety or accident analysis, and would require some form of prior approval for analytical methods used to support changes when the change did not have prior NRC approval. This approach could provide staff reasonable assurance that the assumptions made by the license reviews are not invalidated. The staff should evaluate this option, along with other comments in this area, during the comment period.

In considering the technical and regulatory underpinning of this clause of § 50.59, I have become concerned that we are evaluating incremental changes to a provision which is not well suited to such changes. I am concerned that the result may be the addition of yet another layer of regulatory process rather than the elimination of any unnecessary layers. For this reason, the staff should be receptive to internal or public comments on feasible alternatives which eliminate the discussion of ''the margin of safety in the basis of TSs,'' while maintaining the integrity of the plant's licensing basis. I envision that it may be possible to eliminate the rule

language criteria on ''margin of safety'' if evaluations of ''frequency'' and ''consequences'' are performed at a level of significance which bounds allowable ''minimal'' reductions in margin.

Accident of a Different Type

In determining the effect of any proposed change to § 50.59, it will be necessary to more clearly understand what an ''accident of a different type'' is. The staff should provide a more definitive definition of an accident than was included in COMSECY–98–013. The information provided by the staff should address, as a minimum, the following:

(1) What is an ''accident'' under this section, and is it consistent with other existing regulations (e.g., § 50.92, § 50.34, Appendix A of part 50, etc.)?

(2) Is an ''accident of a different type'' better described as an ''initiating event (e.g., loss of feedwater, loss of offsite power, new common mode failure mechanism, etc.) of a different Type?''

(3) What are the bounds which limit those ''accidents'' which are the subject of this Section (e.g., only those initiating events which, when evaluated using approved analytical techniques, result in transients with the potential to challenge fission product barriers, etc.)?

Procedures

I commend staff on inserting a definition for the term ''Procedures as described in the final safety analysis report (as updated).'' However, I am concerned that the definition provided may cloud the distinction between: (1) Those procedures which must be screened, or evaluated, under § 50.59, and (2) the criteria which necessitates a full safety evaluation. I believe that staff seeks to indicate that all procedures which are described as being required in the FSAR are subject to a § 50.59 screening. The screening would identify the need for a full safety evaluation only if a proposed procedure change created a change to the ''information in the FSAR regarding how structures, systems, and components are operated and controlled. . . .'' Staff should solicit comment on this definition and clarify the proposed definition, as required, in the final rule.

Making the Rule Risk Informed

I note with interest that members of the ACRS believe that there are substantial barriers in the existing deterministic framework of 10 CFR part 50 to the concept of allowing ''minimal'' changes in accident probabilities or consequences. In my previous vote on SECY–97–205, ''Integration and Evaluation of Results from Recent Lessons-Learned Reviews,'' I approved the staff's proposal to develop the framework for risk-informed regulatory processes. In particular, I called for the staff to develop a series of milestones by which the Commission could ''chart its course in its move to more risk-informed regulatory processes.'' Additionally, I promoted the idea of promulgating a new regulation in 10 CFR part 50, that would make clear how the Commission uses risk information in its decision-making. In proceeding with the ''short-term'' changes to 10 CFR 50.59 (and related regulations; ''short-term'' actions from SECY–97–205), and in responding to the ACRS, the staff should re-evaluate whether the Agency should initiate action to provide for a risk-informed framework that would allow for the efficiencies to be gained through use of risk-informed, performance-based revisions to our regulatory processes.

Attachment ''A'' to Chairman Jackson's vote sheet on SECY–98–171

''Straw Man'' on Margin of Safety

Regarding margin:

- The margin between regulatory limits and the failure of physical barriers is protected in the regulations (and also in the portion of the Technical Specifications (TSs) called ''safety limits'').
- The margin, as reflected in approved safety and accident analyses, between the protection afforded by the TSs (e.g., the limiting safety system settings and limiting conditions of operations) and the associated regulatory limits is ''the margin of safety as defined in the basis for any TS.''
- The margin between normal plant or system operation and the ''bounding'' assumptions used in accident analysis is below the threshold of safety significance that requires NRC prior approval for changes.
- The results of safety and accident analyses are subject to significant variance, depending on the analytical techniques and methods used in the analysis. Where a licensee wishes to make a change in their facility without prior NRC approval, the effects of the change must be evaluated using analytical techniques and methods which are NRC approved for the application, or which are reviewed and vetted (but not subject to specific NRC approval) in a NRC approved manner.

Direct changes to technical specifications require prior NRC approval. Before changing other operational characteristics described in the UFSAR, a safety evaluation must be performed to determine, among other things, if the change results in a reduction in the level of protection afforded by the TS (margin of safety as defined in any TS). Such a reduction would typically occur only if the operational characteristic had been used as a bounding condition in the analysis upon which the selection of TS was based, or in analysis where the acceptability of selected TS values was demonstrated. Licensees can make desired changes to operational characteristics without prior NRC approval, provided that the change does not result in accident analysis results that are nearer the regulatory, or safety, limits than the corresponding results that the NRC used in evaluating the acceptability of the TS during licensing of the facility.

This regulatory position could be codified by adding the following footnote to Section 50.59(a)(2)(iii):

The ''margin of safety as defined in any technical specification'' (margin of safety) is the amount (quantitative or qualitative) of margin between the operation of the facility as described in the technical specifications and the exceedance of safety limits listed in the technical specifications or other regulatory limits. In relation to accident analysis, the margin of safety is typically the difference between calculated parameters (e.g., peak fuel clad temperature, maximum RCS pressure, etc.) and the associated regulatory or safety limit. The margin of safety is a product of specific values and limits contained in the technical specifications (which cannot be changed without NRC approval) and other values, such as assumed accident or transient initial conditions or assumed safety system response times, which are not specifically contained in the technical specifications. Any change to the values not specifically contained in technical specifications must be evaluated for impact on the margin between the calculated result of an accident or transient and the safety or regulatory limit. Changes, or the net effect of multiple changes, which result in a reduction in the margin of safety require prior NRC approval. Changes, or the net effect of multiple changes, which do not cause a reduction in margin of safety do not require prior NRC approval. All evaluatory work in assessing the impact of proposed changes must be performed using methodology and analytical techniques which are either reviewed and approved by the NRC or which are reviewed and vetted in a manner approved by the NRC.

Commissioner Diaz's Comments on SECY–98–171

I consider this rulemaking effort to be our short term fix for the 50.59 rule, not the longer term risk-informed rule enhancement discussed in SECY–97–205.

I approve the publication of this rulemaking package for a 90-day public comment period, contingent upon the additions described in the last paragraph of my comments. I propose that the package also include the Commissioners' votes for public consideration. The purpose of issuing the rulemaking package is to expedite rulemaking by opening the process for

public comments during the Commission's continuing deliberation on this matter. It should be made very clear to all stakeholders that publication of the package is an invitation to participate in improving the rulemaking. In fact, I do not agree with several of the proposed positions in this paper, as delineated in my specific comments below.

I agree with the staff's recommendation to remove the reference to ''unreviewed safety question'' from § 50.59 and to make conforming changes in parts 50, 52, and 72. I also agree with staff's proposal to allow a minimal increase in the probability of occurrence or consequence of an accident or malfunction previously evaluated, and to *not allow* the creation of an accident of a different type or malfunction of equipment important to safety with a different result than any previously evaluated.

I agree with the ACRS comments in their June 16, 1998, letter regarding the definition of ''reduction in margin of safety.'' Notwithstanding the staff's suggestion of a possible Commission interpretation, the language ''altered in a nonconservative manner'' can still be interpreted as a de facto ''zero increase'' standard for the 50.59 criterion on margin of safety. I believe the risk-informed § 50.59 approach suggested in the ACRS letter deserves serious consideration as part of longer term improvements and should be considered in the staff's response, due in February 1999, to the SRM for SECY–97–205.

The current language in § 50.59(a)(2)(iii) (''margin of safety as defined in the basis for any technical specification'') is, in fact, defined and bounded by the technical specifications. Therefore, as long as the licensee proposed change, test, or experiment under § 50.59 is not in violation of the technical specification requirements, the requisite margin of safety is maintained, and it is possible to eliminate ''reduction of margin of safety'' from the rule as a condition requiring prior staff approval. This change will eliminate the existing ambiguity in the use of § 50.59 for changes with minimal safety significance. This alternative should also be published for public comment; it is consistent with the safety envelope provided by the technical specifications and is a straightforward improvement that will match with the eventual conversion to a risk-informed rule.

I support the staff's recommended changes in the reporting and record keeping requirements relating to § 50.59. The enforcement policy and its corresponding implementation guidance should be changed in accordance with the revised § 50.59 rule. I recommend that, during the rulemaking period, the enforcement policy be revised to grant discretion (i.e., suspend issuance of Level IV violations) under Section VII.B.6 for those § 50.59 violations of little or no safety significance.

I do not agree with the recommended definitions of ''facility'', ''procedures'', ''reduction in margin of safety'', and ''tests or experiments.'' These definitions appear to increase prescriptiveness at the input of the licensees' change process instead of the output, and therefore, are more broad-based than the definitions to date. I believe that these definitions will create more burden for the NRC and licensees, are not consistent with the original intent of the § 50.59 rule, i.e., to evaluate whether the licensee proposed changes will result in inadequate protection of public health and safety, and therefore, are not necessary.

On the other hand, the ''accident'' in the proposed revisions to § 50.59 should be defined. The ''accident of a different type than any previously evaluated'' as described in the proposed § 50.59(c)(2)(v) should be of the same safety significance as the ''accident'' in the proposed § 50.59(c)(2)(I) and (c)(2)(iii). The staff should determine if the anticipated operational transients and the postulated design basis accidents described in the FSAR form a sufficient basis for the § 50.59 evaluation.

The staff should continue its interactions with NEI in resolving the differences between the NRC's position on § 50.59 implementation guidance and that contained in NEI 96–07. The regulatory guide for § 50.59 that endorses a revised NEI 96–07, with exceptions and clarifications, as appropriate, should be developed concurrently with the rulemaking process.

In summary, the staff should proceed with publishing the existing rulemaking package, and concurrently solicit public comment on the following alternatives: (1) eliminate ''reduction of margin of safety'' as a condition requiring prior staff approval, (2) eliminate the broadened definitions of ''facility'', ''procedures'', ''reduction in margin of safety'', and ''tests or experiments,'' and (3) clearly define ''accident'' in the proposed revisions to § 50.59. I urge the staff to complete the revised § 50.59 rule and the associated regulatory guide by the end of March, 1999.

Commissioner McGaffigan's Comments on SECY–98–171

I approve publishing this rulemaking package for a ninety-day public comment period. However, like my colleagues, I do not agree with the staff proposal regarding ''reduction in the margin of safety associated with any technical specification.''

As the Chairman points out, the definition of ''reduction in margin of safety * * *'' would extend the requirements for prior agency approval to underlying aspects (e.g., input assumptions) of parameters that affected the selection of technical specifications, and result in the newly controlled parameters being treated essentially the same way as values in the technical specifications. This is the wrong way to go.

It is clear from my colleagues' and my vote that the margin of safety criterion (§ 50.59(c)(2)(vii) in the proposed rule) and the definition will need to be fixed in the final rule. My concern at this point is that the staff discuss a wide enough array of options in the **Federal Register** notice to ensure that the proposed rule will not have to be renoticed before being finalized. Commissioner Diaz has proposed to simply delete the criterion and definition as not needed. The Chairman has proposed essentially a new definition. Another option would decouple the last criterion from technical specifications and focus instead on a new criterion relating to performance of fission product barriers (e.g., RCS pressure, containment pressure. etc), with minimal changes being allowed up to specified limits, perhaps utilizing a graduated approach similar to the approaches proposed for other criteria. Comment should be solicited on this option as well.

I believe that the staff has done a good job in proposing options for defining ''minimal'' for consequences of an accident or malfunction. On probability, however, the staff has essentially only said that NEI 96–07 satisfies the proposed NRC standard for a ''minimal'' increase. That is a good step forward, and will bring regulatory stability. I believe that in choosing the word ''minimal'' the Commission intended to grant greater flexibility than the NEI 96–07 ''so small'' or negligible standard. The staff should continue to try to give better definition to ''minimal'' as it pertains to ''probability of occurrence of an accident'' or ''probability of equipment malfunction'' and solicit comment on this.

Finally, I endorse the use of enforcement discretion under Section

VII of the Enforcement Policy as the rulemaking proceeds for those § 50.59 violations of little or no safety/risk significance. The staff should treat (vice ''consider treating'' as proposed by staff) as minor violations cases where the violation of existing rule requirements would not constitute a violation under the rule were it revised as proposed. I do not object to documenting such minor violations in inspection reports because the rule is still in a proposed revision stage.

V. Rule Language Proposed by The Nuclear Energy Institute

In a letter dated November 14, 1997, the Nuclear Energy Institute provided to the NRC suggested language for revising 10 CFR 50.59 that they believed would enable the NRC to endorse NEI 96–07. This language is included here in this Statement of Considerations so that interested parties can offer comment on whether this language should be adopted by the NRC. The supporting information for NEI's proposal is contained in the referenced letter which is available for review in the Public Document Room.

Specifically, NEI proposed that [existing] section 50.59(a)(2) be revised to read:

(a)(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question: (i) If there is more than a negligible increase in the probability of occurrence of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report; or (ii) if the consequences of an accident or malfunction important to safety previously evaluated in the safety analysis report exceeds the established acceptance limit; or (iii) if a possibility for an accident of a different type or malfunction with a different result from any evaluated previously in the safety analysis report may be created; or (iv) if the margin of safety provided by any technical specification is reduced.

In this rulemaking, the Commission is proposing to adopt certain aspects of the changes offered by NEI (e.g., on malfunction with a different result). The Commission is seeking comment as to whether other aspects of this proposal should be adopted. The Commission also offers the following observations about this proposal for consideration as part of the comment process:

A. Negligible Increase in Probability of Occurrence

NEI proposes that the rule be revised to state that a change would be an USQ ''if there is more than a negligible increase in the probability of occurrence of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report.'' As discussed above, the Commission is proposing a ''more than minimally increased'' criterion, which is considered comparable in overall intent to what was proposed by NEI.

B. Increase in Consequences of an Accident or Malfunction

NEI proposes that the rule be revised such that a change would be a USQ if the consequences of an accident or malfunction previously evaluated exceed the established acceptance limit. As NEI discusses further in its letter, the established acceptance limit would be the value that was previously reviewed and approved by the NRC generally as documented in the staff's safety evaluation report (SER).[6]

The current industry guidance, NEI 96–07, would permit, in some instances, increases in consequences up to the regulatory thresholds (such as Part 100), without review. As discussed in (draft) NUREG–1606, the staff typically performs independent evaluations of radiological consequences of accidents, rather than an in-depth review of the licensee's calculations, during licensing of the plant. As a result, the degree of conservatism in the licensee calculations differs from that used in the staff's assessments. As noted above, the Commission is proposing to revise the rule to allow ''minimal'' increases in consequences without prior approval, provided that the regulatory limits are still met. The Commission has some concerns about allowing licensee changes without review, which when evaluated with licensee assumptions and methods, result in doses at or very close to the regulatory guidelines (e.g., part 100). This is because such changes, if reviewed with staff assumptions (or starting from the staff's previous estimation of the accident dose), might result in the regulatory guidelines not being met. Rather than allowing one change to result in an increase in consequences up to the guidelines, the Commission concludes that minimal increases, along with NRC oversight of cumulative effects, is the appropriate standard for review.

[6] Attempting to use values from the staff's SER as acceptance limits would be difficult since SERs were not written for the purpose of establishing such limits. In a literal sense, neither the SAR nor the SER set an ''acceptance *limit*.'' Rather, the SAR documents an applicant's/licensee's analytically derived conclusion that a given event has a certain consequence which is within the regulatory bounds set by NRC regulations. The SER is intended only to confirm or modify that conclusion. The SAR value as modified through the staff's review and approval then becomes the baseline for future analyses.

C. Malfunction with a Different Result

As discussed above, the Commission is proposing to adopt this particular proposed change to the rule.

D. Margin of Safety Provided by Any Technical Specification

NEI proposes to replace the existing language of ''as defined in the basis for any technical specifications,'' with ''as provided by any technical specification'' with respect to reductions in the margin of safety. The proposed change is intended to clarify that the margin of safety is not necessarily limited to information in the BASES section of the technical specification. NEI 96–07 guidance notes that the SAR, staff SERs and other licensing basis documents should be reviewed to determine if a proposed change would result in a reduction in margin of safety. NEI intended to use this rule language in conjunction with guidance that the margin of safety is the range of values between the acceptance limit reviewed by the NRC (e.g., ASME code stress limits, containment design pressure, etc.) and the failure point. The Commission is seeking comment on a range of options relating to margin of safety, including the option proposed by NEI.

VI. Request for Comment

The Commission requests comments on the proposed rule, as discussed in Section II above. In addition, the Commission is seeking comment on a number of specific issues related to this rulemaking. All commenters are encouraged to provide specific comments on the following issue areas:

1. The Commission is seeking input on a number of options relating to the criterion of margin of safety reduction, and its definition. Some possible alternatives are presented in Section II.J as being representative of the range of approaches under consideration, but the Commission is open to other proposals that commenters may wish to put forth as representing the best means to provide a clear understanding of which margins should fall within the regulatory envelope of requiring approval if they would be reduced as a result of a change, test or experiment, if the margin of safety criterion were to be retained.

2. The Commission is interested in options for defining what constitutes a ''minimal'' increase in the probability of occurrence of an accident previously evaluated in the FSAR or in the probability of equipment malfunction (refer to Section II.G). This might include suggested examples of changes

that commenters believe represent only a ''minimal increase'' in probability.

3. The Commission is interested in comments upon the proposed definitions for such terms as ''facility as described in the FSAR,'' ''procedures as described in the FSAR,'' and ''tests or experiments'' (refer to Sections II.B, C, and D). The Commission is soliciting views on whether (1) definitions are necessary, (2) the proposed definitions are desirable, even if not necessary, and (3) whether the suggested definitions are clear and focused upon the appropriate changes that should be evaluated. In this light, the Commission is also interested in comments on a broader view of the scope of changes that should be evaluated; for instance, should the scope be linked to the SAR, or should the focus of changes to the facility be linked to another set of regulatory information?

4. As part of the present rulemaking, the Commission is seeking comment on the need for a clear definition of accident as it is used in § 50.59 to reflect the Commission's intent that the ''accidents'' referred to are those dealt with in the safety analysis report (see Section II.H of this notice for discussion of issues related to definition of accident).

5. In addition to the NRC proposals in Sections II and III, the Commission is also interested in receiving comments on the proposals and language suggested by NEI (Section V).

VII. Availability of Documents and Electronic Access

Certain documents related to this rulemaking, including comments received and the regulatory analysis, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC NRC documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

VIII. Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, will not have a significant impact on the environment. The proposed rule changes are of two types: those that relate to the processes for evaluating and approving changes to licensed facilities and those that involve the degree of potential change in safety for which changes can proceed without NRC review. The process changes being proposed will make it more likely that planned changes are properly reviewed and approved by NRC when necessary. With respect to the criteria changes, only minimal increases in probability or consequences of accidents (still satisfying regulatory limits) would be allowed without prior NRC review. All changes to the Technical Specifications, which are the operating limits and other parameters of most immediate concern for public health and safety, will continue to require prior NRC review and approval. Changes to the facility that would involve an accident of a different type from any already analyzed, or reductions in defined margins of safety require prior approval. Further, changes which result in more than minimal increases in radiological consequences will continue to require prior NRC approval, including NRC consideration of potential impact on the environment. Therefore, the Commission concludes that there will be no significant impact on the environment from this proposed rule. This discussion constitutes the environmental assessment and finding of no significant impact for this proposed rule.

IX. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements. Existing requirements were approved by the Office of Management and Budget approval numbers 3150–0011 and 3150–0132.

The proposed rule changes would affect information collection requirements through the existing reporting requirements in § 50.59 for a summary report of changes, tests and experiments, performed under the authority of § 50.59 and in § 50.71(e) for submittal of updates to the FSAR, as well as record keeping requirements. To the extent that the definitions provided in the proposed revisions would require evaluations that are not presently being performed, there may be an increase in record keeping and reporting. The Commission estimates that this is a small increment over the existing burden. On the other hand, some changes might be screened out as not needing evaluation on the basis of these definitions, and thus there would overall be at most a small increase in the record keeping required.

In addition, the requirements under § 72.48 are also being revised to explicitly require records of determinations concerning occupational dose and environmental impact (the existing rules required the evaluations but did not explicitly specify record retention requirements for these evaluations). The Commission does not believe this that this change will significantly impact record keeping burden because records of evaluations of changes are already required (as to whether they involve a USQ), and the evaluation itself is already required by the rule. The part 72 burden associated with the definitions of when evaluations are required should be significantly less than for § 50.59 since the number of licensees is smaller and the expected number of changes is also smaller. Further, there is a recordkeeping requirement established for CoC holders who make changes to an approved storage cask design in accordance with § 72.48.

With respect to reporting requirements, the Commission is proposing to modify the FSAR update requirement to state that the updates must include specific information on the effects of changes made. This was not explicitly stated in the current rule, although it could be inferred that this was what the update rule intended, as follows. In the Statement of Considerations for § 50.71(e),(45 FR 30615), the NRC commented on the relationship between changes made under § 50.59 and FSAR updating, stating: ''The § 50.59(b) reporting may not be detailed sufficiently to be considered adequate to fulfill the FSAR updating requirement. The degree of detail required for updating the FSAR will be generally greater than a 'brief description' and a 'summary of the safety evaluation'.'' Thus, the Commission clearly expected the update submittal to include sufficient information to appropriately reflect the changes that were made. The burden associated with explicitly documenting in the update the effects of the changes on event probabilities and consequences is therefore small.

The public reporting burden for this information collection request is estimated to average 3100 hours per response, including the time for reviewing instructions, searching

existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The Commission estimates that there is only a slight increase in burden associated with these proposed changes over the existing burden. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of the burden correct?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0017, –0020, –0011, –0009, and –01320), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues should be submitted by November 20, 1998. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

X. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the values and impacts of the alternatives considered by the Commission and includes the backfit analysis required by § 50.109 (and § 72.62). The alternatives considered in this analysis include no action, issuance of guidance only, or rulemaking. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC and is available through the NRC interactive rulemaking website. Single copies of the analysis may be obtained from Eileen McKenna, EMM@NRC.GOV (301) 415–2189, Mail stop O–11–F–1, U.S. Nuclear Regulatory Commission, Washington DC 20555.

The Commission requests public comment on the draft analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

XI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation and decommissioning of nuclear power plants, nonpower reactors, and independent spent fuel storage facilities. The companies that own these facilities do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

XII. Backfit Analysis

As required by § 50.109 and § 72.62, the Commission has completed a backfit analysis for the proposed rule, which is included within the regulatory analysis. The Commission has determined, based on this analysis, that in most respects, the proposed rule does not impose new requirements, but provides more flexibility or clarification of existing requirements. In other respects, such as the definitions of change to the facility and ''reduction of margin of safety* * *'', some licensees may view the revised rule as imposing new requirements. Therefore, the Commission has prepared an analysis considering the factors in § 50.109(c), which is included in the Regulatory Analysis.

XIII. Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act (AEA), the Commission is issuing the proposed rule to amend 10 CFR part 50 : 50.59,: 50.66, and : 50.71; and 10 CFR part 72: 72.48,: 72.70,: 72.212, and : 72.248, under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

XIV. Compatibility of Agreement State Regulations

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** (62 FR 46517, September 3, 1997), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of Title 10 of the Code of Federal Regulations, and although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

List of Subjects

10 CFR Part 50

Antitrust, Classified Information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and record keeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and record keeping requirements, Standard design, Standard design certification.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and record keeping requirements, Security measures, Spent fuel

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50, 52 and 72.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, and 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Section 50.37 also issued under E.O. 12829, 3 CFR 1993 Comp., P. 570; E.O. 12958, Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

2. Section 50.59 is revised to read as follows:

§ 50.59 Changes, tests and experiments.

(a) Definitions for the purposes of this section:

(1) *Change* means a modification, addition, or removal.

(2) *Facility as described in the final safety analysis report (as updated)* means:

(i) The systems, structures, and components that are described in the final safety analysis report(as updated),

(ii) The design, performance requirements and methods of operation for such systems, structures and components required to be included or described in the final safety analysis report (as updated), and

(iii) The evaluations or methods of evaluation required to be included in the FSAR (as updated) for such SSC and which demonstrate that their intended function(s) will be accomplished.

(3) *Final safety analysis report (as updated)* means the Final Safety Analysis Report (or Final Hazards Summary Report) submitted in accordance with § 50.34, as amended and supplemented, and as modified as a result of changes made pursuant to § 50.59 and § 50.90, and, as applicable, § 50.71 (e) and (f).

(4) *Procedures as described in the final safety analysis report (as updated)* means information in the final safety analysis report (as updated) regarding how structures, systems, and components are operated and controlled (including assumed operator actions and response times) and information describing the conduct of operations.

(5) *Reduction in margin of safety associated with any technical specification* means that the input assumptions, analytical methods, acceptance conditions, criteria and limits of the safety analyses, presented in the final safety analysis report (as updated), that established any technical specification requirement, are altered in a nonconservative manner.

(6) *Tests or experiments not described in the final safety analysis report (as updated)* means any condition where the reactor or any of its systems, structures or components are utilized or controlled in a manner which is either:

(i) Outside the controlling parameters of the design bases as described in the final safety analysis report (as updated) or

(ii) Inconsistent with the analyses in the final safety analysis report (as updated).

(b) Applicability. The provisions of this section apply to each holder of a license authorizing operation of a production or utilization facility, including the holder of a license authorizing operation of a nuclear power reactor that has submitted the certification of permanent cessation of operations required under § 50.82(a)(1) or a reactor licensee whose license has been permanently modified to allow possession but not operation of the facility.

(c)(1) A licensee may make changes in the facility as described in the final safety analysis report (as updated), make changes in the procedures as described in the final safety analysis report (as updated), and conduct tests or experiments not described in the final safety analysis report (as updated) without obtaining a license amendment pursuant to § 50.90 only if:

(i) A change to the technical specifications incorporated in the license is not required, and

(ii) The change, test or experiment does not meet any of the criteria in paragraph (c)(2) of this section. The provisions in this section do not apply to changes in procedures when the applicable regulations establish more specific criteria for accomplishing such changes.

(2) A licensee shall obtain an amendment to the license pursuant to § 50.90 prior to implementing a change, test or experiment if it would:

(i) Result in more than a minimal increase in the probability of occurrence of an accident previously evaluated in either the final safety analysis report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 50.90 after the last final safety analysis report was updated pursuant to § 50.71 of this part;

(ii) Result in more than a minimal increase in the probability of occurrence of a malfunction of equipment important to safety previously evaluated in either the final safety analysis report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 50.90 after the last final safety analysis report was updated pursuant to § 50.71 of this part;

(iii) Result in more than a minimal increase in the consequences of an accident previously evaluated in either the final safety analysis report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 50.90 after the last final safety analysis report was updated pursuant to § 50.71 of this part;

(iv) Result in more than a minimal increase in the consequences of a malfunction of equipment important to safety previously evaluated in either the final safety analysis report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 50.90 after the last final safety analysis report was updated pursuant to § 50.71 of this part;

(v) Create a possibility for a design basis accident of a different type than any previously evaluated in either the final safety analysis report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 50.90 with respect to design basis accidents after the last final safety analysis report was updated pursuant to § 50.71 of this part;

(vi) Create a possibility for a malfunction of equipment important to safety with a different result than any previously evaluated in either the final safety analysis report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 50.90 after the last final safety analysis report was updated pursuant to § 50.71 of this part;

(vii) Result in a reduction in the margin of safety associated with any Technical Specification.

(d)(1) The licensee shall maintain records of changes in the facility and of changes in procedures made pursuant to this section, to the extent that these changes constitute changes in the facility as described in the final safety analysis report (as updated) or to the extent that they constitute changes in procedures as described in the final

safety analysis report (as updated). The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (c) of this section. These records must include a written evaluation which provides the bases for the determination that the change, test or experiment does not require a license amendment pursuant to paragraph (c)(2) of this section.

(2) The licensee shall submit, as specified in § 50.4, a report containing a brief description of any changes, tests, and experiments, including a summary of the evaluation of each. The report may be submitted annually or along with the FSAR updates as specified by § 50.71(e), or at such shorter intervals as may be specified in the license.

(3) The records of changes in the facility must be maintained until the termination of a license issued pursuant to this part or the termination of a license issued pursuant to 10 CFR part 54, whichever is later. Records of changes in procedures and records of tests and experiments must be maintained for a period of five years.

3. In § 50.66, paragraph (b), introductory text, paragraphs (b)(4), (c)(2), and (c)(3)(iii) are revised to read as follows:

§ 50.66 Requirements for thermal annealing of the reactor pressure vessel.

* * * * *

(b) *Thermal Annealing Report.* The Thermal Annealing Report must include: a Thermal Annealing Operating Plan; a Requalification Inspection and Test Program; a Fracture Toughness Recovery and Reembrittlement Trend Assurance Program; and Identification of Changes Requiring a License Amendment.

(1) * * *

(4) *Identification of changes requiring a license amendment.* Any changes to the facility as described in the final safety analysis report (as updated) which requires a license amendment pursuant to § 50.59(c)(2) of this part, and any changes to the technical specifications, which are necessary to either conduct the thermal annealing or to operate the nuclear power reactor following the annealing must be identified. The section shall demonstrate that the Commission's requirements continue to be complied with, and that there is reasonable assurance of adequate protection to the public health and safety following the changes.

(c) * * *

(2) If the thermal annealing was completed but the annealing was not performed in accordance with the Thermal Annealing Operating Plan and the Requalification Inspection and Test Program, the licensee shall submit a summary of lack of compliance with the Thermal Annealing Operating Plan and the Requalification Inspection and Test Program and a justification for subsequent operation to the Director, Office of Nuclear Reactor Regulation. Any changes to the facility as described in the final safety analysis report (as updated) which are attributable to the noncompliances and which require a license amendment pursuant to § 50.59(c)(2) and any changes to the technical specifications, shall also be identified.

(i) If no changes requiring a license amendment pursuant to § 50.59(c)(2) or changes to Technical Specifications are identified, the licensee may restart its reactor after the requirements of paragraph (f)(2) of this section have been met.

(ii) If any changes requiring a license amendment pursuant to § 50.59(c)(2) or changes to the Technical Specifications are identified, the licensee may not restart its reactor until approval is obtained from the Director, Office of Nuclear Reactor Regulation and the requirements of paragraph (f)(2) of this section have been met.

(3) * * *

(iii) If the partial annealing was not performed in accordance with the Thermal Annealing Operating Plan and the Requalification Inspection and Test Program, the licensee shall submit a summary of lack of compliance with the Thermal Annealing Operating Plan and the Requalification Inspection and Test Program and a justification for subsequent operation to the Director, Office of Nuclear Reactor Regulation. Any changes to the facility as described in the final safety analysis report (as updated) which are attributable to the noncompliances and which require a license amendment pursuant to § 50.59(c)(2) and any changes to the technical specifications which are required as a result of the noncompliances, shall also be identified.

(A) If no changes requiring a license amendment pursuant to § 50.59(c)(2) or changes to technical specifications are identified, the licensee may restart its reactor after the requirements of paragraph (f)(2) of this section have been met.

(B) If any changes requiring a license amendment pursuant to § 50.59(c)(2) or changes to technical specifications are identified, the licensee may not restart its reactor until approval is obtained from the Director, Office of Nuclear Reactor Regulation and the requirements of paragraph (f)(2) of this section have been met.

* * * * *

4. In § 50.71 paragraph (e) is revised to read as follows:

§ 50.71 Maintenance of records, making of reports.

* * * * *

(e) Each person licensed to operate a nuclear power reactor pursuant to the provisions of § 50.21 or § 50.22 of this part shall update periodically, as provided in paragraphs (e)(3) and (4) of this section, the final safety analysis report (FSAR) originally submitted as part of the application for the operating license, to assure that the information included in the report contains the latest information developed. This submittal must contain all the changes necessary to reflect information and analyses submitted to the Commission by the licensee or prepared by the licensee pursuant to Commission requirement since the submission of the original FSAR, or as appropriate the last update to the FSAR under this section. The submittal must include the effects [1] of:

(1) All changes made in the facility or procedures as described in the FSAR;

(2) All safety analyses and evaluations performed by the licensee either in support of requested license amendments, or in support of conclusions that changes did not require a license amendment in accordance with § 50.59(c)(2) of this part;

(3) All analyses of new safety issues performed by or on behalf of the licensee at Commission request; and

(4) The net effect of all changes made since the last update on the safety analyses, including probabilities, consequences, calculated values, system or component performance, that are in the FSAR (as updated). The updated information shall be appropriately located within the update to the FSAR.

* * * * *

5. Section 50.90 is revised to read as follows:

§ 50.90 Application for Amendment of license or construction permit.

Whenever a holder of a license or construction permit desires to amend the license (including the Technical Specifications incorporated into the license) or permit, application for an amendment must be filed with the Commission, as specified in § 50.4, fully describing the changes desired, and following as far as applicable, the form prescribed for original applications.

[1] Effects of changes includes appropriate revisions of descriptions in the FSAR such that the FSAR (as updated) is complete and accurate.''

PART 52—EARLY SITE PERMITS, STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5546).

7. Appendix A to Part 52 is amended by revising Section VIII.B, paragraphs 5.a,b,d, and Section X.A.3 as follows:

Appendix A—Design Certification Rule for the U.S. Advanced Boiling Water Reactor

VIII. Processes for Changes and Departures

* * * * *

B. Tier 2 information

5. * * *

a. An applicant or licensee who references this appendix may depart from Tier 2 information, without prior NRC approval, unless the proposed departure involves a change to or departure from Tier 1 information, Tier 2* information, or the technical specifications, or otherwise requires a license amendment as defined in paragraphs B.5.b and B.5.c of this section. When evaluating the proposed departure, an applicant or licensee shall consider all matters described in the plant-specific DCD.

b. A proposed departure from Tier 2, other than one affecting resolution of a severe accident issue identified in the plant-specific DCD, requires a license amendment if it would—

(1) Result in more than a minimal increase in the probability of occurrence of an accident previously evaluated in the plant-specific DCD;

(2) Result in more than a minimal increase in the probability of occurrence of a malfunction of equipment important to safety previously evaluated in the plant-specific DCD;

(3) Result in more than a minimal increase in the consequences of an accident previously evaluated in the plant-specific DCD;

(4) Result in more than a minimal increase in the consequences of a malfunction of equipment important to safety previously evaluated in the plant-specific DCD;

(5) Create a possibility for a design basis accident of a different type than any evaluated previously in the plant-specific DCD;

(6) Create a possibility for a malfunction of equipment important to safety with a different result than any evaluated previously in the plant-specific DCD; or

(7) Result in a reduction in the margin of safety associated with any Technical Specification for an application or license referencing this design certification.

* * * * *

d. If a departure requires a license amendment pursuant to paragraphs B.5.b or B.5.c of this section, it is governed by 10 CFR 50.90.

* * * * *

X. Records and Reporting

A. Records.

* * * * *

3. An applicant or licensee who references this appendix shall prepare and maintain written evaluations which provide the bases for the determinations required by Section VIII of this appendix. These evaluations must be retained throughout the period of application and for the term of the license (including any period of renewal).

8. Appendix B to part 52 is amended by revising Section VIII.B, paragraphs 5.a,b,d, and Section X.A.3 to read as follows:

Appendix B—Design Certification Rule for the System 80+ Design

VIII. Processes for Changes and Departures

* * * * *

B. Tier 2 information.

* * * * *

a. An applicant or licensee who references this appendix may depart from Tier 2 information, without prior NRC approval, unless the proposed departure involves a change to or departure from Tier 1 information, Tier 2* information, or the technical specifications, or otherwise requires a license amendment as defined in paragraphs B.5.b and B.5.c of this section. When evaluating the proposed departure, an applicant or licensee shall consider all matters described in the plant-specific DCD.

b. A proposed departure from Tier 2, other than one affecting resolution of a severe accident issue identified in the plant-specific DCD, requires a license amendment if it would—

(1) Result in more than a minimal increase in the probability of occurrence of an accident previously evaluated in the plant-specific DCD;

(2) Result in more than a minimal increase in the probability of occurrence of a malfunction of equipment important to safety previously evaluated in the plant-specific DCD;

(3) Result in more than a minimal increase in the consequences of an accident previously evaluated in the plant-specific DCD;

(4) Result in more than a minimal increase in the consequences of a malfunction of equipment important to safety previously evaluated in the plant-specific DCD;

(5) Create a possibility for a design basis accident of a different type than any evaluated previously in the plant-specific DCD;

(6) Create a possibility for a malfunction of equipment important to safety with a different result than any evaluated previously in the plant-specific DCD; or

(7) Result in a reduction in the margin of safety associated with any Technical Specification for an application or license referencing this design certification.

* * * * *

d. If a departure requires a license amendment pursuant to paragraphs B.5.b or B.5.c of this section, it is governed by 10 CFR 50.90.

* * * * *

X. Records and Reporting

A. Records.

* * * * *

3. An applicant or licensee who references this appendix shall prepare and maintain written evaluations which provide the bases for the determinations required by Section VIII of this appendix. These evaluations must be retained throughout the period of application and for the term of the license (including any period of renewal).

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

9. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

10. Section 72.3 is amended by revising the definition for *independent spent fuel storage installation or ISFSI* to read as follows:

§ 72.3 Definitions.

* * * * *

Independent spent fuel storage installation or ISFSI means a complex designed and constructed for the

interim storage of spent nuclear fuel and other radioactive materials associated with spent fuel storage. An ISFSI which is located on the site of another facility licensed under this part or a facility licensed under part 50 of this chapter and which shares common utilities and services with such a facility or is physically connected with such other facility may still be considered independent.

* * * * *

11. In § 72.9, paragraph (b) is revised to read as follows:

§ 72.9 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 72.7, 72.11, 72.16, 72.19, 72.22 through 72.34, 72.42, 72.44, 72.48 through 72.56, 72.62, 72.70 through 72.82, 72.90, 72.92, 72.94, 72.98, 72.100, 72.102, 72.104, 72.108, 72.120, 72.126, 72.140 through 72.176, 72.180 through 72.186, 72.192, 72.206, 72.212, 72.216, 72.218, 72.230, 72.232, 72.234, 72.236, 72.240, 72.244, and 72.248.

12. In § 72.24, paragraph (a) is revised as follows:

§ 72.24 Contents of application: Technical information.

* * * * *

(a) A description and safety assessment of the site on which the ISFSI or MRS is to be located, with appropriate attention to the design bases for external events. Such assessment must contain an analysis and evaluation of the major structures, systems and components of the ISFSI or MRS that bear on the suitability of the site when the ISFSI or MRS is operated at its design capacity. If the proposed ISFSI or MRS is to be located on the site of a nuclear power plant or other licensed facility, the potential interactions between the ISFSI or MRS and such other facility—including shared common utilities and services—must be evaluated.

* * * * *

13. Section 72.48 is revised to read as follows:

§ 72.48 Changes, tests and experiments.

(a) *Definitions*—As used in this section:

(1) *Change* means a modification, addition or removal.

(2) *Final Safety Analysis Report (as updated)* means:

(i) For site-specific licensees, the Safety Analysis Report for a ISFSI, MRS or spent fuel storage cask, submitted in accordance with § 72.24, as modified as a result of changes made pursuant to § 72.48, and as updated in accordance with § 72.70;

(ii) For general licensees, the Safety Analysis Report for a ISFSI, MRS or spent fuel storage cask, as modified as a result of changes made pursuant to § 72.48, and as updated in accordance with § 72.216; and

(iii) For certificate holders, the Safety Analysis Report for an approved cask, modified by as a result of changes made pursuant to § 72.48 and as updated in accordance with § 72.248.

(3) The ISFSI, MRS, or spent fuel storage cask as described in the Final Safety Analysis Report (as updated) means:

(i) The systems, structures, and components that are described in the Final Safety Analysis Report as updated in accordance with §§ 72.70, 72.216 or § 72.248,

(ii) The design, performance requirements and methods of operation for such systems, structures, and components required to be included or described in the Final Safety Analysis Report (as updated), and

(iii) The evaluations for such systems, structures, and components required to be included in the Final Safety Analysis Report (as updated) and which demonstrate that their intended function(s) will be accomplished.

(4) *Procedures as described in the Final Safety Analysis Report (as updated)* means information in the Final Safety Analysis Report (as updated) regarding how structures, systems, and components are operated or controlled and information describing conduct of operations.

(5) *Reduction in margin of safety associated with any technical specification* means that the input assumptions, analytical methods, acceptance conditions, criteria and limits of the safety analyses, presented in the Final Safety Analysis Report (as updated), that established any technical specification requirement, are altered in a nonconservative manner.

(6) *Tests or experiments not described in the Final Safety Analysis Report (as updated)* means any condition where the ISFSI, MRS or spent fuel storage cask or any of its systems, structures, or components are utilized or controlled in a manner which is either:

(i) Outside the controlling parameters of the design bases as described in the Final Safety Analysis Report (as updated) or

(ii) Inconsistent with the analyses in the Final Safety Analysis Report (as updated).

(b)(1) A licensee or certificate holder may make changes in the ISFSI, MRS, or spent fuel storage cask as described in the Final Safety Analysis Report (as updated), make changes in the procedures as described in the Final Safety Analysis Report (as updated), and conduct tests or experiments not described in the Final Safety Analysis Report (as updated), without obtaining either a license amendment pursuant to § 72.56 (for licensees), if a change in the conditions incorporated in the license is not required, and the change, test, or experiment does not meet any of the criteria in paragraph (b)(2) of this section or a Certificate of Compliance (CoC) amendment pursuant to § 72.244 (for certificate holders), if a change in the terms, conditions or specifications incorporated in the CoC is not required; and the change, test, or experiment does not meet any of the criteria in paragraph (b)(2) of this section. The provisions in this section do not apply to changes in procedures when the applicable regulations establish more specific criteria for accomplishing such changes.

(2) A licensee shall obtain a license amendment pursuant to § 72.56 and a certificate holder shall obtain a CoC amendment pursuant to § 72.244, prior to implementing a change, test, or experiment if it would:

(i) Result in more than a minimal increase in the probability of occurrence of an accident previously evaluated in either the Final Safety Analysis Report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to §§ 72.56 or 72.244 after the last Final Safety Analysis Report was updated pursuant to §§ 72.70, 72.216 or § 72.248, of this part, as applicable;

(ii) Result in more than a minimal increase in the probability of occurrence of a malfunction of structures, systems, and components important to safety which were previously evaluated in either the Final Safety Analysis Report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to §§ 72.56 or 72.244 after the last final safety analysis report was updated pursuant to §§ 72.70, 72.216 or § 72.248, of this part, as applicable;

(iii) Result in more than a minimal increase in the consequences of an accident previously evaluated in either the Final Safety Analysis Report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to §§ 72.56 or 72.244 after the last final safety analysis report was updated pursuant to section 72.70, 72.216 or § 72.248, of this part, as applicable;

(iv) Result in more than a minimal increase in the consequences of a

malfunction of structures, systems, and components important to safety which were previously evaluated in either the Final Safety Analysis Report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to § 72.56 or § 72.244 after the last final safety analysis report was updated pursuant to § 72.70, § 72.216 or § 72.248, of this part, as applicable;

(v) Create the possibility for a design basis accident of a different type than any evaluated previously in either the Final Safety Analysis Report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to §§ 72.56 or § 72.244 with respect to design basis accidents after the last final safety analysis report was updated pursuant to § 72.70, § 72.216 or § 72.248, of this part, as applicable;

(vi) Create the possibility for a malfunction of structures, systems, and components important to safety with a different result than any evaluated previously in either the Final Safety Analysis Report (as updated), or in evaluations performed pursuant to this section and safety analyses performed pursuant to §§ 72.56 or § 72.244 after the last final safety analysis report was updated pursuant to § 72.70, § 72.216 or § 72.248, of this part, as applicable;

(vii) Result in a reduction in the margin of safety associated with any technical specification; (viii) Result in a significant increase in occupational exposure;

(ix) Result in a significant unreviewed environmental impact.

(c)(1) Each licensee or certificate holder shall maintain records of changes in the ISFSI, MRS, or spent fuel storage cask and of changes in procedures it has made pursuant to this section if these changes constitute changes in the ISFSI, MRS, or spent fuel storage cask or procedures described in the Final Safety Analysis Report (as updated). The licensee or certificate holder shall also maintain records of test and experiments carried out pursuant to paragraph (b) of this section. These records shall include a written evaluation that provides the bases for the determination that the change, test, or experiment does not require a license or CoC amendment pursuant to paragraph (b)(2) of this section. The records of changes in the ISFSI, MRS, or spent fuel storage cask and of changes in procedures and records of tests and experiments shall be maintained until spent nuclear fuel is no longer stored in the ISFSI, MRS or spent fuel storage cask, and the Commission terminates the license or CoC. For a holder of cask Certificate of Compliance who permanently ceases operation, any such records shall be provided to the new holder of cask Certificate of Compliance or to the Commission, as appropriate, in accordance with § 72.234(d)(3).

(2) Annually, or at such shorter interval as may be specified in the license or CoC, each holder of a license or cask Certificate of Compliance shall submit a report containing a brief description of changes, tests and experiments made by the license or certificate holder under paragraph (b) of this section, including a summary of the evaluation of each. Licensee and certificate holders shall submit their reports in accordance with § 72.4. Any report submitted by a licensee or certificate holder pursuant to this paragraph will be made a part of the public record pertaining to the license or CoC.

14. Section 72.56 is revised to read as follows:

§ 72.56 Application for amendment of license.

Whenever a holder of a license desires to amend the license (including a change to the license conditions), an application for an amendment shall be filed with the Commission fully describing the changes desired and the reasons for such changes, and following as far as applicable the form prescribed for original applications.

15. In § 72.70, paragraphs (a), (b), introductory text, and (b)(2) are revised to read and a new paragraph (c) is added to read as follows:

§ 72.70 Safety analysis report updating.

(a) The design, description of planned operations, and other information submitted in the Safety Analysis Report for an ISFSI or MRS shall be updated by the licensee and submitted to the Commission at least once every six months after issuance of the license during final design and construction, until preoperational testing is completed, with a Final Safety Analysis Report (FSAR) completed and submitted to the Commission at least 90 days prior to the planned receipt of spent fuel or high-level radioactive waste. The FSAR shall include a final analysis and evaluation of the design and performance of structures, systems, and components that are important to safety taking into account any pertinent information developed since the submittal of the license application.

(b) After the first receipt of spent fuel or high-level radioactive waste for storage, the FSAR shall be updated annually and submitted to the Commission by the licensee. This submittal shall include the following:

* * * * *

(2) A description and analysis of changes in procedures or in structures, systems, and components of the ISFSI or MRS, as described in the FSAR (as updated), with emphasis upon:

* * * * *

(c) The licensee shall submit revisions of the FSAR to the Commission in accordance with § 72.4, on a replacement-page basis that is accompanied by a list which identifies the current pages of the FSAR following page replacement. Each replacement page shall include both a change indicator for the area changed (e.g., a bold line vertically drawn in the margin adjacent to the portion actually changed) and a page change identification (date of change or change number or both).

16. In § 72.86, paragraph (b) is revised to read as follows:

§ 72.86 Criminal penalties.

* * * * *

(b) The regulations in this part 72 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 72.1, 72.2, 72.3, 72.4, 72.5, 72.7, 72.8, 72.9, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.32, 72.34, 72.40, 72.46, 72.56, 72.58, 72.60, 72.62, 72.84, 72.86, 72.90, 72.96, 72.108, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.182, 72.194, 72.200, 72.202, 72.204, 72.206, 72.210, 72.214, 72.220, 72.230, 72.238, 72.240, 72.244, and 72.246.

17. In § 72.212, paragraph (b)(4) is revised to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

(b) * * *

(4) Prior to use of this general license, determine whether activities related to storage of spent fuel under this general license involve a change in the facility Technical Specifications or require a license amendment for the facility pursuant to § 50.59(c)(2) of this chapter. Results of this determination must be documented in the evaluation made in paragraph (b)(2) of this section.

18. In § 72.216, new paragraph (d) is added to read as follows:

§ 72.216 Reports.

* * * * *

(d) The final safety analysis report (FSAR) for each approved cask used by the general licensee shall be updated annually and submitted to the Commission by the general licensee.

The submittal shall include the following:

(1) A description and analysis of changes in procedures or in structures, systems, and components of the spent fuel storage cask, as described in the FSAR (as updated), with emphasis upon:

(i) Performance requirements,

(ii) The bases, with technical justification therefor upon which such requirements have been established, and

(iii) Evaluations showing that safety functions will be accomplished.

(2) An analysis of the significance of any changes to codes, standards, regulations, or regulatory guides which the general licensee has committed to meeting the requirements of which are applicable to the design, construction, or fabrication of the spent fuel storage cask.

(3) The general licensee shall submit revisions containing updated information to the Commission, in accordance with § 72.4, on a replacement-page basis that is accompanied by a list which identifies the current pages of the FSAR following page replacement. The general licensee shall also provide a copy of the submittal to the holder of the certificate for the cask. Each replacement page shall include both a change indicator for the area changed (e.g., a bold line vertically drawn in the margin adjacent to the portion actually changed) and a page change identification (date of change or change number or both). Each replacement page shall also indicate the cask FSAR, including the certificate holder's revision number, upon which the general licensee's update is based.

19. Section 72.244 is added to read as follows:

§ 72.244 Application for amendment of a certificate of compliance.

Whenever a certificate holder desires to amend the CoC (including a change to the terms, conditions or specifications of the CoC), an application for an amendment shall be filed with the Commission fully describing the changes desired and the reasons for such changes, and following as far as applicable the form prescribed for original applications.

20. Section 72.246 is added to read as follows:

§ 72.246 Issuance of amendment to a certificate of compliance.

In determining whether an amendment to a CoC will be issued to the applicant, the Commission will be guided by the considerations that govern the issuance of an initial CoC.

21. Section 72.248 is added to read as follows:

§ 72.248 Safety analysis report updating.

(a) The design, description of planned operations, and other information submitted in the Safety Analysis Report for a spent fuel storage cask shall be updated by the certificate holder and submitted to the Commission after the design of the spent fuel storage cask has been approved pursuant to § 72.238. This Final Safety Analysis Report (FSAR) shall be completed and submitted to the Commission within 90 days after approval of the cask design. The FSAR shall incorporate all changes and requirements contained in the CoC and the staff's safety evaluation report (SER) associated with approval of the cask's design.

(b) The FSAR shall be updated annually and submitted to the Commission by the certificate holder. This submittal shall include the following:

(1) A description and analysis of changes in procedures or in structures, systems, and components of the spent fuel storage cask, as described in the FSAR (as updated), with emphasis upon:

(i) Performance requirements,

(ii) The bases, with technical justification therefor upon which such requirements have been established, and

(iii) Evaluations showing that safety functions will be accomplished.

(2) An analysis of the significance of any changes to codes, standards, regulations, or regulatory guides which the certificate holder has committed to meeting the requirements of which are applicable to the design, construction, or fabrication of the spent fuel storage cask.

(c) The certificate holder shall submit revisions containing updated information to the Commission, in accordance with § 72.4, on a replacement-page basis that is accompanied by a list which identifies the current pages of the FSAR following page replacement. The certificate holder shall also provide a copy of the submittal to each general licensee using the spent fuel storage cask. Each replacement page shall include both a change indicator for the area changed (e.g., a bold line vertically drawn in the margin adjacent to the portion actually changed) and a page change identification (date of change or change number or both).

Dated at Rockville, Maryland, this 14th day of October, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–28066 Filed 10–20–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–269–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 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 McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require modification of the right and left main landing gear (MLG) hydraulic damper assemblies or replacement of the MLG hydraulic damper assemblies with modified and reidentified hydraulic damper assemblies. This proposal is prompted by reports indicating that, during overhauls, the MLG hydraulic dampers assemblies failed or had damaged spring retainers due to insufficient material thickness of the spring retainers. The actions specified by the proposed AD are intended to prevent failure of the hydraulic damper assemblies of the MLG, which could result in vibration damage and collapse of the MLG.

DATES: Comments must be received by December 7, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–269–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 The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the 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, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5336; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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 98–NM–269–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–269–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that, during overhauls, 30 percent of the latest configuration of the main landing gear (MLG) hydraulic damper assemblies installed on McDonnell Douglas Model MD–90 series airplanes failed or had damaged spring retainers. Investigation revealed that the cause of the hydraulic damper assemblies failures or damaged spring retainers may be insufficient material thickness of the spring retainers. Such failure of the spring retainers, if not corrected, could result in failure of the hydraulic damper assemblies of the MLG, which could result in vibration damage and collapse of the MLG.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD90–32–032, dated July 8, 1998, which describes procedures for modification of the right and left MLG hydraulic damper assemblies. The modification involves removal and disassemblage of the hydraulic damper assemblies; installation of new spring retainers in the damper assemblies; and installation of the modified and reidentified hydraulic damper assemblies. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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 modification of the hydraulic damper assemblies or replacement of the hydraulic damper assemblies with modified and reidentified hydraulic damper assemblies.

Cost Impact

There are approximately 111 airplanes of the affected design in the worldwide fleet. The FAA estimates that 40 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 18 work hours per airplane (including access, removal, and closeup) to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $598 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,678 per airplane.

It would take approximately 5 work hours per airplane to accomplish the proposed replacement at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $300 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 98–NM–269–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Service Bulletin MD90–32–032, dated July 8, 1998; certificated in any category.

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

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the hydraulic damper assemblies of the main landing gear (MLG), which could result in vibration damage and collapse of the MLG, accomplish the following:

(a) Within 2 years after the effective date of this AD, accomplish the requirements specified in either paragraph (a)(1) or (a)(2) of this AD.

(1) Modify the right and left MLG hydraulic damper assemblies in accordance with McDonnell Douglas Service Bulletin MD90–32–032, dated July 8, 1998; or

(2) Replace the right and left MLG hydraulic damper assemblies with modified and reidentified hydraulic damper assemblies having part number (P/N) SR09320057–7005, SR09320057–7007, SR09320057–7009, or 5923142–5513, in accordance with paragraph B.5. of the Accomplishment Instructions of the service bulletin.

(b) As of the effective date of this AD, no person shall install on any airplane a damper sub assembly having P/N SR09320057–9, SR09320057–17, or 5923142–5017; or a damper assembly having P/N SR09320057–7001, SR09320057–7003, or 5923142–5511, unless the part is modified in accordance with paragraph (a)(1) of this AD.

(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 October 14, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–28155 Filed 10–20–98; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX90–1–7360b; FRL–6160–3]

Approval and Promulgation of State Implementation Plan, Texas: Recodification of Regulations to Control Lead Emissions From Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving the recodification of the Texas State Implementation Plan (SIP) regulations controlling emissions of lead from stationary sources. The recodification consists of a renumbering of the sections and administrative changes to the rules. There are no substantive changes to the rules.

In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment 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 the direct final rule, no further activity is contemplated in relation to this action. 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 action. Any parties interested in commenting on this action should do so at this time.

Please see the direct final rule of this action located elsewhere in today's **Federal Register** for a detailed description of the Texas lead recodification.

DATES: Comments must be postmarked by November 20, 1998.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7214.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Building F, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Region 6 Air Planning Section at the above address, telephone (214) 665–7242.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is published in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 2, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 98–28115 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA122–4078b; FRL–6178–1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a document published on September 16, 1998 (63 FR 49517). In this document, EPA proposed approval of Pennsylvnia's August 21, 1998 State Implementation Plan (SIP) revision for the enhanced motor vehicle inspection and maintenance program. At the request of a commenter, EPA is extending the comment period through November 16, 1998.

DATES: Comments must be received on or before November 16, 1998.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by e-mail at rehn.brian@epamail.epa.gov.

Dated: October 8, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 98–28113 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6176–6]

Idaho: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to the hazardous waste program revisions submitted by the State of Idaho. In the final rules section of this **Federal Register**, EPA is authorizing the State's program revisions as an immediate final rule because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the authorization is set forth in the immediate final rule. If no adverse written comment is received on this action, the immediate final rule will become effective and no further activity will occur in relation to this proposal. If EPA receives adverse written comment, EPA will withdraw the immediate final rule before its effective date by publishing a withdrawal in the **Federal Register**. EPA will then respond to public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before November 20, 1998.

ADDRESSES: Mail written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM–122, Seattle, WA 98101, phone, (206) 553–0256. Copies of the materials submitted by Idaho are available during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553–1289 and the Idaho Department of Health and Welfare, Division of Environmental Quality, Planning and Evaluation Division, 1410 N. Hilton, Boise, Idaho 83706, phone, (208) 373–0502 (Refer to Docket numbers: 0105–9401, 0105–9502, 0105–9601; contact is Pam Smolczynski).

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA, 98101, phone (206) 553–0256.

SUPPLEMENTARY INFORMATION: For additional information see the immediate final rule published in the rules section of this **Federal Register**.

Dated: October 6, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 98–27703 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF00

Endangered and Threatened Wildlife and Plants; Proposed Rule To Delist the Dismal Swamp Southeastern Shrew (Sorex longirostris fisheri)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to remove the Dismal Swamp southeastern shrew (*Sorex longirostris fisheri* Merriam) from the List of Endangered and Threatened Wildlife. The Dismal Swamp southeastern shrew was listed as a threatened species in 1986 under the Endangered Species Act of 1973, as amended (Act). New data indicate that this species is more widely distributed than previously believed, is fairly abundant within its range, occurs in a wide variety of habitats, and is genetically secure. The Service concludes that the data supporting the original classification were incomplete and that the new data indicate removing the Dismal Swamp southeastern shrew from the List of Endangered and Threatened Wildlife is warranted.

DATES: Comments from all interested parties must be received by December 21, 1998. Public hearing requests must be received by December 7, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Virginia Field Office, U.S. Fish and Wildlife Service, P.O. Box 99, 6669 Short Lane, Gloucester, Virginia 23061. The complete file for this rule is available for inspection by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Schulz, Fish and Wildlife Biologist, at the above address (telephone 804/693–6694, extension 127; facsimile 804/693–9032).

SUPPLEMENTARY INFORMATION:

Background

The Dismal Swamp southeastern shrew is a small, long-tailed shrew with a brown back, slightly paler underparts, buffy feet, and a relatively short, broad nose (Handley 1979a). It weighs 3 to 5 grams and measures up to 10 centimeters in length. The species was first described as *Sorex fisheri* by C.H. Merriam (Merriam 1895). Merriam's description was based on four specimens trapped near Lake Drummond, Virginia by A.K. Fisher of the U.S. Department of Agriculture's Bureau of Biological Surveys. Rhoads and Young (1897) captured a specimen in Chapanoke, Perquimans County, North Carolina, that seemed intermediate between *S. fisheri* and the southeastern shrew (*Sorex longirostris* Bachman) (Handley 1979b). Jackson (1928) subsequently reduced *S. fisheri* to a subspecies of *S. longirostris.* Three subspecies of southeastern shrew are now recognized—*Sorex longirostris eionis,* which occurs in the northern two-thirds of peninsular Florida (Jones *et al.* 1991); *S. l. fisheri,* which occurs in southeastern Virginia and eastern North Carolina; and *S. l. longirostris,* which occurs in the rest of the range that extends through eastern Louisiana, eastern Oklahoma, and Missouri, then eastward through central Illinois and Indiana, southern Ohio, and Maryland. Jones *et al.* (1991) examined the taxonomic status of these three subspecies and verified substantial size differences among them. The authors found that *S. l. eionis* was significantly larger in four cranial measurements when compared with the other two subspecies; *S. l. fisheri* was significantly large in one cranial and one external measurement; and *S. l. longirostris* had a relatively short palate and rostrum, narrow skull, and short foot and tail. This study confirmed the subspecific status of *S. l. fisheri.*

Apart from a litter of five young found in a nest in the Dismal Swamp in 1905, little is known about reproduction or other life history features of *Sorex longirostris fisheri* (Handley 1979b). However, more is known about the life history of other *Sorex* species, and this information may apply to *S. l. fisheri. Sorex longirostris* reproduces from March through October, and it is likely that two litters are born each year, with one to six young produced per litter (Webster *et al.* 1985). Nests are shallow depressions lined with dried leaves and

grasses and are usually associated with rotting logs (Webster *et al.* 1985). Young shrews grow rapidly and are almost adult size when they leave the nest (Jackson 1928). *Sorex longirostris* forage on spiders, crickets, butterfly and moth larvae, slugs, snails, beetles, centipedes, and vegetation (Webster *et al.* 1985, Whitaker and Mumford 1972). Little information is available about the daily activity patterns of *S. longirostris.* They forage intermittently throughout the day and night in all seasons, seem to be most active after rains and during periods of high humidity, and do much of their foraging in the leaf litter or in tunnels in the upper layers of the soil (Jackson 1928).

The Dismal Swamp, the type locality for *Sorex longirostris fisheri,* is a forested wetland with a mosaic of habitat types located in southeastern Virginia and adjacent North Carolina. Within the Dismal Swamp, *S. l. fisheri* has been found in a variety of habitat types including recent clearcuts, regenerating forests, young pine plantations, grassy and brushy roadsides, young forests with shrubs and saplings, and mature pine and deciduous forests (Padgett 1991, Rose 1983). *Sorex longirostris fisheri* has also been collected in utility line rights-of-way. The highest densities of *S. l. fisheri* occur in early successional stage habitats and the lowest densities in mature forests (Everton 1985), although mature forests are likely to be important to the survival of the shrew during periods of drought or fire. Densities of southeastern shrews in early successional stages are 10 to 30 per hectare (Rose 1995). Rose (1995) stated that, based on his previous studies, mature forests yield only about ¼ or less of the densities of *S. longirostris* compared with early successional stage habitats dominated by grasses and shrubs. Mature forests with closed canopies have densities of one to four shrews per hectare (Rose 1995). ''Within two years of the cutting of a forest plot, and probably for 8–12 years afterwards on such cutover plots, the densities of southeastern shrews are likely to be five or more times greater than in nearby mature forests. (The number of years depends, in part, on whether the trees on the sites regenerate naturally or are planted.)'' (Rose 1995).

Until recently, the distribution of *Sorex longirostris fisheri* was considered coincidental with the historical boundaries of the Dismal Swamp (Handley 1979a, Hall 1981, Rose 1983). After collection of the original type series, additional *S. l. fisheri* specimens were collected from similar habitats in the Dismal Swamp between 1895 and 1902. Prior to 1980, only 19 specimens of *S. l. fisheri* were known. ''In addition to Young's (Rhoads and Young 1989) Chapanoke specimen in the Academy of Natural Sciences of Philadelphia, and one in the American Museum of Natural History that (W. J.) Daniel (Jr.) collected at Lake Drummond in 1905, the National Museum has 16 from Lake Drummond collected in 1895 and 1902 by Fisher, T. S. Palmer, (W. L.) Ralph, and Daniel, and one I collected near Wallaceton (at the eastern edge of the Dismal Swamp in Virginia) in 1953'' (Handley 1979b). In 1980, 15 *S. longirostris* were collected in pitfall traps in Suffolk, Virginia from the northwest section of the Great Dismal Swamp National Wildlife Refuge (Refuge) (Rose 1981) that is located in North Carolina and Virginia. Based on their large size, the specimens were classified as *S. l. fisheri.*

From December 1980 through July 1982, 37 pitfall grids were established in Currituck and Gates counties, North Carolina and the Cities of Chesapeake, Suffolk, and Virginia Beach and Isle of Wight and Surry counties, Virginia (Rose 1983). The results of this trapping were 24 specimens from 10 populations classified as *Sorex longirostris fisheri,* 62 specimens from 9 populations classified as intergrades, and 30 specimens from 7 populations classified as *S. l. longirostris.* Three grids each contained one specimen classified as *S. l. longirostris,* while the remaining specimens were classified as *S. l. fisheri.* The author determined that *S. l. fisheri* was associated with the Dismal Swamp proper, except for a population north of the Refuge and a population east of the Refuge. A narrow zone of hybridization (these populations contained specimens that represent the parent stocks and individuals that may be hybrids) was found to border the Dismal Swamp running approximately north/south along its western edge and running northwest/southeast adjacent to the southeastern corner of the Refuge. *Sorex longirostris longirostris* was found to the east and west of the Dismal Swamp with distinctive populations of *S. l. longirostris* occurring within 20 miles of the Dismal Swamp border (Rose 1983). The results of this analysis indicated that the largest *Sorex* were located within the Refuge and the smallest *Sorex* were located at greater distances from the Refuge, with specimens of intermediate size on the margins of the Refuge. This suggested that interbreeding of the two subspecies might be occurring, particularly at the margins of the Refuge. Rose (1983) tentatively recommended that *S. l. fisheri* be listed as threatened primarily because of the potential for contact and interbreeding with *S. l. longirostris.* ''If widespread, this interbreeding can result in an alteration of the gene pools of both subspecies in the zone of contact, and the integrity of both subspecies may be lost in the extreme'' (Rose 1983).

Additional study of *Sorex* was conducted from October 1986 through June 1989, focusing within the Refuge but also including outlying areas of the historical Dismal Swamp (Padgett 1991). Particular emphasis was placed on determining whether the nominate subspecies might be expanding into the remaining Dismal Swamp proper and interbreeding with *Sorex longirostris fisheri.* The results of Padgett's (1991) study indicated that *S. l. fisheri* was restricted to the historic Dismal Swamp and that there was no strong evidence that *S. l. longirostris* was using roadways to enter the interior of the Refuge. Between 1989 and 1991, Erdle and Pagels (1991) collected shrews to further delineate the distributions of *S. l. fisheri* and *S. l. longirostris* in Virginia. Sampling was conducted in much of the historic Dismal Swamp east of the Refuge and north of the Virginia-North Carolina State line. Shrews referable to both taxa and intergrades were represented in the 26 *Sorex* trapped. These findings supported the hypothesis that *S. l. longirostris* might be moving into areas of the historical Dismal Swamp. During the 1990s, many additional areas were surveyed within the historical Dismal Swamp in Virginia; the specimens found were referable to *S. l. fisheri* or *S. l. longirostris* or were of intermediate size.

While a significant amount of study on the distribution of *Sorex longirostris fisheri* had taken place in Virginia, knowledge of the species in North Carolina was sparse. In the early 1980s, D. W. Webster from the University of North Carolina-Wilmington collected *Sorex longirostris* from southeastern North Carolina (D.W. Webster, University of North Carolina-Wilmington, pers. comm. 1997). Utilizing the existing range maps for *S. longirostris,* Webster determined that the specimens were *S. l. longirostris.* In the late 1980s, Webster collected *S. longirostris* from Beaufort County, North Carolina (located midway along the coast of North Carolina) and realized that those specimens looked just like those collected from southeastern North Carolina. Webster (pers. comm. 1997), still using the existing range maps, assumed these specimens were *S. l. longirostris.* Historical locations of *S. l. fisheri* in North Carolina were

summarized by Webster (1992), indicating collection of *S. l. fisheri* from Camden, Currituck, and Gates counties. Webster (1992) indicated that *S. l. fisheri* probably inhabits parts of Chowan, Pasquotank, and Perquimans counties. Webster continued to collect shrews from coastal North Carolina throughout the early 1990s (D.W. Webster, pers. comm. 1997).

In January 1994, Webster visited the National Museum of Natural History and compared specimens he had collected from southeastern North Carolina and Beaufort and Gates counties, North Carolina, to the specimens at the Smithsonian and realized that his specimens were of the same size as the voucher specimen for *Sorex longirostris fisheri* from Lake Drummond (the type locality). Charles O. Handley, curator of mammals for the museum, agreed with Webster that these shrews were referable to *S. l. fisheri* based on size. Based on that information, Webster hypothesized that the ''dividing line'' between *S. l. fisheri* and *S. l. longirostris* may be somewhere between Wilmington, North Carolina and Charleston, South Carolina.

In May 1994, Webster visited the North Carolina State Museum of Natural Sciences and found a series of relatively large *Sorex longirostris* (not identified to subspecies) from Croatan National Forest (Jones, Craven, and Carteret counties) in North Carolina (U.S. Fish and Wildlife Service 1995). He presumed that this series of shrews was *S. l. fisheri* based on his trip to the Smithsonian (D.W. Webster, pers. comm. 1997). The State museum also had specimens of southeastern shrews from Chowan, Bladen, and Brunswick counties that Webster assumed were *S. l. fisheri* (D.W. Webster, pers. comm. 1997). In May and June 1994, Webster collected *S. longirostris* near the town of Warsaw in Duplin County, midway between Wilmington and Raleigh, North Carolina. He determined that these specimens were referable to *S. l. fisheri* (D.W. Webster, pers. comm. 1997).

Webster *et al.* (1996a, 1996b) compared *Sorex longirostris* specimens from east-central and southeastern North Carolina to specimens from the Dismal Swamp. They also examined specimens from Charleston County, South Carolina (near the type locality for *S. l. longirostris*) and Citrus County, Florida (the type locality for *S. l. eionis*), and representative samples of *S. longirostris* from throughout the southeastern U.S. They concluded that *S. l. fisheri* ''is much more widespread and ubiquitous than previously believed. From this, it was determined that morphometric characteristics would be used to better delineate the geographic distribution of *S. l. fisheri* in Virginia and North Carolina. The morphometric analysis used 626 *S. longirostris* from the southeastern U.S. (15 from Florida, 375 from North Carolina, 159 from Virginia, and the remaining 77 from Alabama, District of Columbia, Indiana, Kentucky, Maryland, Mississippi, Missouri, South Carolina, and Tennessee). The morphometric analysis included six cranial measurements, palatal length, and braincase length. If available from specimen tags, the total specimen length, tail length, hind foot length, and weight were also utilized. Head and body length or the difference between total length and tail length were determined where possible. There was significant geographic variation in all cranial measurements; samples from southeastern Virginia, eastern North Carolina, and southern Georgia and Florida had much larger cranial characteristics than samples from elsewhere in the range. The significant geographic variation in external measurements and weight typically followed the same pattern. A two-dimensional plot of the samples formed three clusters: (1) shrews from Georgia and Florida that have longer and overall much wider crania; (2) shrews from southeastern Virginia and eastern North Carolina that have longer crania with relatively narrower rostra; and (3) shrews from elsewhere in the range that were smaller in all cranial measurements. This plot explained 93.2 percent of the total morphometric variation exhibited in *S. longirostris* crania. Shrews from the piedmont and mountains of Virginia and North Carolina were more similar to specimens from the Mississippi and Ohio River basins than they were to those from the mid-Atlantic coast.

Webster *et al.* (1996a, 1996b) established 84 survey sites in a wide range of habitats throughout North Carolina and Virginia to ensure that both *Sorex longirostris longirostris* and *S. l. fisheri* would be captured. Of the 84 sites, 49 (58.3 percent) were located in abandoned fields and powerline rights-of-way that were dominated by herbaceous vegetation typical of early stages of succession. The other 35 sites (41.7 percent) were dominated by arborescent vegetation, including such forest types as longleaf pine/turkey oak, pocosin/bay, Atlantic white cedar, shortleaf pine, riparian hardwood, and cove hardwood. Eighteen species of small mammals were collected and *S. longirostris* was the most abundant and ubiquitous. When survey sites were divided into two groups, those occurring in the newly delineated range of *S. l. fisheri* or in that of *S. l. longirostris*, the results were similar. Within its geographic distribution, *S. l. fisheri* was the most abundant small mammal, or shared that distinction with other species at 31 of the 84 sites sampled. *Sorex longirostris fisheri* was especially abundant in forested habitats in and adjacent to the Refuge, comprising 84 percent of the specimens taken. The only habitat sampled where *S. l. fisheri* was absent was xeric longleaf pine/turkey oak. Both taxa were found in a wide range of habitat types and moisture regimes, from early successional to mature second-growth forest and from well-drained uplands to seasonally-inundated wetlands. Webster (1996a, 1996b) concluded that ''* * * even the smallest specimens from relatively dry, upland sites in the Dismal Swamp region clearly are assignable to *S. l. fisheri*.

Gurshaw (1996) examined allozyme variability in specimens of the southeastern shrew from North Carolina and Virginia to identify characters that differentiate *Sorex longirostris fisheri* and *S. l. longirostris* and to determine if there are similarities between shrews from the Dismal Swamp region and the coastal plain of southeastern North Carolina. She found that shrews from the coastal plain of southeastern North Carolina grouped most closely with those from the Dismal Swamp. The author found an allele in the shrews from the coastal plain that represents a genetic distinction from *S. l. longirostris*. Distribution of this allele appeared to follow the Fall Line, the boundary between the piedmont plateau and upper coastal plain in the southeastern U.S.

Webster *et al.* (1996a, 1996b) concluded that *Sorex longirostris fisheri* ''* * * has a much broader geographic distribution than previously believed, extending from southeastern Virginia to southeastern North Carolina along the outer coastal plain. In Virginia, all specimens examined from Isle of Wight County, the City of Chesapeake, and the City of Virginia Beach are referable to *S. l. fisheri*, whereas those from Surry, Sussex, and Southampton counties are assignable to *S. l. longirostris*. In North Carolina, *S. l. fisheri* is distributed throughout the coastal counties as far south as New Hanover, Brunswick, and Columbus Counties.'' Since the conclusion of that study, *S. l. fisheri* has been documented in Hyde County, North Carolina (D.W. Webster, pers. comm. 1997). No trapping for *S. longirostris* has been conducted in Onslow, Martin, Pamlico, or Burtie

Counties, North Carolina (D.W. Webster, pers. comm. 1997). Webster (pers. comm. 1997) does not have any records of *S. l. fisheri* from Pasquotank County, although surveys were conducted there in 1995. At the time of listing, Pasquotank County was listed as a county of occurrence for *S. l. fisheri*, however, the literature cited does not support this.

At the time of listing, *Sorex longirostris fisheri* was believed to occur in only two cities in Virginia and four counties in North Carolina. *Sorex longirostris fisheri* is now known to occur in Beaufort, Bladen, Brunswick, Camden, Cateret, Chowan, Columbus, Craven, Currituck, Dare, Duplin, Gates, Greene, Hyde, Jones, Lenoir, New Hanover, Pender, Perquimans, Robeson, Scotland, Tyrrell, and Washington counties in North Carolina and Chesapeake, Suffolk, and Virginia Beach cities and Isle of Wight County in Virginia. Information gaps still exist in the distribution of *S. l. fisheri* in North Carolina and potentially South Carolina. Jones *et al.* (1991) noted a sample of *Sorex* specimens from coastal South Carolina that appeared to be similar to *S. l. fisheri*, but substantiation is needed regarding the taxonomy of these specimens.

Previous Federal Action

On December 30, 1982, during its review of Vertebrate Wildlife (47 FR 58454), the Service designated the Dismal Swamp southeastern shrew as a category 2 candidate species, meaning that a proposal to list the subspecies as threatened or endangered was possibly appropriate, but that substantial biological data were not available at that time to support such a proposal. Rose (1981, 1983) and Everton (1985) conducted pre-listing status surveys that documented large shrews within the Refuge, small shrews outside the Refuge, and intermediate-sized shrews near the Refuge boundaries.

On July 16, 1985, the Service published a proposed rule to list the Dismal Swamp southeastern shrew as a threatened species (50 FR 28821). The final rule to list the species was published in the **Federal Register** on September 26, 1986 (51 FR 34422), and became effective on October 27, 1986. The reasons for listing the Dismal Swamp southeastern shrew were habitat loss and alteration and possible loss of genetic integrity through interbreeding with *S. l. longirostris*.

In the early 1990's, a group of biologists from Virginia held meetings to discuss information and issues related to the recovery of the Dismal Swamp southeastern shrew. Initially, most of the effort was focused in Virginia because of the development pressure occurring there. In 1992, biologists from North Carolina were included in the group. The Service then convened an official recovery team, and the first meeting was held in February 1993.

A draft recovery plan was completed in July 1994, and a notice of availability of the plan was published in the **Federal Register** (59 FR 37260). The recovery plan was finalized on September 9, 1994, and updated on June 13, 1995.

Based on questions raised by D.W. Webster, a member of the recovery team, about the shrew's distribution and taxonomy, in March 1995, studies were funded by the Virginia Department of Game and Inland Fisheries and the Service to determine if large shrews are distributed from the Dismal Swamp region southward throughout the coastal plain of North Carolina, and if the large shrews from coastal North Carolina are similar to *S. l. fisheri* from near the type locality. A combination of morphometric and genetic analyses was proposed to answer these questions. The results of the morphological and genetic analyses which followed are discussed in detail in the ''Background'' section of this rule.

In May 1996, reports on morphometric variation among the three *Sorex longirostris* subspecies (Webster *et al.* 1996a) and protein electrophoresis and allozymic variation between *S. l. fisheri* and *S. l. longirostris* (Gurshaw 1996) were received by the Service and sent to the recovery team members. The recovery team convened in June 1996 to discuss the two reports. The consensus of the team was that the results of both the morphological and genetic analyses conclusively show that *S. l. fisheri* is widely distributed along the coastal plain of southeastern Virginia and eastern North Carolina at least as far south as Wilmington, North Carolina; that *S. l. fisheri* uses a wide variety of habitat types; and that *S. l. fisheri* is not in danger of genetic swamping by *S. l. longirostris*. However, the team agreed that the reports should be sent out for independent peer review before further action was taken. The Service sent the reports to independent peer reviewers in June 1996. Reviewers that responded concurred with the conclusions of the authors and were supportive of delisting, Based on comments provided by recovery team members, the Service, and peer reviewers, the original manuscripts were revised (Moncrief 1996, Webster et al. 1996b).

Federal involvement with the Dismal Swamp southeastern shrew after listing has included surveys for new locations and informal and formal section 7 consultations for activities (involving a Federal action) occurring in suitable habitat within the historical Dismal Swamp. No jeopardy biological opinions for this species have been issued.

Processing of this proposed rule conforms with the Service's Listing Priority Guidance for Fiscal Years 1998 and 1999, published on May 8, 1998 (63 FR 25502). The guidance clarifies the order in which the Service will process rulemakings giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final rules to add species to the Lists, processing proposed rules to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules to designate critical habitat. Processing of this proposed rule is a Tier 2 action.

Summary of Factors Affecting the Species

Procedures found at section 4(a)(1) of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. Regulations at 50 CFR 424.11 require that certain factors be considered before a species can be listed, reclassified, or delisted. These factors and their application to the Dismal Swamp southeastern shrew (*Sorex longirostris fisheri* Merriam) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Extensive habitat alteration has occurred within the area historically occupied by Dismal Swamp. At the beginning of the twentieth century, the Dismal Swamp occupied 2,000 to 2,200 square miles (sq mi) (5,200 to 5,700 square kilometers (sq km)). Currently, less than 320 sq mi (830 sq km) of the historical Dismal Swamp remain, 189 sq mi (490 sq km) of which are protected within the Refuge and the Great Dismal Swamp State Park in North Carolina. Remnants of the historical Dismal Swamp outside Refuge and State Park boundaries and land beyond the historical Dismal Swamp boundaries are disappearing due to development associated with the rapid growth of the Hampton Roads metropolitan area of

southeastern Virginia. Agricultural and silvicultural conversions (especially in North Carolina) also contribute significantly to habitat loss. Habitat loss was a primary reason for listing the Dismal Swamp southeastern shrew, considered at the time to be endemic to the historical Dismal Swamp. However, because the species is now known to occur across a much larger area and in a wider variety of habitats (see the ''Background'' section of this rule), the threat of habitat loss is not as significant as was believed at the time of listing.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

At present, the only known method for studying or monitoring the Dismal Swamp southeastern shrew involves lethal collection with pitfall traps. Researchers have been permitted to take individuals of the species to gain an understanding of its taxonomy, ecology, and distribution. However, because the Dismal Swamp southeastern shrew has a high reproductive potential and a rapid maturation rate, limited collection of individuals is not considered detrimental to healthy populations. Utilization for commercial, recreational, or educational purposes is not known to occur.

C. Disease or Predation

Southeastern shrews are subject to some predation, most frequently by owls, snakes, opossums, and domestic cats and dogs (French 1980, Webster *et al.* 1985). The number of dead shrews found in woods and on roads suggests that many predators reject the shrew, probably because of the bad taste associated with their musk glands (French 1980). There is no evidence that predation or disease is a significant threat to the Dismal Swamp southeastern shrew.

D. The Inadequacy of Existing Regulatory Mechanisms

Wetland habitats for the Dismal Swamp southeastern shrew will continue to receive protection indirectly under Section 404 of the Clean Water Act which requires the Department of the Army, Corps of Engineers to regulate certain activities affecting ''waters of the United States'' including wetlands. However, delisting the Dismal Swamp southeastern shrew will remove Federal prohibitions against take and activities involving a Federal action which would jeopardize the continued existence of the species. However, because of its wide distribution and use of a wide variety of habitats, the removal of these protections afforded by the Act will not pose a significant threat to the Dismal Swamp southeastern shrew.

The Dismal Swamp southeastern shrew is listed as threatened by the State of Virginia. Virginia's Endangered Species Act of 1972, as amended (Code of Virginia Section 29.1–564–568) prohibits the taking, transportation, processing, sale, or offer for sale of endangered and threatened species except as permitted. The Virginia Department of Game and Inland Fisheries provides general protection to wildlife through State law Section 29.1–521, which prohibits their possession and capture including the attempt to capture, take, kill, possess, offer for sale, sell, offer for purchase, purchase, deliver for transportation, transport, cause to be transported, receive, export, import in any manner or in any quantity except as specifically permitted.

The Dismal Swamp southeastern shrew is listed as threatened by the State of North Carolina. The species is protected by North Carolina general statute Article 25, section 113–337, which makes it unlawful to take, possess, transport, sell, barter, trade, exchange, export, or offer for sale, barter, trade, exchange, or export, or give away for any purpose including advertising or other promotional purpose any animal on a protected wild animal list, except as authorized according to the regulations of the North Carolina Wildlife Resources Commission.

All States will have the option of retaining the Dismal Swamp southeastern shrew on their various lists if it is removed from the Federal List of Endangered and Threatened Wildlife. Both the States of Virginia and North Carolina support the delisting. The State of North Carolina plans to delist Dismal Swamp southeastern shrew if it is delisted at the Federal level (H. LeGrand, North Carolina Natural Heritage Program, pers. comm. 1997). However, because of its wide distribution and use of a wide variety of habitats, the removal of State protection will not constitute a significant threat to the species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

One of the reasons for listing the Dismal Swamp southeastern shrew was concern regarding the possible loss of genetic integrity through interbreeding with the nominate subspecies. Gurshaw (1996) examined allozyme variability in specimens of the southeastern shrew from North Carolina and Virginia. She found an allele in the shrews from the coastal plain that represents a genetic distinction from *Sorex longirostris longirostris* and that appeared to follow the Fall Line. The author stated, ''A cline for this allele may be shifted in the direction of dispersal in proportion to the direction of gene flow through barriers such as the Fall Line and population size. If the populations containing * * * (this) * * * allele are small, they will not have as many individuals dispersing * * * and gene flow may be restricted (Endler, 1977). In this study, however, the opposite appears to be happening. Populations with * * * (this allele)* * * are widespread in eastern North Carolina and southeastern Virginia, with gene flow carrying * * * (this) * * * allele above the Fall Line in central North Carolina.'' She concluded that genetic swamping within the Dismal Swamp region was not evident.

Webster *et al.* (1996a, 1996b) found that intergradation between *Sorex longirostris fisheri* and *S. l. longirostris* is evident in specimens from the inner coastal plain of Virginia and North Carolina. The zone of intergradation is relatively narrow in Virginia and relatively wide in North Carolina, commensurate with the relative size of the inner coastal plain. Shrews from samples immediately to the east and west of the present Dismal Swamp were slightly smaller than shrews from the Dismal Swamp in cranial and external measurements. This trend was noted by Padgett *et al.* (1987). However, when compared with specimens from throughout the range of the species, these shrews are referable to *S. l. fisheri.*

The following summarizes available information regarding potential environmental contaminant threats to the Dismal Swamp southeastern shrew throughout its range. In 1987 and 1989, the Service conducted a preliminary study (Ryan *et al.* 1992) within the Refuge to determine if contaminants were impacting fish and small mammals. All water (metal-laden leachate and groundwater) draining the Suffolk City Landfill, at the time a federally designated Superfund site, enters the Refuge. This landfill received industrial and domestic wastes, including 30 tons of organophosphate pesticides in the 1970s. Numerous automobile junkyards border the Refuge to the north and drain into the Dismal Swamp and the Refuge. Oil, grease, metals, polycyclic aromatic hydrocarbons (PAHs) and alkanes (PAHs and alkanes are components of petroleum products) are common constituents of junkyard and roadway runoff. Agricultural fields to the north and west of the Refuge contribute surface runoff that may contain residual herbicides, insecticides, and fungicides.

The Service's study (Ryan *et al.* 1992) included analyses for contaminant residues in the short-tailed shrew (*Blarina brevicauda*). Short-tailed shrews trapped near the East Ditch displayed elevated levels of lead, mercury, and several organochlorine pesticides. The lead levels for short-tailed shrews exceeded normal ranges and fell within the range for lead toxicosis according to Ma (1996). Small mammal lead toxicosis symptoms may include neurological dysfunction, reproductive disorders (including stillbirths), liver and kidney failure, etc. Apart from overt symptoms, asymptomatic effects may occur at lower levels and have significant effects on animal behavior, yet be difficult to evaluate and/or document. Ryan *et al.* (1992) found that mercury levels for short-tailed shrews collected at East Ditch, Badger Ditch, Railroad Ditch, and Pocosin Swamp were elevated in comparison to levels for short-tailed shrews collected from the study reference location and other sites within the Refuge. The mercury levels reported for short-tailed shrews, although elevated when compared within study area sites, were below those levels reported in the literature as causing observed adverse effects. Organochlorine pesticide levels of short-tailed shrews from the East Ditch were higher than those reported from all other study sites. However, the levels were below those documented in the literature for observed adverse effects. In summary, there may be a contaminant concern for the Dismal Swamp southeastern shrew near the East Ditch of the Refuge. However, no contaminant analysis has been conducted in Dismal Swamp southeastern shrews. Further monitoring has been recommended by the Service.

Small mammals tend to have limited ranges, and, therefore, elevated levels of contaminants found in shrews from one location cannot be interpreted as a condition for shrews throughout the Refuge or range. Land uses such as agriculture, transportation, and urbanization with increased impervious surfaces contribute measurable levels of contaminants to the environment, and many persistent contaminants are passed through the food web. However, the Service does not have any information indicating that contaminants pose a significant threat to the continued existence of the Dismal Swamp southeastern shrew.

In developing this proposed rule, the Service has assessed the best available scientific and commercial information regarding the past, present, and future threats to the Dismal Swamp southeastern shrew, as well as information on its distribution, its habitat use, and the security of its genetic integrity. Based on this evaluation, the Dismal Swamp southeastern shrew no longer meets the definition of ''threatened'' under the Act, and the preferred action is to remove the species from the List of Endangered and Threatened Wildlife, thereby removing the protection afforded by the Act.

Regulations at 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original data for classification were in error. The Service has determined that the original data for classification of the Dismal Swamp southeastern shrew as a threatened species were in error. However, it is important to note that the original data for classification constituted the best available scientific and commercial information available at the time and were in error only in the sense that they were incomplete. Because *Sorex longirostris* from the Dismal Swamp were originally classified as *S. l. fisheri* based on morphological measurements from a limited number of specimens, and because specimens from areas bordering the Dismal Swamp did not have similar morphological measurements, taxonomists logically concluded that only the largest specimens were *S. l. fisheri*. It has been assumed since the early 1900s that small-sized shrews were *S. l. longirostris*, resulting in erroneous classification of shrews found outside, and sometimes within, the historical Dismal Swamp boundaries. Therefore, the perception of a restricted range for *S. l. fisheri* was not a misinterpretation on the part of the Service, but a longstanding scientific assumption. At the time of listing, no other interpretation could be reasonably construed from the available data. The Service concludes that the data supporting the original classification were incomplete and that new data indicate removing *S. l. fisheri* from the List of Endangered and Threatened Wildlife is warranted.

The listing of the Dismal Swamp southeastern shrew as a threatened species was based on the best information available and was thus a valid decision at the time; the data leading to a better understanding of *S. longirostris* taxonomy were derived incrementally as a direct result of the recovery program; and no preceding shrew research anticipated the outcome of the final morphometric and genetic analyses. The dual effort to increase the base of available information while addressing the perceived threats to this subspecies was thus both legally and scientifically justified up to the point when new information yielded a significant change in the knowledge of the Dismal Swamp southeastern shrew's status.

The Service, after conducting a review of the species' status, determines that the species is not in danger of extinction throughout all or a significant portion of its range, nor is it likely to become so within the foreseeable future. Based on the best scientific and commercial information available including information showing a wider distribution than previously believed, utilization of a wider variety of habitat types than previously believed, and genetic security, the Service concludes that the Dismal Swamp southeastern shrew does not warrant the protection of the Endangered Species Act of 1973, as amended. The information leading to this conclusion was derived through the recovery process, which included studies to verify the shrew's taxonomic status and to conclusively determine its distribution. In proposing delisting, the Service is conforming to the objectives stated in the recovery plan. Our ability to propose this subspecies for delisting is based on a very intentional strategy of conducting comprehensive studies that built on the incremental and cumulative insights of various experts. During this lengthy process, the dedication of recovery team members and other knowledgeable parties was invaluable in protecting the shrew when its status seemed much more precarious, and in furthering our knowledge of it.

Effects of the Rule

This action, if enacted, will result in the removal of the Dismal Swamp southeastern shrew from the List of Endangered and Threatened Wildlife. Federal agencies would no longer be required to consult with the Secretary of the Interior to insure that any action they authorize, fund, or carry out will not likely jeopardize the continued existence of the species. There is no designated critical habitat for this species. Federal restrictions on taking would no longer apply. The 1988 amendments to the Act require that all species that have been delisted due to recovery be monitored for at least 5 years following delisting. Since the Dismal Swamp southeastern shrew is being proposed for delisting because of new information indicating it has an expanded distribution, is not under serious threat from habitat loss, and is genetically secure, and not because it has been recovered, the Service does not intend to monitor the species for 5 years following delisting. Within the Refuge

and the Great Dismal Swamp State Park in North Carolina, management will continue to focus on restoring the hydrological regime to as close to historical conditions as possible given the necessity for firebreaks and access roads. In addition, efforts are being made to restore or maintain the habitat mosaic through forestry practices. It is the opinion of the Service that sufficient habitat will remain over the long-term to allow for the continued viability of this subspecies.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade (legal and illegal), or other relevant data concerning any threat (or lack thereof) to the Dismal Swamp southeastern shrew;

(2) The location of any additional populations or occurrences of this species;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species; and

(5) The number, origin, location and legal deposition of individuals of this species in captivity and/or trade.

Promulgation of the final regulations on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal in the **Federal Register**. Such requests must be made in writing and addressed to the Field Supervisor (see **ADDRESSES** section).

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, § 17.11 Endangered and threatened wildlife.) (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not include any collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Virginia Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Cynthia A. Schulz (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing the entry for ''Shrew, Dismal Swamp southeastern, *Sorex longirostris fisheri*'' under ''Mammals'' from the List of Endangered and Threatened Wildlife.

Dated: October 6, 1998.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–28189 Filed 10–20–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE84

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on the Proposed Rule To List the Northern Idaho Ground Squirrel as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the public comment period on the proposed rule to list the northern Idaho ground squirrel (*Spermophilus brunneus brunneus*) as a threatened species is being reopened to consider new scientific information received after the initial comment period. The initial comment period closed on May 22, 1998. All interested parties are invited to submit comments on this proposal.

DATES: The comment period for this proposal will be extended to November 20, 1998.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 South Vinnell way, Room 368, Boise, Idaho 83709. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, at the above address or at telephone (208) 378–5243.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1998 (63 FR 13825), the Service published in the **Federal Register** a proposed rule to list the northern Idaho ground squirrel as threatened throughout its range in western Idaho pursuant to the

Endangered Species Act of 1973, as amended. After the close of the comment period on May 22, 1998, the Service received a report titled ''Translocation and inventory of northern Idaho ground squirrels in 1998,'' a video seminar on the genetics and population structure of the northern Idaho ground squirrel presented by Drs. Tom Gavin and Paul Sherman, an ''Amended Environmental Assessment of the Council-Cuprum Road,'' a draft plan titled ''Habitat restoration plan for the northern Idaho ground squirrel,'' and meeting notes from two northern Idaho ground squirrel working group meetings.

The Service reviewed the status of the species under the five factors described in section 4(a)(1) and concluded that little is known about the historic range of the northern Idaho ground squirrel, but the population of this subspecies has declined significantly since 1985. The estimated total population in 1985 was about 5,000 animals but by 1998, the total population of this subspecies had declined to about 700 individuals. This subspecies is known from 21 sites in Adams and Valley Counties, Idaho. It is primarily threatened by habitat loss due to seral forest encroachment into former suitable meadow habitats. Seral forest encroachment results in habitat fragmentation, isolating northern Idaho ground squirrel sites from each other. This eliminates any genetic exchange or replenishment of sites should one population site decline and another one has a surplus of individuals. The northern Idaho ground squirrel is also threatened by competition from the larger Columbian ground squirrel (*Spermophilus columbianus*), land use changes, recreational shooting and naturally occurring events. A conservation agreement (Agreement) was finalized in July of 1996 between the Service and the Payette National Forest. Duration of the Agreement is 5 years. The Agreement identifies conservation and land management actions that will provide habitat favorable to the northern Idaho ground squirrel. A relocation plan developed by scientists from Cornell University, Ithaca, New York and Albertson College, Caldwell, Idaho was initiated in the spring of 1997. These ongoing conservation efforts for the northern Idaho ground squirrel address threats that have likely contributed to the species decline.

Public Comments Solicited

The previous comment period on this proposed rule closed on May 22, 1998. Written comments must be submitted to the Service office identified in the **ADDRESSES** section above. All comments must be received before the close of the comment period to be considered.

Author: The author of this notice is Rich Howard, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, Snake River Basin Office (see Addresses section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 6, 1998.

Bill Shake,

Acting Regional Director.

[FR Doc. 98–27324 Filed 10–20–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8259–01; I.D. 101498B]

RIN 0648–AL74

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries

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

ACTION: Proposed specifications for the 1999 summer flounder, scup, and black sea bass fisheries; request for comments.

SUMMARY: NMFS proposes specifications for the 1999 summer flounder, scup, and black sea bass fisheries. The implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) require NMFS to publish specifications for the upcoming fishing year for each fishery and to provide an opportunity for public comment. The intent of these measures is to address overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Public comments must be received on or before November 16, 1998.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment (EA)/Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) are available from: Jon C. Rittgers, Acting Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

Comments on the proposed specifications should be sent to: Jon C. Rittgers, Acting Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments—1999 Summer Flounder, Scup, and Black Sea Bass Specifications.''

FOR FURTHER INFORMATION CONTACT: Mary M. Grim, Fishery Management Specialist, (978) 281–9326.

SUPPLEMENTARY INFORMATION:

Background

The regulations implementing the FMP outline the process for specifying annually the catch limits for the commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes) for these fisheries. These measures are intended to achieve the annual targets (either a fishing mortality rate or an exploitation rate) set forth for each species in the FMP.

A Monitoring Committee for each species, made up of members from NMFS, the Atlantic States Marine Fisheries Commission (Commission), and both the Mid-Atlantic and New England Fishery Management Councils, is required to review available information and recommend catch limits and other management measures necessary to achieve the target fishing mortality rate (F) or exploitation rate for each fishery, as specified in the FMP. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Monitoring Committee recommendations and any public comment in making their recommendations. The Mid-Atlantic Fishery Management Council (Council) and Board made their annual recommendations at a joint meeting held August 17–20, 1998.

Summer Flounder

The target F specified in the FMP for 1999 is 0.24, the level of fishing that produces maximum yield per recruit, Fmax. The total allowable landings (TAL) associated with the target F is allocated 60 percent to the commercial and 40 percent to the recreational sectors. NMFS did not conduct a stock assessment for summer flounder in 1998. As a result, the Council and Board considered 1999 projection results based on assessments from the 25th Stock Assessment Workshop (SAW 25), 1997 survey indices, and 1997 catch data.

The Summer Flounder Monitoring Committee reviewed the stock status projections based on these data and made recommendations to achieve the target F. The Monitoring Committee recommended a TAL limit of 14.645 million lb (6.642 million kg) which would be divided 8.787 million lb (3.985 million kg) to the commercial sector and 5.858 million lb (2.657 million kg) to the recreational sector.

The Council and Board reviewed this recommendation and did not adopt it. Instead the Council and Board recommended a TAL level of 20.20 million lb (9.16 million kg) which would be divided 12.12 million lb (5.50 million kg) to the commercial sector and 8.08 million lb (3.66 million kg) to the recreational sector. The Council and Board also recommended that 15 percent of the 1998 commercial allocation, 1.67 million lb (0.76 million kg) plus the additional poundage in excess of the 1998 TAL level of 1.01 million lb (0.46 million kg), be allocated as a bycatch fishery where summer flounder on board could not exceed 10 percent by weight of other species on board for any trip under the bycatch allocation. With this additional provision, 2.68 million lb (1.22 million kg) or 22 percent of the commercial TAL would be allocated to bycatch fisheries, with the remaining poundage, 9.44 million lb (4.28 million kg), allocated for directed fishing.

The Council and Board recommended these specifications for several reasons. They were concerned over the lack of a peer-reviewed stock assessment in 1998 and their belief that the 1999 stock size estimate in the current projection is underestimated. SAW–25 indicated a retrospective pattern in which the 1995 estimate of stock size was underestimated and the fishing mortality overestimated. The Council and Board concluded that this pattern will continue.

Additionally, the Council and Board were uncertain about the estimate of recruitment in 1997. While preliminary analysis indicates that recruitment was below average in 1997, the Council and Board note that previous assessment results have also indicated low recruitment levels that increased with additional analysis in later years.

Also, a recently adopted mesh provision requiring 5.5 inch (13.97 cm) mesh throughout the body, codend, and extensions of net became effective in June 1998, and its benefits have not yet been analyzed. The Council and Board feel that this provision will substantially reduce discard and discard mortality.

NMFS has reviewed the Council's and Board's recommendation and finds that it is unacceptably risk-prone for the summer flounder stock for a number of reasons. The recommended TAL has an unacceptably low probability of 3 percent of achieving the target F of 0.24 in 1999. Further, the recommended TAL has a 50-percent probability of achieving an F of 0.36, an F significantly higher than the target specified in the FMP. These probabilities are based on the TAL level alone, but even with the recommended measures to address commercial bycatch, NMFS does not believe achievement of the target is likely. With respect to the Council's and Board's concern regarding recruitment uncertainty, further analysis show that estimates of recruitment decrease from good to average to poor based on additional data from later years.

Further, while the retrospective pattern in 1995 indicated that the F in the terminal year of the Virtual Population Analysis (VPA) had been overestimated and biomass underestimated, that pattern does not comport with a historical review of the previous assessments. Projections in prior years have underestimated F and overestimated stock sizes. The unpredictable variablility of the retrospective pattern merits caution in predicting future patterns.

Finally, the Council and Board have yet to specify a harvest level that has achieved the annual target F, variablity in the VPA retrospective analysis notwithstanding. Given all of these concerns, NMFS is proposing specifications for the 1999 summer flounder fishery different from those recommended by the Council and Board.

NMFS proposes a TAL for 1999 of 18.518 million lb to be divided 11.11 million lb (5.039 million kg) to the commercial sector and 7.41 million lb (3.361 million kg) to the recreational sectors. While this TAL is the same level specified in 1998, NMFS proposes two measures to address discards in this fishery that should further reduce the overall mortality. First, NMFS proposes to set the directed commercial fishery TAL equal to the commercial share (60 percent) of the Monitoring Committee's TAL recommendation (8.79 million lb; 3.99 million kg), with a 15-percent set aside for bycatch (1.32 million lb; 0.60 million kg). Second, NMFS proposes to use the commercial poundage associated with the difference between this TAL and 18.518 million lb (8,400 mt) as a bycatch allocation (2.32 million lb; 1.05 million kg). These provisions would bring the total bycatch allocation to 32.7 percent of the total commercial TAL, versus 22 percent under the Council's and Board's recommendation. The allocation to the directed fishery would be 7.47 million lb (3.39 million kg), compared to 9.44 million lb (4.28 million kg) under the Council's and Board's recommendation. In accordance with Commission compliance criteria already adopted, state bycatch measures would specify: (1) That the states allocate bycatch reserves and (2) that summer flounder may be caught only if the summer flounder on board does not exceed 10 percent by weight of all other species on board for any trip under the bycatch allocation. This recommendation is similar to the Council's and Board's recommendation, only using NMFS's proposed lower harvest levels. NMFS proposes to set the recreational harvest limit equal to the 1998 harvest limit of 7.41 million lb (3.361 million kg).

The commercial quotas by state for 1999 are presented in Table 1.

TABLE 1.—1999 STATE COMMERCIAL QUOTAS

State	Percent share	Directed		Bycatch		Total	
		Lb	KG [1]	Lb	KG [1]	Lb	KG [1]
ME	0.04756	3,552	1,611	1,732	786	5,285	2,397
NH	0.00046	34	15	17	8	51	23
MA	6.82046	509,427	231,072	248,414	112,678	757,842	343,751
RI	15.68298	1,171,379	531,329	571,204	259,094	1,741,583	789,968
CT	2.25708	168,584	76,468	82,207	37,288	250,791	113,757
NY	7.64699	571,162	259,075	278,518	126,334	849,680	385,408
NJ	16.72499	1,249,207	566,630	608,156	275,855	1,858,363	842,939
DE	0.01779	1,329	603	648	294	1,977	897
MD	2.03910	152,303	69,083	74,268	33,687	226,570	102,770

TABLE 1.—1999 STATE COMMERCIAL QUOTAS—Continued

State	Percent share	Directed		Bycatch		Total	
		Lb	KG [1]	Lb	KG [1]	Lb	KG [1]
VA	21.31676	1,592,172	722,197	775,397	351,714	2,368,569	1,074,365
NC	27.44584	2,049,959	929,846	998,630	425,970	3,049,589	1,383,270
Total	100.00000	7,468,107	3,387,476	3,642,191	1,652,070	11,111,191	5,039,951

[1] Kilograms are as converted from pounds and do not add to the converted total due to rounding.

Scup

The FMP established a target exploitation rate for scup in 1999 of 47 percent, the rate associated with an F of 0.72. The total allowable catch (TAC) associated with that rate is allocated 78 percent to the commercial sector and 22 percent to the recreational sector. Discard estimates are deducted from both TACs to establish TALs for both sectors.

The most recent assessment on scup, completed in June 1998 as part of the 27th Stock Assessment Workshop (SAW 27), indicates that scup are over-exploited and at a low biomass level. SAW 27 concluded that ''current indices of spawning stock biomass are at record lows and less than one-tenth of the maximum Northeast Fisheries Science Center (NEFSC) indices of spawning stock biomass (SSB) observed during 1977–1979.''

SAW 27 did not recommend a TAC for 1999; however, it did recommend ''that the 1999 TAC be less than that in 1998 to at least remain on the current fishing mortality reduction schedule.'' To estimate the level of landings that would comply with this advice, the Council staff developed a relative exploitation index based on landings and on the NEFSC Spring Survey (SSB 3-year average) to assess current levels of mortality. SAW 19 (1995), the last stock assessment that estimated F, indicated a value in 1993 of 1.32 (an exploitation rate of 68 percent). Based on this level of mortality and the relative exploitation index, F in 1997 was estimated as 1.8 (an exploitation rate of 78 percent). Therefore, the Council staff estimated that a 40-percent reduction from 1997 exploitation levels was necessary for the 1999 fishery. The Council and Board recommended that the TAC for 1999 be 5.92 million lb (2.69 million kg), 81 percent of the 1998 TAC of 7.275 million lb (3.30 million kg). Based on a TAC of 5.92 million lb (2.69 million kg), for 1999, 4.61 million lb (2.09 million kg) would be allocated to the commercial fishery and 1.30 million lb (0.59 million kg) to the recreational fishery. The 1998 discards are estimated to be 4.0 million lb (1.82 million kg), or four times the estimate made by the Council in 1997. Based on this, the Monitoring Committee recommended that measures be implemented to assure that discards do not exceed the 2.085 million lb (0.95 million kg) estimated in the 1999 recommendation. Further, the Monitoring Committee recommended a reduction in the catch threshold that triggers the minimum mesh requirement, and, if that was not adopted, it recommended using a 4 million lb (1.82 million kg) discard estimate to set the TAL.

The 1997 level of discards occurred with seasonal mesh threshold triggers of 4,000 and 1,000 lb (1841.4 and 453.6 kg). Specifically, fishermen were required to use 4.5-inch (11.43-cm) mesh in the codend when 4,000 lb (1,841.4 kg) and 1,000 lb (453.6 kg) or more of scup were on board during winter (November-March) or summer (April-October), respectively. The Monitoring Committee recommended, and the Council and Board adopted, a 200-lb (90.7-kg) and 100-lb (45.4-kg) seasonal (winter/summer) threshold for mesh that would allow for TAL to be set using discards of 2.085 million lb (0.95 million kg). Recreational discards are estimated to be 0.065 million lb (0.029 million kg). Discard estimates for the commercial and recreational sectors are subtracted from the commercial and recreational TAC to derive the commercial quota and the recreational harvest limit. Given these levels of discards, for 1999, the commercial quota would be 2.534 million lb (1.149 million kg) and the recreational harvest limit would be 1.238 million lb (0.562 million kg). To achieve the commercial quotas, the Council and Board adopted trip limits of 12,000 lb (5,443 kg), with a drop to 1,000 lb (453.6 kg) for Winter I (January-March) and 4,000 lb (1814.4 kg) for Winter II (November-December) when 85 percent of the quotas for those periods are harvested.

The Council and Board believe that the minimum mesh threshold would allow the landing of bycatch of legal sized scup harvested in small mesh fisheries while at the same time discouraging the use of small mesh by directed scup fishermen. As such, this threshold would reduce the amount of discards of legal sized fish harvested in the commercial fisheries for other species. Some bycatch allowance is necessary in order that fish that might otherwise be discarded dead would instead be landed and apply to the commercial quota, increasing the probability that the target exploitation rate will be met.

The quota and periodic allocations are shown in Table 2.

TABLE 2.—PERCENT ALLOCATIONS OF COMMERCIAL SCUP QUOTA

Period	Percent	TAC [1]	Discards [2]	Quota allocation	
				Lb	KG [3]
Winter I	45.11	2,083,630	940,543	1,143,087	518,496
Summer	38.95	1,799,100	812,108	986,993	447,692
Winter II	15.94	736,569	332,349	403,920	183,215
Total	100.00	4,619,000	2,085,000	2,534,000	1,149,403

[1] Total allowable catch, in pounds.
[2] Discard estimates, in pounds.
[3] Kilograms are as converted from pounds.

Black Sea Bass

The FMP specifies a target exploitation rate of 48 percent for 1999, equivalent to an F of 0.73. This target is to be attained through specification of a TAL level that is allocated 49 percent to the commercial fishery and 51 percent to the recreational fishery. The commercial quota is specified on a coastwide basis by quarter. The most recent assessment on black sea bass, completed in June 1998 (SAW–27), indicates that black sea bass are over-exploited and at a low biomass level. The SAW concluded that the input data for black sea bass were inadequate to develop an analytical assessment. Fishing mortality for 1997, based on length based methods, was 0.73. The Stock Assessment Review Committee recommended maintaining the FMP exploitation schedule.

Given that the 1998 estimate of an F of 0.73 is identical to the target exploitation rate for 1999, the Council and Board did not recommend any changes in the TAL for 1999. As such, the Council and Board recommended that the TAL for 1999 be 6.17 million lb (2.79 million kg). Based on this TAL, for 1999, the commercial quota would be 3.02 million lb (1.37 million kg), and the recreational harvest limit would be 3.14 million lbs (1.42 million kg). The Council and Board further voted to maintain the current measures for fish size, trip limits, mesh size and threshold, and trap vent sizes.

The Council and Board believe that this would achieve the target exploitation rate for 1999. Although the status of the stock is uncertain and projections of 1999 stock size were not conducted, exploratory results indicate that stock size has increased in recent years. Given this increase and the fact that this TAL is only slightly larger than the 1997 landings, the Council and Board believe that this TAL should result in an exploitation rate of 48 percent on the black sea bass stock.

The black sea bass coast wide commercial quotas by quarter for 1999 are presented in Table 3.

TABLE 3.—1999 BLACK SEA BASS QUARTERLY COAST WIDE COMMERCIAL QUOTAS AND QUARTERLY TRIP LIMITS

Quarter	Percent	Lb	(Kg) [1]	Trip Limits	
				Lb	(Kg) [1]
1 (Jan–Mar)	38.64	1,168,860	530,186	11,000	4,990
2 (Apr–Jun)	29.26	885,115	401,481	7,000	3,175
3 (Jul–Sep)	12.33	372,983	169,182	3,000	1,361
4 (Oct–Dec)	19.77	598,043	271,268	4,000	1,814
Total	100.00	3,025,000	1,372,117	.....	.....

[1] Kilograms are as converted from pounds and do not add to the converted total due to rounding.

Classification

This action is authorized by 50 CFR part 648 and complies with the National Environmental Policy Act.

These proposed specifications have been determined to be not significant for purposes of E.O. 12866.

NMFS has completed an IRFA for this proposed rule, pursuant to 5 U.S.C. 603, without regard to whether the proposal would have a significant impact on a substantial number of small entities. A summary of this IRFA follows. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see **ADDRESSES**).

The IRFA examines five scenarios. Scenario I analyzes the cumulative impacts of the harvest limits proposed by NMFS for summer flounder, scup, and black sea bass on vessels that are permitted to catch any of these three species. Scenario II differs from Scenario I in that its analysis of cumulative impacts includes the summer flounder harvest limits submitted by the Council. The Council recommendation includes the same scup and black sea bass harvest levels. Scenario III differs from Scenario I in that its analysis of cumulative impacts includes the summer flounder harvest limits recommended by the Monitoring Committee. The Monitoring Committee recommendation includes the same scup and black sea bass harvest levels. Scenario IV analyzes the cumulative impacts of the least restrictive possible harvest levels—those that would result in the least reductions (or greatest increases) in landings (relative to adjusted 1997) for all species. These limits resulted in the highest possible landings for 1999, regardless of their probability of achieving the biological targets. Scenario V analyzes the cumulative impacts of the most restrictive possible harvest levels—those that would result in the greatest reductions (or greatest decreases) in landings (relative to adjusted 1997) for all species. Thus, this scenario analyzes the summer flounder harvest limit proposed by the Monitoring Committee, and non-selected alternatives for scup and black sea bass.

An analysis of Scenario I (the proposed harvest limits) indicates that these levels will result in greater than a five percent revenue loss to 51 of the commercial vessels subject to this rule. Significant reductions varied from no vessels holding summer flounder/black sea bass permit combinations being affected, to 18 vessels holding scup/black sea bass permits. An analysis of the harvest limits in Scenario II indicates that these levels would result in a negative economic impact to 48 commercial vessels subject to this rule. Reductions in revenue varied from none of the vessels holding summer flounder/black sea bass permits, to 17 vessels holding scup/black sea bass permits. An analysis of the harvest limits in Scenario III indicates that these harvest levels would result in a negative economic impact to 65 commercial vessels. Significant reductions varied from 18 vessels holding scup/black sea bass permits, to none of the vessels holding summer flounder/black sea bass permits. An analysis of the harvest limits in Scenario IV indicates that these levels would result in a negative economic impact to 19 commercial vessels. Reductions varied from 9 vessels holding scup/black sea bass permits, to none of the vessels holding both scup/summer flounder and summer flounder/black sea bass permits. An analysis of the harvest limits in Scenario V indicates that these levels would result in a negative economic impact to 199 commercial vessels. Significant reductions varied from 3 vessels holding only a summer flounder permit, to 55 vessels holding combined scup/black sea bass permits.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 15, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.123, paragraph (a)(1) is revised to read as follows:

§ 648.123 Gear restrictions.

(a) *Trawl vessel gear restrictions*—(1) *Minimum mesh size.* The owners or operators of otter trawlers issued a scup moratorium permit, and that possess 200 lb or more (90.7 kg or more) from November 1 through April 30 or 100 lb or more (45.4 kg or more) of scup from May 1 through October 31, must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with less than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension. Scup on board these vessels shall be stored separately and kept readily available for inspection.

* * * * *

[FR Doc. 98–28208 Filed 10–16–98; 1:13 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 63, No. 203
Wednesday, October 21, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 15, 1998.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: FCS–135 Affidavit of Return or Exchange of Food Coupons.

OMB Control Number: 0584–0052.

Summary of Collection: Section 11(a) of the Food Stamp Act (the Act) requires that the State agencies assume responsibility for the certification of applicant households and for the issuance of coupons and the control and accountability thereof. Records shall be kept to ascertain whether the program is being conducted in compliance with the provisions of this Act and the regulations issued pursuant to this Act. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for not less than 3 years. Section 13 (a) and (b) of the Act authorized the Secretary to collect any overissuance of coupons issued to a household by establishing claims. The State agency shall collect for over-issuances by any reasonable means including the return of food stamp coupons by households to repay the overissuance. The Food and Nutrition Service (FNS) will collect information using form FNS–135, Affidavit of Return or Exchange of Food Coupons.

Need and Use of the Information: FNS will collect information on coupons returned or exchanged and provides verification of who returned the coupons and who received them. Participants return loose coupons that have been lost, upon death of a participant, when a participant departs from a rehabilitation center, upon payment of claim, mutilated coupons that have been received, or to exchange old-series coupons or improperly manufactured coupons.

Description of Respondents: Individuals or households; State, Local, or Tribal Government.

Number of Respondents: 8,988.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total burden Hours: 17,859.

Farm Service Agency

Title: 7 CFR 1464 Subpart B, Importer Assessments.

OMB Control Number: 0560–0148.

Summary of Collection: The payment of assessments on imported tobacco is required by statute (7 U.S.C. 1445, 1445–1, and 1445–2). The information collected by the Farm Service Agency (FSA) is necessary to ensure that the proper amount has been paid for the applicable kind of tobacco and that payments are made timely. The collected information is recorded in a data base so that FSA can monitor and verify collected amounts compared with amounts due and verify that payments are made timely.

Need and Use of the Information: FSA will collect information on the importers' name, import date, port of entry, and quantity imported to calculate the marketing assessment amount and the import assessment fee. The information collected is used by FSA, Tobacco and Peanuts Division to ensure that the marketing assessment fees and the importers no net cost assessment fees are timely and accurately remitted by importers and unmanufactured tobacco that enters into the commerce of the United States.

Description of Respondents: Farms; business or other for-profit.

Number of Respondents: 40.

Frequency of Responses: Reporting: Other (Assessment).

Total Burden Hours: 540.

Animal and Plant Health Inspection Service

Title: Users Fee Regulations, 7 CFR 354 and 9 CFR 130.

OMB Control Number: 0579–0094.

Summary of Collection: The Food, Agriculture, Conservation and Trade Act of 1990, authorizes the Secretary of Agriculture and the Animal and Plant Health Inspection Service (APHIS) to prescribe and collect fees to cover the cost of providing certain Agricultural Quarantine and Inspection (AQI) services. The Act gives the Secretary the authority to charge for the inspection of international passengers, commercial vessels, trucks, aircraft, and railroad cars, and to recover the costs of providing the inspection of plants and plant products offered for export. The Secretary is authorized to use the revenue to provide reimbursements to any appropriation accounts that incur costs associated with the AQI services provided. APHIS collects information using forms VS 16–3, Application for Permits to Import Controlled Material and/or Import or Transport Organisms or Vectors, and VS 16–7, Additional Information for Cell Cultures and Their Products.

Need and Use of the Information: APHIS collects information which includes the taxpayer identification number, name, address and telephone number to collects fees. The procedures and the information requested for the passengers and aircrafts are used to ensure that the correct users fees are collected and remitted in full in a timely manner. Without the information from the respondents, APHIS would not be able to ensure substantial compliance with the statute. Noncompliance with the statute could result in misappropriation of public funds and lost revenue to the Federal Government.

Description of Respondents: Business or other for-profit; Individuals or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 17,761.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 7,663.

Animal and Plant Health Inspection Service

Title: Endangered Species Regulations and Forfeiture Procedures.

OMB Control Number: 0579–0076.

Summary of Collection: The Endangered Species Act of 1973 (16 U.S.C. 1513 et seq.) Directs Federal departments to utilize their authorities under the Act to conserve endangered and threatened species. Section 3 of the Act specifies that the Secretary of Agriculture is authorized to promulgate such regulations as may be appropriate to enforce the Act. The regulations contained in 7 CFR 355 are intended to carry out the provisions of the Act. The Plant Protection & Quarantine (PRQ) division of USDA's Animal & Plant Health Inspection Service (APHIS) is responsible for implementing these regulations. Specifically, Section 9(d) of the Act authorizes 7 CFR 355.11, which requires a general permit to engage in the business of importing or exporting terrestrial plants listed in 50 CFR Parts 17 and 23. APHIS will collect information using APHIS PPQ 621 application form.

Need and Use of the Information: APHIS will collect information on the applicant's name and address, whether the applicant is affiliated with a business, and the address of all the applicant's business locations in order for the applicant to obtain a general permit. Upon approval of the permit, any endangered species shipped via mail must be sent to an authorized port of entry and must be accompanied by appropriate supporting documentation.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,400.

Frequency of Responses: Recodkeeping; Reporting: On occasion.

Total Burden Hours: 3,186.

Animal and Plant Health Inspection Service

Title: Federal Plant Pest and Noxious Weeds Regulations, 7 CFR 330 & 360, 9 CFR 94.5.

OMB Control Numbers: 0579–0054.

Summary of Collection: The United States Department of Agriculture is responsible for preventing plant pests and noxious weeds from entering the United States, preventing the spread of pests and weeds not widely distributed in the United States, and eradicating those imported pests and weeds when eradication is feasible. Section 150bb of the Federal Plant Pest Act (7 USC 150aa–150jj) and Section 4(a) of the Federal Noxious Weed Act (7 U.S.C. 2801–2813) provide that no plant pest or noxious weed can be moved from a foreign country into or through the United States, or interstate, unless the movement is authorized under a permit issued by the Secretary of Agriculture and the movement is carried out in accordance with the conditions the Secretary may prescribe to prevent the dissemination of plant pests or noxious weeds into the United States. The Plant Protection and Quartantine Program (PPQ) of the Animal and Plant Health Inspection Service (APHIS), is responsible for implementing these regulations. APHIS will collect information using several forms.

Need and Use of the Information: APHIS will collect information to determine whether certain articles destined for importation into the United States, or interstate movement within the United States, pose a threat of introducing or spreading plant pests or noxious weeds that could cause significant harm to American agriculture. All the data collected enables APHIS to evaluate the risks associated with the proposed importation or interstate movement of regulated articles, and also enables it to develop risk-mitigating conditions, if necessary, for the proposed importation or movement.

Description of Respondents: Business or other for-profit; Individual or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 39,912.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 37,633.

Rural Business-Cooperative Service

Title: Annual Survey of Cooperative Involvement in International Markets.

OMB Control Number: 0570–0020.

Summary of Collection: The Cooperative Marketing Act of 1926, 7 U.S.C. 453(b)(5), authorizes Rural Business-Cooperative Services (RBS) ''to acquire from all available sources, information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations, and others.'' The mission of the Cooperative Services Program of RBS is to assist farmer-owned cooperatives in improving the economic well-being of their farmer-members. To facilitate the program's mission and activities as authorized by the Cooperative Marketing Act of 1926, RBS collects, maintains, and analyzes data pertaining to farmer cooperatives. Information is collected through an annual survey mailed to all cooperatives.

Need and Use of the Information: The information collected by RBS will be used to comply with the agency's mission to acquire and report such information. In addition to monitoring and reporting the progress of cooperatives in global markets, RBS will use the data in economic/market research and will also produce educational materials about cooperatives.

Description of Respondents: Business or other for-profit.

Number of Respondents: 170.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 170.

Rural Business-Cooperative Service

Title: Research on Rural Cooperative Opportunities and Problems.

OMB Control Number: 0570–0028.

Summary of Collection: The Rural Business-Cooperative Service (RBS) was established by Public Law 103–350, the Department of Agriculture Reorganization Act of 1994. The mission of RBS is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. The primary objective of this funding is to encourage research through cooperative agreements on critical issues vital to the development and sustainability of cooperatives as a means of improving the quality of life in America's rural communities. RBS will collect information through research proposals prepared by applicants, who may be public or private colleges or

universities, research foundations maintained by a college or university, or private nonprofit organizations.

Need and Use of the Information: RBS will collect project proposal information from applicants to determine (1) eligibility; (2) the specific purpose for which the funds will be utilized; (3) time frames or dates by which activities surrounding the use of funds will be accomplished; (4) feasibility of the project; (5) applicants' experience in managing similar activities; and (6) the effectiveness and innovation used to address critical issues vital to the development and sustainability of cooperatives as a means of improving the quality of life in America's rural communities. Without the collection of this information, there would be no basis on which to award funds or monitor project progress.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 50.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly.

Total Burden Hours: 1,415.

Food and Nutrition Service

Title: FNS 292—Report of Coupon Issuance and Commodity Distribution for Disaster Relief.

OMB Control Number: 0584–0037.

Summary of Collection: The Emergency Food Stamp Assistance Program is authorized by the Disaster Relief Act of 1970; the Food Stamp Act, as amended; and Part 274 of the Food Stamp Program regulations. This program is initiated in a food stamp project area by the Food and Nutrition Service (FNS) when all or part of the area has been affected by a disaster. Sections 274.7 and 274.14 of the Food Stamp Program regulations contain requirements that State agencies keep records and submit reports on food stamps issued under disaster procedures ''as may from time to time be required by FNS''. Food distribution in disaster situations is authorized under Section 32 of the Act of August 24, 1935. Surplus foods are made available by State distributing agencies for relief purposes to victims of natural disasters such as hurricanes, floods, tornadoes, etc. Distribution to these recipients is made primarily through such organizations as the American Red Cross of the Salvation Army. These organizations use surplus foods for both central feeding operations and for distribution to families in homes cut off from normal sources of food supply. Form FNS–292 will be used by State welfare departments to report to FNS the number of households and persons who were certified for Emergency Food Stamp Assistance, and also to report the value of coupons issued to those households.

Need and Use of the Information: FNS will collect information through the use of form FNS–292, which is used by the FNS Administrator, the Food Distribution Division, and the three Food Stamp Program divisions to monitor program activity, assess coverage provided to needy recipients, and to prepare budget requests. If the information were not collected, FNS would be unable to monitor the issuance of food stamp coupons and the distribution of surplus foods during disaster situations.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 55.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 97.

Nancy Sternberg,

Departmental Information Clearance Officer.

[FR Doc. 98–28165 Filed 10–20–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Intergovernmental Advisory Committee (IAC)

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of intent to reestablish a Federal Advisory Committee.

SUMMARY: In response to the continued need of the United States Department of Agriculture and the United States Department of the Interior for advice on coordination and implementation of the Record of Decision (ROD) of April 13, 1994, of Management of Habitat for Late-successional and Old-growth Forest-related Species Within the Range of the Northern Spotted Owl, the Departments have agreed to reestablish the Intergovernmental Advisory Committee (IAC). The purpose of the IAC is to provide intergovernmental advice on coordinating the implementation of the ROD. The IAC provides advice and recommendations to promote integration and coordination of forest management activities among Federal and non-Federal entities.

FOR FURTHER INFORMATION CONTACT: Susan Yonts-Shepard, Staff Assistant for National Forest System Operations, Forest Services, USDA, (202) 205–1519.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that the United States Department of Agriculture in consultation with the Department of the Interior intends to reestablish the Intergovernmental Advisory Committee (IAC) to the Regional Interagency Executive Committee (RIEC). The purpose of the RIEC is to facilitate the coordinated implementation of the ROD of April 13, 1994. The RIEC consists of representatives of the following Federal agencies: the Forest Service, Bureau of Land Management, Fish And Wildlife Service, national Marine Fisheries Service, National Park Service, Bureau of Indian Affairs, Environmental Protection Agency, Corps of Engineers, Forest Service Research, Environmental Protection Agency Research, and United States Geological Survey Biological Resources Division. The purpose of the IAC is to advise the RIEC on coordinating the implementation of the ROD. The IAC will provide advice and recommendations to promote integration and coordination of forest management activities among Federal and non-Federal entities.

The IAC is in the public interest in connection with the duties and responsibilities of the United States Department of Agriculture and of the United States Department of the Interior. The ROD provides direction to the Forest Service and the Bureau of land Management for developing an ecosystem management approach that is consistent with statutory authority for land use planning. Ecosystem management requires improved coordination among governmental entities responsible for land management decisions and the public they serve.

The Chair of the IAC will alternate annually between the Forest Service and the Bureau of Land Management representative. The Executive Director, Regional Ecosystem Office, will serve as the Designated Federal Official under sections 10(e) and (f) of the FACA.

The action of reestablishing the IAC does not require amendment of Bureau of Land Management or Forest Service planning documents because it does not affect the standards and guidelines or land allocations, which require an amendment process to change. The Bureau of Land management and Forest Service will provide further notices, as needed, for additional actions or adjustments when implementing interagency coordination, public involvement, and other aspects of the ROD.

Equal opportunity practices will be followed in all appointments to the Advisory committee. To ensure that the recommendations of the IAC have taken

into account the needs of diverse groups served by the Departments, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: October 14, 1998.

Reba Pittman Evans,

Acting Assistant Secretary, Administration.

[FR Doc. 98–28246 Filed 10–20–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Provincial Interagency Executive Committees Advisory Committees

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of intent to reestablish a Federal Advisory Committee.

SUMMARY: In response to the continued need of the United States Department of Agriculture (USDA) and the United States Department of the Interior (DOI) for advice on coordination and implementation of the Record of Decision (ROD) of April 13, 1994, of Management of Habitat for Late-Successional and Old-Growth Forest-Related Species Within the Range of the Northern Spotted Owl, the Departments have agreed to reestablish the Advisory Committees for 12 provinces. The purpose of the Advisory Committees is to provide advice on coordinating the implementation of the ROD. The Advisory Committees will provide advice and recommendations to promote integration and coordination of forest management activities among Federal and non-Federal entities.

FOR FURTHER INFORMATION CONTACT: Susan Yonts-Shepard, Staff Assistant for National Forest System Operations, Forest Service, USDA, (202) 205–1519.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that USDA in consultation with DOI intends to reestablish Provincial Advisory Committees (PACs), which will advise the Provincial Interagency Executive Committees (PIECs). The purpose of the PIECs is to facilitate the coordinated implementation of the ROD of April 13, 1994. The PIECs consist of representatives of some of the following Federal agencies: Forest Service (FS), Bureau of Land Management (BLM), Fish and Wildlife Service, National Marine Fisheries Service, National Park Service, Bureau of Indian Affairs, and Environmental Protection Agency. The purpose of the PACs is to advise the PIECS on coordinating the implementation of the ROD. Each PAC will provide advice regarding implementation of a comprehensive ecosystem management strategy for Federal land within a province (provinces are defined in the ROD at E–19). The PACs will provide advice and recommendations to promote integration and coordination of forest management activities among Federal and non-Federal entities.

The PACs are in the public interest in connection with the duties and responsibilities of USDA and of DOI. The ROD provides direction to the FS and the BLM for developing an ecosystem management approach that is consistent with statutory authority for land use planning. Ecosystem management at the province level requires improved coordination among governmental entities responsible for land management decisions and the public they serve.

The Chair of each PAC will alternate annually between the FS and the BLM representative in provinces where both agencies administer land. When the BLM is not represented in the PIECs, the FS representative will serve as Chair. The Chair, or a designated agency employee, will serve as the Designated Federal Official under sections 10 (e) and (f) of the FACA.

The action of reestablishing the Advisory Committees does not require amendment of BLM or FS planning documents because it does not affect the standards and guidelines or land allocations, which require an amendment process to change. The BLM and FS will provide further notices, as needed, for additional actions or adjustments when implementing interagency coordination, public involvement, and other aspects of the ROD.

Equal opportunity practices will be followed in all appointments to the Advisory Committees. To ensure that the recommendations of the Advisory Committees have taken into account the needs of diverse groups served by the Departments, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: October 14, 1998.

Reba Pittman Evans,

Acting Assistant Secretary.

[FR Doc. 98–28245 Filed 10–20–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Research, Education, and Economics; Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, Education, and Economics Advisory Board, which represents 30 constituent categories, as specified in section 802 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127), has scheduled a National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting, October 26–28, 1998.

The Advisory Board Chair, Vice Chair, and Executive Director will conduct an orientation of new members from 9 a.m. until 11 a.m. on Monday, October 26, 1998. The general Advisory Board meeting will begin at 1 p.m. on Monday, October 26 and continue until approximately noon on Wednesday, October 28. During this time, the Advisory Board will elect the new officers and Executive Committee members for fiscal year 1999.

The agenda for the Advisory Board general meeting will focus discussion on the Board's advisory role with regard to the recently enacted Agricultural Research, Extension, and Education Reform Act of 1998, and on human capacity development. Agenda items will include, but not be limited to: (1) briefing by the Cooperative State Research, Education, and Extension Service and Agricultural Research Service on the scientific peer and merit review process; (2) Board advice to USDA on merit review procedures for education and extension cooperative grants; (3) USDA and Board discussion on the new Research, Education, and Economics initiative; (4) stakeholder input to USDA on legislative provisions; (5) initial discussion on the annual review of programs and projects with regard to relevance to research priorities and the adequacy of funding; (6) progress reports on Advisory Board working group activities and the

Research, Education, and Economics Strategic Planning Task Force on agricultural research facilities; and (7) Research, Education, and Economics budget update and outlook.

Guest speakers will address the various elements of human capacity building at the institutional and grassroots level as part of a series of future discussions relating to human resource development in agriculture.

DATES:

October 26, 1998, 9:00 to 11:00 a.m. (Orientation for new members.)
October 26, 1998, 1:00 p.m. to 5:00 p.m.
October 27, 1998, 9:00 a.m. to 5:00 p.m.
October 28, 1998, 9:00 a.m. to noon.

PLACE: Holiday Inn-National Airport (Crystal City), 1489 Jefferson Davis Highway, Arlington, VA 22202, Grand Ballroom.

TYPE OF MEETING: Open to the public.

COMMENTS: The public may file written comments before or after the meeting with the contact person. All statements will become a part of the official records of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Office of the Advisory Board; Research, Education, and Economics; U.S. Department of Agriculture; Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 3918 South Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

Done at Washington, DC this 6th day of October 1998.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 98–28164 Filed 10–20–98; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Research, Education, and Economics

Notice of Appointments for Membership to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Appointments of membership.

SUMMARY: The Secretary of Agriculture announces the new appointments to fill 12 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Appointments effective October 1, 1998.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agriculture Improvement and Reform Act of 1996 authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 30 members, each representing a specific category in the legislation, which relates to farming or ranching, food and fiber production and processing, transportation of agricultural products, forestry research, aquaculture research, crop, soil, and animal science, human health associations, land-grant institutions, food retailing and marketing, rural economic development, farm cooperatives, and natural resource and consumer interest groups, among others. The Board members were first appointed in September 1996; one-third of the 30 members were appointed for a 1, 2, and 3 year term, respectively. The Advisory Board's role is to advise the Secretary of Agriculture on policies, priorities, and critical issues in agricultural research and education. As a result of the staggered appointments, the terms for 10 of the 30 members expired September 30, 1998. The Secretary of Agriculture has recently appointed 10 individuals to fill these membership slots. (Each will serve a 3-year appointment, effective October 1, 1998, until September 30, 2001.) Two additional appointments were made to fill two vacant slots for the 1-year remaining terms effective October 1, 1998, until September 30, 1999. The 12 newly appointed Advisory Board members, by category are: Category E: National Animal Commodity Organizations, John F. Clemmons, family cattle rancher in the high plains region of New Mexico; Category G: National Aquaculture Associations (1-year term), T. Michael Freeze, past president of the National Aquaculture Association, from Keo, Arkansas; Category H: National Food Animal Science Societies, Desmond A. Jolly, vice chair of the National Commission on Small Farms, Director of University of California-Davis Small Farms programs, and widely diversified in agriculture and member of several animal and food related organizations; Category I: National Crop, Soil, Agronomy, Horticulture or Weed Science Societies, Martin A. Massengale, partner in a family farm, President-Emeritus of University of Nebraska-Lincoln, Director of Center for Grassland Studies, former president of Crop Science Society of America; Category N: 1890 Land-Grant Colleges and Universities, Walter A. Hill, Dean of Agriculture, Tuskegee University, Alabama, and Research Director, George Washington Carver Agricultural Experiment Station; Category O: 1994 Equity in Education Land Grant Institutions, Gerald ''Carty'' Monette, president of Turtle Mountain Community College, Belmont, North Dakota, and President of American Indian Higher Education Consortium; Category R: Scientific Community not Closely Associated with Agriculture (1-year term), William H. Scouten, Director of the Biotechnology Center, Utah State University; Category T: Food Retailing and Marketing, Samuel E. Minor (Reappointed), owner and operator of farm and Spring House restaurant in Washington, Pennsylvania; Category V: Rural Economic Development, Ralph Paige (Reappointed), Executive Director of V: Rural Economic Development, Ralph Paige (Reappointed), Executive Director of Federation of Southern Cooperatives/Land Assistance Fund, East Point, Georgia; Category W: National Consumer Interest Groups, Barbara S. Stowe (Reappointed), former Dean, College of Human Ecology, Kansas State University, currently consultant for AESOP on consumer issues; Category X: National Forestry Groups, Larry W. Tombaugh (Reappointed), Dean, College of Forest Resources, North Carolina State University; and Category Y: National Conservation or Natural Resource Groups, Cynthia A. Dunn, Executive Director of the Pennsylvania Audubon Society, Harrisburg, Pennsylvania, broadly diversified on natural resource and environmental issues, and an environmental educator of youth.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 3918 South Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

Done at Washington, D.C. this 6th day of October 1998.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 98–28237 Filed 10–20–98; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on November 5, 1998, 9 a.m., in the Herbert C. Hoover Building, Room 1617M–2, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

General Session

1. Opening remarks by the Co-Chairs.
2. Presentation of public papers or comments.
3. Consultation on renewal of Committee charter.

Closed Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials prior to the meeting to the following address: Ms. Lee Ann Carpenter, Advisory Committees, MS: 3886C, Bureau of Export Administration, U.S. Department of Commerce, 15th St. & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1996, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes, call (202) 482–2583.

Dated: October 16, 1998.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 98–28265 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include briefings on trade priorities and issues, the Asia monetary crisis, the World Trade Organization, economic sanctions and Virtual Trade Mission activities. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 12991.

DATE: November 10, 1998.

TIME: 10:00 a.m. to 5:00 p.m.

ADDRESS: The Ronald Reagan International Trade Center, Atrium Ballroom, 1300 Pennsylvania Avenue, N.W., Washington, D.C., 20004. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be submitted by November 3, 1998, to J. Marc Chittum, President's Export Council, Room 2015B, Washington, D.C., 20230. Seating is limited and will be on a first come first serve basis.

Dated: October 15, 1998.

J. Marc Chittum,

Director, President's Export Council.

[FR Doc. 98–28244 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the ACE Basin (SC) and Wells (ME) National Estuarine Research Reserves.

These evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to research reserve program implementation. Evaluation of National Estuarine Research Reserves require findings concerning the extent to which a state has met the national objectives, adhered to its final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The ACE Basin National Estuarine Research Reserve in South Carolina evaluation site visit will be from November 30 to December 4, 1998. One public meeting will be held during the week. The public meeting will be held on Wednesday, December 2, 1998, at 7:00 p.m., at the Edisto Island Town Hall, Edisto, SC.

The Wells National Estuarine Research Reserve in Maine site visit will be from November 30 to December 4, 1998. One public meeting will be held during the week. This public meeting

will be on Wednesday, December 2, 1998, at 7:00 p.m. at the Wells Reserve Headquarters, 342 Laudholm Farm Road, Wells, Maine.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division (PCD), Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, (301) 713–3155, ext. 126.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 15, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–28154 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Final Administrative Changes to the Coastal Nonpoint Pollution Control Program Guidance and Responses to Comments

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the U.S. Environmental Protection Agency.

ACTION: Notice of Availability of Final Administrative Changes to the Coastal Nonpoint Pollution Control Program Guidance and Responses to Comments.

SUMMARY: Notice is hereby given of the availability of the Final Administrative Changes to the Coastal Nonpoint Pollution Control Program Guidance (Administrative Changes), developed under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), 16 U.S.C. section 1455b, and of the Responses to Comments on the Proposed Administrative Changes, CZARA requires States and Territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act (CZMA) to develop and implement coastal nonpoint pollution control programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995

In response to coastal states' concerns over the ability to target the program; enforceable policies and mechanisms; timeframes; and resources to implement coastal nonpoint programs, NOAA and EPA completed a dialogue with the coastal states and other interested parties, resulting in a draft set of administrative changes. The draft administrative changes were made available for public comment (FR, March 12, 1998, Vol. 63, Number 48, pages 12078–12079) prior to producing the final guidance.

ADDRESSES: Copies of the Final Administrative Changes and Responses to Comments may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, telephone: (301) 713–3121, x201; e-mail: joseph.flanagan@noaa.gov.

SUPPLEMENTARY INFORMATION

Background

Subsequent to the 1990 enactment of the CZARA, in January 1993, EPA and NOAA published two documents to guide the development of States' (and Territories') coastal nonpoint pollution control programs: *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters* and *Program Development and Approval Guidance.* These provided both technical and programmatic guidance on program development. Subsequently, EPA and NOAA provided further program clarification in a January 6, 1995 letter and a March 16, 1995 document entitled *Flexibility for State Coastal Nonpoint Programs.* These actions provided greater flexibility to States in prioritizing their activities; extended the implementation period from three years to five years; and clarified the range of enforceable policies and mechanisms that could be sued by States to implement their programs. The letters also established the principle that, in recognition of the complexity of the program, States could be granted conditional approval for programs that are not yet fully approvable, thereby affording more time for States to fully develop their programs.

As of the date of this notice, NOAA and EPA have provided conditional approval to the 29 coastal States that submitted programs for approval. In April, 1997, NOAA, EPA, the States and other interested parties began discussions regarding the progress made to date in developing and implementing CZARA programs and the significant impediments to further progress. Both the States and Federal agencies recognized that while the goals of the CZARA program remain valid, the program and schedules originally conceived by NOAA and EPA were extremely ambitious and additional flexibility would be needed to enable the States to successfully implement their programs. Based on this understanding, the parties proceeded to discuss in detail the specific aspects of the program that would require modification while maintaining the overall objective that States implement management measures needed to protect coastal waters.

Based on these discussions, EPA and NOAA drafted a set of administrative changes that the agencies proposed to use to guide future implementation of the CZARA program. After reviewing public comments that were submitted in response to the March 12, 1998 **Federal Register** notice on the availability of the proposed administrative changes, NOAA and EPA developed these final administrative changes to the program guidance. In some cases, these changes may impact previous findings and conditions to State programs. In such cases, EPA and NOAA will review those findings and conditions and make any necessary adjustments to those findings and conditions (including, where appropriate, elimination of conditions).

On October 18, 1997, the 25th anniversary of the Clean Water Act, Vice President Gore directed the Environmental Protection Agency (EPA) and Department of Agriculture (USDA) to work with other Federal agencies (including NOAA) to develop a Clean Water Action Plan within 120 days. In a memorandum for Heads of Departments and Agencies, the Vice President specifically requested Federal agencies to ''* * * develop a

comprehensive Action Plan that builds on the * * * clean water successes over the past five years and addresses three major goals: enhanced protection from public health threats posed by water pollution; more effective control of polluted runoff; and promotion of water quality protection on a watershed basis.'' The Action Plan is informed by the following principles:

- Agencies will develop cooperative approaches that promote coordination and reduce duplication among Federal, State and local agencies and Tribal governments wherever possible.
- Agencies will ensure participation of community groups and the public to the maximum extent practicable. Such participation will include community and public access to information, to protect the public's right-to-know about water quality issues.
- Agencies will emphasize innovative approaches to pollution control, including, where appropriate, incentives, market-based mechanisms, and cooperative partnerships with landowners and other private parties.

On February 19, 1998, President Clinton announced the Clean Water Action Plan to restore and protect America's waters. NOAA and EPA view these administrative changes as supporting the goals of the President's Clean Water Action Plan to reduce polluted runoff in coastal areas. In particular, these changes respond to the following key action included in the Clean Water Action Plan.

NOAA and EPA will work with coastal states and territories to ensure that they have developed programs to reduce polluted runoff in coastal areas and that these programs are at least conditionally approved by June 1998 and that all programs are fully approved by December 1999, with appropriate state-enforceable policies and mechanisms.

The Final Administrative Changes provide guidance to the States on how NOAA and EPA intend to exercise their discretion in implementing the Coastal Nonpoint Pollution Control Program. As such, these Final Administrative Changes, as well as the previously issued guidance they modify, are not regulations.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 15, 1998.

Captain Evelyn J. Fields,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

J. Charles Fox,

Acting Assistant Administrator for Water, Environmental Protection Agency.

[FR Doc. 98–28150 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101598C]

Magnuson-Stevens Act Provisions; Overfished Fisheries

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

ACTION: Notice of overfished fisheries.

SUMMARY: NMFS has identified overfished stocks or stocks that are approaching a condition of being overfished, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). The purpose of this notice is to notify the public that the Regional Fishery Management Councils (Councils) have been informed of those fisheries that are overfished, and directed to initiate action to end overfishing and rebuild stocks in overfished fisheries and to prevent overfishing in fisheries that are approaching an overfished condition.

FOR FURTHER INFORMATION CONTACT: George H. Darcy, NMFS, 301–713–2341.

SUPPLEMENTARY INFORMATION:

Background

This action is required by the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) as amended by the SFA, which was signed into law on October 11, 1996. Section 304(e) of the Magnuson-Stevens Act requires that the Secretary of Commerce (Secretary) report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a Fishery Management Plan (FMP) or international agreement, the status is to be determined using the criteria for overfishing specified in such FMP or agreement. A fishery is classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within 2 years. Pursuant to section 304 of the Magnuson-Stevens Act, the Councils were notified on October 9, 1998 of the species that were overfished or approaching an overfished condition by letter as follows:

Dear Council Chairman,

Enclosed is the 1998 Annual Report on the Status of Fisheries of the United States, prepared pursuant to section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act on October 11, 1996. This report identifies 79 overfished stocks and 10 stocks that are approaching an overfished condition that are covered by fishery management plans (FMPs). This year's report identifies 8 additional species as ''overfished.'' For each of the additional species identified as ''overfished,'' each Council is required to develop measures by October 9,1999 to end overfishing and rebuild stocks that are overfished, and to prevent overfishing from occurring for stocks that are approaching an overfished condition, for those species covered by FMPs under its management authority. There are also 11 stocks identified in this report as overfished that are not covered by an FMP. Each Council is also required to develop measures to end overfishing and rebuild those stocks within its geographical area of authority, in the same timeframe. Rebuilding programs must be as short as possible, but not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise.

The final national standard guidelines were published on May 1, 1998, and became effective on June 1, 1998. The revisions to the national standard 1 guidelines require that the overfishing definitions contained in each FMP be examined on the basis of their ability to ensure stock levels that can produce maximum sustainable yield (MSY) on a continuing basis.

If you have any questions, please do not hesitate to contact me.

Sincerely,
Rolland A. Schmitten
Assistant Administrator
for Fisheries
Enclosure

A copy of the report is also available through the internet at <<http://kingfish.ssp.NMFS.gov/SFA>>.

Dated: October 15, 1998.

Gary C. Matlock,

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

[FR Doc. 98–28227 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101498E]

Endangered Species; Permits

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

ACTION: Receipt of applications for scientific research permits (1180, 1181, 1182, 1183).

SUMMARY: Notice is hereby given that the following entities have applied for scientific research permits authorizing the take of endangered and/or threatened species: Thomas R. Payne and Associates (TRPA) in Arcata, CA (1180), Mendocino Redwood Company (MRC) in Calpella, CA (1181), San Rafael Department of Public Works (SRDPW) in San Rafael, CA (1182), and Ross N. Taylor (RNT) in McKinleyville, CA (1183).

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before November 20, 1998.

ADDRESSES: The applications and related documents are available for review in the following office, by appointment:

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066);

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Tom Hablett, Protected Species Division, NMFS, Santa Rosa Office (707–575–6066).

SUPPLEMENTARY INFORMATION: TRPA, MRC, SRDPW and RNT request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered Under In Notice

(1) The following populations of coho salmon (*Oncorhynchus kisutch*): threatened southern Oregon/northern California coast (T-SONCC), threatened Central California coast (T-CCC).

(2) The following populations of steelhead trout (*Oncorhynchus mykiss*): endangered southern California coast, threatened south-central California coast, threatened Central California coast (T-CCC), and threatened Central Valley.

Applications Received

Salmon and steelhead studies conducted by TRPA, MRC, SRDPW and RNT consist of four assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, (3) spawner surveys, and (4) tissue/scale sampling for genetic studies. ESA-listed juvenile fish will be observed or captured, anesthetized, handled (weighed, measured, fin-clipped), allowed to recover from the anesthetic, and released. Adult carcasses will be measured, sampled for tissues, and be returned to the collection site. Indirect mortalities associated with the research are also requested.

TRPA (1180) requests a 5-year permit for takes of adult and juvenile, T-CCC and T-SONCC coho salmon, and adult and juvenile, southern California coast, and adult and juvenile, south-central California coast, T-CCC, and Central Valley steelhead associated with fish population studies throughout the Evolutionarily Significant Units (ESUs) within California.

MRC (1181) requests a 5-year permit for takes of adult and juvenile, T-CCC coho salmon associated with fish population studies on MRC properties within the ESU.

SRDPW (1182) requests a 5-year permit for takes of adult and juvenile, T-CCC steelhead associated with fish population studies in Marin County within the ESU. SRDPW also requests authorization to rescue stranded fish.

RNT (1183) requests a 5-year permit for takes of adult and juvenile, T-CCC and T-SONCC coho salmon associated with fish population studies throughout the ESUs.

Dated: October 14, 1998.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–28228 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure

AGENCY: Technology Administration, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure will hold a meeting on November 17–19, 1998. The Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure was established by the Secretary of Commerce to provide industry advice to the Department on encryption key recovery for use by federal government agencies. All sessions will be open to the public.

DATES: The meeting will be held on November 17, 18, 19, 1998 from 9:00 a.m. to 6:00 p.m.

ADDRESSES: The meeting will take place at the Ramada Resort and Conference Center, 7000 International Drive, Orlando, FL.

FOR FURTHER INFORMATION CONTACT: Edward Roback, Committee Secretary and Designated Federal Official, Computer Security Division, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, Maryland, 20899; telephone 301–975–3696. Please do not call the conference facility regarding details of this meeting.

SUPPLEMENTARY INFORMATION:

1. Agenda

Opening Remarks
Chairperson's Remarks
News Updates (Members, Federal Liaisons, Secretariat)
Review of Draft Document
Intellectual Property Issues (as necessary)
Public Participation
Plans for Next Meeting
Closing Remarks

Note that the items in this agenda are tentative and subject to change due to logistics and speaker availability.

2. Public Participation: The Committee meeting will include a period of time, not to exceed thirty minutes, for oral comments from the public. Each speaker will be limited to five minutes. Members of the public

who are interested in speaking are asked to contact the individual identified in the ''for further information'' section. In addition, written statements are invited and may be submitted to the Committee at any time. Written comments should be directed to the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899. It would be appreciated if sixty copies could be submitted for distribution to the Committee and other meeting attendees.

3. Additional information regarding the Committee is available at its world wide web homepage at: http://csrc.nist.gov/tacdfipsfkmi/.

4. Should this meeting be canceled, a notice to that effect will be published in the Federal Register and a similar notice placed on the Committee's electronic homepage.

Dated: October 15, 1998.

Mark Bohannon,

Chief Counsel for Technology Administration.

[FR Doc. 98–28243 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–CN–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Oman

October 15, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67627, published on December 29, 1997.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 15, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Oman and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on October 21, 1998, you are directed to increase the current limit for Categories 347/348 to 1,110,285 dozen [1], as provided for under the current bilateral textile agreement between the Governments of the United States and the Sultanate of Oman.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–28266 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

October 15, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 64361, published on December 5, 1997.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 15, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on October 21, 1998, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335	97,450 dozen.
338/339	2,863,367 dozen.
345	217,605 dozen.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

Category	Adjusted twelve-month limit [1]
347/348	2,649,634 dozen.
351/651	765,861 dozen.
433	3,765 dozen.
443	45,975 numbers.
445/446	32,736 dozen.
634	650,266 dozen.
635	405,307 dozen.
636	1,507,140 dozen.
638/639	2,159,009 dozen.
647/648	1,392,728 dozen.
847	537,755 dozen.
Group II	
200–227, 300–326, 332, 359–O [2], 360, 361, 362, 363, 369–S [3], 369–O [4], 400–414, 434–438, 440, 442, 444, 448, 459pt. [5], 464, 469pt. [6], 600–611, 613–629, 644, 659–O [7], 666, 669–O [8], 670–O [9], 831, 833–838, 840–846, 850–858 and 859pt. [10], as a group.	196,404,061 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); and 6406.99.1550 (359pt.).

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[5] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[6] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[7] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[8] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[9] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[10] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–28267 Filed 10–20–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Submission of Information Collection #3038–0012—Futures Volume, Open Interest, Price Deliveries and Exchange of Futures for Physicals.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0012—Futures Volume, Open Interest, Price Deliveries and Exchange of Futures for Physicals to OMB for review and clearance under the Paperwork Reduction Act of 1995, (Pub. L. 104–13). Commission Regulation 16.01 requires the U.S. commodity exchanges to publish daily information on the items listed in the title of the collection. The information required by this rule is in the public interest and is necessary for market surveillance.

DATES: Comments must be received on or before November 20, 1998.

ADDRESSES: Persons wishing to comment on this information collection should contact the Desk Officer, CFTC, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the submission are available for the Agency Clearance Officer, (202) 418–5160.

Title: Futures Volume, Open Interest, Price, Deliveries and Exchange of Futures for Physicals.

Control Number: 3038–0012.

Action: Extension.

Respondents: Commodity Exchanges.

Estimated Annual Burden: 1,320 hours.

Issued in Washington, D.C. on October 8, 1998.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 98–28241 Filed 10–20–98; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Information Collection 2028–0026, Gross Margining of Omnibus Accounts.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0026, Gross Margining of Omnibus Accounts, to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. A carrying futures commission merchant (''FCM'') is required to maintain a written representation from the originating FCM if it allows a person trading through an omnibus account to margin positions in the account at a lower than normal level because a spread or hedge position is involved.

DATES: Comments must be received on or before November 20, 1998.

ADDRESSES: Persons wishing to comment on this information collection should contact the Desk Officer, CFTC, Office of Management and Budget, Room 3228, NEOB, Washington, D.C. 20503, (202) 395–7340.

Title: Gross Margining of Omnibus Accounts.

Control Number: 3038–0026.

Action: Extension.

Respondents: Business.

Estimated Annual Burden: 300 total hours.

Respondents	Regulation (17 C.F.R.)	Estimated number of respondents	Annual responses	Estimated average hours per response
Reporting: Businesses	1.58(b)	75	3,750	.04
Recordkeeping: Businesses	1.58(b)	150	150	1

Issued in Washington, D.C. on October 8, 1998.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 98–28242 Filed 10–20–98; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Funds to Foster an Increase in AmeriCorps Members Involved in Teaching and Teacher Education

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds to foster an increase in the number of AmeriCorps national service participants involved in teaching and teacher education.

SUMMARY: The Corporation for National and Community Service (the Corporation) will use approximately $100,000 to award one or two grants to organizations that currently operate a national service program enrolling AmeriCorps members, for the purpose of increasing the connections between AmeriCorps national service and teachers.

DATES: All proposals must be submitted by November 16, 1998. The Corporation anticipates announcing its selections under this announcement no later than December 1, 1998. The project period is negotiable, but is anticipated to end no later than December 31, 1999.

ADDRESSES: Proposals must be submitted to the Corporation at the following address: Corporation for National and Community Service, Attn: Gary Kowalczyk, 1201 New York Avenue NW, Washington, D.C. 20525. This notice may be requested in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain an application, contact the Corporation for National and Community Service, Jeffrey Gale at (202) 606–5000, ext. 280.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service to meet the nation's educational, public safety, environmental and other human needs. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. Each year, the Corporation supports approximately 40,000 AmeriCorps members who perform substantial service in communities across the country.

Since its inception in 1993, the Corporation has devoted a substantial part of its activities to helping to meet the needs of children and youth. Last year at the Presidents' Summit on America's Future in Philadelphia, President Clinton, former Presidents Bush, Carter, and Ford, Mrs. Nancy Reagan, and General Colin Powell, with the endorsement of many governors, mayors, and leaders of the independent sector, declared: ''Our obligation, direct and unmistakable, is to assure that all young Americans have:

- Caring adults in their lives, as parents, mentors, tutors, coaches;
- Safe places with structured activities in which to learn and grow;
- A healthy start and healthy future;
- An effective education that equips them with marketable skills; and
- An opportunity to give back to their communities through their own service.

These five goals are now the five fundamental resources sought by America's Promise—The Alliance for Youth, the organization pursuing the goals of the Presidents' Summit. The Corporation seeks to promote the use of AmeriCorps members, and the principles of service-learning, in achieving goals four and five.

The National and Community Service Act of 1990, as amended, specifically encourages the involvement of teachers, and those studying to become teachers, in AmeriCorps national service. Through this Notice, the Corporation seeks to strengthen that involvement. Under subtitle H, the Corporation may support innovative and model activities, including those undertaken by programs funded under AmeriCorps*State/National and Learn and Serve America and including those that promote service-learning. 42 U.S.C. 12653. Through this Notice, the Corporation announces its intention to provide assistance under subtitle H to organizations currently enrolling AmeriCorps members in programs supported under AmeriCorps*State/National and Learn and Serve America, with funds earmarked for planning and technical assistance activities to develop more effective connections between AmeriCorps and teachers, teacher training, and teacher education. The activities supported under this Notice must incorporate service-learning principles, as defined below.

This Notice builds upon the Corporation's literacy activities under the America Reads Challenge, and is intended to enable national service to help meet teacher shortages in certain areas of the country and in certain subjects.

Eligible Applicants

Eligible applicants are institutions of higher education and nonprofit organizations that have an existing grant or agreement with the Corporation to enroll AmeriCorps members in a program that includes teachers, teacher training, or teacher education. Given the limited scope of eligible applicants, the Corporation expects fewer than ten applications.

Purpose of Assistance

This assistance will support planning and technical assistance activities to develop more effective connections between AmeriCorps and teachers, teacher training, and teacher education, with the goal of increasing the number of AmeriCorps members involved in teaching in areas of need as defined by local communities; teacher education; and teacher training. The Corporation intends that the activities supported under this Notice will result in an increase in requests to expand and/or modify existing national service programs to include new teaching-related initiatives and in applications for Corporation assistance from teaching-related programs. Assistance may not be used to support an activity that is both conducted by a national service program and is already supported by Corporation assistance.

The planning and technical assistance activities must incorporate service-learning.

Service-learning means a method under which students or participants learn and develop through active participation in thoughtfully organized service that is conducted in and meets the needs of a community; is coordinated with an elementary school, secondary school, institution of higher education or community service program, and with the community; that helps foster civic responsibility; and that is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and provides structured time for the students or the participants to reflect on the service experience. The grantee is expected to coordinate with institutions of higher education, local education agencies, state education agencies, national service programs, and others to achieve the objectives of the grant.

Eligible applicants have considerable freedom to identify the specific activities under its grant proposal. The most important consideration is that the planning and technical assistance activities promote an expansion in the number of AmeriCorps members serving as teachers and or involved in teacher training and education programs.

The following are examples of specific tasks that the grant may support:

- Organizing efforts by institutions of higher education to review their existing programs and determine ways in which national service programs may support objectives related to providing teachers at the elementary and secondary levels.
- Developing and distributing materials to leaders in the fields of service and education explaining the opportunities to strengthen relationships between national service and teacher education.
- Conducting outreach to Superintendents of Schools to explain how AmeriCorps national service might be useful in meeting school districts' needs for highly qualified and trained teachers who are knowledgeable about service-learning.
- Establishing a network of higher education institutions, such as faith-based institutions, agreeing to use national service resources to help provide teachers and strengthen teacher training and education.

The Corporation has a particular interest in proposals that would foster an increase in the number of AmeriCorps members involved in teaching-related activities through the AmeriCorps Education Award Program. The AmeriCorps Education Awards Program provides education awards to national, state and local community service programs that can support most or all of the costs associated with using AmeriCorps members with funding sources other than the Corporation. The program is intended to: (1) Expand opportunities for individuals to serve as AmeriCorps members and receive educational benefits; (2) broaden the network of national service programs and strategies; and (3) increase the number of communities using AmeriCorps members to help meet their education, public safety, environmental, and other human needs.

The assistance provided under this Notice must also promote the Corporation's Learn and Serve America program. A key purpose of the Learn and Serve America grant program is to build an ethic of service among students by making service an integral part of their education and life experiences. School-based, community-based, and higher education programs integrate community service with academic curriculum or with other learning opportunities. In doing so, these programs enable students to place their studies into context, improve their academic performance, develop a strong sense of civic responsibility, and help meet educational, public safety, environmental, and health and other human needs in their communities.

For more information on the programs supported by the Corporation, see the Corporation's 1999 Guide to Programs and Grants, available on our website at www.nationalservice.org, or contact the Corporation representative listed above.

Contents of the Proposal

Eligible organizations must submit a proposal with the following information:

1. Background concerning the applicant's current national service programs.

2. A designation of the organizations that the applicant will work with to achieve the goals of this notice.

3. A description of the proposed objectives and activities, including an indication as to how these specific planning and technical assistance activities will lead to an increase in the number of AmeriCorps members involved in teaching, teacher training, and teacher education. The proposal must also differentiate between the proposed objectives and activities and those of its currently-funded national service program.

4. An estimated budget for the program, consistent with the description below.

The application may not exceed 20 pages in length. Narrative must be in double-space typeface. More detailed instructions concerning the contents of the application are contained in the application package.

Budget and Finances

The grant may support reasonable and necessary costs typically associated with a program of this type. This grant will not pay for any activities of an existing national service program already supported by Corporation funds. The applicant may request any amount necessary to carry out the purpose of the grant, but in no circumstances can the amount requested, or awarded, exceed $100,000.

The grantee assumes full financial responsibility for the program. In addition to the negotiated grant amount, the Corporation will provide support at meetings and/or conferences conducted under the grant in order to assure that all involved have an accurate understanding of national service programs. The Corporation will also promote the availability of education awards on a national basis.

The Corporation anticipates that the grant(s) made under this announcement will not be renewable.

Selection Criteria

The Corporation anticipates supporting one or two grants under this Notice. In awarding these grants, the Corporation will consider: program design (60%), including the likelihood of achieving the proposed objectives; organizational capacity (25%); and budget/cost effectiveness (15%). The Corporation will make all final decisions concerning awards and may require revisions to the original grant proposal in order to achieve the objectives under this Notice.

Dated: October 15, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–28135 Filed 10–20–98; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–05]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirement of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–05, with attached transmittal and policy justification.

Dated: October 13, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

2 OCT 1998
In reply refer to:
I-74106/98

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-05, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Kuwait for defense articles and services estimated to cost $113 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-05

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Kuwait

(ii) Total Estimated Value:

Major Defense Equipment*	$ 61 million
Other	$ 52 million
TOTAL	$113 million

(iii) Description of Articles or Services Offered:
One hundred ninety-five AN/VRC-92E, 484 AN/VRC-90E and 378 AN/PRC-119E SINCGARS radio systems; installation kits; platforms; base stations; radios and radio systems; U.S. Government and contractor technical and logistic support; spare and repair parts; support and test equipment; personnel training and training equipment; Technical Assistance Field Team; publications and technical data; support equipment and other related elements of logistics support.

(iv) Military Department: Army (JBF)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
none

(vii) Date Report Delivered to Congress: 2 OCT 1998

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kuwait - AN/VRC SINCGARS Radio Systems

The Government of Kuwait has requested a possible sale of 195 AN/VRC-92E, 484 AN/VRC-90E and 378 AN/PRC-119E SINCGARS radio systems; installation kits; platforms; base stations; radios and radio systems; U.S. Government and contractor technical and logistic support; spare and repair parts; support and test equipment; personnel training and training equipment; Technical Assistance Field Team; publications and technical data; support equipment and other related elements of logistics support. The estimated cost is $113 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Kuwait needs these SINCGARS radio systems to fulfill their strategic commitments for complete communicative interoperability and standardization of equipment and to be able to communicate with their various vehicles and the U.S. forces. Kuwait, which already has SINCGARS radio systems in its inventory, will have no difficulty absorbing these radio systems.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be United Defense Limited Partnership, York, Pennsylvania. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will require the assignment of 20-man Technical Assistance Field Team for 30 days. The number of contractor representatives required in-country to support the radio systems will be determined in joint negotiations as the equipment proceeds through the installation phase.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 98–28138 Filed 10–20–98; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

(Transmittal No. 99–01)

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–05, with attached transmittal, policy justification, sensitivity of technology and Section 620C(d) of the Foreign Assistance Act of 1961.

Dated: October 13, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

05 OCT 1998
In reply refer to:
I-74029/98

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-01, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services estimated to cost $380 million. Soon after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

In addition to the FMS articles and services proposed herein, the total program will include a direct commercial sale of up to six E-2C or C-130J airframes, a software laboratory, technical assistance, and unique changes to the E-2C mission system. These elements are estimated to be valued at $320 million and should be addressed separately under Section 36(c), AECA.

Sincerely,

EDWARD W. ROSS
ACTING DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-01

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Greece

(ii) Total Estimated Value:

Major Defense Equipment*	$ 160 million
Other	$ 220 million
TOTAL	$ 380 million

(iii) Description of Articles or Services Offered:
Six new production E-2C Airborne Early Warning and Control (AEW&C) mission systems as part of a purchase of either E-2C or C-130J airframe for AEW and Control, along with spares and repair parts, support equipment, training and training equipment, contractor technical and logistics personnel services, and other related requirements to ensure full program supportability.

(iv) Military Department: Navy (SAL or SAN)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 05 OCT 1998

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece - E-2C Airborne Early Warning Mission Systems

This is a proposed sale to the Government of Greece of six new production E-2C Airborne Early Warning and Control (AEW&C) mission systems as part of a purchase of either E-2C or C-130J airframe for AEW and Control, along with spares and repair parts, support equipment, training and training equipment, contractor technical and logistics personnel services, and other related requirements to ensure full program supportability. The estimated cost is $380 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of Greece and furthering NATO rationalization, standardization and interoperability.

This proposed sale is consistent with the stated U.S. policy of assisting friendly nations in providing for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continued willingness of the U.S. to support efforts by Greece to improve their security through modernization of Greece's air defense forces. The AEW&C will be provided in accordance with, and subject to, the limitation on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be Northrop Grumman Corporation, St. Augustine, Florida (for the E-2C) or Lockheed Martin Aeronautical Systems, Marietta, Georgia (for the C-130J). One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will require the assignment of 14 contractor representatives in Greece for two years after delivery, followed by up to six contractors for the third year. A Navy Weapon System Liaison Office staffed by two persons will be required for the first three years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-01

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The E-2C Mission System contains sensitive state-of-the-art technology. Some of the hardware, publications, performance specifications, operational capability parameters, vulnerabilities to countermeasures, and software documentation are classified Secret. However, the classified information that will be provided consists of only that necessary for the Government of Greece to operate, maintain, and repair (through depot level maintenance) the aircraft and its installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this proposed sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

Certification Under Section 620C(d)
Of The Foreign Assistance Act of 1961, As Amended

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 (sec. 1-201(a)(13)) and the Secretary of State's memorandum of December 15, 1997, I hereby certify that the furnishing to Greece of 6 E-2C Airborne Early Warning and Control (AEW&C) mission systems as part of an eventual purchase of either the E-2C or C-130J airframe for AEW and Control, along with spares and repair parts, and related elements of logistics and program support at an estimated cost of this sale is $380 million, is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the notification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and services, and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.

John D. Holum
Acting Under Secretary
for Arms Control and
International Security
Affairs / Director, U.S. Arms
Control and Disarmament Agency

[FR Doc. 98–28139 Filed 10–20–98; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows.

DATES: 29 October 1998 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, JR., USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: October 15, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28141 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday and Thursday, November 4 and 5, 1998.

ADDRESSES: The meeting will be held at U.S. Army CECOM–RDEC, Night Vision & Electronic Sensors Directorate, Looft Conference Room, Building #305, 10221 Burbeck Rd., Ft. Belvoir, VA 22060.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: October 15, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28142 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, November 19, 1998.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with the industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: October 15, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28143 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Friday, November 20, 1998.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square

Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: October 15, 1998.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28144 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, November 19, 1998.

ADDRESSES: The meeting will be held Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Timothy Doyle, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: October 15, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–28145 Filed 10–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Emerald Creek Garnet Company, Benewah and Shoshone Counties, Idaho

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: Emerald Creek Garnet Company is proposing to initiate dredge mining of alluvial garnet deposits on an approximately 416 acre site along the St. Maries River in Benewah and Shoshone Counties, Idaho. The site contains approximately 160 acres of wetlands which will be temporarily filled by construction of isolation berms, topsoil and overburden stockpiles, work pads, and other discharges of dredged and fill material. The entire site is proposed to be mined over a period of up to 25 years, with reclamation of mined properties occurring each year. Reclamation would consist of returning the land to pre-minig contours and reestablishing hydrology and plant communities appropriate to site conditions. The total acreage proposed for mining and reclamation each year would not exceed 16 acres. Temporary or permanent discharges of fill material into wetlands will require a Department of the Army Permit under Section 404 of the Clean Water Act. The U.S. Army corps of Engineers is the lead Federal agency.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the Draft EIS can be answered by Mr. Michael T. Doherty, Coeur d'Alene Regulatory Office, Walla Walla District, U.S. Army Corps of Engineerrs, Coeur d'Alene, Idaho 83815–8363, telephone 208–765–7237.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action:* Emerald Creek Garnet Company is proposing to initiate placer mining of alluvial garnet deposits along the St. Maries River in portions of Sections 5, 8, 9, 15, and 16, township 43 North, Range 1 East, Boise Meridian, Shoshone and Benewah Counties, Idaho. the project extends from just upstream of the confluence of Emerald Creek and the St. Maries River, 3.2 miles downstream to just above the confluence of Carpenter Creek and the St. Maries River. The purpose of the project is to extract industrial garnet to meet worldwide market demand. Mining would be conducted incrementally over a period of up to 25 years. The acreage of area to be mined each year would depend on the ability of the company to assure adequate environmental protection and reclamation on a yearly basis as well as market demand for industrial garnet products. Reclamation would immediately follow mining, and would be monitored for a period of five years to assure that the annually mined properties meet or exceed pre-project environmental value.

2. *Alternatives:* Because garnet deposits are located in specific water-deposited areas, alternative locations to be mined will not be examined. The alternatives analysis will focus on timing of mining activities, type of mining method, and duration of mining in any given year. Seven alternatives will be considered. They include:

(1) wet panel mining all year long.

(2) wet and dry panel mining all year long.

(3) wet panel mining 8 months (approximately March through November).

(4) wet and dry panel mining 8 months (approximately march through November).

(5) dry panel mining all year long.

(6) dry panel mining 8 months (approximately March through November).

(7) no action.

3. *Scoping and Public Involvement:* The scoping process will commence in late October 1998 with the issuance of a Scoping Notice. Federal, state and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the significant issues relating to the potential effects of the alternatives. A formal public scoping meeting is planned for the evening of November 5, 1998 in Coeur d'Alene, Idaho. An informal open-house will be held the same day in Fernwood, Idaho at Emerald Creek Mining Company headquarters.

Potentially significant issues to be addressed in detail include the effects of the project on wetlands, wildlife and fish, endangered species, cultural resources, recreation, traffic, hazardous materials and waste, and any other issues revealed during the scoping process.

The Draft EIS will be prepared concurrently with other environmental compliance requirements, including the Endangered Species Act and the national Historic Preservation Act. The Corps intends to integrate the consultation procedures pursuant to these other statutes with the EIS. The corps and the applicant have begun consultation with the United States Fish and Wildlife Service under the Endangered Species Act.

The proposed project also requires a placer mining permit from the State of Idaho Department of Lands as well as a Section 401 Water Quality Certification from the State of Idaho Division of Environmental Quality.

4. *Availability of the Draft EIS:* The Draft EIS is scheduled for release in April 1999.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–28183 Filed 10–20–98; 8:45 am]

BILLING CODE 3710–GC–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent to Prepare an Environmental Impact Statement for the Ohio River Main Stem System Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY:

a. The Great Lakes & Ohio River Division of the U.S. Army Corps of Engineers is evaluating alternative investment strategies for the maintenance of commercial navigation infrastructure on the Ohio River System for the next 50 years and for the restoration of habitats along the main stem of the Ohio River that have been degraded by cultural influences. The proposed action is being conducted under the authority of United States Senate, Committee on Public Works resolution dated May 16, 1955; and, United States House of Representatives, Committee on Public Works and Transportation resolution dated March 11, 1982.

b. The Corps of Engineers will conduct public scoping meetings at three locations along the main stem of the Ohio River to solicit input for the development of one or more draft Environmental Impact Statements (EIS) for the project. These meetings will be conducted in an informal setting with ''work stations'' established for question and answer sessions and the submittal of comments relevant to the format and scope of the EIS. Meetings are scheduled as follows:

Date: November 17, 1998.

Time: 12:00–8:00 pm.

Place: Radisson Hotel, 600 Walnut Street, Evansville, IN, Phone: (800) 333–3333.

Date: November 19, 1998.

Time: 12:00–8:00 pm.

Place: Huntington Civic Arena, PO Box 2767, Huntington, WV, Phone: (304) 696–5990.

Date: November 24, 1998.

Time: 12:00–8:00 pm.

Place: David L. Lawrence Convention Center, 1001 Penn Ave., Pittsburgh, PA, Phone: (412) 565–6000.

Interested parties are encouraged to provide oral comments relevant to the scope of the environmental analysis for the EIS at any of these public forums. Otherwise, please forward written scoping comments or requests for information to the following study contact.

FOR FURTHER INFORMATION CONTACT: Please address questions regarding this notice to Mr. Louis E. Aspey II, PD–F, Huntington District, Corps of Engineers, 502 Eighth Street, Huntington, West Virginia 25701–2070, Telephone: (304) 529–5638.

SUPPLEMENTARY INFORMATION:

a. The Ohio River Main Stem System Study is designed to capture foreseeable maintenance, rehabilitation and new construction needs for the navigation infrastructure of the Ohio River until the year 2060 and to investigate habitat restoration options along the main stem Ohio River. The Study would also identify those actions which are economically justified and environmentally prudent. The final report will be advanced during 2002 for approval with implementation planning expected immediately.

b. The Corps of Engineers has been collecting data and pursuing approaches for the study of Ohio River Navigation since 1996. Preliminary economic analysis has indicated traffic congestion and economic losses for two of the nineteen Ohio River Locks & Dams associated with foreseeable maintenance cycles. This has prompted the Corps to pursue an Interim Ohio River Main Stem System Study Report to address this short-term need at Greenup Locks & Dam, Greenup, Kentucky; and John T. Myers Locks & Dam, Mount Vernon, Indiana. This interim report will be advanced in 2000 for approval and requesting authority to implement immediately. Economic losses for both of these structures are associated with future traffic levels being impacted during scheduled maintenance.

c. Feasible approaches to mitigating this economic loss vary with each Lock & Dam facility. However, the Corps has begun the review of small-capital improvements at each site to facilitate lockages using only the existing auxiliary lock chamber during scheduled outages. Extensions to the existing auxiliary chambers and new 1200 feet long lock chambers at the existing sites are also under consideration.

d. Interest in habitat restoration along the main stem of the Ohio River has also prompted consideration of a program to restore degraded habitats as part of a defined restoration program.

e. The EIS will discuss impacts that could occur as a result of construction and operation of the proposed project(s) including impacts to biological resources, cultural resources, and socioeconomic effects, air quality, noise impacts, and recreation resources. The Draft Environmental Impact Statement for the Interim Report is expected to be available to the public in December 1999.

Daniel E. Steiner, P.E.,

Chief, Planning Division.

[FR Doc. 98–28182 Filed 10–20–98; 8:45 am]

BILLING CODE 3710–85–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

DATES: Wednesday, November 18, 1998: 6:00 p.m.—9:00 p.m. (MST)

ADDRESSES: Palo Duro Senior Center, 5221 Palo Duro NE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:00 p.m. Call to Order/Roll Call
7:00 p.m. Public Comments
7:10 p.m. Approval of Agenda
7:12 p.m. Approval of 09/23/98 Minutes
7:17 p.m. Chairperson's Report
7:20 p.m. Sandia National Laboratory's Environmental Restoration/Waste Management Presentation/Discussion
7:45 p.m. Break
7:55 p.m. Sandia National Laboratory's Environmental Restoration/Waste Management Issues Discussion
8:42 p.m. New/Other Business
8:52 p.m. Public Comments
8:58 p.m. Announcement of Next Meeting
9:00 p.m. Adjourn

A final agenda will be available at the meeting Wednesday, November 18, 1998.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on October 16, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–28256 Filed 10–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, November 7, 1998, 6:00 p.m.–9:30 p.m.

ADDRESSES: Ramada Inn, 420 S. Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Marianne Heiskell, Ex-Officio Officer, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–0314.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Mr. Joe Nemec, General Manager of Bechtel Jacobs Company LLC, will discuss the status of the Environmental Management and Enrichment Facilities management and integration contractor transition.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Marianne Heiskell at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Marianne Heiskell, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–0314.

Issued at Washington, DC on October 16, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–28257 Filed 10–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATE(S) AND TIME(S): Thursday, November 5, 1998, 6:00 p.m.–9:30 p.m.

ADDRESSES: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB–Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Based on the 1999 Work Plan to be approved at its October 19 meeting, the Board will review and approve its final 1999 budget and grant application to DOE.

2. As part of its continuing study of broader, big picture issues, the Board will hold a discussion on general and specific waste management topics.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on October 16, 1998.

Althea T. Vanzego,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 98–28258 Filed 10–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–7–000]

ANR Pipeline Company; Notice of Application

October 15, 1998.

Take notice that on October 6, 1998, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP99–7–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to utilize temporary work spaces associated with a pipeline replacement project located in Washington County, Wisconsin, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to replace 0.55 mile of 20-inch pipeline with heavier wall pipe in order to continue to meet the safety requirements of the U.S. Department of Transportation (DOT) regulations. ANR states that the required replacement has been triggered by an increase in population density in Washington County, Wisconsin. ANR states that in this area, ANR's main line consists of two parallel pipelines: A 14-inch O.D. main line and a 20-inch O.D. loop line. ANR states that the 14-inch O.D. main line is currently in compliance with DOT regulations.

ANR states that the pipeline replacement project consists of removing and replacing in the same trench a 0.55 mile segment of the 20-inch O.D. loop line between mile posts 124.00 and 124.55, except for a 79-foot section located beneath Sherman Road, which is in compliance with DOT's safety regulations.

ANR states that the pipeline replacement will be made within ANR's existing permanent right-of-way and will be place in the same trench as the pipe being removed. ANR states that the pipeline replacement will not alter the capacity of ANR's main line and no compression or aboveground facilities are associated with the project. It is states that during the period that the pipeline replacement is taking place, service will continue to be provided to customers through the main line segment.

ANR states that in order to make the replacement, it will have to utilize work areas which may not have been included in the scope of the original authorization, 13 FPC 380, to construct the facilities. ANR requests the temporary use of work space in order to make the replacement. ANR states that the construction will be done under Section 2.55(b) of the Commission's Regulations and has an estimated cost of $769,000.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before November 5, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 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. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to 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 is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that 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 ANR to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–28173 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES99–3–000]

Commonwealth Edison Company; Notice of Application

October 15, 1998.

Take notice that on October 2, 1998, Commonwealth Edison Company (ComEd) submitted an application, under Section 204 of the Federal Power Act, for authorization to issue short-term debt, in an aggregate principal amount up to $1.2 billion outstanding at any one time, on or before December 31, 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 30, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–28204 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ98–4–001]

Long Island Power Authority; Notice of Filing

October 15, 1998.

Take notice that on October 8, 1998, the Long Island Power Authority (LIPA) filed its Written Procedures Implementing the Standards of Conduct intended to meet the requirements of Section 37.4(c) of the Commission's Regulations, in order to satisfy the Commission's reciprocity requirements of Order No. 889.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 16, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the 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.

David P. Boergers,

Secretary.

[FR Doc. 98–28203 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR98–58–000]

Minnesota Power & Light Company; Notice of Filing

October 15, 1998.

Take notice that on July 27, 1998, Minnesota Power & Light Company (Minnesota P&L), filed an application for approval of depreciation rates for accounting purposes only pursuant to Section 302 of the Federal Power Act and Rule 204 of the Commission's Rules of Practice and Procedure. Minnesota P&L states that the proposed rates were approved by the Minnesota Public Utilities Commission and became effective for detail purposes as of January 1, 1998. Minnesota P&L requests that the Commission allow the proposed depreciation rates to become effective as of January 1, 1998.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 16, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–28201 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–86–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

October 15, 1998.

Take notice that on October 13, 1998, Natural Gas Pilepine Company of American (Natural) tendered for filing to be part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Third Revised Sheet No. 386 and Original Sheet No. 387, to be effective January 1, 1999.

Natural states that the filing is submitted pursuant to the January 21, 1998 Stipulation and Agreement (Settlement) approved by the Commission's order issued April 29, 1998 in Docket Nos. RP7–149–003, et al. In the Settlement, Natural and other pipelines, agreed to be voluntary collection agents for shippers who voluntarily choose to contribute to GRI programs through a ''check-the-box'' approach on pipelines' invoices. Therefore, Natural proposed revised tariff language in Section 39 of the

General Terms and Conditions of its Tariff to implement the ''check-the-box'' mechanism.

Natural requested any waives which may be required to permit the tendered tariff sheets to become effective January 1, 1999.

Natural states that copies of the filing have been mailed to Natural's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 285.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–28171 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR98–59–000]

Pacific Gas and Electric Company; Notice of Application

October 15, 1998.

Take notice that on July 21, 1998, Pacific Gas and Electric Company (PG&E) submitted an application for approval of changes in depreciation rates for accounting purposes implemented after April 19, 1994.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 17, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–28202 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4515–000, et al.]

Cadillac Renewable Energy LLC, et al.; Electric Rate and Corporate Regulation Filings

October 13, 1998.

Take notice that the following filings have been made with the Commission:

1. Cadillac Renewable Energy LLC

[Docket No. ER98–4515–000]

Take notice that on September 10, 1998, Cadillac Renewable Energy LLC, a Delaware limited liability company (CRE), petitioned the Commission for acceptance of Cadillac Renewable Energy LLC Rate Schedule No. FERC No. 2; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

CRE intends to engage in wholesale electric power and energy transactions as a marketer. CRE is exclusively engaged in the operation of an approximately 38 MW (net) small power production facility in Cadillac, Michigan. CRE is owned 50% by Decker Energy-Cadillac, Inc., and 50% by NRG Cadillac, Inc. NRG Cadillac, Inc., is an indirect subsidiary of Northern States Power Company, a Minnesota electric utility company.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER99–51–000]

Take notice that on October 6, 1998, the Commonwealth Edison Company (ComEd), filed an Application of Commonwealth Edison Company for Blanket Authorization to Sell Power to Affiliated Energy Services Companies at Cost-Based Rates for a Limited Term which would allow ComEd, pursuant to a service agreement submitted with the Application, to sell power under its existing cost-based rate schedule PSRT–1 to one or more affiliated retail energy services companies and to reassign transmission rights to such companies in accordance with the PSRT–1 rate schedule.

ComEd requests that the service agreement become effective as soon as possible but no later than 60 days from the date of the filing. The service agreement would expire by its terms on May 1, 2002.

Comment date: October 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Public Service Corporation

[Docket No. ER99–56–000]

Take notice that on October 7, 1998, Wisconsin Public Service Corporation tendered for filing an executed service agreement with DePere Energy Marketing, Inc., under its Market-Based Rate Tariff.

DePere Energy Marketing, Inc., requests an effective date of September 10, 1998.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Louisville Gas and Electric Company

[Docket No. ER99–57–000]

Take notice that on October 7, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an unexecuted Purchase and Sales Agreement between LG&E and PG&E Energy Trading-Power, L.P., under LG&E's Rate Schedule GSS.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Ohio Power Company

[Docket No. ER99–58–000]

Take notice that on October 7, 1998, Ohio Power Company (OPC), tendered for filing with the Commission a Facilities, Operations, Maintenance and Repair Agreement (Agreement) dated September 1, 1998, between OPC and North Central Electric Cooperative, Inc. (NCEC), and Buckeye Power, Inc., (Buckeye).

Buckeye has requested NCEC provide a delivery point, pursuant to provisions of the Power Delivery Agreement between OPC, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Columbus Southern Power Company and Toledo Edison Company, dated January 1, 1968.

OPC requests an effective date of February 1, 1999, for the tendered agreements.

OPC states that copies of its filing were served upon North Central Electric Cooperative, Inc., Buckeye Power, Inc., and the Public Utilities Commission of Ohio.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Washington Water Power Company

[Docket No. ER99–59–000]

Take notice that on October 7, 1998, Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission, pursuant to 18 CFR Section 35.13, executed Service Agreements under WWP's FERC Electric Tariff First Revised Volume No. 9, with (1) Power Exchange Corporation, which replaces unexecuted Service Agreement No. 90, previously filed with the Commission under Docket No. ER97–1252–000, effective December 15, 1996 and with (2) City of Colton, CA.

WWP requests waiver of the prior notice requirement and requests that the Service Agreement with City of Colton, CA be accepted for filing effective September 7, 1998.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Tampa Electric Company

[Docket No. ER99–60–000]

Take notice that on October 7, 1998, Tampa Electric Company (Tampa Electric), tendered for filing a service agreement with itself, in its wholesale merchant function, for firm point-to-point transmission service under its open access transmission tariff.

Tampa Electric proposes an effective date of October 1, 1998, for the service agreement, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Tampa Electric's wholesale merchant department and the Florida Public Service Commission.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Washington Water Power Company

[Docket No. ER99–61–000]

Take notice that on October 7, 1998, Washington Water Power Company (WWP), tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, executed Mutual Netting Agreements for allowing arrangements of amounts which become due and owing to one Party to be set off against amounts which are due and owing to the other Party with Tractebel Energy Marketing, Inc., and Enserch Energy Services, Inc.

WWP requests waiver of the prior notice requirement and requests an effective date of October 1, 1998.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Washington Water Power Company

[Docket No. ER99–62–000]

Take notice that on October 7, 1998, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8, with British Columbia Hydro Power Exchange Corporation and the City of Seattle.

WWP requests the Service Agreements be given respective effective dates of September 11, 1998 and September 30, 1998.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER99–63–000]

Take notice that on October 7, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, a request for modification of a February 3, 1982, letter agreement for service to NYPA to reflect a reduction in delivery points for various municipal agencies within NYSEG's service territory.

NYSEG requests the modification of the delivery points to be effective retroactively to July 1, 1998.

NYSEG has served copies of the filing on NYPA.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Bangor Hydro-Electric Company

[Docket No. ER99–65–000]

Take notice that on October 7, 1998, Bangor Hydro-Electric Company (Bangor Hydro), tendered for filing a Rate Schedule for Assignment or Transfer of Transmission Rights (Rate Schedule). The Rate Schedule will allow Bangor Hydro to resell transmission rights in accordance with Order Nos. 888 and 888–A.

Copies of this filing were served on the Maine Public Utilities Commission and Maine Public Advocate Office.

Comment date: October 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER99–80–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Municipal Commission of Boonville. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Municipal Commission of Boonville and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99–81–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Theresa Electric System. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Theresa Electric System and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER99–82–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Akron. This Service Agreement implements the terms of the proposed Tariff, which

would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Akron and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER99–83–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Virginia Electric & Power Company. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Virginia Electric & Power Company and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER99–84–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for DTE Energy Trading, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon DTE Energy Trading, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER99–85–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Allegheny Electric Cooperative. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Allegheny Electric Cooperative and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER99–86–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation, tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for AIG Trading Corp. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon AIG Trading Corp. and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Corporation

[Docket No. ER99–87–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for National Fuel Resources. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon National Fuel Resources and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Niagara Mohawk Power Corporation

[Docket No. ER99–95–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Pacificorp Power Marketing, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Pacificorp Power Marketing, Inc. and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Niagara Mohawk Power Corporation

[Docket No. ER99–96–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Aquila Power Corporation. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Aquila Power Corporation and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Niagara Mohawk Power Corporation

[Docket No. ER99–97–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Central Hudson Enterprises Corp. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Central Hudson Enterprises Corp. and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Niagara Mohawk Power Corporation

[Docket No. ER99–98–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Ohio Edison Company. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Ohio Edison Company and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Niagara Mohawk Power Corporation

[Docket No. ER99–99–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Energy Transfer Group, LLC. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Energy Transfer Group, LLC and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Niagara Mohawk Power Corporation

[Docket No. ER99–100–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Western Power Services. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Western Power Services and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Niagara Mohawk Power Corporation

[Docket No. ER99–101–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for NP Energy. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon NP Energy and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Niagara Mohawk Power Corporation

[Docket No. ER99–111–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Orange & Rockland Utilities, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Orange & Rockland Utilities, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Niagara Mohawk Power Corporation

[Docket No. ER99–112–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Pennsylvania Power & Light, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Pennsylvania Power & Light, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Niagara Mohawk Power Corporation

[Docket No. ER99–113–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Wisconsin Electric Power Company. This Service Agreement implements the terms of the

proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Wisconsin Electric Power Company and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Niagara Mohawk Power Corporation

[Docket No. ER99–114–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Frankfort. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Frankfort Electric System and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Niagara Mohawk Power Corporation

[Docket No. ER99–115–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for New York Power Authority. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon New York Power Authority and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Niagara Mohawk Power Corporation

[Docket No. ER99–116–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Williams Energy Services Company. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Williams Energy Services Company and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Niagara Mohawk Power Corporation

[Docket No. ER99–117–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Energentix, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Energentix, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Niagara Mohawk Power Corporation

[Docket No. ER99–118–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Dayton Power & Light Company. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Dayton Power & Light Company and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. Niagara Mohawk Power Corporation

[Docket No. ER99–119–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Coral Power, L.L.C. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Coral Power, L.L.C., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. Niagara Mohawk Power Corporation

[Docket No. ER99–120–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Wheeled Electric Power Company. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Wheeled Electric Power Company and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Niagara Mohawk Power Corporation

[Docket No. ER99–121–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for North American Energy, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon North American Energy, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–28205 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–146–000, et al.]

Niagara Mohawk Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 15, 1998.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ER99–146–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Tractabel Energy Marketing, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Tractabel Energy Marketing, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Niagara Mohawk Power Corporation

[Docket No. ER99–147–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Statoil Energy Trading, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Statoil Energy Trading, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Niagara Mohawk Power Corporation

[Docket No. ER99–148–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Southern Energy Trading & Marketing. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Southern Energy Trading & Marketing and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corporation

[Docket No. ER99–149–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Springville. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Springville and the New York Public Service Commission.

Comment date: August 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Niagara Mohawk Power Corporation

[Docket No. ER99–150–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Total Energy, Inc. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of

electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Total Energy, Inc., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER99–151–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for The Power Company of America, L.P. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon The Power Company of America, L.P., and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER99–152–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Little Valley. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Little Valley and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corporation

[Docket No. ER99–153–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Mohawk. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Mohawk and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Niagara Mohawk Power Corporation

[Docket No. ER99–154–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Philadelphia. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Philadelphia and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER99–155–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Richmondville. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Richmondville and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER99–156–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation, tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Skaneateles. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Skaneateles and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER99–157–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power Corporation's Scheduling and Balancing Services Tariff for Village of Holley. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Holley and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99–158–000]

Take notice that on October 8, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an unsigned pro forma Service Agreement for Niagara Mohawk Power

Corporation's Scheduling and Balancing Services Tariff for Village of Illion. This Service Agreement implements the terms of the proposed Tariff, which would establish a system of economic incentives designed to induce users of Niagara Mohawk's electric transmission system to match actual deliveries of electricity to delivery schedules provided under Niagara Mohawk's Open Access Transmission Tariff (OATT).

A copy of the filing was served upon Village of Illion and the New York Public Service Commission.

Comment date: October 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Duquesne Light Company

[Docket No. ER99–159–000]

Take notice that on October 9, 1998, Duquesne Light Company (Duquesne), tendered for filing under Duquesne's market-based rate tariff, executed Service Agreements with The Dayton Power and Light Company, PECO Energy Company—Power Team, PP&L, Inc. (Pennsylvania Power & Light Company, Inc.), and Virginia Electric and Power Company (Customers).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreements to become effective as of August 24, 1998.

Copies of this filing were served upon Customers.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Northern States Power Company (Minnesota) Northern States Power Company) (Wisconsin)

[Docket No. ER99–160–000]

Take notice that on October 9, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and TransAlta Energy Marketing (U.S.) Inc.

NSP requests that the Commission accept both the agreements effective September 18, 1998, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. The Toledo Edison Company

[Docket No. ER99–161–000]

Take notice that on October 9, 1998, The Toledo Edison Company tendered for filing a revision to the Interconnection and Service Agreement with American Municipal Power-Ohio, Inc., which reduces rates by $2400 annually by deleting Schedule L—Haskins Transformation Service. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. American Electric Power Service Corporation

[Docket No. ER99–162–000]

Take notice that on October 9, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm Point-to-Point Transmission Service Agreements for Michigan Companies (Consumers Energy Company and The Detroit Edison Company) and for Enron Power Marketing, Inc., a Non-Firm Point-to-Point Transmission Service Agreement for Enron Power Marketing, Inc., and a Network Integration Transmission Service Agreement for AEPSC-Wholesale Power Merchant Organization, all under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after September 15, 1998.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. New York State Electric & Gas Corporation

[Docket No. ER99–163–000]

Take notice that on October 9, 1998, New York State Electric & Gas Corporation (NYSEG), filed executed Network Service and Network Operating Agreements between NYSEG and NYSEG Solutions, Inc. These Agreements specify that the Transmission Customer has agreed to the rates, terms and conditions of NYSEG's currently effective open access transmission tariff and other revisions to the OATT applicable to all customers who take service under its retail access program.

NYSEG requests waiver of the Commission's 60-day notice requirements and an effective date of October 2, 1998, for the Agreement.

NYSEG has served copies of the filing on the New York State Public Service Commission and the Transmission Customers.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Washington Water Power Company

[Docket No. ER99–164–000]

Take notice that on October 9, 1998, Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission, pursuant to 18 CFR Section 35.13, an executed Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9 and Certificate of Concurrence with The Montana Power Company.

WWP requests waiver of the prior notice requirement and requests that the Service Agreement and Certificate of Concurrence with The Montana Power Company be accepted for filing effective October 1, 1998.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Virginia Electric and Power Company

[Docket No. ER99–165–000]

Take notice that on October 9, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing an unexecuted Amendment to the Service Agreement for Non-Firm Point-to-Point Transmission Service with The Cincinnati Gas & Electric Company, PSI Energy, Inc., and Cinergy Services, Inc. (collectively, Cinergy).

Virginia Power requests an effective date for the amendment of September 11, 1998.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Puget Sound Energy, Inc.

[Docket No. ER99–166–000]

Take notice that on October 9, 1998, Puget Sound Energy, Inc. (Puget), tendered for filing Amendment No. 2, to the Ownership and Operation Agreement.

A copy of the filing was served upon The Montana Power Company, The Washington Water Power Company, Portland General Electric Company and PacifiCorp.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Puget Sound Energy, Inc.

[Docket No. ER99–167–000]

Take notice that on October 9, 1998, Puget Sound Energy, Inc. (Puget), tendered for filing Amendment No. 3, to the Colstrip Project Transmission Project.

A copy of the filing was served upon The Montana Power Company, The Washington Water Power Company, Portland General Electric Company and PacifiCorp.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Cinergy Services, Inc.

[Docket No. ER99–170–000]

Take notice that on October 9, 1998, Cinergy Services, Inc. (Services), acting as agent for and on behalf of its operating affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (Collectively Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and OGE Energy Resources, Inc. (OERI).

Cinergy and OERI are requesting an effective date of one day after the filing of this Power Sales Service Agreement.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Cinergy Services, Inc.

[Docket No. ER99–171–000]

Take notice that on October 9, 1998, Cinergy Services, Inc., acting as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Merchant Energy Group of the Americas, Inc., (MEGA).

Cinergy and MEGA are requesting an effective date of one day after the filing of this Power Sales Service Agreement.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Cinergy Services, Inc.

[Docket No. ER99–172–000]

Take notice that on October 9, 1998, Cinergy Services, Inc., acting as agent for and on behalf of its utility operating company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Tennessee Valley Authority (TVA).

Cinergy and TVA are requesting an effective date of one day after the filing of this Power Sales Service Agreement.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Southern Company Services Inc.

[Docket No. ER99–173–000]

Take notice that on October 9, 1998, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (the Southern Operating Companies), tendered for filing letter agreements and amendments to Unit Power Sales Agreements between the Operating Companies and Florida Power Corporation and City of Tallahassee, Florida, respectively, respecting changes to the methods and procedures for calculating the cost of capital for use in developing capacity charges.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. NGE Generation, Inc.

[Docket No. ER99–174–000]

Take notice that on October 9, 1998, NGE Generation, Inc. (NGE Gen), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Regulations, 18 CFR Part 35, service agreements under which NGE Gen may provide capacity and/or energy to Central Hudson Enterprises Corporation (CHEC), Energy Cooperative of Western, N.Y. (Energy Coop), and DTE Energy Trading, Inc. (DTE) in accordance with NGE Gen's FERC Electric Tariff, Original Volume No. 1.

NGE Gen has requested waiver of the notice requirements so that the service agreements become effective in September or October 1998.

Copies of this filing have been sent to CHEC, Energy Coop, DTE and the New York State Public Service Commission.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Virginia Electric and Power Company

[Docket No. ER99–175–000]

Take notice that on October 9, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing an executed Generation Imbalance Agreement with Cinergy Services, Inc., on behalf of its operating companies, The Cincinnati Gas and Electric Company and PSI Energy, Inc. This executed agreement replaces the unexecuted agreement filed on September 11, 1998 in Docket No. ER98–4519–000.

Comment date: October 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–28206 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

October 15, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request to Amend Exemption to Operate Project at Lower Reservoir Level During Winter Months.

b. *Project No:* 10078.

c. *Date Filed:* May 29, 1998.

d. *Applicant:* Carl and Elaine Hitchcock.

e. *Name of Project:* Eau Galle Dam Hydroelectric Project.

f. *Location:* On the Eau Galle River, near Eau Galle, Dunn County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 18 CFR 4.104.

h. *Applicant Contact:* Mrs. Elaine Hitchcock, Eau Galle Renewable Energy,

Inc., 423 Green Tree Road, Kohler, Wisconsin 53044, (420) 467–9048.

i. *FERC Contact:* Thomas LoVullo (202) 219–1168.

j. *Comment Date:* November 27, 1998.

k. *Description of Amendment:* Carl and Elaine Hitchcock (exemptee) proposed to have a continuous release over the spillway at the Eau Galle Dam from April 1 to November 15 with no release during the remaining period (November 16 through March 31). The exemptee stated that the purpose of not releasing any water over the spillway during the winter months is to prevent the deterioration of the downstream concrete buttresses due to the freezing and thawing of spilled water.

The crest of the dam is 757.0 feet mean sea level (MSL). The exemptee proposed to operate the hydroelectric project, from November 16 through March 31, at a reservoir water surface elevation no lower than 756.6 feet MSL (or approximately five inches below the crest of the spillway).

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENT'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–28172 Filed 10–20–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30000/60B; FRL–6040–2]

Notice of Receipt of Request to Amend Terms and Conditions of Cyanazine Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Dupont Agricultural Products (''DuPont'') and Griffin Corporation (''Griffin'') have requested amendment to the terms and conditions of their registrations and cancellation orders for the cyanazine registrations. The registrations are currently being phased out according to the terms and conditions proposed by Dupont and subsequently agreed to by Griffin and accepted by EPA. These terms and conditions were the basis for concluding the Special Review of cyanazine. This notice announces EPA's proposed decision to grant the registrants' request to further amend the terms and conditions of their cyanazine registrations and voluntary cancellation orders to reflect a maximum use rate of 3.0 lb/acre in 1999, instead of 1.0 lb/acre, as previously agreed. The adjustment in the seasonal use rate for 1999 is in response to atypical weather patterns during the 1998 growing season that resulted in less cyanazine being used than originally anticipated. EPA's proposed decision to grant this request is subject to 40 CFR 154.35 because the agreement to phase out cyanazine usage and ultimately cancel the registrations was the basis for the Agency's conclusion of the Special Review. EPA proposes to grant this request because it is a proper response to special weather conditions, it will not disturb the original cancellation order that phases out cyanazine use by 2002 since there will be no increase in use over the use allowed with the original existing stocks provisions, and the balance between risks and benefits of cyanazine will be maintained.

DATES: Comments must be received on or before November 20, 1998.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of the comment to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address in this unit, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Loan Phan, Office of Pesticide Programs (7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 679, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–8059, phan.loan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Cyanazine is the common name for [2-((4-chloro-6-(ethylamino)-s-triazine-2-yl)amino)-2-methylpropionitrile], an herbicide.

A Special Review of cyanazine was initiated in November 1994 (58 FR 60412, November 23, 1994) (FRL–4919–5), based on cancer risk concerns to humans. In August 1995, Dupont voluntarily proposed to amend its cyanazine registrations to effectively phase out all use of cyanazine products by December 31, 2002. Dupont modified the labels of cyanazine formulated end use products released for shipment by the registrant after July 25, 1996, to specify the maximum application rates during the phase out and to inform the public of the existing stocks provisions.

After EPA initiated the Special Review of cyanazine, Griffin filed an application to register certain cyanazine pesticide products and subsequently agreed to the same terms and conditions of registration that were proposed by Dupont. In July 1996, EPA accepted Dupont's proposal, and Griffin's agreement, to amend their cyanazine registrations, including voluntary cancellation effective December 31, 1999. EPA subsequently concluded the Special Review of cyanazine (61 FR 39023, July 25, 1996) (FRL–5385–7) because all registrations were being phased out and ultimately canceled, and EPA determined that the risks from additional use during the phase-out period did not outweigh the benefits of use during that time.

Overall production of cyanazine has declined significantly since EPA accepted Dupont's and Griffin's amendments to the terms and conditions of their registrations. In 1994, at the time of the issuance of the PD1, EPA estimated that as much as 34 million pounds of cyanazine active ingredient were produced. In 1995, the year of the voluntary amendments, including the agreement to phase out cyanazine, production decreased to approximately 23 million pounds. Production continued to decrease to 20 million pounds in 1997. There was no production of cyanazine technical in 1998.

On September 23, 1998, Dupont requested a change to the terms and conditions of its cyanazine registration (as established in the cancellation order, 61 FR 39023). The Agency believes Dupont's request for a change in use rate for the 1999 growing season will not disturb the Agency's conclusion in 61 FR 39023 that risks associated with the voluntary phase out and cancellation are outweighed by its benefits. Cyanazine technical production ceased in June 1997; the last batch of formulated product was produced in August 1998. Thus, the amount of existing stocks being used during the phase out remains the same, and the cumulative usage of cyanazine from 1998–2002 also remains the same. According to Dupont, total sales of cyanazine in 1998 were approximately 3 million pounds less than what was initially projected, due to adverse weather conditions. Allowing the increased use rate only for the 1999 growing season is expected to result in use of this surplus cyanazine product, but will not result in any net gains in overall usage allowed during the phase-out period, since the 1998 projected use rates were lower than expected.

Cyanazine is effective only on cotton when applied at the 1.0 lb/acre use rate. At a use rate of 3.0 lb/acre, cyanazine is an effective herbicide control on sweet corn. Allowing the use rate to increase to 3.0 lb/acre for the 1999 growing season will provide sweet corn growers with use of cyanazine for this additional year, and will effectively use these surplus stocks, preventing the need for disposal of excess product. There should be no increase in overall risk, since the amount of existing stock used during the phase-out period remains the same, and since any increased exposure in 1999 is offset by the decreased exposure in 1998.

There will be no extension of the end use date in the year 2002. The use rate will return to 1.0 lb/acre on January 1, 2000, thus adhering to the phase- out schedule described in the original cancellation order. Both Dupont, and thereafter, Griffin, will amend the terms and conditions of their registrations, issue supplemental labels amending the use rate only for 1999, and will ensure that all product users receive such labels.

Accordingly, if the Agency receives no compelling comments objecting to this proposal, EPA proposes to grant the registrants' request to amend the terms and conditions of their cyanazine registration and Cancellation Order. Because the agreement to phase out cyanazine usage was the basis for the Agency's conclusion of the Special Review, the Agency is soliciting public comment pursuant to 40 CFR 154.35 on this proposed decision to grant the registrants' request.

II. Public Docket and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number OPP–30000/60B. A public version of this record, includes this notice and any other notices associated with the cyanazine Special Review and EPA's decision to terminate the cyanazine Special Review (including any comments and data submitted electronically). The public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments may be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ACSII file format. All comments and data in electronic form must be identified by the docket control number OPP–30000/60B. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests

Dated: October 14, 1998.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Progams.

[FR Doc. 98–28236 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51916; FRL–6039–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from August 1, to August 31, 1998.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51916]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to:

oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51916]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51916]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 3 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; (II) TMEs received; and (III) Notices of Commencement to manufacture/import.

I. 88 Premanufacture Notices Received From: 08/01/98 to 08/31/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1078	08/03/98	11/01/98	CBI	(G) Curable resin for use in ultraviolet (uv) and electron beam (eb) formulations (open, non-dispersive use)	(G) Multifuctional aliphatic urethane acrylate
P–98–1079	08/06/98	11/04/98	CBI	(G) Acrylic copolymer salt	(G) Acrylic copolymer salt
P–98–1080	08/06/98	11/04/98	CBI	(G) Open, non-dispensive use in a coating application.	(G) Aqueous polyurethane dispersion
P–98–1081	08/07/98	11/05/98	Rahn USA Corporation	(S) Uv/eb inks; uv/eb coatings; uv/eb adhesives; uv/eb fillers	(G) Urethane acrylate

I. 88 Premanufacture Notices Received From: 08/01/98 to 08/31/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1082	08/07/98	11/05/98	E. I. Dupont De Nemours - Dupont Nylon	(G) Polymer intermediate	(G) Terephthalate salt
P–98–1083	08/06/98	11/04/98	CBI	(G) Additive for Waterborne paints	(G) Acryl styrene Random Copolymer
P–98–1084	08/06/98	11/04/98	CBI	(G) Additive for Waterborne Paints	(G) Acryl Styrene Random Colpolymer
P–98–1085	08/06/98	11/04/98	Ciba Geigy Corporation Pigments Division	(G) Open, non-dispersive	(G) Diketo - pyrrolopyrrol
P–98–1086	08/06/98	11/04/98	CBI	(S) Electronics; Plastic Coatings	(G) Acrylic Oligomer
P–98–1087	08/10/98	11/08/98	CBI	(G) Component of Coating for open use	(G) Water Based Acrylic
P–98–1088	08/10/98	11/08/98	CBI	(G) Component of coating for open use	(G) Water Based Acrylic
P–98–1089	08/10/98	11/08/98	CBI	(G) Component of coating for open use	(G) Water Based Acrylic
P–98–1090	08/10/98	11/08/98	CBI	(G) Component of coating for open use	(G) Water Based Acrylic
P–98–1091	08/10/98	11/08/98	CBI	(G) Component of coating for open use	(G) Water Based Acrylic
P–98–1092	08/10/98	11/08/98	CBI	(G) Component of Coating for open use	(G) Water Based Acrylic
P–98–1095	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1096	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1097	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1098	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1099	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1100	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1101	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1102	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1103	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol Propanoates
P–98–1104	08/10/98	11/08/98	CBI	(G) Lubricants	(G) Alkanol propanoates
P–98–1105	08/11/98	11/09/98	Omg Americas, Inc.	(S) PVC Stabilizer	(S) 2-Butenedioic Acid (*z*)-, Monoisononyl Ester*
P–98–1106	08/11/98	11/09/98	Omg Americas, Inc.	(S) PVC Stabilizer	(S) 2-Butenedioic Acid (*z*)-, Monoisodecyl Ester*
P–98–1107	08/11/98	11/09/98	Delta - Ha, Inc.	(S) Catalyst for Urethane Formation	(S) 1-Propanamine, *n,n* - Dimethyl*sulfate salts
P–98–1108	08/11/98	11/09/98	OMG Americas, Inc.	(S) Pvc Stabilizer	(S) 2,-Butenoic Acid, 4,4′-[(Dibutylstannylene) Bis (oxy)]Bis[4-oxo-, Diisononyl Ester, (*z,z*)-*
P–98–1109	08/11/98	11/09/98	Omg Americas, Inc.	(S) PVC Stabilizer	(S) 2,-Butenoic acid, 4,4′-[(Dibutylstannylene) bis (oxy)]bis[4-oxo-, Diisodecyl Ester, (*z,z*)-*
P–98–1110	08/11/98	11/09/98	CBI	(G) Component of coating with open use	(G) Mixed Unsaturated Aliphatic Ester
P–98–1111	08/11/98	11/09/98	CBI	(G) Component of coating with open use	(G) Mixed unsaturated aliphatic ester
P–98–1112	08/11/98	11/09/98	CBI	(G) Component of coating with open use	(G) Mixed Unsaturated Aliphatic Ester
P–98–1113	08/11/98	11/09/98	CBI	(G) Component of coating with open use	(G) Mixed Unsaturated Aliphatic Ester
P–98–1114	08/13/98	11/11/98	CBI	(G) Agricultural formulation	(G) Polyethoxylated Polyarylphenol Sulfate, Polethoxylated Alkylammonium Salt
P–98–1115	08/11/98	11/09/98	CBI	(G) Adhesion Promoter for open, non-Dispersive use	(G) Thiol Ester Phosphate
P–98–1116	08/14/98	11/12/98	Shin-Etsu Silicones of America, Inc	(S) Coating on Glass for Water-and / or Oil-Repellency; Raw material for Alkoxysilanes	(S) Silane, Trichloro(3,3,4,4,5, 5,6,6,7,7, 8,8,9,9,10, 10,10-Heptadecafluorodecyl)-*
P–98–1117	08/14/98	11/12/98	Polaroid Corporation	(S) Photographic Coating Fluid Ingredient	(G) 2-Propenoic Acid, 2-Methyl-, Monoester with 1,2-Propanediol, Polymer with Ethenyloxoheteomenocycle and 2-Propenoic Acid
P–98–1118	08/17/98	11/15/98	CBI	(S) Nonwoven finish; paperboard finish	(G) Perfluoroalkylethylacrylate copolymer
P–98–1119	08/17/98	11/15/98	International Specialty Products	(G) Reactive Diluent in Adhesive/ Photoresist Products	(S) Heptane, 3-[(ethenyloxy)methyl]-*

I. 88 Premanufacture Notices Received From: 08/01/98 to 08/31/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1120	08/17/98	11/15/98	Boulder Scientific Company	(S) Chemical Intermediate	(S) Magnesium, Bromo(4-fluorophenyl)-*
P–98–1121	08/19/98	11/17/98	CBI	(G) Lubricating oil Additive	(G) Methacrylic and Acrylic Ester Copolymer
P–98–1122	08/20/98	11/18/98	CBI	(G) Lubricating Oil Additive	(G) Alkyl Methacrylate, Morpholinylethyl Methacrylate Copolymer
P–98–1123	08/19/98	11/17/98	CBI	(G) Lubricating Oil Additive	(G) Methacrylic and Acrylic Esters Copolymer
P–98–1124	08/20/98	11/18/98	Toray Carbon Fibers America, Inc.	(G) Precursor for carbon Fibers	(G) Fiber of Acrylic Polymer
P–98–1125	08/18/98	11/16/98	CBI	(S) Curing agent For Epoxy Coating Systems	(G) Adduct of Polyamide and Polyamine
P–98–1126	08/20/98	11/18/98	Henkel Adhesives	(S) Adhesive for the Woodworking Industry	(G) Isocyanate terminated Polyurethane Resin
P–98–1127	08/20/98	11/18/98	Henkel Adhesives	(S) Adhesive for the Woodworking Industry	(G) Isocyanate Terminated Polyurethane Resin
P–98–1128	08/20/98	11/18/98	Henkel Adhesives	(S) Adhesive for the Woodworking Industry	(G) Isocyanate Terminated Polyurethane Resin
P–98–1129	08/20/98	11/18/98	Henkel Adhesives	(S) Adhesive for the Woodworking Industry	(G) Isocyanate Terminated Polyurethane Resin
P–98–1130	08/20/98	11/18/98	Henkel Adhesives	(S) Adhesive for the Woodworking Industry	(G) Isocyanate Terminated Polyurethane Resin
P–98–1131	08/20/98	11/18/98	Henkel Adhesives	(S) Adhesive for the Woodworking Industry	(G) Isocyanate Terminated Polyurethane Resin
P–98–1132	08/25/98	11/23/98	Owens Corning Science & Technology center	(G) Develop a sizing to coat glass fibers	(G) Diadduct [monomaleate peg 400ms/ Diethyl Amine] Diglycidyl Ether of Bisphenol a, Acetate Salt*
P–98–1133	08/25/98	11/23/98	Gem Urethane Corp.	(S) Base Coat for Leather; Textiles Treatment	(G) Aqueous Polyurethane Dispersion
P–98–1134	08/25/98	11/23/98	CBI	(G) Adhesive raw material	(G) Urethane modified methylene diphenyl diisocyanate
P–98–1135	08/25/98	11/23/98	DSM Fine Chemicals, Inc.	(S) Pharmaceutical intermediate; specialty chemical intermediate	(S) 1,8-Dihydroxyocatane*
P–98–1136	08/25/98	11/23/98	E.I. Dupont de Nemours & Company, Inc.	(G) Open, non-dispersive use	(G) Random copolyamic acid
P–98–1137	08/26/98	11/24/98	CBI	(G) Lubricant additive	(S) Hexanoic Acid, 6-[[(4-methylphenyl)sulfonyl]amino]-*
P–98–1138	08/26/98	11/24/98	CBI	(G) Lubricant Additive	(S) Hexanoic Acid, 6-[[(4-methylphenyl)sulfonyl]amino]-, cmpd. with 2,2′,2″-nitrilotris[ethanol](1:1)**
P–98–1139	08/25/98	11/23/98	Electra Polymers Ltd	(S) Protective coating for flexible printed circuits	(G) Epoxy acrylate, half ester with fatty acid arhydride
P–98–1140	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated oxetane polymer
P–98–1141	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated oxetane polymer
P–98–1142	08/27/98	11/25/98	CBI	(S) Reactive Polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1143	08/27/98	11/25/98	CBI	(S) Reactive Polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1144	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1145	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1146	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1147	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer

I. 88 Premanufacture Notices Received From: 08/01/98 to 08/31/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1148	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1149	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1150	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1151	08/27/98	11/25/98	CBI	(S) Reactive polymer for use as an ingredient in surface coating materials (open, non-dispersive use)	(G) Acrylated Oxetane Polymer
P–98–1152	08/28/98	11/26/98	CBI	(G) Flocculant for Solids-liquid Separation	(S) 2-propene-1-aminium, *n,n*-dimethyl-*n*-2-propenyl-, chloride, polymer with 2-propenamide and *n,n,n*-trimethyl-2-[(1-oxo-2-propenyl)oxy]ethanaminium chloride*
P–98–1153	08/28/98	11/26/98	CBI	(G)Graphic Arts Prtg. Plate	(G) Oxirane, methyl-, polymers with ethybene oxide, hydroxy-terminated polybutadiene and TDI, methacrylate blocked
P–98–1154	09/01/98	11/30/98	CBI	(G) Lubricant Additive	(G) Reaction product of ethoxylated fatty amines and MBT ammoniummolybate
P–98–1155	08/31/98	11/29/98	CBI	(G) Binder for graphic arts coatings and printing inks	(G) 2,5-furandione, polymer eith ethenylbenzene, 4-[(1-oxo-2-propenyl)oxy]alkyl propyl ester, ammonium salt*
P–98–1156	09/01/98	11/30/98	CBI	(G) Adhesive film on a tissue carrier	(G) Acrylic Polymer Amine Salt
P–98–1157	08/31/98	11/29/98	CBI	(S) Raw material used in the manufacture of photoresist	(G) Acetal blocked phs
P–98–1158	09/01/98	11/30/98	CBI	(G) Grease Additive	(G) Oxoaluminum Acylate Complex
P–98–1159	09/01/98	11/30/98	CBI	(G) Nickel Plating Additive	(G) Unsaturated Aliphatic Amine, Salt
P–98–1160	08/27/98	11/25/98	Eastman Chemical Company	(G) Chemical Intermediate	(S) 3-butene-1,2-diol, diacetate*
P–98–1161	08/31/98	11/29/98	Elf Atochem North America, Inc.	(G)Catalyst used in Polymeric Resins	(S) Urea, monomethanesulfonate (1:1)*
P–98–1162	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); Inks (radiation curable); Adhesive (radiation curable)	(S) 1,3-benzenedicarboxylic acid, bis [[4-[(ethenylox-y)methyl]cyclohexyl]methyl]ester*
P–98–1163	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); inks (radiation curable); adhesive (radiation curable)	(S) 1,4-benzendicarboxylic acid, bis [4-ethenyloxy)butyl]ester*
P–98–1164	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); Inks (radiation curable); adhesive (radiation curable)	(S) 1,4-benzenedicarboxylic acid, bis [[4-[(ethenyloxy)methyl] cyclohexyl]methyl]ester*
P–98–1165	09/01/98	11/30/98	Allied Signal, Inc.	(S) Coating (radiation curable); Inks (radiation curable); adhesive (radiation curable)	(S) 1,2,4-benzenetricarboxylic acid, tris [4-(ethenyloxy)butyl] ester*
P–98–1166	09/01/98	11/30/98	CBI	(G) Non-dispersive use	(G) Blocked Aromatic Isocyanate
P–98–1167	09/01/98	11/30/98	CBI	(G) Painting Material	(G) Epoxidized Styrene-butadien Copolymer

II. 1 Test Marketing Exemption Notice Received From: 08/01/98 to 08/31/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–98–0004	08/25/98	10/09/98	Gem Urethane Corp.	(S) Finishing of leather textile treatment	(S) Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,6-hexanediol, hydrazine, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, compd. with *n,n*-diethylethanamine*

II. 51 Notices of Commencement Received From: 08/01/98 to 08/31/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–93–0611	08/21/98	09/10/96	(G) Modified styrenated acrylate methacrylate polymer
P–95–0951	08/17/98	08/05/98	(G) Polymer of polyisocyanate, blocked with hydroxy ester of carbamic acid and alcohol
P–95–1054	08/13/98	07/25/98	(G) Condensates of methacrylic ester and aminosulfonic ester
P–95–1202	08/28/98	07/28/98	(G) Alkanolamine
P–96–0041	08/03/98	07/16/98	(G) Epoxy-terminatedpolyester polymer
P–96–0603	08/24/98	08/14/98	(G) Organofunctional silane ester
P–97–0082	08/10/98	07/28/98	(G) Acrylated oligomer
P–97–0301	08/31/98	08/10/98	(S) Benzene, ethenyl-, polymer with ethene*
P–97–0515	08/06/98	07/21/98	(G) Acetoacetate polyol
P–97–0790	08/18/98	07/30/98	(G) Fluoroalkyl ammonium derivative
P–97–0889	08/03/98	07/15/98	(G) Crosslinked polydimethylsiloxanes
P–97–0959	08/19/98	07/27/98	(S) Amdiosulfurous acid, compd, with 2-aminoethanol (1:1)*
P–98–0008	08/27/98	07/23/98	(G) Polyamine adducts
P–98–0009	08/27/98	07/23/98	(G) Polyamine adducts
P–98–0010	08/27/98	07/23/98	(G) Polyamine adducts
P–98–0150	08/07/98	07/28/98	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]-*
P–98–0177	08/03/98	07/28/98	(G) Silicone glycol
P–98–0222	08/26/98	08/08/98	(G) Styrene acrylate copolymer*
P–98–0276	08/18/98	08/04/98	(G) Organosilane ester
P–98–0296	08/28/98	08/21/98	(S) Octadecanoic acid, 1,4-butanediyl ester*
P–98–0300	07/31/98	07/13/98	(G) Metal azo complex
P–98–0390	08/04/98	07/08/98	(G) Acrylate resin
P–98–0397	08/04/98	07/08/98	(G) Acrylate resin
P–98–0436	08/10/98	07/30/98	(S) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with (chloromethyl)oxirane polymer with 4,4′ - (1-methylethylidene)bis[cyclohexanol] 2-propenoate, hexahydro-1,3-isobenzofurandione polymer with 2,2′-[oxybis(methylene)bis[2-ethyl-1,3-propanediol] ester with alpha-methyl-omega-hydroxypoly (oxy-1,2-ethanediyl) and 1,1′-methylenebis [4-isocyanatocyclohexane], 4-hydroxybutyl acrylate-blocked, compds. with 2-(dimethylamino) ethanol*
P–98–0471	08/05/98	07/06/98	(G) Perflluoroalkylethylacrylate copolymer
P–98–0511	08/17/98	07/17/98	(G) Siloxanes modified polymethacrylate
P–98–0528	08/05/98	07/06/98	(G) Perflluoroalkylethylacrylate copolymer
P–98–0535	08/11/98	07/29/98	(G) Polyoxyalkylated alcohol
P–98–0544	08/18/98	07/30/98	(G) Polyurethane with carboxy functions
P–98–0559	08/27/98	07/28/98	(S) Cellulose 3-(dodecyldimethylammonio)-2-hydroxypropyl 2-hydroxyethyl ether, chloride*
P–98–0580	08/24/98	07/23/98	(S) Fatty acids, C_{-18}-unsat'd., dimers, polymers with azelaic acid, ethylenediamine piperazine, acetates*
P–98–0588	08/03/98	07/14/98	(G) Acrylic copolymer
P–98–0591	08/03/98	07/21/98	(S) 1,3-benzenedicarboxylic acid, polymer with 1,3-dihydro-1,3-dioxo-5-isobenzofurancarboxylic acid, 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, hexanedioic acid, 4-hydroxybenzoic acid and 2,2′-oxybis[ethanol]*
P–98–0593	08/18/98	08/05/98	(G) Disubstituted cyano-heteropolycyclecarboxylic acid ester
P–98–0601	08/25/98	08/12/98	(G) Polymer ester of mono and dibasic acids
P–98–0616	08/26/98	08/01/98	(G) Polyester resin
P–98–0617	08/03/98	07/20/98	(G) Polymer ester of mono and dibasic acids
P–98–0637	08/31/98	07/31/98	(G) Copolymer of methyl methacrylate
P–98–0647	08/10/98	07/21/98	(S) Siloxanes and silicones, 3-[[2-[[(ethenylphenyl)methyl]amino]ethyl]amino]propyl methoxy, methoxy-terminated, acetates*
P–98–0652	08/07/98	07/16/98	(G) Cycloolefin polymer
P–98–0653	08/07/98	07/16/98	(G) Cycloolefin polymer
P–98–0658	08/18/98	07/27/98	(G) Alkylethoxylate chloride
P–98–0678	08/31/98	08/02/98	(G) Alkyl benzenesulfonic acid salt

II. 51 Notices of Commencement Received From: 08/01/98 to 08/31/98—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–98–0682	08/03/98	07/15/98	(G) Unsaturated alkyl grignard reagent
P–98–0683	08/17/98	07/29/98	(G) Polyester resin
P–98–0685	09/01/98	08/14/98	(G) Siloxanes and silicones, alkyl arylalkyl
P–98–0695	08/18/98	08/02/98	(G) Hydroxy functional oligomer
P–98–0725	08/13/98	08/06/98	(S) Amides, tall oil fatty, *n*-(2(2-hydroxyethyl)amino)ethyl), reaction products with sulfur dioxide; fatty acids, tall oil, reaction products with 1-piperazineethanamine and sulfur dioxide; fatty acids, tall-oil reaction products with sulfur dioxide and triethylenetetramine*
P–98–0780	08/31/98	08/21/98	(S) Hexanoic acid, 6-[(1-oxoisononyl)amino]-, cmpd. with 2,2′2″-nitrilotris[ethanol](1:1)*
P–98–0787	08/11/98	08/05/98	(G) Sulfited fatty amine
P–98–0799	08/31/98	08/21/98	(G) Polyamic acid, ethyl ester, acrylate ester

List of Subjects

Environmental protection, Premanufacture notices.

Dated: October 13, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–28234 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51914; FRL–6023–1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from July 15, to July 31, 1998.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51914]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51914]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51914]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 3 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN

requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 41 Premanufacture Notices Received From: 07/15/98 to 07/31/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1036	07/20/98	10/18/98	3M Company - group compliance 3M Automotive and Chemical Markets group	(S) Chemical intermediate	(S) Hydrofluoric acid, reaction products with heptane*
P–98–1037	07/20/98	10/18/98	CBI	(S) Adhesion promoter for paint; binder/tackifier for inks; block modifier for adhesives	(G) Hydrocarbon resin
P–98–1039	07/20/98	10/18/98	3M Company - group compliance 3M automotive and chemical markets group	(S) Heat transfer fluid; process medium; electronic testing, thermal shock constant temperature baths; transformer cooling	(S) Hydrofluoric acid, reaction products with 1,3-bis (trifluoromethyl) benzene*
P–98–1040	07/20/98	10/18/98	3M Company - group compliance 3M automotive and chemical markets group	(S) Heat transfer fluid; process medium; electronic testing, thermal shock constant temperature baths; transformer cooling	(S) Hydrofluoric acid, reaction products with 1,3-bis(trifluoromethyl)benzene*
P–98–1041	07/20/98	10/18/98	Nipa hardwicke inc.	(S) Intermediate for an agricultural chemical intermediate	(G) Chlorinated, alkylated, aromatic acid
P–98–1042	07/20/98	10/18/98	CBI	(G) Resin for Protective Industrial Coatings	(G) Styrenated epoxy acrylate polymer
P–98–1044	07/21/98	08/21/98	Henkel Corporation (Emery group)	(G) Emulsifying agent in coatings	(S) Fatty acids, $C_{16–18}$ and C_{18}–C_{22} unsatd., ester with polypropylene glycol, ethers with polypropylene glycol, ether with trimethylolpropane (3:1)*
P–98–1046	07/20/98	10/18/98	Allied Signal, Inc.	(G) Site limited intermediate in the production of fluorinated compounds	(G) Fluoroalkyl diester
P–98–1047	07/20/98	10/18/98	Allied Signal, Inc.	(G) Site limited intermediate in the production of fluorinated compounds	(G) Fluoroalkyl diester
P–98–1048	07/24/98	10/22/98	Eastman Chemical Company	(S) Chemical intermediate	(S) 3-furancarboxaldehyde, tetrahydro-*
P–98–1049	07/24/98	10/22/98	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–98–1050	07/24/98	10/22/98	CBI	(G) Open, non-dispersive use	(G) Quartenary ammonium phosphate salt
P–98–1051	07/24/98	10/22/98	CBI	(G) Lithographic printing ink resin	(G) Rosin, maleated, polymer with aluminum isopropoxide-et acetoacetate-neopentyl glycol reaction products, diol diglycidyl ether and glycerol
P–98–1052	07/24/98	10/22/98	Inolex Chemical Company	(S) Polyester polyol for use as a precursor for polyurethanes	(S) Hexanedioic acid, polymer with butanedioic acid, 2,2′-oxybis[ethanol], pentanedioic acid, and 1,2,3-propanetriol*

I. 41 Premanufacture Notices Received From: 07/15/98 to 07/31/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–98–1053	07/27/98	10/25/98	CBI	(S) Coating for wood	(G) Polyester polyurethane
P–98–1054	07/27/98	10/25/98	CBI	(G) Open, non-dispersive use	(G) Quartenary Ammonium Salt
P–98–1055	07/23/98	10/21/98	CBI	(G) Open, non-dispersive (resin)	(G) Crosslinking Stoving Urethane Resin
P–98–1056	07/23/98	10/21/98	Shin-etsu Silicones of America, Inc	(S) Ingredient for emulsified silicone resin coating agent	(S) 2-butenoic acid, 4-oxo-4-[[3-(triethoxysilyl)propyl]amino]-; 1-propanamine, 3-(triethoxysilyl)-, (*z*)-2-ethyl-2-butenedioate (1:1)*
P–98–1057	07/27/98	10/25/98	CBI	(G) Quality control agent	(G) Substituted benzamide
P–98–1058	07/27/98	10/25/98	CBI	(G) Quality control agent	(G) Disubstituted heteromonocycle
P–98–1059	07/28/98	10/26/98	CBI	(G) Process aid	(G) Polyamine cholride salt
P–98–1060	07/29/98	10/27/98	Caschem Inc.	(G) Fatty acid source for Industrial lubricants	(G) Mixed vegetable oil fatty acids
P–98–1061	07/28/98	10/26/98	Engelhard Corporation	(S) A colorant for plastics	(G) Azo yellow pigment
P–98–1062	07/27/98	10/25/98	Omg Americas, Inc.	(S) Fuel Oil Additive/ Diesel additive	(S) 9-octadecenoic acid, (*z*) - cerium salt*
P–98–1063	07/27/98	10/25/98	Ashland Chemical Company - Environmental, Health & Safety	(G) Lamination adhesive	(G) Polyurethane prepolymer
P–98–1064	07/27/98	10/25/98	Ashland Chemical Company - Environmental, Health & Safety	(G) Lamination adhesive	(G) Modified polyurethane
P–98–1065	07/28/98	10/26/98	Ashland Chemical Company - Environmental, Health & Safety	(G) Foam control agent	(G) Hyrophobic silicate
P–98–1066	07/28/98	10/26/98	Ashland Chemical Company - Environmental, Health & Safety	(G) Foam control agent	(G) Hyrophobic clay
P–98–1067	07/29/98	10/27/98	CBI	(G) Resin coating	(G) Acrylated urethane
P–98–1068	07/29/98	10/27/98	CBI	(S) Resin for inks; resin for adhesive	(G) Polycaprolactone polyols
P–98–1069	07/29/98	10/27/98	CBI	(S) Resin for inks; resin for adhesive	(G) Polycaprolactone polyols
P–98–1070	07/30/98	10/28/98	Reichhold Chemicals Inc	(S) Uv curable coatings	(G) Polyester acrylate
P–98–1071	07/30/98	10/28/98	Henkel Corporation	(G) Rheology modifier for coating, inks and adhesives	(G) Alkyl alkoxylate
P–98–1072	07/30/98	10/28/98	Henkel corporation	(G) Rheology modifier for Coating, Inks and Adhesives	(G) Alkyl alkoxylate
P–98–1073	07/30/98	10/28/98	CBI	(G) Curing catalyst for polymer-based coatings	(G) Alkyl Tin Salt
P–98–1074	07/30/98	10/28/98	CBI	(G) Industrial Intermediate	(G) Aryl Metallic Halide
P–98–1075	07/29/98	10/27/98	Ciba Specialty Chemicals Corporation	(S) Textile coating additive	(G) Polydimethylsiloxane Grafted Polyacrylate
P–98–1076	07/30/98	10/28/98	CBI	(G) Highly dispersive	(G) Polycyclic Alkanol
P–98–1077	07/29/98	10/27/98	CBI	(G) Intermediate	(G) Substituted Polystyrene
P–98–1093	07/30/98	10/28/98	Henkel Corporation	(G) Rheology Modifier for Coatings, Inks and Adhesives	(G) Alkyl Alkoxylate
P–98–1094	07/30/98	10/28/98	Henkel Corporation	(G) Rheology modifier for Coatings, Inks and Adhesives	(G) Alkyl Alkoxylate

II. 22 Notices of Commencement Received From: 07/15/98 to 07/31/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–95–1053	07/22/98	07/09/98	(G) Water-soluble urethane alkyd
P–96–0747	07/27/98	07/21/98	(S) 2,5-furandione, polymer with ethenylbenzene, propyl ester, compd. with 2-amino-2-methyl-1-propanol*
P–97–0977	07/27/98	07/18/98	(G) Triazine derivative
P–97–0993	07/20/98	07/01/98	(G) Silicone polyether
P–97–1107	07/29/98	07/27/98	(G) Ammonium salt of an acidic polymer
P–98–0099	07/23/98	07/17/98	(G) Cuprate(4-), [2-[[3-[[substituted]-1,3,5-triazin-2-yl]amino]-2-hydroxy-5-sulfophenyl](substituted)azo], sodium salt*
P–98–0100	07/23/98	07/17/98	(G) Cuprate(4-), [2-[[3-[[substituted]-1,3,5-triazin-2-yl]amino]-2-hydroxy-5-sulfophenyl](substituted)azo], sodium salt*

II. 22 Notices of Commencement Received From: 07/15/98 to 07/31/98—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–98–0224	07/24/98	07/14/98	(G) 195251–91–3
P–98–0284	07/20/98	06/25/98	(G) Water-borne polyester
P–98–0300	07/31/98	07/13/98	(G) Metal azo complex
P–98–0325	07/20/98	06/30/98	(G) Polyoxyalkylenealkylamine
P–98–0385	07/20/98	07/03/98	(G) Polyurethane dispersion
P–98–0391	07/20/98	07/03/98	(G) Polyurethane resin
P–98–0439	07/27/98	07/17/98	(G) Poly(arylene ether)
P–98–0440	07/29/98	07/05/98	(G) Polymeric colorants
P–98–0449	07/20/98	07/03/98	(G) Blocked hydrophilic aliphatic polyisocyanate
P–98–0466	07/30/98	07/10/98	(S) Sunflower oil, polymer with p-tert-butylbenzoic acid, isophthalic acid, pentaerythritol, phthalic anhydride, polyethylene glycol and tdi*
P–98–0587	07/20/98	07/09/98	(G) Polyacrylamide
P–98–0656	07/21/98	07/16/98	(G) Alkylarylbisurea
P–98–0667	07/27/98	06/16/98	(S) 1-butene, hydroformylation products, distn. residues*
P–98–0696	07/29/98	07/27/98	(G) Polyoxyalkylene polyester urethane block copolymer
Y–91–0020	07/27/98	07/06/98	(G) Styrene-acrylic acid polymer salt

List of Subjects

Environmental protection, Premanufacture notices.

Dated: October 13, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–28235 Filed 10–20–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 98–2045]

En Bancs Regarding Telecom Mergers; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: This document corrects portions of the Commission's rules that were published in the **Federal Register** of October 15, 1998 (63 FR 55389).

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Florence Grasso at 418–1579.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document announcing two En Bancs to discuss recent consolidations activities in the telecommunications industry, in the **Federal Register** of October 15, 1998 (63 FR 55389). This document makes the following correction:

1. On page 55389, in the first column, the **DATES** caption is corrected to read as follows: **DATES:** The first En Banc will take place on Thursday, October 22, 1998, from 12:00 noon to 1:30 p.m. The second En Banc will be scheduled at a later date.

Dated: October 16, 1998.

Federal Communications Commission.

Kathryn C. Brown,

Chief, Common Carrier Bureau.

[FR Doc. 98–28366 Filed 10–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Jolaco Maritime Services Inc., 9067 Knight Road, Houston, TX 77054, Officer: John Ola Coker, President.

Dated: October 15, 1998.

[FR Doc. 98–28181 Filed 10–20–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have 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 the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will 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 notice or to the offices of the Board of Governors. Comments must be received not later than November 4, 1998.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480–0291:

1. Campbell Family Limited Partnership, Dunseith, North Dakota; to acquire voting shares of Security Bancshares, Inc., Dunseith, North Dakota, and thereby indirectly acquire voting shares of Security State Bank, Dunseith, North Dakota.

Board of Governors of the Federal Reserve System, October 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–28187 Filed 10–20–98; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*)

(BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1413:

1. Richland County Bancshares, Inc., Richland Center, Wisconsin; become a bank holding company by acquiring 100 percent of the voting shares of Richland County Bank, Richland Center, Wisconsin.

B. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Sky Financial Group, Inc., Salineville, Ohio (formerly known as Citizens Bancshares, Inc.); to acquire 100 percent of the voting shares of The Ohio Bank, Findlay, Ohio, and Citizens Bancshares Interim Bank, Salineville, Ohio.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Bay View Capital Corporation, San Mateo, California; to become a bank holding company by acquiring 100 percent of the voting shares of Bay View Bank, N.A., San Mateo, California. Bay View Bank, N.A., currently operates as Bay View Bank.

In connection with this application, Applicant also has applied to acquire Regent Financial Corporation, San Mateo, California, and thereby engage in check processing activities, pursuant to §§ 225.28(b)(9), (b)(10)(i), and (b)(14) of Regulation Y; and Bay Commercial Finance Group, San Mateo, California, and thereby engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Western Sierra Bancorp, Cameron Park, California; to acquire 100 percent of the voting shares of Lake Community Bank, Lakeport, California.

Board of Governors of the Federal Reserve System, October 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–28188 Filed 10–20–98; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 98–27635) published on page 55390 of the issue for Thursday, October 15, 1998.

Under the Federal Reserve Bank of San Francisco heading, the entry for Banque Nationale de Paris, Paris, France, is revised to read as follows:

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Banque Nationale de Paris, Paris, France; to engage de novo through its subsidiary, BNP Capital Markets, LLC, New York, New York, in underwriting and dealing to a limited extent in all types of debt securities (including, without limitation, corporate debt securities, sovereign debt securities, and debt securities convertible into equity securities) and equity securities (including, without limitation, common stock, preferred stock, American Depositary Receipts, Global Depository Receipts, securities convertible into equity securities and options, other direct and indirect equity ownership interests in corporations and other entities, warrants and other rights issued in connection with the above securities, and other rights issued by close-end investment companies, but not including ownership interests in open-end investment companies); See e.g. Societe Generale, 84 Fed. Res. Bull. 680 (1998); in underwriting and dealing in bank-eligible securities, pursuant to § 225.28(b)(8)(i) of Regulation Y; in acting as private placement agent, pursuant to § 225.28(b)(7)(iii) of Regulation Y; in acting as a riskless principal, pursuant to § 225.28(b)(7)(ii) of Regulation Y; in acting as investment or financial advisor to any person, pursuant to § 225.28(b)(6) of Regulation Y; in brokerage activities, pursuant to § 225.28(b)(7)(i) of Regulation Y; in providing transactional services as agent with respect to a broad range of foreign exchange and derivatives instruments, pursuant to § 225.28(b)(7)(v) of Regulation Y; in acting as principal in foreign exchange and certain derivatives transactions, pursuant to § 225.28(b)(8)(ii) of Regulation Y; in making, acquiring, brokering or servicing loans or other extensions of credit, pursuant to § 225.28(b)(1) of Regulation Y; in asset management, servicing and collection of assets of a type that an insured depository institution may originate and own, pursuant to § 225.28(b)(2)(vi) of Regulation Y; and acquiring debt that is in default at the time of acquisition, pursuant to § 225.28(b)(2)(vii) of Regulation Y. These activities will be conducted worldwide.

Comments on this application must be received by October 28, 1998.

Board of Governors of the Federal Reserve System, October 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–28186 Filed 10–20–98; 8:45 am]

BILLING CODE 6210–01–P

OFFICE OF GOVERNMENT ETHICS

Proposed Collection; Comment Request: Proposed Slightly Revised OGE Form 450 Executive Branch Confidential Financial Disclosure Report

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: After this first round notice and public comment period, OGE plans to submit a slightly revised version of its OGE Form 450 for confidential financial disclosure reporting under its existing executive branch regulations for review and three-year approval by the Office of

Management and Budget (OMB) under the Paperwork Reduction Act.

DATES: Comments by the agencies and the public on this proposal are invited and should be received by January 4, 1999.

ADDRESSES: Comments should be sent to William E. Gressman, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917. Comments may also be sent electronically to OGE's Internet E-mail address at usoge@oge.gov (for E-mail messages, the subject line should include the following reference—''Proposed Slightly Revised OGE Form 450 Executive Branch Confidential Financial Disclosure Report'').

FOR FURTHER INFORMATION CONTACT: Mr. Gressman at the Office of Government Ethics, telephone: 202–208–8000, ext. 1110; TDD: 202–208–8025; FAX 202–208–8037. A copy of the proposed slightly revised OGE Form 450 may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is planning to submit, after this notice and comment period (with any modifications that may appear warranted), a slightly revised version of the OGE Form 450 Executive Branch Confidential Financial Disclosure Report for three-year approval (reclearance) by OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35. The OGE Form 450 (OMB control # 3209–0006) collects information from covered department and agency officials as required under OGE's executive branchwide regulatory provisions in subpart I of 5 CFR part 2634. The revised OGE Form 450 will serve as the uniform report form for collection, on a confidential basis, of financial information required by the OGE regulation from certain new entrant and incumbent employees of the Federal Government executive branch departments and agencies in order to allow ethics officials to conduct conflict of interest reviews and to resolve any actual or potential conflicts found.

The basis for the OGE regulation and the report form is two-fold. First, section 201(d) of Executive Order 12674 of April 12, 1989 (as modified by Executive Order 12731 of October 17, 1990) makes OGE responsible for the establishment of a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public financial disclosure under the Ethics in Government Act of 1978 (the ''Ethics Act''), as amended, 5 U.S.C. appendix. Second, section 107(a) of the Ethics Act, 5 U.S.C. appendix, Section 107(a), further provides authority for OGE as the supervising ethics office for the executive branch of the Federal Government to require that appropriate executive agency employees file confidential financial disclosure reports, ''in such form as the supervising ethics office may prescribe.'' The current OGE Form 450, adopted in early 1996, together with the underlying OGE 5 CFR part 2634 regulation, issued in 1992 and modified since, constitute the basic form OGE has prescribed for such confidential financial disclosure in the executive branch.

The relatively minor updating revisions OGE now proposes to make to the OGE Form 450 will bring it up-to-date and will not require any rule changes to accomplish. First, OGE proposes to make a couple of revisions to the Privacy Act and public burden information statements on page 3 of the instructions to the form. The proposed revisions include addition to the Privacy Act statement of a reference to the underlying executive branchwide Privacy Act system of records, OGE/GOVT–2, for confidential disclosure reports that OGE issued in 1990 upon its separation from the Office of Personnel Management. See 55 FR 6327–6331 (February 22, 1990). Also, the indication of routine use six for such reports in judicial or administrative proceedings would be revised to more closely track the wording of the underlying routine use in the OGE/GOVT–2 system notice. Under the public burden information statement, OGE proposes to remove the reference to OMB as an additional point of contact for information collection comments on the OGE Form 450. In accordance with current procedures, OGE will henceforth be indicated as the sole contact point for such comments, on which OGE will coordinate with OMB if need be. The Office of Government Ethics is also correcting a few minor typographical errors on the form (including the instructions) and is proposing a couple of minor stylistic edits as well. The mark-up copy of the form as proposed for slight revision, available from OGE (see the **FOR FURTHER INFORMATION CONTACT** section above), shows all of the changes that would be made.

No substantive changes to the OGE Form 450 are being proposed at this time, though OGE does note (as also referenced on the mark-up copy of the form) that the thresholds for reporting of gifts and reimbursements in Part V of the OGE Form 450, currently $250 from any one source with a $100 de minimis amount, may have to be adjusted sometime next year if the General Services Administration raises ''minimal value'' under the Foreign Gifts and Decorations Act, 5 U.S.C. 7342(a)(5), to more than $250. (Currently, the minimal value is set at $245 pursuant to 41 CFR 101–49.001–5 of GSA's regulations.) Under section 102(a)(2)(A) and (B) of the Ethics Act as amended, 5 U.S.C. appendix, § 102(a)(2)(A) and (B), the public financial disclosure reporting thresholds are pegged to any such minimal value increase. The Office of Government Ethics has, in its 5 CFR part 2634 regulation, extended the statutory thresholds to confidential financial disclosure reporting for the executive branch. If the thresholds do need to be increased, OGE will revise the OGE Form 450, and the underlying part 2634 regulation (public financial disclosure reporting would also be affected), and coordinate with OMB on the paperwork and rulemaking aspects of the revision. The Office of Government Ethics will also advise the departments and agencies of any such change.

The Office of Government Ethics expects that the currently anticipated slightly revised form should be ready, after OMB clearance, for dissemination to executive branch departments and agencies early next year. Once finally cleared, OGE will make the newly revised form available to departments and agencies in paper, on OGE's ethics CD–ROM and in the Ethics Resource Library section of the OGE Internet Web site (address: http://www.usoge.gov). In addition, when time and resources permit, OGE will endeavor to make an updated electronic version of its software for the OGE Form 450 available on the OGE Web site. This will allow employees the option of preparing their forms on a computer, although a printout and manual signature of the form are still required unless specifically approved otherwise by OGE. Moreover, OGE also permits departments and agencies to develop or utilize on their own electronic versions of the OGE Form 450 provided they precisely duplicate the paper original to the extent technically possible.

Since 1992 various agencies have developed, with OGE review/approval, alternative reporting formats, such as certificates of no conflict, for certain classes of employees.

Other agencies provide for additional disclosures pursuant to independent organic statutes and in certain other circumstances when authorized by OGE. Last year, OGE itself developed the new OGE Optional Form 450–A (Certificate of No New Interests) for possible agency and employee use in certain years, if applicable. However, the OGE Form 450

remains the uniform executive branch report form for most of those executive branch employees who are required by their agencies to report confidentially on their financial interests. The OGE Form 450 is to be filed by each reporting individual with the designated agency ethics official at the executive department or agency where he or she is or will be employed.

Reporting individuals are regular employees whose positions have been designated by their agency under 5 CFR part 2634.904 as requiring confidential financial disclosure in order to help avoid conflicts with their assigned responsibilities; additionally, all special Government employees (SGE) are generally required to file. Agencies may, if appropriate under the OGE regulation, exclude certain regular employees or SGEs as provided in 5 CFR 2634.905. Reports are normally required to be filed within 30 days of entering a covered position (or earlier if required by the agency concerned), and again annually in the fall if the employee serves for more than 60 days in the position. As indicated in § 2634.907 of the OGE regulation, the information required to be collected includes assets and sources of income, liabilities, outside positions, employment agreements and arrangements, and gifts and travel reimbursements, subject to certain thresholds and exclusions.

Most of the persons who file this report form are current executive branch Government employees at the time they complete the forms. However, some filers are private citizens who are asked by their prospective agency to file a new entrant report prior to entering Government service in order to permit advance checking for any potential conflicts of interest and resolution thereof by agreement to recuse or divest, obtaining of a waiver, etc. Based on OGE's annual agency ethics program questionnaire responses for 1996 and 1997, OGE estimates that an average of approximately 281,500 OGE 450 report forms will be filed each year for the next three years throughout the executive branch. This estimate is based on the average number of forms filed branchwide for the past two years, some 286,450 in 1996 and 276,444 in 1997, for a total of 562,894, with that number then divided in half and rounded. Of these, OGE estimates that no more than between 5% and 10%, or some 14,075 to 28,150 per year at most, will be filed by private citizens, those potential (incoming) regular employees whose positions are designated for confidential disclosure filing as well as potential special Government employees whose agencies require that they file their new entrant reports prior to assuming Government responsibilities. No termination reports are required.

Each filing is estimated to take an average of one and one-half hours. The number of private citizens whose reports are filed each year with OGE is less than 10, but pursuant to 5 CFR 1320.3(c)(4)(i), the lower limit for this general regulatory-based requirement is set at 10 private persons (OGE-processed reports). This yields an annual reporting burden of 15 hours, the same as in OGE's current OMB inventory for this information collection. The remainder of the private citizen reports are filed with other departments and agencies throughout the executive branch.

Public comment is invited on the proposed slightly revised OGE Form 450 as set forth in this notice, including specifically views on the need for and practical utility of this proposed modified collection of information, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology).

Comments received in response to this notice will be summarized for, and may be included with, OGE's future request for OMB paperwork approval for the proposed slightly revised OGE Form 450. At that time, OGE will publish a second paperwork notice in the **Federal Register** to inform the agencies and the public.

Approved: October 15, 1998.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 98–28153 Filed 10–20–98; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–137]

Availability of Draft Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Section 104(i)(3) [42 U.S.C. 9604(i)(3)] directs the Administrator of ATSDR to prepare toxicological profiles of priority hazardous substances and to revise and publish each updated toxicological profile as necessary. This notice announces the availability of the 12th set of toxicological profiles, one being a new draft and five updated drafts, prepared by ATSDR for review and comment.

DATES: In order to be considered, comments on these draft toxicological profiles must be received on or before February 22, 1999. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for copies of the draft toxicological profiles should be sent to the attention of Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Comments regarding the draft toxicological profiles should be sent to the attention of Dr. Ganga Choudhary, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Requests for the draft toxicological profiles must be in writing, and must specifically identify the hazardous substance(s) profile(s) that you wish to receive. ATSDR reserves the right to provide only one copy of each profile requested, free of charge. In case of extended distribution delays, requestors will be notified.

Written comments and other data submitted in response to this notice and the draft toxicological profiles should bear the docket control number ATSDR–137. Send one copy of all comments and three copies of all supporting documents to Dr. Ganga Choudhary at the above stated address by the end of the comment period. Because all public comments regarding ATSDR toxicological profiles are available for public inspection [after the profile is published in final], no confidential business information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6322.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499) amends the Comprehensive

Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 et seq.) by establishing certain responsibilities for the ATSDR and the Environmental Protection Agency (EPA) with regard to hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these responsibilities is that the Administrator of ATSDR prepare toxicological profiles for substances included on the priority lists of hazardous substances. These lists identified 275 hazardous substances that ATSDR and EPA determined pose the most significant potential threat to human health. The availability of the revised priority list of 275 hazardous substances was announced in the **Federal Register** on November 17, 1997 (62 FR 61332). For prior versions of the list of substances see **Federal Register** notices dated April 17, 1987 (52 FR 12866); October 20, 1988 (53 FR 41280); October 26, 1989 (54 FR 43619); October 17, 1990 (55 FR 42067); October 17, 1991 (56 FR 52166); October 28, 1992 (57 FR 48801); February 28, 1994 (59 FR 9486); and April 29, 1996 (61 FR 18744). [CERCLA also requires ATSDR to assure the initiation of a research program to fill data needs associated with the substances.]

Section 104(i)(3) of CERCLA [42 U.S.C. 9604(i)(3)] outlines the content of these profiles. Each profile will include an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information and these data are to be used to identify the levels of significant human exposure for the substance and the associated health effects. The profiles must also include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), is required to assure the initiation of research to determine these health effects.

Although key studies for each of the substances were considered during the profile development process, this **Federal Register** notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profiles now or in the future.

The following draft toxicological profiles will be made available to the public on or about October 17, 1998.

Document	Hazardous substance	CAS No.
1	Arsenic	007440–38–2
	Dimethylarsenic Acid.	000075–60–5
2	Chromium	007440–47–3
	Chromium, Hexavalent.	018540–29–9
		007789–09–5
		013765–19–0
		001333–82–0
		007758–97–6
		007789–00–6
		007778–50–9
		007775–11–3
		007789–06–2
		013530–65–9
3	Endosulfan	000115–29–7
	Endosulfan, alpha	000959–98–8
	Endosulfan, sulfate	001031–07–8
	Endosulfan, beta	033213–65–9
4	Ethion	000563–12–2
5	Methylene Chloride	000075–09–2
6	Toluene	000108–88–3

All profiles issued as ''Drafts for Public Comment'' represent ATSDR's best efforts to provide important toxicological information on priority hazardous substances. We are seeking public comments and additional information which may be used to supplement these profiles. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our clients.

Dated: October 15, 1998.

Donna Garland,

Acting Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–28184 Filed 10–20–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0143]

Agency Emergency Processing Request Under OMB Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information concerns procedures recommended in a guidance entitled ''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV.''

DATES: Submit written comments on the collection of information by November 2, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a guidance entitled ''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and

Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV.'' The guidance document provides recommendations for donor screening and supplemental testing for antibody to HCV, quarantine of prior collections from a donor who later tests repeatedly reactive for antibody to HCV, and notification and counseling of recipients of blood and blood components at increased risk for transmitting HCV. The statutory authority to collect this information is provided under sections 351 and 361 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262 and 264) and the provisions of the Federal Food, Drug, and Cosmetic Act that apply to drugs (21 U.S.C. 201 *et seq.*). The purpose of this guidance is to help ensure the continued safety of the blood supply by preventing the introduction, transmission, and spread of HCV. The collection of information described in the guidance will help ensure that important information is provided to consignees and recipients of blood and blood components from a donor who later tests positive for HCV. Also, the collection of information will enable consignees to identify and quarantine product that may be at increased risk for transmitting HCV. As a result, transfusion recipients of such product may have the opportunity to seek medical counseling.

Lookback (product retrieval and recipient notification) related to hepatitis B virus (HBV), HCV, and human T-lymphotropic virus (HTLV–I) testing has been discussed at open public meetings, including meetings of FDA's Blood Products Advisory Committee, on multiple occasions since October 1989. As a response to these discussions, FDA provided detailed guidance in the July 19, 1996, memorandum on the quarantine and disposition of certain prior collections of blood and blood components from donors who subsequently test repeatedly reactive for hepatitis B surface antigen (HBsAg), antibody to hepatitis B core antigen (anti-HBc), anti-HCV, or antibody to HTLV type I (anti-HTLV–I). The memorandum recommended that blood establishments notify consignees (such as the transfusion service, physician, fractionator, etc.) for the purpose of quarantine and eventual disposition of products made from prior collections. At that time, FDA did not recommend notification of recipients of blood from donors who subsequently test positive for anti-HCV, because no clear consensus on the public health benefit of such action had emerged.

Improvements in the treatment and management of HCV infections have occurred recently, and at public meetings on April 24 and 25, 1997, and August 11 and 12, 1997, the PHS Advisory Committee on Blood Safety and Availability discussed recipient notification related to hepatitis C. Consistent with recommendations of the Public Health Service Advisory Committee, in the **Federal Register** of March 20, 1998 (63 FR 13675), FDA issued a guidance regarding such notification for implementation and comment. In response to comments received, FDA is now issuing the previously referenced guidance, which supersedes the guidance issued on July 19, 1996, and replaces the guidance issued on March 20, 1998.

Description: This guidance recommends that blood establishments prepare and follow written procedures when blood establishments have collected Whole Blood, blood components, Source Plasma, and Source Leukocytes later determined to be at risk for transmitting HCV infections. This guidance provides recommendations, similar to the requirements now in effect for HIV ''Lookback'' (21 CFR 610.46 and 610.47), to clarify the status of the donor who later tests repeatedly reactive for HCV, to quarantine prior collections from such donors, and to notify transfusion recipients, as appropriate, based on further testing of the donor. The guidance recommends that when a donor who previously donated blood is tested in accordance with this guidance on a later donation, and tests repeatedly reactive for antibody to HCV, the blood establishment should perform a supplemental test using a licensed test, and notify consignees who received Whole Blood, blood components, Source Plasma, and Source Leukocytes from prior collections so that appropriate action is taken. The guidance document recommends that blood establishments and consignees quarantine previously collected Whole Blood, blood components, Source Plasma and Source Leukocytes from such donors, and if appropriate, consignees should notify transfusion recipients. In addition to the prospective ''lookback'' recommendations that are similar to the ''lookback'' requirements for HIV, this guidance recommends a retrospective review of testing records that should identify prior collections from donors at increased risk for transmitting HCV as far back as 10 years. Under this guidance, it is suggested that blood establishments notify consignees of the risk of HCV transmission that exists for prior collections based on the retrospective review of record and the results of the supplemental testing performed before or as a result of the retrospective review of records. In addition, the guidance recommends that blood establishments notify consignees of the risk of HCV transmission that exists for prior collections from a donor who tested repeatedly reactive on a screening test for HCV and has no record of further testing and now cannot be clarified because further testing is impractical or infeasible. This guidance recommends that blood establishments maintain records of the source and disposition of all units of blood and blood products for at least 10 years from the date of disposition or 6 months after the latest product expiration date, whichever is the later date. Under 21 CFR 606.160, such records are required to be retained for 5 years. FDA is recommending an extended records retention period because advances in medical diagnosis and therapy have created opportunities for disease prevention or treatment many years after recipient exposure to a donor later determined to be at increased risk for transfusion-transmitted disease. Additionally, methods of recordkeeping have advanced, improving the ability of blood establishments to more easily maintain and retrieve records. Also, this guidance recommends that any consignee of a blood establishment notify the transfusion recipients of blood and blood components at increased risk for transmitting HCV.

The agency is issuing this guidance to promote the continued safety of the blood supply, to help provide users with critical information about blood and blood components, and to promote notification to transfusion recipients regarding receipt of blood and blood components at risk for transmitting HCV.

Description of Respondents: Blood establishments (Business and Not-for-Profit) and consignees of blood establishments, including hospitals, transfusion services, and physicians.

The total reporting and recordkeeping burden is estimated to be 285,867 hours. However, of this total approximately 268,374 hours would be expended on a one-time basis for establishing the written procedures and doing the one-time retrospective review of records. Therefore, 17,493 hours is estimated as the ongoing annual burden related to this guidance. The total ongoing

prospective annual burden for blood establishments is estimated to be 12,630 hours. The prospective annual burden for consignees of blood establishments is estimated to be 4,863 hours.

The burden estimates are based on Health Care Financing Administration (HCFA) and FDA registration records and the following estimates from the Centers for Disease Control and Prevention (CDC). CDC estimates there are approximately 9,750,127 donations from repeat donors per year and the prevalence of HCV among donors is 0.27 percent. Therefore, CDC estimates that 26,325 repeat donors per year could test repeatedly reactive for HCV. For each of these donors, the recommendations in this guidance call for blood establishments to notify the consignee (transfusion service) two times (once for quarantine purposes and again with supplemental test results) for a total 52,650 notifications as an annual ongoing burden. Based on estimates from CDC, FDA expects that for the one-time review of records, as many as 237,688 blood products would be at increased risk for transmitting HCV. Therefore, FDA estimates that for each of these products, blood establishments should notify consignees to quarantine these products, should report supplemental test results to consignees, and consignees should notify recipients or the recipients' attending physician. The guidance recommends that blood establishments notify the consignees two times (once for quarantine purposes and again with supplemental test results) for a total of 475,376 notifications as a result of the retrospective review. The total annual responses for blood establishments is estimated to be the combined number of notifications (475,376 + 52,650) or 528,026. FDA estimates the amount of time for each notification of a consignee by a blood establishment will be approximately 12 minutes (0.2 hours). Consequently, the total estimated reporting burden hours for blood establishments is (528,026 report notifications x 0.2 hrs) 105,605 hours. However, the ongoing annual burden not associated with the retrospective review would be 10,530 hours (52,650 x 0.2 hours).

CDC expects that approximately 2,730 repeat donors who have repeatedly reactive HCV screening test results will confirm positive for HCV each year. Based on CDC's research and information, a donor who confirms positive for HCV will have donated on the average only two previous times and on the average only 1.6 components will have been made from each donation. Based on this information, there could be 8,736 transfusion recipients that should be notified per year (2,730 repeat donors per year that confirm positive for HCV x 2 prior donations per donor x 1.6 components per donation). Thus, the total notifications by consignees is estimated to be 246,424 annually (8,736 transfusion recipients who may be at increased risk of transmitting HCV plus the estimated 237,688 transfusion recipients identified from a retrospective review). The time estimated for consignees to make a notification is 30 minutes or 0.5 hours on average. This time, which is somewhat longer than for blood establishments to notify consignees, allows for the possibility of having to make up to three attempts to complete the notification process and creates a total reporting burden of 123,212 hours. However, the ongoing annual reporting burden for consignees is expected to be only 4,368 hours (8,736 recipients per year x 0.5 hours). According to the HCFA, there are approximately 6,200 consignees that should be responsible for notification.

In the recordkeeping Table 2 of this document, the 8.75 hours per blood establishment recordkeeper represents 8 hours to develop written procedures for the HCV lookback recommendations and 0.75 hours to update 9 HCV repeat reactive records (frequency of recordkeeping is 10 less 1 written procedure = 9 HCV testing records on average). FDA estimates that it takes approximately 5 minutes to update each record (9 x 5 minutes = 45 minutes or 0.75 hours per recordkeeper). Therefore, the total recordkeeping by blood establishments is estimated to be 24,500 hours. Likewise, the 5.25 hours per consignee recordkeeper includes 2 hours to develop written procedures for the HCV lookback notification process and 3.25 hours to update 39 transfusion recipient records (frequency of consignee recordkeeping is 40 less 1 written procedure = 39 recipient records on average). FDA estimates that it takes approximately 5 minutes to update each record (39 x 5 minutes = 195 minutes or 3.25 hours). Therefore, the total recordkeeping burden for consignees is estimated to be 32,550. The combined total recordkeeping burden for both blood establishments and consignees is estimated to be 57,050 hours. However, based on the prospective number of repeat donors per year and the number that confirm positive for HCV, the ongoing annual recordkeeping burden may only be 2,596 hours. Over time we expect the ongoing annual recordkeeping burden to decline much as the prevalence of HCV among donors has declined due to the implementation of screening tests for anti-HCV which helps to reduce the number of donors infected with HCV from the donor pool.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Collection Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Blood Establishments	2,800	38	528,026	.2	105,605
Consignees	6,200	40	246,424	.5	123,212
Total					228,817

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

Collection Activity	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Blood Establishments	2,800	10	29,125	8.75	24,500
Consignees	6,200	40	252,624	5.25	32,550

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

Collection Activity	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Total					57,050

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Maintenance costs were not estimated for the additional maintenance of records beyond the current 5 years to the recommended 10 years, because modern storage technology has markedly reduced the space needed to store records.

FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA and 5 CFR 1320.13. Because HCV frequently causes chronic infection of the liver, it can cause serious liver injury and can be life threatening, and because new therapies are recently available, it is essential to the agency's mission of protecting and promoting the public health that this guidance be made available to the public immediately. The information is needed immediately to replace the March 20, 1998, guidance that was withdrawn September 8, 1998. The use of normal clearance procedures could take 180 days or more, during which time guidance would not be in place, thus disrupting or preventing this collection of information.

Dated: October 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–28218 Filed 10–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0811]

Agency Emergency Processing Request Under OMB Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information concerns the submission by sponsors of investigational new drugs and applicants for new drug approvals or biological licenses under the Federal Food, Drug, and Cosmetic Act (the act) and the guidance for industry on fast track drug development programs.

DATES: Submit written comments on the collection of information by November 5, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm 10235, Washington, DC 20503, Attn: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION:

I. Guidance for Industry

FDA is preparing a guidance entitled ''Guidance for Industry: Designation, Development, and Application Review for Products in Fast Track Drug Development Programs.'' The guidance will provide the agency's interpretation of terms central to FDA's fast track programs and the agency's views on information that should accompany fast track program submissions.

With respect to the following collection of information, FDA invites comment on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry: Designation, Development, and Application Review for Products in Fast Track Drug Development Programs

Section 112(a) of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115) amends the act by adding section 506 (21 U.S.C. 356) and authorizes FDA to take appropriate action to facilitate the development and expedite the review of new drugs, including biological products, intended to treat a serious or life-threatening condition and that demonstrate a potential to meet an unmet medical need. The issuance of the guidance will be under section 112(b) of FDAMA, which requires the agency to issue guidance regarding fast track policies and procedures within 1 year of the date of enactment of FDAMA, November 21, 1997. The guidance will discuss collections of information that are expressly specified under section 506 of the act, other sections of the Public Health Service Act (PHS Act), or implementing regulations. For example, under section 506 of the act, an applicant who seeks fast track designation must submit a request to FDA. Some of the support for such a request may be required under regulations, such as parts 312, 314, and 601 (21 CFR parts 312, 314, and 601), which specify the types and format of information and data that should be submitted to FDA for evaluation of the safety and effectiveness of investigational new drug applications (IND's) (part 312), new drug applications (part 314), or biological license applications (part 601). The guidance will describe three general areas involving collection of information: Designation requests, pre-meeting packages, and requests to submit portions of an application. Of these, designation requests, and pre-meeting packages in support of obtaining a fast track program benefit will provide for additional collections of information not provided elsewhere in statute or regulation. Information in support of fast track designation or fast track program benefits that has previously been submitted to the agency, may, in some cases, be incorporated by referring to them rather

than by resubmission. In some instances, a summary of data and information may be submitted in support of fast track designation or fast track program benefits. Therefore, FDA anticipates that the PRA reporting burden under the guidance will be minimal.

II. Fast Track Designation Request

Under section 506(a)(1) of the act, an applicant who seeks fast track designation is required to submit a request to the agency. In order to receive a fast track designation, the requester must establish that the product meets the statutory standard for designation, i.e., that: (1) The product is intended for a serious or life-threatening condition; and (2) the product has the potential to address an unmet medical need. In most cases, the agency expects that information to support a designation request will have been gathered under existing provisions of the act, the PHS Act, or the implementing regulation. Such information, if already submitted to the agency, may be summarized in a fast track designation request. The guidance will also recommend that a designation request include, where applicable, additional information not specified elsewhere by statute or regulation. For example, additional information may be needed to show that a product has the potential to meet an unmet medical need where approved therapy exists for the serious or life-threatening condition to be treated. Such information may include: Clinical data, published reports, summaries of data and reports, and a list of references. The amount of information and discussion in a designation request need not be voluminous, but it should be sufficient to permit a reviewer to assess whether the criteria for fast track designation have been met.

A. Pre-Meeting Packages

After the agency makes a fast track designation, a sponsor or applicant may submit a pre-meeting package, which may include additional information to support a request to participate in certain fast track programs. As with the request for fast track designation, the agency expects that most sponsors or applicants will have gathered such information to meet existing requirements under the act, the PHS Act, or implementing regulations, such as descriptions of clinical safety and efficacy trials not conducted under an IND (i.e., foreign studies), and information to support a request for accelerated approval. If information has been previously submitted to FDA under an OMB approved collection of information, the discussion of such information in a fast track pre-meeting package may be summarized. Consequently, FDA anticipates that the additional collection of information attributed solely to the guidance will be minimal.

B. Request to Submit Portions of an Application

Section 506(c) of the act requires a collection of information before an applicant may be permitted to submit to FDA portions of an application for review. Under this provision of the fast track statute, a sponsor must submit clinical data sufficient for the agency to determine, after preliminary evaluation, that a fast track product may be effective. Section 506(c) also requires that an applicant provide a schedule for the submission of information necessary to make the application complete before FDA can commence its review. The guidance will not provide for any new collection of information regarding the submission of portions of an application that is not required under section 506(c) or any other provision of the act.

1.*FDA Forms Referred to in the Guidance*

All forms that will be referred to in the guidance have valid OMB control numbers. These forms include: FDA Form 1571 (OMB Control No. 0910–0104, expires December 31, 1999); FDA Form 356h (OMB Control No. 0910–0338, expires April 30, 2000); and FDA Form 3397 (OMB Control No. 0910–0297, expires April 30, 2001).

2. *Description of Respondents*

Sponsors and applicants that seek fast track designation under section 506 of the act.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Designation request	60	1	60	60	3,600
Pre-meeting packages	54	1	54	100	5,400
Total	114		114		9,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency estimates that the aggregate annual number of respondents submitting requests for fast track designation to the Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER) will be approximately 60. To obtain this estimate, FDA extrapolated from the number of requests for fast track designation actually received by CBER and CDER in a 6-month period since November 21, 1997, the date of enactment of FDAMA. Within this time period, CBER received 9 requests, and CDER received 20 requests. FDA estimates that the number of hours needed to prepare a request for fast track designation may generally range between 40 and 80 hours per request, depending on the complexity of each request, with an average of 60 hours per request, as indicated in Table 1 of this document.

Not all requests for fast track designation may meet the statutory standard. The agency estimates that approximately 90 percent of all annual requests, approximately 54 respondents, for fast track designation would be granted. Of those respondents who receive fast track designation for a product, FDA expects that all will submit a pre-meeting package and that a pre-meeting package would generally need more preparation time than needed for a designation request because the issues may be more complex and the data may need to be more developed. FDA estimates that the preparation hours may generally range between 80 and 120 hours, with an average of 100 hours per package, as indicated in Table 1 of this document.

The hour burden estimates contained in Table 1 of this document are for information collections requests in the guidance only and do not include burden estimates for statutory requirements specifically mandated by the act, the PHS Act, or implementing regulations.

FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA and 5 CFR 1320.13. The information is needed immediately to implement section 506 of the act, which requires the agency to facilitate development and expedite the review of new drug products, including biological products, intended to treat a life-threatening or serious condition and that demonstrate a potential to meet an unmet medical need. The use of normal information clearance procedures would be likely to result in the prevention or disruption of this collection of information because section 112(b) of FDAMA requires FDA to issue guidance on fast track policies and procedures no later than November 21, 1998, i.e., within 1 year of the date of enactment of FDAMA.

Dated: October 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–28305 Filed 10–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0893]

Great Lakes Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Great Lakes Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of siloxanes and silicones, methyl hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperidine as an ultraviolet (UV) stabilizer for high density polyethylene and polypropylene intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

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 8B4633) has been filed by Great Lakes Chemical Corp., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 178.2010 Antioxidants and/or stabilizers for polymers (21 CFR 178.2010) to provide for the safe use of siloxanes and silicones, methyl hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperidine as a UV stabilizer for high density polyethylene and polypropylene intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: October 6, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–28149 Filed 10–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0194]

Agency Information Collection Activities; Announcement of OMB Approval; Registration of Cosmetic Product Establishment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Registration of Cosmetic Product Establishment'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 30, 1998 (63 FR 40718), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0027. The approval expires on October 31, 2001.

Dated: October 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–28220 Filed 10–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antibody to Human T–Cell Lymphotropic Virus Type II (HTLV–II) Reference Panel 1; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a new FDA reference panel for tests intended to detect antibody to human T–cell lymphotropic virus Type II (HTLV–II Reference Panel 1). The HTLV–II Reference Panel 1 is used for the qualitative and semiquantitative evaluation of in vitro tests to detect antibody to HTLV–II in human serum or plasma. The HTLV–II Reference Panel 1 is designed to provide a release criterion for lots of HTLV–II antibody detection kits produced by licensed manufacturers of such tests and should not be used for experimental or other reference purposes.

DATES: The HTLV–II Reference Panel 1 was made available to the licensed manufacturers on June 4, 1998.

FOR FURTHER INFORMATION CONTACT: Charles O. Roberts, Center for Biologics Evaluation and Research (HFM–323), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–6721.

SUPPLEMENTARY INFORMATION: The HTLV–II Reference Panel 1 is a regulatory test panel intended for lot release testing of enzyme-linked immunosorbent assay (ELISA) HTLV–II antibody test kits produced by licensed manufacturers. The HTLV–II Reference Panel 1 consists of eight samples, six of which are reactive for antibody to HTLV–II. These reactive sera have been prepared by diluting known positive sera into a pool of normal human sera negative for antibodies to HTLV–II. Three of the diluted samples are expected to be repeatedly reactive for antibodies to HTLV–II by ELISA and three have borderline ELISA reactivity. The Center for Biologics Evaluation and

Research will limit the distribution of the HTLV–II Reference Panel 1 to conserve these reagents when necessary. The HTLV–II Reference Panel 1 is available for distribution from the contact person listed above.

Dated: October 9, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–28219 Filed 10–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0814]

''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document (dated September 1998) entitled ''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV.'' The guidance document provides recommendations for donor screening and supplemental testing for antibody to hepatitis C virus (HCV), notification of consignees and quarantine of prior collections from a donor who later tests repeatedly reactive for antibody to HCV, notification of recipients of blood and blood components at increased risk for transmitting HCV.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by calling the Fax Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

For technical/scientific questions, contact Robin M. Biswas, Center for Biologics Evaluation and Research (HFM–325), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3011 or by FAX 301–496–0338.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Current Good Manufacturing Practice for Blood and Blood Components: (1) Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Test for Antibody to Hepatitis C Virus (Anti-HCV); (2) Supplemental Testing, and the Notification of Consignees and Blood Recipients of Donor Test Results for Anti-HCV.'' This guidance provides recommendations for the following: (1) Quarantine (and release) of prior collections form donors who later test repeatedly reactive for antibody to HCV; (2) supplemental testing and notification of consignees and transfusion recipients; (3) procedures and recordkeeping; (4) review of records of donor testing for ''historical'' repeatedly reactive donations; (5) quarantine (and release) of prior collections, notification of consignees and transfusion recipients based on the review of records; (6) additional testing following an indeterminate RIBA 2.0 test result; and (7) additional testing of donors with no record of supplemental testing on the ''historical'' repeatedly reactive screening test.

On March 20, 1998 (63 FR 13675), FDA announced the availability of ''Guidance for Industry: Supplemental Testing and the Notification of Consignees of Donor Test Results for Antibody to Hepatitis C Virus (Anti-HCV),'' (the March 1998 guidance). This guidance included a recommendation that consignee notification should commence no later than 6 months after date of issuance of the guidance, i.e., by September 20, 1998.

On June 18, 1998, FDA made known at a public meeting of its Blood Products Advisory Committee (BPAC) its intention to respond to public comments received to the docket for the guidance by reissuance of a comprehensive guidance on the same subject. At the BPAC meeting, FDA announced it was considering changes to the ''HCV lookback'' policy, including revision of recommendations for the additional testing of donor samples and revision of FDA recommendations for implementation timeframes. These changes were based on feasibility considerations which had been raised by the public comments and evaluated by FDA.

During June and July 1998, FDA continued to receive extensive public comments to the docket. These were reviewed and evaluated carefully by CBER. CBER continued to work on modification of the guidance. Although FDA intended to issue a revised guidance by the end of July, the revision was delayed in order to incorporate additional public comments that had been received.

Since FDA did not want to be in the position of having the guidance in place with a compliance date that was being revised, the best option, under the agency's Good Guidance Practices, was for FDA to issue a notice to withdraw the current guidance pending issuance of another comprehensive guidance. This withdrawal was posted on September 8, 1998. The guidance now being issued reflects the agency's current position on this matter. This guidance supersedes FDA's March 1998 guidance. Additionally, this guidance supersedes the recommendations related to HCV in FDA's July 19, 1996,

guidance entitled ''Recommendations for Quarantine and Disposition of Units From Prior Collections From Donors With Repeatedly Reactive Screening Tests for Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human T–Lymphotropic Virus Type I (HTLV–I)'' (the July 1996 guidance). This guidance does not supersede the recommendations related to HBV and HTLV–I in the July 1996 guidance.

This guidance document represents the agency's current thinking with regard to prior collections from donors testing repeatedly reactive for antibody to HCV at a later date. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

This guidance document may contain collections of information that require clearance under the Paperwork Reduction Act of 1995. FDA will seek such approval and provide opportunity for comment as appropriate.

II. Comments

Interested persons, may at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: October 9, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–28217 Filed 10–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–8001–N]

RIN 0938–AJ02

Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1999 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formulae used to determine these amounts.

The inpatient hospital deductible will be $768. The daily coinsurance amounts will be: (a) $192 for the 61st through 90th day of hospitalization in a benefit period; (b) $384 for lifetime reserve days; and (c) $96 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period.

EFFECTIVE DATE: This notice is effective on January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Clare McFarland, (410) 786–6390.

For case-mix analysis only: Gregory J. Savord, (410) 786–1521.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1813 of the Social Security Act (the Act) provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires us to determine and publish, between September 1 and September 15 of each year, the amount of the inpatient hospital deductible and the hospital and extended care services coinsurance amounts applicable for services furnished in the following calendar year.

II. Computing the Inpatient Hospital Deductible for 1999

Section 1813(b) of the Act prescribes the method for computing the amount of the inpatient hospital deductible. The inpatient hospital deductible is an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by our best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B) of the Act) used for updating the payment rates to hospitals for discharges in the fiscal year that begins on October 1 of the same preceding calendar year, and adjusted to reflect real case mix. The adjustment to reflect real case mix is determined on the basis of the most recent case mix data available. The amount determined under this formula is rounded to the nearest multiple of $4 (or, if midway between two multiples of $4, to the next higher multiple of $4).

Under section 1886(b)(3)(B)(i) of the Act, as amended by section 4401(a) of the Balanced Budget Act of 1997 (Pub. L. 105–33), the percentage increase used to update the payment rates for fiscal year 1999 for most hospitals paid under the prospective payment system is the market basket percentage increase minus 1.9 percentage points. Certain nonteaching, nondisproportionate share, non-Medicare-dependent hospitals, however, are allowed higher updates than those provided for other hospitals paid under the prospective payment system. These hospitals must be located in States where, for nonteaching, nondisproportionate share, non-Medicare-dependent hospitals—

- Aggregate Medicare operating payments for their cost reporting periods beginning during fiscal year 1995 are less than the aggregate allowable operating costs of inpatient hospital services for all these hospitals in the State for those cost reporting periods; and
- The Medicare operating payments for discharges in the cost reporting period involved are less than their allowable operating costs for inpatient hospital services in that period.

For hospitals meeting these criteria, the percentage increase used to update the payment rates for fiscal year 1999 is the market basket percentage increase minus 1.6 percentage points.

Under section 1886(b)(3)(B)(ii) of the Act, as amended by section 4411(a) of the Balanced Budget Act of 1997, the percentage increase used to update the payment rates for fiscal year 1999 for hospitals excluded from the prospective payment system depends on the hospital's allowable operating costs of inpatient hospital services. If the hospital's allowable operating costs of inpatient hospital services for the most recent cost reporting period for which information is available—

(1) Are equal to or exceed 110 percent of the hospital's target amount for that cost reporting period, the applicable percentage increase is the market basket percentage;

(2) Exceed 100 percent but are less than 110 percent of the hospital's target amount for that cost reporting period, the applicable percentage increase is the market basket percentage minus 0.25 percentage points for each percentage point by which the hospital's allowable operating costs are less than 110 percent of the target amount for that cost reporting period (but not less than 0 percent);

(3) Are equal to or less than 100 percent of the hospital's target amount for that cost reporting period, but exceed two-thirds of the target amount, the applicable percentage increase is 0 percent or, if greater, the market basket percentage minus 2.5 percentage points; or

(4) Do not exceed two-thirds of the hospital's target amount for that cost reporting period, the applicable percentage increase is 0 percent.

The market basket percentage increase for fiscal year 1999 is 2.4 percent, as announced in the **Federal Register** on July 31, 1998 (63 FR 40954). Therefore, the percentage increase for most hospitals paid under the prospective payment system is 0.5 percent, and the percentage increase for the certain nonteaching, nondisproportionate share, non-Medicare-dependent hospitals paid under the prospective payment system and meeting the criteria described above is 0.8 percent. The average payment percentage increase for hospitals excluded from the prospective payment system is 0.4 percent. Weighting these percentages in accordance with payment volume, our best estimate of the payment-weighted average of the increases in the payment rates for fiscal year 1999 is 0.5 percent.

To develop the adjustment for real case mix, we first calculated for each hospital an average case mix that reflects the relative costliness of that hospital's mix of cases compared to those of other hospitals. We then computed the change in average case mix for hospitals paid under the Medicare prospective payment system in fiscal year 1998 compared to fiscal year 1997. (We excluded from this calculation hospitals excluded from the prospective payment system because their payments are based on reasonable costs and are affected only by real changes in case mix.) We used bills from prospective payment hospitals received in HCFA as of July 1998. These bills represent a total of about 8.5 million discharges for fiscal year 1998 and provide the most recent case mix data available at this time. Based on these bills, the change in average case mix in fiscal year 1998 is −0.81 percent. Based on past experience, we expect the overall case mix change to be −0.6 percent as the year progresses and more fiscal year 1998 data become available.

Section 1813 of the Act requires that the inpatient hospital deductible be adjusted only by that portion of the case mix change that is determined to be real. There is a negligible change in overall case mix for fiscal year 1998. We estimate that there is no change in real case mix; that is, we estimate that the change in real case mix for fiscal year 1998 is 0.0 percent.

Thus, the estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates is 0.5 percent, and the real case mix adjustment factor for the deductible is 0.0 percent. Therefore, under the statutory formula, the inpatient hospital deductible for services furnished in calendar year 1999 is $768. This deductible amount is determined by multiplying $764 (the inpatient hospital deductible for 1998) by the payment-weighted average increase in the payment rates of 1.005 multiplied by the increase in real case mix of 1.000, which equals $767.82 and is rounded to $768.

III. Computing the Inpatient Hospital and Extended Care Services Coinsurance Amounts for 1999

The coinsurance amounts provided for in section 1813 of the Act are defined as fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year. Thus, the increase in the deductible generates increases in the coinsurance amounts. For inpatient hospital and extended care services furnished in 1999, in accordance with the fixed percentages defined in the law, the daily coinsurance for the 61st through 90th day of hospitalization in a benefit period will be $192 (one-fourth of the inpatient hospital deductible); the daily coinsurance for lifetime reserve days will be $384 (one-half of the inpatient hospital deductible); and the daily coinsurance for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period will be $96 (one-eighth of the inpatient hospital deductible).

IV. Cost to Beneficiaries

We estimate that in 1999 there will be about 8.4 million deductibles paid at $768 each, about 2.3 million days subject to coinsurance at $192 per day (for hospital days 61 through 90), about 1.1 million lifetime reserve days subject to coinsurance at $384 per day, and about 34.4 million extended care days subject to coinsurance at $96 per day. Similarly, we estimate that in 1998 there will be about 8.6 million deductibles paid at $764 each, about 2.3 million days subject to coinsurance at $191 per day (for hospital days 61 through 90), about 1.1 million lifetime reserve days subject to coinsurance at $382 per day, and about 32.3 million extended care days subject to coinsurance at $95.50 per day. Therefore, the estimated total increase in cost to beneficiaries is about $100 million (rounded to the nearest $10 million), due to (1) the increase in the deductible and coinsurance amounts and (2) the change in the number of deductibles and daily coinsurance amounts paid.

V. Waiver of Proposed Notice and Comment Period

The Medicare statute, as discussed previously, requires publication of the Medicare Part A inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services for each calendar year. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than notice and comment rulemaking procedures, to make the announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formula used to calculate the inpatient hospital deductible and hospital and extended care services coinsurance amounts is statutorily directed, and we can exercise no discretion in following that formula. Moreover, the statute establishes the time period for which the deductible and coinsurance amounts will apply and delaying publication would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

VI. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We have determined that this notice will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing an analysis for section 1102(b) of the Act.

This notice announces that the inpatient hospital deductible for calendar year 1999 is $768. It also announces the daily coinsurance amounts of $192 for the 61st through 90th day of hospitalization in a benefit period; $384 for lifetime reserve days; and $96 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period. We believe that the total increase in costs to beneficiaries associated with this notice is about $100 million due to (1) the increase in the deductible and coinsurance amounts and (2) the change in the number of deductibles and daily coinsurance amounts paid. Therefore, this notice is a major rule as defined in Title 5, United States Code, section 804(2) and is an economically significant rule under Executive Order 12866.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 18, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: October 8, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–28162 Filed 10–16–98; 9:34 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–8003–N]

RIN 0938–AI98

Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: As required by section 1839 of the Social Security Act, this notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for 1999. It also announces the monthly SMI premium rate to be paid by all enrollees during 1999. The monthly actuarial rates for 1999 are $92.30 for aged enrollees and $103.00 for disabled enrollees. The monthly SMI premium rate for 1999 is $45.50. (The 1998 premium rate was $43.80). The 1999 Part B premium is not equal to 50 percent of the monthly actuarial rate because of the differential between the amount of home health that is transferred into Part B in 1999 (two-sixths) and the amount in Part B that is included in the premium calculation (two-sevenths).

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (410) 786–6396.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Supplementary Medical Insurance (SMI) program is the voluntary Medicare Part B program that pays all or part of the costs for physicians' services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (HI) (Medicare Part A). The SMI program is available to individuals who are entitled to HI and to U.S. residents who have attained age 65 and are citizens, or aliens who were lawfully admitted for permanent residence and have resided in the United States for 5 consecutive years. This program requires enrollment and payment of monthly premiums, as provided in 42 CFR part 407, subpart B, and part 408, respectively. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal government.

The Secretary of Health and Human Services is required by section 1839 of the Social Security Act (the Act) to issue two annual notices relating to the SMI program.

One notice announces two amounts that, according to actuarial estimates, will equal respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the year beginning the following January. These amounts are called ''monthly actuarial rates.''

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the year beginning the following January. (Although the costs to the program per disabled enrollee are different than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of the Social Security Amendments of 1972 (Public Law 92–603), the premium rate, which was determined on a fiscal year basis, was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits.

However, the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Pub. L. 97–248) suspended this premium determination process. Section 124 of TEFRA changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). Section 606 of the Social Security Amendments of 1983 (Public Law 98–21), section 2302 of the Deficit Reduction Act of 1984 (DRA 1984) (Public Law 98–369), section 9313 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 1985) (Public Law 99–272), section 4080 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) (Public Law 100–203), and section 6301 of the Omnibus Budget Reconciliation Act of

1989 (OBRA 1989) (Public Law 101–239) extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees). This extension expired at the end of 1990.

The premium rate for 1991 through 1995 was legislated by section 1839(e)(1)(B) of the Act, as added by section 4301 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990) (Public Law 101–508). In January 1996, the premium determination basis would have reverted to the method established by the 1972 Social Security Act Amendments. However, section 13571 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (Public Law 103–66) changed the premium basis to 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees) for 1996 through 1998.

Section 4571 of the Balanced Budget Act of 1997 (BBA 1997) (Public Law 105–33) permanently extended the provision that the premium be based on 50 percent of the monthly actuarial rate for aged enrollees (that is, 25 percent of program costs for aged enrollees).

BBA 1997 included a further provision affecting the calculation of the SMI actuarial rates and premiums for 1998 though 2003. Section 4611 of BBA 1997 modified the home health benefit payable under the HI program for individuals enrolled in the SMI program. In doing so, expenditures for home health services not considered ''post-institutional'' will be payable under the SMI program rather than the HI program beginning in 1998. However, section 4611(e)(1) of BBA 1997 requires that there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from the HI program to the SMI program. Section 4611(e)(2) also provides a specific yearly proportion for the transferred funds. The proportions are ⅙ for 1998, ⅓ for 1999, ½ for 2000, ⅔ for 2001, and ⅚ for 2002. For purposes of determining the correct amount of financing from general revenues of the Federal government, it is necessary to include only these transitional amounts in the monthly actuarial rates for both aged and disabled enrollees, rather than the total cost of the home health services being transferred. Accordingly, the actuarial rates shown in this announcement reflect the net transitional cost only.

Section 4611(e)(3) of BBA 1997 also specifies, for the purposes of determining the premium, that the monthly actuarial rate for aged enrollees shall be computed as though the transition would occur for 1998 through 2003 and that 1/7 of the cost would transferred in 1998, 2/7 in 1999, 3/7 in 2000, 4/7 in 2001, 5/7 in 2002, and 6/7 in 2003. Therefore, the transition period for incorporating this home health transfer into the premium is 7 years while the transition period for including these services in the actuarial rate is 6 years. As a result, the premium rate for this year and each of the next 4 years, through 2003, will be less than 50 percent of the actuarial rate for aged enrollees announced by the Secretary.

New section 1933(c)(2) of the Act, as added by section 4732(c) of BBA 1997, requires the Secretary to allocate money from the SMI trust fund to the State Medicaid programs for the purpose of providing Medicare Part B premium assistance from 1998 through 2002 for the section 1933 qualifying low-income Medicare beneficiaries. This allocation, while not a benefit expenditure, will be an expenditure of the trust fund and has been included in calculating the SMI actuarial rates for this year. The allocation will be included in calculating the SMI actuarial rates through 2002.

As determined according to section 1839(a)(3) of the Act and section 4611(e)(3) of BBA 1997, the premium rate for 1999 is $45.50.

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act, as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360). (The Medicare Catastrophic Coverage Repeal Act of 1989 (Public Law 101–234) did not repeal the revisions to section 1839(f) made by Public Law 100–360.) Section 1839(f) provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums deducted from these benefit payments, the premium increase will be reduced to avoid causing a decrease in the individual's net monthly payment. This occurs if the increase in the individual's social security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits. (A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December, but has the December's SMI premium deducted from it.) (This change, in effect, perpetuates former amendments that prohibited SMI premium increases from reducing an individual's benefits in years in which the dollar amount of the individual's cost-of-living increase in benefits was not at least as great as the dollar amount of the individual's SMI premium increase.)

Generally, if a beneficiary qualifies for this protection (that is, the beneficiary must have been in current payment status for November and December of the previous year), the reduced premium for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the SMI premium for December; or

(2) The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f) of the Act, it will not be changed during the year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in the SMI program late or have reenrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. That increase is a percentage of the premium and is based on the new premium rate before any reductions under section 1839(f) are made.

II. Notice of Monthly Actuarial Rates and Monthly Premium Rate

The monthly actuarial rates applicable for 1999 are $92.30 for enrollees age 65 and over, and $103.00 for disabled enrollees under age 65.

Section III of this notice gives the actuarial assumptions and bases from which these rates are derived. The monthly premium rate will be $45.50 during 1999. This is an increase from the 1998 premium rate of $43.80.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1999

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

Under the law, the starting point for determining the monthly premium is the amount that would be necessary to finance the SMI program on an incurred basis; that is, the amount of income that would be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the year is added to the trust fund and used when needed.

The rates are established prospectively and are, therefore, subject to projection error. Additionally, legislation enacted after the financing has been established, but effective for the period for which the financing has been set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of variation between actual and projected costs (in addition to the amount of incurred but unpaid expenses). An appropriate level for assets to cover a moderate degree of variation between actual and projected costs depends on numerous factors. The most important of these factors are: (1) The difference from prior years between the actual performance of the program and estimates made at the time financing was established, and (2) the expected relationship between incurred and cash expenditures. Ongoing analysis is made of both factors as the trends vary over time.

Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 1997 and 1998.

TABLE 1.—ESTIMATED ACTUARIAL STATUS OF THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND AS OF THE END OF THE FINANCING PERIOD

[In billions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
December 31, 1997	$36.131	$6.681	$29.450
December 31, 1998	36.754	4.422	32.332

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate for enrollees age 65 and older is one-half of the monthly projected cost of benefits, the Medicaid transfer (for 1998 through 2002), and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of variation between actual and projected costs and to amortize any surplus or unfunded liabilities. As noted in section I. of this announcement, section 4611(e)(2) of BBA 1997 requires that only ⅓ of the cost of the home health services being transferred be included in the actuarial rate for 1999, rather than the full cost of such benefits.

The monthly actuarial rate for enrollees age 65 and older for 1999 was determined by first establishing per-enrollee cost by type of service from program data through 1996 and then projecting these costs for subsequent years. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July annual fee screen update used for benefits before the passage of section 2306(b) of DRA 1984. Accordingly, the values for the 12-month period ending June 30, 1996 were established from program data, and subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1996, through December 31, 1999, are shown in Table 3.

The projected monthly rate required to pay for one-half of the total of benefits, the transfer to Medicaid, and administrative costs for enrollees age 65 and over for 1999 is $110.97. Included in the total of $110.97 is $12.91 for home health services and $33.44 for group practice prepayment plan services. The amount of $12.91 for home health services includes (1) the full cost of fee-for-service home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply ($12.51) as well as (2) the cost of furnishing all home health services to those individuals enrolled in SMI only ($0.40). The amount of $33.44 for group practice prepayment plan services includes (1) the full cost of managed care home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply ($3.11) as well as (2) the cost of furnishing all other SMI services to those individuals enrolled in group practice prepayment plans ($30.33). Since section 4611(e)(2) of BBA 1997 requires that only ⅓ of the cost for those services being transferred be included in the actuarial rate for 1999, the monthly actuarial rate provides for an adjustment of −$10.41, representing ⅔ of the full cost of such services. The monthly actuarial rate of $92.30 also provides an adjustment of −$3.65 for interest earnings and −$4.61 for a contingency margin. Based on current estimates, it appears that the assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce assets to a more appropriate level.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement (before age 65) to disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to the projection for the aged, using appropriate actuarial

assumptions (see Table 2). Costs for the end-stage renal disease program are projected differently because of the different nature of services offered by the program. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits, the transfer to Medicaid, and administrative costs for disabled enrollees for 1999 is $119.77. Included in the total of $119.77 is $16.70 for home health services and $8.23 for group practice prepayment plan services. The amount of $16.70 is the full cost of the home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply. The amount of $8.23 for group practice prepayment plan services includes (1) the full cost of managed care home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply ($1.07) as well as (2) the cost of furnishing all other SMI services to those individuals enrolled in group practice prepayment plans ($7.16). Since section 4611(e)(2) of BBA 1997 requires that only ⅓ of the cost for those services being transferred be included in the actuarial rate for 1999, the monthly actuarial rate provides for an adjustment of −$11.84, representing ⅔ of the full cost of such services. The monthly actuarial rate of $103.00 also provides an adjustment of −$0.27 for interest earnings and −$4.66 for a contingency margin. Based on current estimates, it appears that the assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce assets to a more appropriate level.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it is appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as governed by the program's physician fee schedule. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined by studying the average historical variation between actual and projected increases in the respective increase factors. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates would result in an excess of assets over liabilities of $29.222 billion by the end of December 1999. This amounts to 30.7 percent of the estimated total incurred expenditures for the following year. Assumptions that are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) produce a surplus of $14.857 billion by the end of December 1999, which amounts to 14.3 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates would result in a surplus of $42.551 billion by the end of December 1999, which amounts to 48.6 percent of the estimated total incurred expenditures for the following year.

E. Premium Rate

As determined by section 1839(a)(3) of the Act and section 4611(e)(3) of BBA 1997, the monthly premium rate for 1999, for both aged and disabled enrollees, is $45.50.

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Table 2.--PROJECTION FACTORS 1/
12-MONTH PERIODS ENDING JUNE 30 OF 1996-2000
(In Percent)

12-month period ending June 30	Physicians' Services		Outpatient hospital services	Home health agency services 4/	Group practice prepayment plans	Independent lab services
	Fees 2/	Residual 3/				
Aged:						
1996	2.2	1.9	0.5	14.1	24.4	-6.6
1997	0.5	0.7	4.0	5.7	23.9	-3.0
1998	1.0	2.3	-2.2	5/	34.5	-0.4
1999	1.3	0.8	2.7	95.2 5/	44.9	-0.4
2000	0.4	-2.4	0.9	1.9	16.3	-1.0
Disabled:						
1996	2.2	0.5	10.1	0.0	15.5	0.1
1997	0.5	0.7	7.1	0.0	20.9	3.3
1998	1.0	1.4	-1.8	5/	29.0	-2.5
1999	1.3	2.6	-0.9	98.4 5/	55.7	-4.9
2000	0.4	-3.5	-3.1	-1.6	35.2	-9.6

1/ All values are per enrollee.
2/ As recognized for payment under the program.
3/ Increase in the number of services received per enrollee and greater relative use of more expensive services.
4/ From July 1, 1981 to December 31, 1997, home health agency services have been provided by the SMI program only for those SMI enrollees not entitled to HI. Otherwise these services were provided by the HI program. Since all SMI disabled enrollees are entitled

to HI, their coverage of these services has been provided by the HI program during this period.

5/ Effective January 1, 1998, the coverage of home health agency services not considered "post-institutional" for those individuals entitled to HI and enrolled in SMI will be transferred from the HI program to the SMI program. As a result, as of January 1, 1998, there will be a large increase in SMI expenditures for these services for the aged enrollees, and SMI coverage for these services will resume for disabled enrollees.

Table 3.--DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FINANCING PERIODS ENDING DECEMBER 31, 1996 THROUGH DECEMBER 31, 1999

	Financing Periods			
	CY 1996	CY 1997	CY 1998	CY 1999
Covered services (at level recognized):				
Physicians' reasonable charges	$61.67	$63.11	$64.85	$64.87
Outpatient hospital and other institutions	21.41	21.60	21.64	22.03
Home health agencies	0.32	0.33	12.71 1/	12.91 1/
Group practice prepayment plans	14.34	17.67	27.06 2/	33.44 2/
Independent lab	2.29	2.25	2.24	2.23
Total services	100.03	104.96	128.50	135.48
Cost-sharing:				
Deductible	-3.80	-3.84	-3.86	-3.87
Coinsurance	-18.53	-19.71	-21.33	-22.59
Total benefits	77.70	81.41	103.31	109.02
Transfer to Medicaid	0.00	0.00	0.30 3/	0.30 3/
Administrative expenses	2.04	1.53	1.59	1.65
Incurred expenditures	79.74	82.94	105.20	110.97
Value of interest	-2.33	-3.11	-3.71	-3.65
Adjustment for home health agency services transferred from HI	0.00	0.00	-13.38 4/	-10.41 4/

Contingency margin for projection error and to amortize the surplus or deficit	7.49	7.77	-0.21	-4.61
Monthly actuarial rate	$84.90	$87.60	$87.90	92.30

1/ This amount includes the full cost of the fee-for-service home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply, as well as the cost of furnishing all home health services to those individuals enrolled in SMI only.

2/ This amount includes the full cost of the managed care home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply, as well as the cost of furnishing all other SMI services to individuals enrolled in group practice prepayment plans.

3/ Section 1933(c)(2) of the Act, as added by section 4732(c) of BBA 1997, allocates an amount to be transferred from the SMI trust fund to the State Medicaid programs. The transfer is for the purpose providing Medicare Part B premium assistance for qualifying low-income Medicare beneficiaries. It is not a benefit expenditure but is used in determining the SMI actuarial rates since it is an expenditure of the trust fund.

4/ Section 4611 of BBA 1997 specifies that expenditures for home health services not considered "post-institutional" will be payable under the SMI program rather than the HI program beginning in 1998. However, section 4611(e)(1) requires that there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from the HI program to the SMI program. For 1998, the amount transferred is 1/6 of the full cost for such services and for 1999, 1/3. Therefore, the adjustment for 1998 represents 5/6 of the full cost, and for 1999, 2/3. This amount adjusts the actuarial rate to reflect the correct amount attributable to home health services.

Table 4.--DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FINANCING PERIODS ENDING DECEMBER 31, 1996 THROUGH DECEMBER 31, 1999

	Financing Periods			
	CY 1996	CY 1997	CY 1998	CY 1999
Covered services (at level recognized):				
Physicians' reasonable charges	$66.77	$68.38	$69.30	$68.24
Outpatient hospital and other institutions	47.88	49.19	49.65	49.66
Home health agencies	0.00	0.00	16.81 1/	16.70 1/
Group practice prepayment plans	3.20	3.68	6.09 2/	8.23 2/
Independent lab	3.03	3.07	3.04	2.85
Total services	120.88	124.32	144.89	145.68
Cost-sharing:				
Deductible	-3.59	-3.62	-3.64	-3.65
Coinsurance	-22.83	-23.59	-24.09	-24.34
Total benefits	94.46	97.11	117.16	117.69
Transfer to Medicaid	0.00	0.00	0.29 3/	0.30 3/
Administrative expenses	2.48	1.81	1.78	1.78
Incurred expenditures	96.94	98.92	119.23	119.77
Value of interest	-0.29	-0.61	-0.73	-0.27
Adjustment for home health agency services transferred from HI	0.00	0.00	-15.09 4/	-11.84 4/

Contingency margin for projection error and to amortize the surplus or deficit	8.45	12.09	-6.31	-4.66
Monthly actuarial rate	$105.10	$110.40	$97.10	$103.00

1/ This amount includes the full cost of the fee-for-service home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply.

2/ This amount includes the full cost of the managed care home health services being transferred from the HI program as a result of BBA 1997 as if the transition did not apply, as well as the cost of furnishing all other SMI services to individuals enrolled in group practice prepayment plans.

3/ Section 1933(c)(2) of the Act, as added by section 4732(c) of BBA 1997, allocates an amount to be transferred from the SMI trust fund to the State Medicaid programs. The transfer is for the purpose providing Medicare Part B premium assistance for qualifying low-income Medicare beneficiaries. It is not a benefit expenditure but is used in determining the SMI actuarial rates since it is an expenditure of the trust fund.

4/ Section 4611 of BBA 1997 specifies that expenditures for home health services not considered "post-institutional" will be payable under the SMI program rather than the HI program beginning in 1998. However, section 4611(e)(1) requires that there be a transition from 1998 through 2002 for the aggregate amount of the expenditures transferred from the HI program to the SMI program. For 1998, the amount transferred is 1/6 of the full cost for such services and for 1999, 1/3. Therefore, the adjustment for 1998 represents 5/6 of the full cost and for 1999, 2/3. This amount adjusts the actuarial rate to reflect the correct amount attributable to home health services.

Table 5.--ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1999

	This projection			Low cost projection			High cost projection		
	12-Month period ending June 30,			12-Month period ending June 30,			12-Month period ending June 30,		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
Projection factors (in percent):									
Physician fees 1/									
Aged	1.0	1.3	0.4	0.8	0.2	-1.4	1.3	2.5	2.3
Disabled	1.0	1.3	0.4	0.8	0.2	-1.4	1.3	2.5	2.3
Utilization of physician services 2/									
Aged	2.3	0.8	-2.4	0.5	-1.4	-4.9	4.2	3.0	0.0
Disabled	1.4	-2.6	-3.5	-1.5	-5.6	-6.6	4.4	0.4	-0.4
Outpatient hospital services per enrollee									
Aged	-2.2	2.7	0.9	-6.6	-1.9	-4.0	2.2	7.2	5.9
Disabled	-1.8	-0.9	-3.1	-7.1	-6.4	-8.7	3.6	4.7	2.6
	As of December 31,			As of December 31,			As of December 31,		
	1997	1998	1999	1997	1998	1999	1997	1998	1999
Actuarial status (in billions):									
Assets	$36.131	$36.754	$34.278	$36.131	$40.595	$44.566	$36.131	$32.711	$23.048
Liabilities	6.681	4.422	5.056	4.089	1.625	2.015	9.313	7.274	8.191
Assets less liabilities	$29.450	$32.332	$29.222	$32.042	$38.970	$42.551	$26.818	$25.437	$14.857
Ratio of assets less liabilities to expenditures (in percent) 3/	37.6	36.3	30.7	43.0	47.1	48.6	32.5	26.5	14.3

1/ As recognized for payment under the program.
2/ Increase in the number of services received per enrollee and greater relative use of more expensive services.
3/ Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

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IV. Waiver of Notice of Proposed Rulemaking

The Medicare statute, as discussed previously, requires publication of the monthly actuarial rates and the Part B premium amount in September. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than formal notice and comment rulemaking procedures, to make such announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formula used to calculate the SMI premium is statutorily directed, and we can exercise no discretion in following that formula. Moreover, the statute establishes the time period for which the premium rates will apply, and delaying publication of the SMI premium rate would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

VI. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We have determined that this notice will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing an analysis for section 1102(b) of the Act.

This notice announces that the monthly actuarial rates applicable for 1999 are $92.30 for enrollees age 65 and over, and $103.00 for disabled enrollees under age 65. It also announces that the monthly SMI premium rate for calendar year 1999 is $45.50. The SMI premium rate of $45.50 is 3.9 percent higher than the $43.80 premium rate for 1998. We estimate that the cost of this increase from the current premium to the approximately 37 million SMI enrollees will be about $0.754 billion for 1999. Therefore, this notice is a major rule as defined in Title 5, United States Code, section 804(2) and is an economically significant rule under Executive Order 12866.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r)
(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: September 28, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: October 8, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–28163 Filed 10–16–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–8000–N]

RIN 0938–AJ03

Medicare Program; Part A Premium for 1999 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the hospital insurance premium for calendar year 1999 under Medicare's hospital insurance program (Part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The monthly Medicare Part A premium for the 12 months beginning January 1, 1999 for these individuals is $309, the same as in 1998. The reduced premium for certain other individuals as described in this notice is $170. Section 1818(d) of the Social Security Act specifies the method to be used to determine these amounts.

EFFECTIVE DATE: This notice is effective on January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Clare McFarland, (410) 786–6390.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare hospital insurance program (Medicare Part A), subject to payment of a monthly premium, of certain persons aged 65 and older, who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to Medicare Part A. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d) of the Act requires us to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services performed, and related administrative costs incurred, in the following calendar year with respect to individuals aged 65 and over who will be entitled to benefits under Medicare Part A. We must then, during September of each year, determine the monthly actuarial rate (the per capita amount estimated above divided by 12) and publish the dollar amount for the monthly premium in the succeeding calendar year. If the premium is not a multiple of $1, the premium is rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not of $1, it is rounded to the next highest $1). The 1998 premium under this method was $309 and was effective January 1, 1998. (See 62 FR 59366, November 3, 1997.)

Section 1818(d)(2) of the Act requires us to determine and publish, during September of each calendar year, the amount of the monthly premium for the following calendar year for persons who voluntarily enroll in Medicare Part A.

Section 1818A of the Act provides for voluntary enrollment in Medicare Part A, subject to payment of a monthly premium, of certain disabled individuals who have exhausted other entitlement. These individuals are those not now entitled but who have been

entitled under section 226(b) of the Act, who continue to have the disabling impairment upon which their entitlement was based, and whose entitlement ended solely because they had earnings that exceeded the substantial gainful activity amount (as defined in section 223(d)(4) of the Act).

Section 1818A(d)(2) of the Act specifies that the premium determined under section 1818(d)(2) of the Act for the aged will also apply to certain disabled individuals as described above.

Section 13508 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66) amended section 1818(d) of the Act to provide for a reduction in the monthly premium amount for certain voluntary enrollees. The reduction applies for an individual who is not eligible for social security or railroad retirement benefits but who—

- Has at least 30 quarters of coverage under title II of the Act;
- Is married and has been married for the previous 1-year period to a person who has at least 30 quarters of coverage;
- Had been married for at least 1 year at the time of the person's death to a person who had at least 30 quarters of coverage; or
- Is divorced from a person who at the time of divorce had at least 30 quarters of coverage if the marriage lasted at least 10 years.

For calendar year 1999, section 1818(d)(4)(A) of the Act specifies that the monthly premium that these individuals will pay for calendar year 1999 will be equal to the monthly premium for aged voluntary enrollees reduced by 45 percent.

II. Premium Amount for 1999

Under the authority of sections 1818(d)(2) and 1818A(d)(2) of the Act, the Secretary has determined that the monthly Medicare Part A hospital insurance premium for the uninsured aged and for certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 1999 is $309, the same as in 1998.

The monthly premium for those individuals subject to a 45 percent reduction in the monthly premium for the 12-month period beginning January 1, 1999 is $170.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Premium Rate

As discussed in section I of this notice, the monthly Medicare Part A premium for 1999 is equal to the estimated monthly actuarial rate for 1999 rounded to the nearest multiple of $1. The monthly actuarial rate is defined to be one-twelfth of the average per capita amount that the Secretary estimates will be paid from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in 1999 for individuals aged 65 and over who will be entitled to benefits under the hospital insurance program. Thus, the number of individuals aged 65 and over who will be entitled to hospital insurance benefits and the costs incurred on behalf of these beneficiaries must be projected to determine the premium rate.

The principal steps involved in projecting the future costs of the hospital insurance program are (a) establishing the present cost of services furnished to beneficiaries, by type of service, to serve as a projection base; (b) projecting increases in payment amounts for each of the various service types; and (c) projecting increases in administrative costs. Establishing historical Medicare Part A enrollment and projecting future enrollment, by type of beneficiary, is part of this process.

We have completed all of the above steps, basing our projections for 1999 on (a) current historical data and (b) projection assumptions under current law from the Midsession Review of the President's Fiscal Year 1999 Budget. It is estimated that in calendar year 1999, 33.415 million people aged 65 and over will be entitled to Medicare Part A benefits (without premium payment), and that these individuals will, in 1999, incur $124.033 billion of benefits for services performed and related administrative costs. Thus, the estimated monthly average per capita amount is $309.32 and the monthly premium is $309. The monthly premium for those individuals eligible to pay this premium reduced by 45 percent is $170.

IV. Costs to Beneficiaries

The 1999 Medicare Part A premium is equal to the $309 monthly premium amount for the 12-month period beginning January 1, 1998.

We estimate that there will be, in calendar year 1999, approximately 351,000 enrollees who do not otherwise meet the requirements for entitlement, and will voluntarily enroll in Medicare Part A by paying the full premium. We estimate an additional 9,000 enrollees will be paying the reduced premium. Since the premium amount for calendar year 1999 is unchanged from calendar year 1998, there is neither cost nor savings to these voluntary enrollees.

V. Waiver of Notice of Proposed Rulemaking

The Medicare statute, as discussed previously, requires publication of the Medicare Part A hospital insurance premium for the upcoming calendar year during September of each year. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than formal notice and comment rulemaking procedures, to make the announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formula used to calculate the Part A hospital insurance premium is statutorily directed, and we can exercise no discretion in following that formula. Moreover, the statute established the time period for which the premium will apply and delaying publication of the premium amount would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

VI. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA.

For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice merely announces that the monthly Medicare Part A hospital insurance premium for the uninsured aged and for certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 1999 is $309. It also announces that the premium for certain other individuals subject to a reduction in the monthly premium is $170. There is neither cost nor savings as a result of this notice because the premium amount for calendar year 1999 is unchanged from calendar year 1998. Therefore, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Sections 1818(d)(2) and 1818A(d)(2) of the Social Security Act (42 U.S.C. 1395i–2(d)(2) and 1395i–2a(d)(2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 28, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: October 8, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–28161 Filed 10–16–98; 9:34 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel.

Date: November 9, 1998.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: 6130 Executive Blvd. 6th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Rashmi Gopal, Scientific Review Administrator, Office of Advisory Activities, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN–Room 609, Rockville, MD 20892–7410, 301/496–2378.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28251 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. the grant applications and the discussions could disclose confidential trade secrets or commerical property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Strategies to Augment Alveolizaiton.

Date: November 18, 1998.

Time: 8:00 am to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Anne P. Clark, Phd, Scientific Review Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28250 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group, Genome Research Review Committee.

Date: November 5, 1998.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, Building 38A, Room 609, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ken D. Nakamura, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28252 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group, Ethical, Legal, Social Implications Review Committee.

Date: November 3, 1998.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, Building 38A, Room 609, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O Pozzatti, Phd, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28253 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA Review of the laboratory of Cellular & Molecular Biology & the Laboratory of Neuroscience.

Date: November 16–17, 1998.

Time: 8:00 PM to 5:30 PM.

Agenda: Personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Contact Person: Dan L. Longo, Scientific Director, National Institute of Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825, 410–558–8110, dl14q@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28247 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness & other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis.

Date: November 2, 1998.

Time: 3:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20852 (Telephone Conference Call).

Contact Person: Richard S. Fisher, PhD, Scientific Review Administrator.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: November 12, 1998.

Time: 11:00 am to 11:30 am.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20852 (Telephone Conference Call).

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: November 17, 1998.

Time: 7:30 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Best Western Inn, 1251 W. Montgomery Avenue, Rockville, MD 20850.

Contact Person: Richard S. Fisher, PhD, Scientific Review Administrator.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS).

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28248 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB 4 C3.

Date: October 30, 1998.

Time: 3:00 pm to Adjournment.

Agenda: To review and evaluate contract proposals.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William Elzinga, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28249 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel RFA 98–004—Development Grants: Environmental Health Sciences Centers.

Date: November 9, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus Bldg 101, Conference Room C, Research Triangle Park, NC 27709.

Contact Person: Patrick J. Mastin, PHD, Scientific Review Administrator, 79 Alexander Drive, Research Traingle Park, NC 27709, (919) 541–1446.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, SNP Scanning in Human Populations.

Date: November 18–20, 1998.

Time: November 18, 1998, 5:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: Copley Marriott, 110 Huntington Avenue, Boston, MA 02116.

Time: November 19, 1998, 8:00 AM to recess.

Agenda: To review and evaluate grant applications.

Place: Copley Marriott, 110 Huntington Avenue, Boston, MA 02116.

Time: November 20, 1998, 8:00 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: Copley Marriott, 110 Huntington Avenue, Boston, MA 02116.

Contact Person: Ethel B. Jackson, DDS, Chief, Scientific Review Branch, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–7826.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicologic Research and Testing, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28254 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee.

Date: November 11–13, 1998.

Time: November 11, 1998, 7:00 PM to 10:00 PM.

Agenda: To review an evaluate grant applications.

Place: Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713.

Time: November 12, 1998, 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Building 101, Conference Room B, Research Triangle Park, NC 27709.

Time: November 13, 1998, 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Building 101, Conference Room B, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PHD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–28255 Filed 10–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(WY–920–09–1320–01); WYW146735]

Invitation for Coal Exploration License

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of February 25, 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201(b), and to the regulations adopted as 43 CFR, subpart 3410, all interested parties are hereby invited to participate with Jacobs Ranch Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 44 N. R. 70 W., 6th P.M., Wyoming,
Sec. 19: Lots 13 thru 20;
Sec. 20: Lots 9 thru 16;
Sec. 21: Lots 9 thru 16;
Sec. 22: Lots 8 thru 10, 12 thru 15;
Sec. 26: Lots 9, 10;
Sec. 27: Lots 1 thru 16;
Sec. 28: Lots 1 thru 16;
Sec. 29: Lots 1 thru 16;
Sec. 30: Lots 5 thru 20;
Sec. 31: Lots 5 thru 20;
Sec. 32: Lots 1 thru 16;
T. 44 N., R. 71 W., 6th P.M., Wyoming,
Sec. 23: Lots 9, 10, 15, 16;
Sec. 24: Lots 9 thru 16;
Sec. 25: Lots 1 thru 16;
Sec. 26: Lots 1, 2, 7 thru 10, 15, 16.

Containing approximately 6,744.31 acres.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Recoverable Coal Resource Area. The purpose of the exploration program is to obtain coal quality data to supplement data from previous adjacent coal exploration programs.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW146735): BLM. Wyoming State Office, 5353 Yellowstone Road, PO Box 1828, Cheyenne, WY 82003; and, BLM, Casper Field Office, 1701 East ''E'' Street, Casper, WY 82601.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in ''The News-Record'' of Gillette, WY, once each week for two consecutive weeks beginning the week of October 19, 1998, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Jacobs Ranch Coal Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Jacobs Ranch Coal Company, Attn: Richard A. Turpin, Caller Box 3013, Gillette, WY 82717, and the BLM, Wyoming State Office, Minerals and Lands Authorization Group, Attn: Mavis Love, PO Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: October 13, 1998.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–28029 Filed 10–20–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Minerals Management Service Workshop on the Development of Criteria To Be Used in Distinguishing Between Gathering and Transportation in Deep Water in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) will hold a day-long meeting with parties interested in the development of deep water leases that may involve subsea well completions. We are interested in developing specific criteria to be used in distinguishing between gathering and transportation to determine permissible deductions in calculating royalty value.

DATES: The workshop will be held on November 16, 1998, starting at 9:00 a.m., Central Time.

ADDRESSES: The meeting will be held at the MMS Gulf of Mexico Outer Continental Shelf Regional Office, 1201 Elmwood Park Blvd., New Orleans, Louisiana 70123.

FOR FURTHER INFORMATION CONTACT: Mr. Martin C. Grieshaber, Minerals Management Service, P.O. Box 25165, MS 9200, Denver, CO 80225–0165, telephone number (303) 275–7118; fax (301) 275–7124; e-mail Martin.Grieshaber@mms.gov; or Ms. Deborah Gibbs Tschudy, MMS, P.O. Box 25165, MS 3150, Denver, CO 80225–0165, telephone number (303) 275–7200; fax (303) 275–7227; e-mail Deborah.GibbsTschudy@mms.gov.

COMMENTS: Written comments on the meeting or the issues below should be addressed to Mr. Martin C. Grieshaber at the above address.

SUPPLEMENTARY INFORMATION: MMS is investigating the impact of deep water production systems on the distinction between gathering and transportation.

Current MMS regulations provide for an allowance for the actual and reasonable costs of transporting production when value for royalty purposes is determined away from the lease. No allowance is permitted for gathering (movement to a central accumulation and/or treatment point).

The new technologies involved in deep water development were not specifically contemplated in the current regulations, particularly when distinguishing between gathering and transportation.

We are interested in specific comments regarding what criteria should be used on a case-by-case basis when making the gathering/transportation differentiation for deep water leases.

Some possible criteria we would like comments on include: water depth, distance of movement, location of the approved measurement point, marketable condition of the production, and on-lease v. off-lease movement. Specific comments are welcome on any other criteria with a bearing on the issue.

Dated: October 15, 1998.

Walter Cruickshank,

Associate Director for Policy and Management Improvement.

[FR Doc. 98–28146 Filed 10–20–98; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–385 and 731–TA–809–810 (Preliminary)]

Live Cattle From Canada and Mexico

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: October 13, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 1, 1998, the Commission established a schedule for the conduct of the preliminary phase of the subject investigations (**Federal Register** 63 F.R. 54156, October 8, 1998). Subsequently, the Department of Commerce extended the date for its initiation determinations in the investigations to November 10, 1998. The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: parties wishing to participate in the conference should contact Elizabeth Haines (202–205–3200) not later than November 9, 1998, to arrange for their appearance; the conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on November 12, 1998; and any person may submit to the Commission on or before November 17, 1998, a written brief containing information and arguments pertinent to the subject matter of the investigations.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: October 16, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–28260 Filed 10–20–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 U.S.C. § 50.7, notice is hereby given that a proposed Settlement Agreement in *In Re Arrow Transportation Co. of Delaware, Inc.*, Case No. 397–34556–psh11, was lodged on October 5, 1998, in the United States Bankruptcy Court for the District of Oregon. The Consent Decree represents a settlement of claims of the United States against Arrow Transportation Co. of Delaware, Inc. (''Arrow'') pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9607, for reimbursement of response costs in connection with the Chemical Handling Corporation Site located in Broomfield, Colorado, and the Thea Foss Waterway Problem Areas of the Commencement Bay Nearshore/Tideflats Superfund Site, located in Tacoma, Washington. Under this settlement with the United States, Arrow will pay $86,500 in reimbursement of response costs incurred by the United States at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Settlement Agreement. Comments should be addressed to the Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Post Office Box 7611, Washington, DC 20044–7611, and should refer to *In Re Arrow Transportation Co. of Delaware, Inc.*, D.J. Ref. No. 90–11–2–1323.

The proposed Settlement Agreement may be examined at the office of the United States Attorney, District of Oregon, 1000 S.W. Third Ave., Suite 600, Portland, Oregon, 97204; the Region 8 Office of the Environmental Protection Agency, 999 18th St., Suite 500, and the Region 10 office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. In requesting a copy of the Settlement Agreement, please enclose a check payable to the Consent Decree Library in the amount of $2.50 (25 cents per page reproduction cost) for a copy of the Settlement Agreement.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–28262 Filed 10–20–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

International Competition Policy Advisory Committee; Request for Input

The International Competition Policy Advisory Committee (Advisory Committee) is seeking input from the business community and other interested parties on the important issues under its consideration. By offering your perspectives as well as the experiences of your business, if relevant, in matters involving trade and competition policy matters, multijurisdictional mergers and enforcement cooperation, you can ensure that your views on these important issues are considered by the Advisory Committee. To this end, the Advisory Committee has prepared an illustrative set of questions, set forth in Section E below.

A. Introduction to the Advisory Committee

In response to the increasingly international nature of antitrust enforcement, the Advisory Committee was formed in late 1997 by Attorney General Janet Reno and Assistant Attorney General for Antitrust Joel I. Klein. It is the third U.S. committee on antitrust matters to the U.S. Department of Justice and the first-ever on international antitrust related matters. The Advisory Committee was established to help tackle the international antitrust problems of the 21st century and thus to provide a medium term policy vision to help guide the U.S. Department of Justice in the years ahead.

The Advisory Committee's membership represents vast experience and expertise from U.S. business, industrial relations, academic, economic and legal communities. It is CoChaired by Dr. Paul Stern, President of The Stern Group and former Chairwoman of the U.S. International Trade Commission, and James F. Rill, Senior Partner at Collier, Shannon, Rill & Scott and former Assistant Attorney General for Antitrust, U.S. Department of Justice. Serving as Executive Director of the Advisory Committee is Professor Merit E. Janow of Columbia University's

School of International and Public Affairs and former Deputy Assistant U.S. Trade Representative for Japan and China.

On February 26, 1998, the Advisory Committee held its inaugural meeting. Subsequently, in May 1998, some Advisory Committee members met in working groups to consider specific issues and on September 11, 1998 the second full meeting of the Advisory Committee was held. Overall, the Advisory Committee expects to hold three to four meetings a year of its full membership. These meetings will be open to the general public and notice of the meetings will be published in the **Federal Register**. The Advisory Committee expects to complete its work in the fall of 1999.

For additional background on the Advisory Committee, including the transcripts of full Advisory Committee meetings, please visit its website at http://www.usdoj.gov/atr/ipac/icpac.htm.

B. Issues Under Consideration by the Advisory Committee

As noted above, the Advisory Committee's mandate is broad. It has been asked to consider three distinct but related topics:

1. The Interface of International Trade and Competition Policy

As many formal barriers to trade have been reduced or eliminated around the world, international policy attention is focusing increasingly on the role of private anticompetitive practices of firms that can foreclose access to markets, as well as governmental practices that may have such effects. Indeed, economic globalization has come to mean that competition problems increasingly transcend national boundaries. And, perhaps not surprisingly, international organizations such as the Organization for Economic Cooperation and Development (OECD) and the World Trade Organization (WTO), as well as bilateral intergovernmental groups, are engaging in active debate about the extent to which private anticompetitive business practices are in fact blocking access to markets around the world and the appropriate national or international policy responses.

The Advisory Committee is considering the nature of the market access problems that stem from foreign business practices, including those that may be encouraged or in some way facilitated by foreign governmental practices, and what policy actions might usefully be undertaken, if any, to address those problems. In other words, how can the U.S. government even more effectively address barriers to foreign markets that stem from private restraints to trade and investment? A review of domestic unfair trade remedies, such as antidumping measures, is not on the Advisory Committee's agenda.

1. Multijurisdictional Merger Review

The recent boom in mergers, acquisitions, joint ventures and other business transactions, coupled with the proliferation of foreign countries with antitrust merger control laws, has greatly increased the number of transactions being reviewed by several different jurisdictions' antitrust authorities. Indeed, over 50 jurisdictional now have antitrust merger control regulations, and it is not uncommon for a major acquisitions to trigger notification in a dozen jurisdictions. As a result, merging parties are often faced with divergent merger control policies and procedures from jurisdiction to jurisdiction. Business groups and lawyers have argued that this had raised transaction costs and produced frictions among merging parties and reviewing agencies.

The Advisory Committee is assessing the burden on merging parties arising from multijurisdictional merger review. Further, the Advisory Committee is considering the ways in which the United States and foreign competition enforcement authorities might address their procedural and substantive differences in order to minimize the burden and avoid or resolve conflicts while ensuring that antitrust authorities have the tools needed to identify and remedy anticompetitive mergers.

3. Enforcement Cooperation

Recent years have brought both an increase in U.S. antitrust enforcement actions against international cartels and new and expanded bilateral and plurilateral cooperation arrangements between U.S. and foreign competition authorities.

Questions concerning enforcement cooperation are integral to all areas under consideration by the Advisory Committee. In this context, the Advisory Committee is considering whether economic globalization requires new or expanded national or international initiatives in the area of enforcement cooperation. More particularly, it is examining questions such as: How can the U.S. Government enhance international cooperation between antitrust authorities to effectively deter and prosecute cartel arrangements around the world? How might U.S. and foreign enforcement authorities increase cooperation in the merger context?

C. The Importance of Business and Other Input

A clear priority for the Advisory Committee is to reach out to U.S. business and other interested parties to obtain information and opinions regarding the core issues under consideration by the Advisory Committee. The Advisory Committee shall do this in a variety of ways. For example, the Advisory Committee will hold public hearings on November 2–4, 1998, and has invited lawyers, investment bankers, economists, labor representatives, and other experts to participate in those proceedings as well as to provide written submissions.

As an additional step, the Advisory Committee is seeking input from interested parties, including U.S. businesses and associations comprised of firms that are active in international markets, among others.

D. The Information and Opinion Sought at This Stage

Because the Advisory Committee wishes to ensure that its members are well informed by the actual experiences of U.S. business, among others, it welcomes information and opinion from executives and counsel at U.S. firms and other interested parties who have direct operational experience with issues under the Advisory Committee's consideration.

To this end, the Advisory Committee has prepared an illustrative set of questions, set forth below. Responses to these questions could take any number of alternative forms and, indeed, it is the Advisory Committee's hope that respondents will think creatively to develop the particular format that is most appropriate. Respondents are welcome to raise and address questions on other matters that they believe are related to the subjects raised below and which they believe that the Advisory Committee should consider.

In terms of timing, we would very much like to have your views before the Advisory Committee by March of 1999. Submissions made after that date also will be considered. However, submissions made prior to March 1999 would be especially timely.

E. Questions

Trade and Competition Policy Interface Issues

1. Based on your experience, have foreign anticompetitive business practices caused market access problems for consumer goods, industrial products or services? If so, please describe those practices with as much detail as possible, e.g., their impact on

your firm's investments, or ability to export, sell, or distribute your products or services, or on the prices that you could obtain for those products. Please indicate whether such problem have been getting worse, improving or staying the same. Did you seek intervention from the local government? If so, please describe the results. If not, why not? Are the foreign anticompetitive business practices undertaken by private firms, state-owned enterprises or public monopolies or joint government-private efforts?

2. Are there markets/market segments abroad that you have not attempted to enter or expand in because of perceive restrictive private practices? If so, please explain, with as much detail as possible.

3. Describe foreign governmental practices, if any, that you believe are encouraging, tolerating or in some way facilitating anticompetitive or exclusionary business practices on the part of local firms. Or, for example, have you encountered joint government-private efforts to restrict you from selling or distributing you products or to limit the prices that you could obtain? Or, have you encountered anticompetitive practices by state-owned enterprises acting in their commercial capacity?

4. Does your firm bid for foreign government contracts? If so, have you discovered that competitors engaged in anticompetitive practices, such as bid rigging, to influence the decision process? If so, have you ever sought intervention from the local government? With what results? If not, why not?

5. Do you believe that your firm's products or services are unable to penetrate foreign markets because of structural barriers—e.g., cross-ownership arrangements; constraints on foreign direct investment, including through acquisitions; conglomerate grouping; etc.—that represent problems accessing foreign markets that cannot be addressed by existing international trade or competition policy instrument? Please describe in detail.

Multijurisdictional Merger Review Issues

In the last five years, if your firm has contemplated or completed an acquisition, merger or joint venture with a U.S. or foreign firm which in turn required or would likely have required antitrust notification to one or more foreign competition authorities, please share your perspectives with respect with respect to the following matters.

1. Describe the problems, if any, that arose because of underlying differences in oversight by competition authorities at home and aboard. Consider both procedural and substantive factors—e.g., divergent timing and filing requirements, confidentiality concerns, transaction costs, differences in substantive law, agency procedures, politicization, and conflicts in law. If applicable, please also describe how your approach to addressing these issues (in the content of competition policy) differed from your approach to addressing analogous issues caused by differences in oversight in other legal contexts, i.e., securities laws, tax laws. etc.

2. Identify and policy measures that could be undertaken by U.S. antitrust authorities, acting on their own or in cooperation with foreign authorities, that you believe would help to reduce sources of friction, conflict or burden that arise in the context of mergers, joint ventures or acquisitions affecting or requiring antitrust merger notification in more that one jurisdiction. What new arrangements, if any, are desirable to facilitate resolution of conflicts between reviewing authorities?

Enforcement Cooperation

1. Have you encountered international cartels that disadvantaged your company at home or aboard? If so, how has your company been harmed? Do you have suggestions on how the United States could more effectively deter and prosecute international cartel arrangements?

2. Please comment on those substantive and procedural differences between U.S. and foreign jurisdictions in their approach to the enforcement of antitrust laws that you believe adversely affect your business, or, more generally, the U.S. economy. Comments should address situations including those with respect to actions against hard-core cartels.

3. What benefits or detriments do you believe can be derived from joint or cooperative antitrust investigations by U.S. and foreign competition authorities? In your experience, have joint or cooperative antitrust investigations resulted in noticeably more or less burdensome investigations than in the absence of such cooperation? In responding, please address concerns you may have had in either or both the investigative or litigation contexts.

Questions or comments can be directed to Merit E. Janow, Executive Director, at telephone number (212) 854–1724 or to ICPAC Counsel: Andrew J. Shapiro (for Trade and Competition issues), at telephone number (202) 353–0012; Cynthia R. Lewis (for Multijurisdictional Merger issues), at telephone number (202) 514–8505; or Stephanie G. Victor (for Enforcement Cooperation issues), at telephone number (202) 616–9705.

Please send written replies to: ICPAC, U.S. Department of Justice, Antitrust Division, Room 10011, 601 D Street, N.W., Washington, DC 20530, Facsimile: (202) 514–4508, Electronic Mail: icpac.atr@usdoj.gov.

Merit E. Janow,

Executive Director, International Competition Policy Advisory Committee.

[FR Doc. 98–28120 Filed 10–20–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–30]

Robert D. Iver, D.D.S. Continuation of Registration With Restrictions

On August 8, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert D. Iver, D.D.S. (Respondent) of Miami Beach, Florida, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AI5413404, and deny any pending applications for renewal of such registration, pursuant to 21 U.S.C. 823(f), 824(a)(2) and 824(a)(4).

By letter dated August 21, 1997, Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Fort Lauderdale, Florida on February 3, 1998, before Administrative Law Judge Paul A. Tenney. At the hearing, both parties called witnesses to testify and the Government introduced documentary evidence. After the hearing, only the Government submitted proposed findings of fact, conclusions of law and argument. On April 7, 1998, Judge Tenney issued his Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that the Order to Show Cause be vacated. On April 20, 1998, the Government filed Exceptions to the Opinion and Recommended Ruling of the Administrative Law Judge, and on May 11, 1998, Judge Tenney transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Deputy Administrator finds that Respondent graduated from

dental school in 1972 and has been in private practice since 1974. Sometime in 1984 or 1985, Respondent began abusing cocaine and became addicted. According to Respondent he used cocaine approximately every six months.

In March 1998, Respondent was arrested as a result of a shooting incident involving his wife. Respondent testified that he was free-basing cocaine at the time of his arrest. Respondent underwent inpatient evaluation and treatment, during which he admitted to prior sporadic use of cocaine. On or about May 23, 1998, Respondent entered into a contract with Florida's Physicians Recovery Network (PRN) which he completed in June 1993. PRN is a program that monitors impaired professionals and requires that individuals be evaluated and possibly enter drug treatment. The program's monitoring includes random drug screens.

On September 21, 1993, the PRN received a number of calls from Respondent's wife indicating that Respondent was free-basing cocaine. Also on this date, the local police were called to Respondent's residence regarding a domestic violence complaint by Respondent's wife who indicated that she and Respondent had been arguing over Respondent's drug use.

At the hearing in this matter, Respondent's wife testified that Respondent had been drug free since 1988, but she told police that Respondent was using drugs because, ''[t]here's nothing worse for an addict * * * to be using alone * * * and when one party is not using and the other party is, there is a constant battle going on. And this was my battle that evening, as I recall. He wouldn't use with me so I implicated him as using. * * *''

The PRN ordered Respondent to submit to a professional evaluation, and on September 24, 1993, he was admitted to a local hospital for an inpatient evaluation. During that evaluation, Respondent tested positive for cocaine and benzodiazepines. Respondent insisted that he had not ingested any drugs, and later his wife admitted that she had covertly added drugs to his food and drink.

The evaluating physician opined that Respondent was in relapse and recommended that Respondent enter into another contract with the PRN. Respondent began attending Alcoholics Anonymous or Narcotics Anonymous meetings and professional support group meetings, but he refused to enter into another contract with the PRN. According to the medical director of the addiction treatment program at the hospital where Respondent was evaluated, Respondent's refusal to sign a new contract with the PRN was based upon the advice of Respondent's attorney.

On August 2, 1995, local police went to Respondent's residence after receiving a call from Respondent's wife that he had suffered a cocaine overdose. According to an incident report in evidence in this proceeding, Respondent's wife told the officers that Respondent has ''gone crazy.'' The officers discovered Respondent naked and covered in blood. In addition, the officers discovered a cocaine pipe, torch and glass beaker, items that are commonly associated with free-basing cocaine. Respondent was arrested and charged with two counts of misdemeanor battery and one count of misdemeanor possession of drug paraphernalia. On October 17, 1995, Respondent was found guilty in the Dade County Court, Florida, of one count of use, possession, manufacture, delivery, or advertisement of drug paraphernalia and one count of battery following his nolo contendere plea. Adjudication was deferred and he was sentenced to 12 months probation. As part of his probation, Respondent was required to continue to participate in the PRN.

At the hearing before Judge Tenney, Respondent explained that ''[o]n the night of August 2nd, my wife and I had been having a series of tremendous fights and my wife was actively using drugs * * * I came out of the shower and I saw her using, I got very, very upset, I ended up getting severely cut on a mirror, that was blood all over the place. * * *'' He further testified that his attorney advised him to plead nolo contendere to the charges against him since, ''my wife was in treatment for her drug addiction [and] that it would be unwise,, after consulting with the people in the drug addiction program, to pull her out, bring her into court. * * *''

On September 15, 1995, the State of Florida, Agency for Health Care Administration issued an emergency order suspending Respondent's license to practice dentistry. Thereafter, on October 20, 1995, Respondent entered into a second PRN contract wherein he agreed that he would be subject to random unannounced urine or blood screens; that he would abstain from using all mood altering substances; that he would be monitored by a physician; that he would attend Alcoholic Anonymous or Narcotics anonymous meetings and professional support group meetings; and that his wife would also enter a recovery program.

In January 1996, a hearing was held regarding Respondent's Florida dental license. At the hearing, the medical director of the addiction treatment center where Respondent was evaluated and the director of the PRN both testified that Respondent is safe to practice dentistry as long as he is monitored by the PRN and that he poses no danger to the public's health, safety or welfare. On March 13, 1996, the State of Florida, Agency for Health Care Administration, Board of Dentistry (Board) issued a final order regarding Respondent's Florida dental license. The Board reprimanded Respondent; ordered that his dental license would remain suspended until September 14, 1996; and fined him $6,000.00. The Board further ordered that upon reinstatement of Respondent's dental license, his license will be on probation as long as he practices dentistry in Florida. As a condition of his probation, Respondent is required to remain under contract with the PRN.

At the hearing in this matter, Respondent's evaluating physician, who is an expert in the field of additionology, testified that Respondent did not have a full commitment to recovery from 1988 to 1993, but that now, ''[Respondent's] prognosis is very good. He has around him a comprehensive support system that he is utilizing.'' According to the physician, Respondent is no longer in denial, he is in the middle stage of recovery, and he has a 90% chance of not relapsing.

Respondent testified before Judge Tenney that in dealing with his addition since August 1995, he has ''put my program back into full swing.'' He attends approximately four to five Alcoholics Anonymous or Narcotics Anonymous meetings per week, as well as his weekly professional support group meeting and his PRN meeting. According to Respondent, ''[b]eing in recovery had just turned my whole life back around.''

Respondent testified that he needs his DEA registration ''for the health and well-being of my patients.'' He further testified that he has become very conservative in his dispensing of controlled substances as a result of his training through the PRN and his recovery groups, but that there are times that he needs controlled substances to treat his patients.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4),[1] the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16,422 (1989).

As to factor one, it is undisputed that on September 15, 1995, the State of Florida, Agency for Health Care Administration issued an emergency order suspending Respondent's license to practice dentistry as a result of his use of cocaine. Thereafter, the Board issued a final order on March 13, 1996, regarding Respondent's dental license. The Board continued the suspension of Respondent's license until September 14, 1996, reprimanded Respondent and fined him $6,000.00. As of September 14, 1996, Respondent's Florida dental license was reinstated, but it is on probation as long as he practices in the State of Florida. As part of his probation, Respondent is required to remain under contract with the PRN.

Regarding factor two, there is no evidence in the record regarding Respondent's experience in dispensing or conducting research with controlled substances.

As to factor three, on October 17, 1995, Respondent was found guilty in the Dade County Court, following his nolo contendere plea to one misdemeanor count of use, possession, manufacture, delivery, or advertisement of drug paraphernalia. While adjudication was deferred, this is still considered a conviction for purposes of the Controlled Substances Act. *See* David D. Miller, M.D., 60 FR 54,511 (1995); David W. Davis, D.O., 60 FR 45,739 (1995).

Regarding Respondent's compliance with laws relating to controlled substances, it is undisputed that prior to 1988, Respondent unlawfully possessed and used cocaine.

As to factor five, the Government contends that Respondent has a history of chemical dependency and drug abuse, and did not sustain his earlier recovery, relapsing in 1993. However, the Acting Deputy Administrator notes that the testimony indicates that Respondent has been drug-free since 1988, and the 1993 relapse resulted from Respondent's wife putting drugs in his food and drink. Respondent himself admits that he suffered an ''emotional relapse'' in 1993, and ''slipped out of [the] program.'' When asked what is different about his recovery now from his recovery in 1998 to 1993, Respondent testified that ''I've committed to a lifetime contract with the PRN, no five years, it goes forever. And it's opened up all new avenues for me for recovery and I think that the first time around was more of, 'Let me have this goal of five years,' because that's what they had set for me. Now it's the rest of my life.'' Respondent's evaluating physician testified that Respondent's prognosis for continued recovery is very good given his strong support system.

Judge Tenney found that given Respondent's prior drug use, the Government has presented a prima facie case for revocation of his DEA registration. However, Judge Tenney found that this case ''is close.'' Judge Tenney noted that Respondent is in the middle of recovery, his expected chance of recovery is in the 90% range, and he is participating in the PRN. Judge Tenney relied heavily on the testimony of Respondent's evaluating physician, who is an expert in the field of addictionology, and ''concluded that the 'public interest' would not be prejudiced by allowing Respondent to continue in practice.'' Judge Tenney recommended that the Order to Show Cause be vacated.

The Government filed exceptions to Judge Tenney's recommendation arguing that ''[i]f the Deputy Administrator decides that the registration of Respondent would be in the public interest[,] * * * 'conditions' upon such registration would be of benefit to the DEA regulatory process.'' The Government contends that ''since Respondent is in the midst of a second recovery, * * * more tangible assurances of his progress ought to be available to the DEA rather than to simply issue an unrestricted registration.''

The Acting Deputy Administrator agrees with Judge Tenney that revocation of Respondent's registration would not be appropriate. But, the Acting Deputy Administrator does not agree with Judge Tenney that the Order to Show Cause should be vacated. The Order to Show Cause notified Respondent of his opportunity to contest the proposed revocation of his DEA registration. Respondent availed himself of this opportunity which resulted in the hearing in this matter, and ultimately this final order. Therefore, since proper administrative procedures have been followed, there is no basis to vacate the Order to Show Cause.

However, the Acting Deputy Administrator agrees that it would be in the public interest to allow Respondent to maintain his DEA registration. According to Respondent's expert witness, Respondent's prognosis for continued recovery is ''very good.'' In addition, as long as he practices in Florida, Respondent will be closely monitored by the PRN.

But, the Acting Deputy Administrator also agrees with the Government. Respondent had a serious drug abuse problem, and by his own admission, will be in recovery for the rest of his life. Subjecting Respondent's registration to some restrictions ''will allow the Respondent to demonstrate that he can responsibly handle controlled substances in his medical practice, yet simultaneously protect the public by providing a mechanism for rapid detection of any improper activity related to controlled substances.'' See Michael J. Septer, D.O. 61 FR 53,762 (1996); Steven M. Gardner, M.D., 51 FR 12,576 (1986).

Therefore, the Acting Deputy Administrator concludes that Respondent's DEA Certificate of Registration should be continued subject to the following conditions for three years from the effective date of this final order.

(1) Respondent shall remain under contract with Florida's Physicians Recovery Network for at least three years from the effective date of this final order. Should Respondent seek to transfer his DEA registration to another state, Respondent shall enter into a similar contract in that state.

(2) Respondent shall submit or cause to be submitted, copies of the reports regarding his random urine and/or blood screens to the Special Agent in

[1] Both the Order to Show Cause and the issue set forth in the Prehearing Ruling cited 21 U.S.C. 824(a)(2) as another ground for revocation in this matter. It appears from testimony at the hearing and the posthearing filings that the Government is no longer pursuing revocation under 21 U.S.C. 824(a)(2).

Charge of the DEA Miami Field Division, or his designee.

(3) Respondent shall not prescribe or otherwise dispense controlled substances for himself or his immediate family members.

(4) Respondent shall maintain a log of his handling of controlled substances. At a minimum, the log shall include the date that the controlled substance is prescribed, administered or dispensed, the name of the patient, and the name, dosage and quantity of the substance prescribed, administered or dispensed. The log shall be sent on a quarterly basis to the Special Agent in Charge of the DEA Miami Field Division, or his designee.

(5) Respondent shall inform the Special Agent in Charge of the Miami Field Division, or his designee, of any action taken by any state regarding his medical license or his authorization to handle controlled substances. This notification must occur within 30 days of the state action.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AI5413404, previously issued to Robert D. Iver, D.D.S., be renewed and continued subject to the above described restrictions.

This order is effective November 20, 1998.

Dated: October 14, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–28175 Filed 10–20–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–31]

Sandra J.S. Tyner, M.D.; Revocation of Registration

On August 1, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Sandra J.S. Tyner, M.D. (Respondent) of Grants Pass, Oregon notifying her of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration AS9530533, under 21 U.S.C. 824(a)(1) and (a)(4) and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent falsified two DEA renewal applications filed in 1995 by failing to indicate that the Oregon State Board of Medical Examiners (Board) had taken action on several occasions against her license to practice medicine. In addition, the Order to Show Cause alleged that in 1996, the Board suspended her medical license based upon her failure to undergo a psychiatric evaluation and upon her proclivity to abuse controlled substances. The Board subsequently reinstated her medical license and placed it on probation.

By letter dated August 26, 1997, Respondent, through counsel, requested a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. In the midst of prehearing procedures, Respondent's counsel indicated that Respondent's medical license had been suspended since October 21, 1997. Thereafter, on January 30, 1998, the Government filed a Motion for Summary Disposition alleging that Respondent is no longer authorized to handle controlled substances in Oregon, the state where she is registered with DEA. On February 20, 1998, Respondent filed a response to the Government's motion against arguing that the suspension of Respondent's medical license is temporary and that the regulations do not provide for summarily terminating Respondent's DEA registration under these circumstances.

On May 12, 1998, Judge Bittner issued her Opinion and Recommended Decision, finding that Respondent lacked authorization to handle controlled substances in Oregon; granting the Government's Motion for Summary Disposition; and recommending the Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her opinion, and on June 22, 1998, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that on October 21, 1997, the Board issued an emergency suspension order regarding Respondent's license to practice medicine in Oregon after it was determined that she had discontinued treatment with a psychiatrist and she was self-prescribing controlled substances in violation of a previous Board order. A letter in the record dated January 22, 1998, from the Chief Investigator of the Board indicates that Respondent's medical license was still suspended as of that date.

While Respondent argues in her response to the Government's motion that her suspension is temporary, she does not deny that she is currently without authorization to handle controlled substances in Oregon. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without authority to handle controlled substances in the state in which she conducts her business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Romeo J. Perez, M.D.,* 62 FR 16,193 (1997); *Demetris A. Green, M.D.,* 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.,* 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to practice medicine in Oregon. It is reasonable to infer that because Respondent is not authorized to practice medicine, she is also not authorized to handle controlled substances in Oregon. Since Respondent lacks this state authority, she is not entitled to a DEA registration in that state.

In light of the above, Judge Bittner properly granted the Government's Motion for Summary Disposition. It is well-settled that when no material fact is involved, or when the material facts are agreed upon, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not required. Congress did not intend administrative agencies to perform meaningless tasks. *Gilbert Ross, M.D.,* 61 FR 8664 (1996); *Philip E. Kirk, M.D.,* 48 FR 32,887 (1983), *aff'd sub nom Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *see also NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO,* 549 F2d 634 (9th Cir. 1977); *United States* v. *Consolidated Mines & Smelting Co.,* 44 F2d 432 (9th Cir. 1971). Here, there is no dispute concerning the material fact that Respondent currently lacks state authority to handle controlled substances in Oregon.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AS9530533, previously issued to Sandra J.S. Tyner, M.D., be, and it hereby is revoked. The Acting Deputy Administrator further orders that any pending applications for

renewal of such registration, be, and they hereby are, denied. This order is effective November 20, 1998.

Dated: October 14, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–28174 Filed 10–20–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Sunshine Act Meeting

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 14–98]

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Thursday, October 29, 1998, 9:30 a.m.

Subject Matter: A. Hearings on the Record on Objections to Proposed Decisions on claims against Albania, as follows:

Claim No.

ALB–187 Helena Liolin

ALB–247 Stephen J. Pantos

ALB–321 John G. Koltse

B. Proposed Decisions on claims against Albania

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC.
October 19, 1998.

Judith H. Lock,

Administrative Officer.

[FR Doc. 98–28325 Filed 10–19–98; 12:38 pm]

BILLING CODE 4410–BA–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB, Review; Comment Request

October 13, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ({202}) 219–5096 ex. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.
Title: Census of Fatal Occupational Injuries.
OMB Number: 1220–0133 (revision).
Agency Number: BLS CFOI–1.
Frequency: On Occasion.
Affected Public: Individuals and households; Business and other for-profit; Not-for-Profit institutions; Farms; Federal Government; and State, Local or Tribal Government.
Number of Respondents: 2,665.
Estimated Time per Respondent: 11 minutes per response.
Total Burden Hours: 5,000 hours.
Total annualized capital/startup costs: 0.
Total annual costs (operating/maintaining systems or purchasing services: 0.
Description: The Census of Fatal Occupational Injuries provides policymakers and the public with comprehensive, verifiable, and timely measures of fatal work injuries. It compiles information—including characteristics of the fatal incident, the employer, and the deceased—useful for developing prevention strategies.

Agency: Veterans' Employment and Training Service.
Title: Eligibility Data Form for Requesting Assistance in obtaining Veterans' Reemployment Rights.
OMB Number: 1293–0002.
Agency Number: VETS/USERRA 1010.
Frequency: On Occasion.
Affected Public: Individuals or households.
Number of Respondents: 1,405.
Estimated Time per Respondent: 15 minutes.
Total Burden Hours: 211 hours.
Total annualized capital/startup costs: 0.
Total annual costs (operating/maintaining systems or purchasing services): 0.
Description: The information requested is needed to determine the eligibility of veterans complaints to reemployment rights they are seeking as well as to state alleged violations by employers of the pertinent statutes and request assistance in obtaining appropriate reemployment benefits.

Todd R. Owen,

Departmental Clearance Officer.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10644, et al.]

Proposed Exemptions; Bankers Trust Company

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Bankers Trust Company (Bankers Trust) Located in New York, New York

[Exemption Application Number D–10644]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) and section 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) of fractional amounts of certain fixed income instruments (Fractional Amounts) to Bankers Trust and its affiliates by plans for which Bankers Trust or its affiliates provide fiduciary or other services (Client Plans), as well as employee benefit plans established and maintained by Bankers Trust or its affiliates (BT Plans) (collectively, the Plans), provided that the following conditions are met:

(a) Each Sale involves a one time transaction for cash;

(b) The terms of each Sale are at least as favorable to the Plan as those terms which would be available in an arm's-length transaction with an unrelated party;

(c) The Plans receive an amount in cash which is not less than the par value for each of the Fractional Amounts;

(d) In the case of the Client Plans,

(1) each Sale is subject to the prior approval of an independent plan fiduciary;

(2) the independent fiduciary of each Plan is furnished written notice at least 60 days prior to the proposed Sale transaction, containing information relevant to the independent fiduciary's determination whether to approve the Sale transaction. The notice will inform the independent fiduciary that failure to respond within 45 days of receipt of the notice will constitute authorization of Bankers Trust to engage in the transaction. If the fixed income instruments are not redenominated within a year of provision of this notice, additional notice will be delivered to the independent fiduciaries each year notifying them of their right to not participate in this program;

(e) In the case of BT Plans, Bankers Trust must purchase the Fractional Amounts from Plans within 30 days of the date that the Fractional Amounts are received from the issuer;

(f) Neither Bankers Trust nor an affiliate has discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or render investment advice (within the meaning of 29 CFR 2510.3–21(c) with respect to these assets);

(g) The Plans do not incur any commissions or other expenses relating to the Sales; and

(h)(1) Bankers Trust or an affiliate maintains or causes to be maintained within the United States, for a period of six years from the date of such transaction, the records necessary to enable the persons described in this section to determine whether the conditions of this exemption have been met; except that a party in interest with respect to an employee benefit plan, other than Bankers Trust or its affiliates, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination, as required by this section, and a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Bankers Trust or its affiliates, such records are lost or destroyed prior to the end of such six year period;

(2) The records referred to in subsection (1) above are unconditionally available for examination during normal business hours by duly authorized employees of (a) the Department, (b) the Internal Revenue Service, (c) plan participants and beneficiaries, (d) any employer of plan participants and beneficiaries, and (e) any employee organization whose members are covered by such plan; except that none of the persons described in (c) through (e) of this subsection shall be authorized to examine trade secrets of Bankers Trust or its affiliates or any commercial or financial information which is privileged or confidential.

Section II. Definitions

(a) The term *affiliate* of Bankers Trust means any other bank or similar financial institution directly or indirectly controlling, controlled by, or

under common control with Bankers Trust.

(b) The term *Euro* means the single European currency to be introduced on January 1, 1999 in eleven Member States of the European Union.[1]

(c) The term *Fractional Amount* means, with respect to any fixed income instrument, an amount less than one Euro.

(d) The term *independent plan fiduciary* means a plan fiduciary independent of Bankers Trust and any of its affiliates.

(e) The term *par value* means the face value of the fixed income instrument.

(f) The term *Plan* includes all employee benefit plans to which Bankers Trust or an affiliate acts as a service provider, including a fiduciary, and all plans established and maintained by Bankers Trust and its affiliates, which have net assets of at least $25,000,000.

EFFECTIVE DATE: This exemption is effective for the period beginning on January 1, 1999 and ending three years from the date on which each country joining the European Economic and Monetary Union converts to the Euro.

Summary of Facts and Representations

1. Bankers Trust, a New York banking corporation, is a commercial bank which provides a wide range of banking, fiduciary, record keeping, custodial, brokerage and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide. Bankers Trust is wholly-owned by Bankers Trust Corporation (BTCorp), a bank holding company established in 1965 under the laws of the State of New York. As of December 31, 1997, BTCorp and its affiliates had consolidated assets of approximately $140 billion and total stockholder's equity of approximately $5 billion.

2. Among the assets of the Plans for which Bankers Trust provides services are corporate and government-issued fixed income instruments denominated in the currencies of the following eleven European nations: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Portugal and Spain. In May 1998, these eleven nations agreed to join the Economic and Monetary Union (EMU) and to cooperate in the creation of a European Central Bank and the development of a central currency (the Euro), in lieu of the individual currencies of the eleven members (Legacy Currencies). Beginning on January 1, 1999, these Legacy Currencies will be converted into the Euro, although the Legacy Currencies will continue to coexist with the Euro for a limited time as denominations of the Euro.[2]

During the initial transition weekend that includes January 1, 1999, the securities markets in the EMU will undergo a conversion in which (1) all stock exchanges and depositories will commence pricing, trading and settling only in the Euro, (2) approximately 1500 government securities will be redenominated, (3) currency balances will be converted to the Euro, and (4) all securities transactions pending over that weekend will be converted to settle in the Euro. From January 1, 1999 forward, all stock exchanges, depositories and national or central banks will operate only in the Euro.

With regard to fixed income instruments, the process of conversion is scheduled to take place over a three-year period. The applicant states that the other European nations that are not currently part of the EMU may decide to follow these other nations and start their own conversion process after January 1, 1999. In that event, these other nations may take approximately 3 years from their commencement of the conversions process to redenominate fixed income securities. Bankers Trust represents that in the process of this redenomination, Fractional Amounts (as defined in paragraph (c) of Section II) will be created as a result of the relationship between the former currency values and the Euro.

4. Bankers Trust seeks exemptive relief permitting it and its affiliates to purchase the Fractional Amounts which result from the conversion to the Euro of certain fixed income instruments denominated in the Legacy Currencies that are held by its Client Plans and the BT Plans. Bankers Trust represents that while its custody systems currently support Fractional Amounts, it is widely predicted that there will be little or no market for Fractional Amounts resulting from the conversion to the Euro. In addition, Bankers Trust represents that the Fractional Amounts will need to be disposed of as soon as possible after the Euro Conversion because these Fractional Amounts will likely trade at a discount in any potential secondary market. In addition, when transaction costs and other costs are considered, the cost of selling the Fractional Amounts may exceed their value. Accordingly, Bankers Trust proposes purchasing these Fractional Amounts at par value from its clients, including Client Plans, and the BT Plans to ensure that no losses are sustained by such investors in the sale of the Fractional Amounts.

5. Bankers Trust represents that sixty (60) days prior to December 31, 1999, Bankers Trust and its affiliates shall provide written notice of the subject transaction in the form of a letter to all independent plan fiduciaries. In this letter, Bankers Trust will provide several items of important information. First, the letter will outline the facts surrounding the conversion of various Legacy Currencies to the Euro. Second, the letter will advise clients that no market dealing in Fractional Amounts can be expected and that, if such a market develops, the Fractional Amounts will likely trade at a substantial discount. Bankers Trust will also note that, due to the small amounts involved, any sale of the Fractional Amounts on a potential secondary market may result in the transaction costs exceeding the proceeds derived from the sale. Third, the letter will explain that Bankers Trust is prepared to purchase the Fractional Amounts at par, without any transaction costs. Fourth, the letter will advise all clients (including each Client Plan) that if they choose not to sell their Fractional Amounts, they must notify Bankers Trust within 45 days of receipt of notice. The notice will inform the independent fiduciary that failure to respond within 45 days of receipt of the notice will constitute authorization of Bankers Trust to engage in the transaction. If the fixed income instruments are not redenominated within a year of provision of this notice, additional notice will be delivered to the independent fiduciaries of the Client Plans each year notifying them of their right not to participate in this program. The letter will provide all appropriate information including telephone numbers, the names of contact persons, and relevant postal or electronic addresses that can be used for the purpose of providing such notification.

6. Bankers Trust represents that the subject transactions are administratively feasible in that each Sale will be for cash at an amount equal to the par value of the Fractional Amounts and that all

[1] For purposes of reference, the Euro is slated to have a conversion rate of 1 Euro equals 1 European Currency Unit (ECU). The ECU is a basket of 12 European currencies that is frequently used for inter-governmental and market transactions. Currently, the ECU is worth less than one U.S. dollar.

[2] For example, a French Franc will be treated as a sub-unit of a Euro in the same way as a centime is treated as a subunit of the Franc. The applicant represents that because the conversion rate will be irrevocably fixed throughout a three-year transitional period, all existing banknotes and coins will continue in circulation as legal tender but will be treated as referring to the Euro at the fixed conversion rate.

transaction records will be maintained. Furthermore, Bankers Trust states that each transaction should be viewed as being in the best interest of the Plans and their participants and beneficiaries because such transactions will provide for more efficient administration of the currency conversion process for such assets and increased value to the Plan's investments. Finally, Bankers Trust represents that the subject transactions will be protective of the Plans' participants and beneficiaries because each Plan will receive the par value for the Fractional Amounts during a time when any market that may develop for these interests will demand that they be sold at a discount.

7. In summary, Bankers Trust represents that the transactions will satisfy the statutory criteria of section 408(a) of the Act and section 4975 of the Code because:

(a) Each Sale involves a one time transaction for cash;

(b) The terms of each Sale are at least as favorable to the Plan as those terms which would be available in an arm's-length transaction with an unrelated party;

(c) The Plans receive an amount in cash which is not less than the par value for each of the Fractional Amounts;

(d) In the case of the Client Plans,

(1) each Sale is subject to the prior approval of an independent plan fiduciary;

(2) the independent fiduciary of each Plan is furnished written notice at least 60 days prior to the proposed Sale transaction, containing information relevant to the independent fiduciary's determination whether to approve the Sale transaction. The notice will inform the independent fiduciary that failure to respond within 45 days of receipt of the notice will constitute authorization of Bankers Trust to engage in the transaction. If the fixed income instruments are not redenominated within a year of provision of this notice, additional notice will be delivered to the independent fiduciaries each year notifying them of their right to not participate in this program;

(e) In the case of the BT Plans, Bankers Trust must purchase the Fractional Amounts from their Plans within 30 days of the date that Fractional Amounts are received from the issuer after the government of each respective country determines that redenomination shall commence;

(f) Neither Bankers Trust nor an affiliate has discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or render investment advice (within the meaning of 29 CFR 2510.3–21(c) with respect to these assets); and

(g) The Plans do not incur any commissions or other expenses relating to the Sales.

Notice to Interested Persons: Because of the large number of interested persons, the Department and the applicant have agreed that notification through publication of the proposal in the **Federal Register** is sufficient.

FOR FURTHER INFORMATION CONTACT: James Scott Frazier of the Department, phone number (202) 219–8881 (this is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 15th day of October, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–28215 Filed 10–20–98; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–49; Exemption Application No. D–10349, et al.]

Grant of Individual Exemptions; Harris Trust & Savings Bank, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Harris Trust & Savings Bank and its Affiliates (Harris Trust) Located in Chicago, IL

[Prohibited Transaction Exemption 98–49; Exemption Application No. D–10349]

Exemption

Section I—Exemption for Acquisition of Fund Shares With Assets Transferred in-kind from a CIF

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, as of March 21, 1997, to the acquisition by employee benefit plans (the Plans), including two plans sponsored by Harris Trust for its own employees (the In-house Plans), of shares of any open-end investment companies (the Funds) registered under the Investment Company Act of 1940 (the '40 Act) for which Harris Trust is an investment adviser and may provide other services, with Plan assets transferred in-kind to the Funds from certain collective investment funds maintained by Harris Trust (the CIFs), in connection with the termination of the CIFs, provided that the following conditions are satisfied:

(a) For each Plan, a second fiduciary who is unrelated to, and independent of, Harris Trust (the Independent Fiduciary) receives prior written notice of the in-kind transfer of Plan assets from a CIF to a Fund in exchange for shares of the Fund, as well as the disclosures described in Section II(f).

(b) On the basis of the information described in Section II(f), the Independent Fiduciary gives prior written approval for each acquisition of Fund shares with Plan assets transferred from a CIF and the fees to be received by Harris Trust in connection with its services to the Fund. Such approval must be consistent with the general fiduciary responsibility provisions imposed on fiduciaries by Part 4 of Title I of the Act.

(c) No sales commissions are paid by the Plans in connection with the acquisition of Fund shares with Plan assets transferred from a CIF.

(d) All or a pro rata portion of the assets of a CIF are transferred in-kind to a Fund in exchange for shares of the Fund.

(e) Each Plan receives Fund shares having a total net asset value equal to the value of the Plan's pro rata share of the corresponding CIF's assets on the date of the in-kind transfer, based on the current market value of the CIF's assets as determined in a single valuation performed in the same manner and as of the close of business of the same day, using independent sources in accordance with Securities and Exchange Commission (SEC) Rule 17a–7 * of the '40 Act and the procedures established by the Fund pursuant to Rule 17a–7. Such procedures require that all securities for which a current market value cannot be obtained by reference to the last sales price for transactions reported on a recognized securities exchange or quoted in the NASDAQ system, must be valued based upon an average of the highest current independent bid and lowest current independent offer, as of the close of business on the last business day preceding the in-kind transfer, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Harris Trust;

(f) Within 30 days after completion of each acquisition of Fund shares with Plan assets transferred in-kind from a CIF, Harris Trust sends by regular mail to the Independent Fiduciary a written confirmation containing the following information:

(1) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(2) The market price, as of the date of the in-kind transfer, of each such security; and

(3) The identity of each pricing service or market-maker consulted in determining the value of such securities.

(g) Within 90 days after completion of each acquisition of Fund shares with Plan assets transferred in-kind from a CIF, Harris Trust sends by regular mail to the Independent Fiduciary a written confirmation containing the following information:

(1) The number of CIF units held by the Plan immediately before the in-kind transfer, the related per unit value, and the total dollar amount of such CIF units; and

(2) The number of shares in the Funds that are held by the Plan immediately after the in-kind transfer, the related per share net asset value, and the total dollar amount of such shares.

(h) The conditions set forth in paragraphs (c), (d), (e), (f), (i), (o), (p), and (q) of Section II are satisfied.

Section II—Exemption for Receipt of Fees From the Funds

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, as of March 21, 1997, to the receipt of fees by Harris Trust from the Funds for acting as an investment adviser for the Funds, as well as for acting as the custodian, transfer agent, sub-administrator for the Funds, or for providing any other ''secondary service'' (as defined in Section III(i), below) to the Funds, in connection with the investment in shares of the Funds by Plans for which Harris Trust is a fiduciary (the Client Plans), other than the In-house Plans, provided that the following conditions are satisfied:

(a) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds, and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the Funds.

(b) The price paid or received by a Client Plan for shares of a Fund is the net asset value per share, as defined in Section III(f), at the time of the transaction, and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither Harris Trust nor an affiliate (including officers or directors, and other persons, as defined in Section III(b), below) purchases from or sells to the Client Plans shares of the Funds.

(d) For each Client Plan, the combined total of all fees received by Harris Trust for its services to the Client Plan, and in connection with its services to any of the Funds in which the Client Plan may invest, constitutes no more than ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(e) Harris Trust receives no fees payable pursuant to Rule 12b–1 under the 40 Act (12b–1 fees) in connection with the transactions.

(f) Prior to the initial investment by a Client Plan in any of the Funds, the Independent Fiduciary receives full and detailed written disclosure of

* 17 CFR 270.17a–7.

information concerning the Fund, including, but not limited to

(1) A current prospectus for the Fund;

(2) A statement describing the fees for investment management, investment advisory, or other similar services, any fees for Secondary Services, as defined in Section III(i), and all other relevant fees to be paid by the Client Plan and by the Fund to Harris Trust, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why Harris Trust considers an investment in the Fund to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to Harris Trust with respect to which assets of a Client Plan may be invested in the Fund, and, if so, the nature of such limitations; and

(5) Upon request of the Independent Fiduciary, a copy of this notice of exemption (and a copy of the notice of proposed exemption), as published in the **Federal Register**.

(g) On the basis of the information described in paragraph (f), the Independent Fiduciary gives prior written authorization for

(1) The investment of assets of the Client Plan in shares of a Fund;

(2) The Funds in which the assets of the Client Plan may be invested; and

(3) The fees to be paid to Harris Trust in connection with its services to the Funds.

Such authorization by the Independent Fiduciary must be consistent with the general fiduciary provisions of Part 4 of Title I of the Act.

(h) The authorization described in paragraph (g) is terminable by the Independent Fiduciary at will without penalty to the Client Plan, upon written notice of termination to Harris Trust. Harris Trust shall effect such termination by selling the shares of the Fund held by the Client Plan by the close of the business day following the date of receipt by Harris Trust of the termination form (the Termination Form), as defined in Section III(j), or any other written notice of termination. However, if, due to circumstances beyond the control of Harris Trust, the sale cannot be executed within one business day, Harris Trust shall have one additional business day to complete such sale.

(i) Each Client Plan receives a credit, either through cash, or, if applicable, the purchase of additional shares of the Funds pursuant to an annual election made by the Client Plan (which may be revoked at any time), of such Client Plan's proportionate share of all investment advisory fees charged to the Funds by Harris Trust, including any investment advisory fees paid by Harris Trust to third party sub-advisers, within one business day of the receipt of such fees by Harris Trust. The crediting of all such fees to the Client Plans by Harris Trust must be audited by an independent accounting firm at least annually to verify the proper crediting of the fees to each Client Plan.

(j) In the event of an increase in the rate of any fees paid by the Funds to Harris Trust for any investment management services, investment advisory services, or other similar services above the rate which has been approved previously by an Independent Fiduciary, in accordance with paragraph (g), Harris Trust will provide at least 30 days' written notice (separate from the Fund Prospectus) to each Client Plan invested in a Fund which is increasing such fees.

(k) In the event of an addition of a Secondary Service by Harris Trust to a Fund for which a fee is charged, or in the event of an increase in a fee paid by the Funds to Harris Trust for any Secondary Service (which may result from either an increase in the rate of such fee or a decrease in the number or kind of services performed for such fee) above the rate which has been approved previously by an Independent Fiduciary, in accordance with paragraph (g), Harris Trust will provide at least 30 days' written notice (separate from the Fund Prospectus) to each Client Plan invested in a Fund which is adding a service or increasing its fees. Such notice shall be accompanied by the Termination Form.

(l) The Independent Fiduciary is supplied with a Termination Form at the times specified in paragraphs (k), (l), and (m), which expressly provides an election to terminate the authorization described in paragraph (g), with instructions regarding the use of the Termination Form, including the following information:

(1) The authorization is terminable by the Independent Fiduciary at will without penalty to the Client Plan, upon written notice of termination to Harris Trust. Harris Trust shall effect such termination by selling the shares of the Fund held by the Client Plan by the close of the business day following the date of receipt by Harris Trust of the Termination Form, or any other written notice of termination. However, if, due to circumstances beyond the control of Harris Trust, the sale cannot be executed within one business day, Harris Trust shall have one additional business day to complete such sale; and

(2) Failure of the Independent Fiduciary to return the Termination Form will be deemed to be an approval of the additional Secondary Service for which a fee is charged or an increase in the rate of any fees, if such Termination Form is supplied pursuant to paragraphs (k) and (l), and will result in continuation of authorization, as described in paragraph (g), for Harris Trust to engage in the transactions on behalf of the Client Plan.

(m) The Independent Fiduciary is supplied annually with a Termination Form during the first quarter of each calendar year, beginning with the calendar year immediately following the date of publication in the **Federal Register** of a notice of exemption for the subject transactions. However, the Termination Form need not be supplied to the Independent Fiduciary sooner than six months after it has been supplied pursuant to paragraphs (k) and (l), except to the extent required to disclose either an additional Secondary Service for which a fee is charged or an increase in fees.

(n)(1) With respect to each of the Funds in which a Client Plan invests, Harris Trust will provide the Independent Fiduciary of such Client Plan:

(A) at least annually, a copy of an updated prospectus of the Fund;

(B) upon the request of the Independent Fiduciary, with a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement), which contains a description of all fees paid by the Fund to Harris Trust; and

(2) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with Harris Trust, Harris Trust, at least annually, will provide the Independent Fiduciary of such Client Plan with a statement specifying:

(A) the total dollar amount of brokerage commissions of each Fund's investment portfolio paid to Harris Trust by such Fund;

(B) the total dollar amount of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to Harris Trust;

(C) the average brokerage commissions per share, in cents per share, paid to Harris Trust by each portfolio of a Fund; and

(D) the average brokerage commissions per share, in cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to Harris Trust.

(o) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than

dealings between the Fund and its other shareholders holding shares of the same class as the Client Plans.

(p) Harris Trust maintains for a period of six years the records necessary to enable the persons described in paragraph (q) to determine whether the conditions of this exemption have been satisfied, except that

(1) a party in interest with respect to a Plan, other than Harris Trust, shall not be subject to a civil penalty under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained or are not available for examination, as required by paragraph (q); and

(2) a prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond Harris Trust's control, such records are lost or destroyed prior to the end of the six year period;

(q) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, Harris Trust makes the records referred to in paragraph (p) unconditionally available during normal business hours at their customary location to the following persons or a duly authorized representative thereof: (A) the Department or the Internal Revenue Service; (B) any fiduciary of a Client Plan with the authority to acquire or dispose of shares of the Funds owned by the Client Plan; and (C) any participant or beneficiary of a Client Plan. However, none of the persons described in (B) or (C) are authorized to examine the trade secrets of Harris Trust, or commercial or financial information which is privileged or confidential.

Section III—Definitions.

For purposes of this proposed exemption:

(a) The term ''Harris Trust'' means Harris Trust & Savings Bank and any affiliate thereof, as ''affiliate'' is defined in paragraph (b).

(b) The term ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''collective investment fund'' or ''CIF'' means a common or collective trust fund or pooled investment fund maintained by Harris Trust.

(e) The term ''Fund'' or ''Funds'' means any diversified open-end management investment company or companies registered under the '40 Act for which Harris Trust serves as an investment adviser and may also provide custodial or other services approved by the Funds.

(f) The term ''net asset value'' per share means the amount which is calculated by dividing the value of all securities (determined by a method set forth in a Fund's prospectus and statement of additional information) and other assets belonging to each portfolio in the Fund, less the liabilities chargeable to each such Fund portfolio, by the number of outstanding shares.

(g) The term ''relative'' means a ''relative'' as defined in section 3(15) of the Act (or a ''member of the family'' as defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term ''Independent Fiduciary'' means a fiduciary of a Plan who is unrelated to, and independent of, Harris Trust. For purposes of this proposed exemption, a Plan fiduciary will not be deemed to be unrelated to, and independent of, Harris Trust if

(1) such fiduciary directly or indirectly controls, is controlled by, or is under common control with Harris Trust;

(2) such fiduciary, or any officer, director, partner, employee, or relative of such fiduciary is an officer, director, partner, or employee of Harris Trust (or is a relative of such persons); or

(3) Such fiduciary directly or indirectly receives any compensation or other consideration from Harris Trust for his or her own personal account in connection with any transaction described in this proposed exemption. However, with respect to the In-house Plans, the Independent Fiduciary may receive compensation from Harris Trust in connection with the subject transactions, provided that the amount or payment of such compensation is not contingent upon, nor in any way affected by, the Independent Fiduciary's ultimate decision regarding the Plans' participation in the transactions.

With the exception of the In-house Plans, if an officer, director, partner or employee of Harris Trust (or relative of such persons) is a director of the Plan fiduciary and abstains from participation in (i) the choice of the Plan's investment adviser, (ii) the approval of any purchase or sale between the Plan and the Funds, and (iii) the approval of any change in fees paid by the Plan in connection with any of the subject transactions, then paragraph (g)(2) shall not apply.

(i) The term ''Secondary Service'' means a service other than an investment management, investment advisory, or similar service, which is provided by Harris Trust to the Funds, including, but not limited to, custodial, accounting, transfer agent, administrative, brokerage, or any other service.

(j) The term ''Termination Form'' means the form supplied to the Independent Fiduciary, at the times specified in Section II(k), (l), and (m), which expressly provides to the Independent Fiduciary an election to terminate at will the authorization described in Section II(g) without penalty to the Plan. The Independent Fiduciary may use such Termination Form to provide written notice of termination to Harris Trust and instruct Harris Trust to effect the termination by selling the shares of a Fund held by the Plan by the close of the business day following the date of receipt by Harris Trust of the Termination Form. However, if, due to circumstances beyond the control of Harris Trust, the sale cannot be executed within one business day, Harris Trust shall have one additional business day to complete such sale.

(k) The term ''security'' shall have the same meaning as defined in section 2(36) of the '40 Act, as amended, 15 USC 80a–2(36) (1996).

Effective Date: The exemption is effective, as of March 21, 1997.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 6, 1998 at 63 FR 42068.

Written Comments

The Department received one written comment with respect to the notice of proposed exemption (the Notice) and no requests for a hearing. The written comment was submitted by the applicant and concerns a clarification to the record.

Harris Trust notes that the Summary of Facts and Representations (the Summary) for the Notice, in Paragraph 6, the second subparagraph (see page 42073, column 1) inaccurately states, ''All or a pro rata portion of the assets of a CIF are transferred in-kind to a Fund in exchange for shares of the Fund *distributed to the Plans''* [emphasis added]. Harris Trust wishes to clarify that the shares of the Fund were

actually issued by the Fund directly to the Plans, rather than to the CIF and then, in turn, distributed by the CIF to the Plans.

The Department notes the applicant's clarification to the written record, as stated in the Summary. Accordingly, the Department has determined to grant the exemption as proposed.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

John B. Vick, D.D.S., P.A. Pension Plan (the Plan) Located in Minneapolis, MN

[Prohibited Transaction Exemption 98–50; Exemption Application Number D–10578]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale (the Sale) of two promissory notes (the Notes) by the Plan to Dr. John B. Vick, a party in interest and disqualified person with respect to the Plan, provided the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party;

(c) The Plan receives an amount equal to the fair market value of the Notes as determined by a qualified, independent appraiser as of the date of Sale; and

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the proposed exemption published on August 31, 1998 at 63 FR 46253.

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier, telephone (202) 219–8881. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 15th day of October 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–28216 Filed 10–20–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Number: D–10554]

Proposed Amendment to Prohibited Transaction Exemption 97–11 (PTE 97–11) for the Receipt of Certain Investment Services by Individuals for Whose Benefit Individual Retirement Accounts or Retirement Plans for Self-Employed Individual Have Been Established or Maintained

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed amendment to PTE 97–11.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE 97–11. PTE 97–11 is a class exemption that permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a broker-dealer, provided that the conditions of the exemption are met. The proposed amendment, if adopted, would affect individuals with beneficial interests in such plans who receive such services as well as the broker-dealers who provide such services.

DATES: If adopted, the proposed amendment would be effective as of January 1, 1998. Written comments and requests for a public hearing should be received by the Department on or before December 7, 1998.

ADDRESSES: All written comments and requests for a public hearing (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, 200 Constitution Ave, NW, Washington, DC 20210, (Attention: D–10554)

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams Lavigne, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8971, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 97–11 (62 FR 5855, February 7, 1997). PTE 97–11 provides relief from the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of sections 4975(a) and (b), 4975(c)(3) and 408(e)(2) of the Internal Revenue Code of 1986 (the Code) by reason of section 4975(c)(1)(D), (E) and (F) of the Code.[1] The amendment to PTE 97–11 was requested in an exemption application dated December 23, 1997 filed on behalf of the Securities Industry Association (SIA). The SIA is a securities industry trade association representing the business interests of more than 700 securities firms in North America which collectively account for ninety percent of the securities firm revenue in the United States. The members of the SIA are, among other things, engaged in the business of providing brokerage and investment advisory services to the public.

The application was filed pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

forth in 29 CFR 2570, subpart B, (55 FR 32836), August 10, 1990.)

PTE 97–11 permits the receipt of services at reduced or no cost by an individual for whose benefit an IRA or Keogh Plan is established or maintained or by members of his or her family, from a broker-dealer registered under the Securities Exchange Act of 1934 pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is/are taken into account for purposes of determining eligibility to receive such services, provided that the conditions of the exemption are met.

The SIA has requested an amendment to PTE 97–11 which would expand the term ''IRA'' as defined in section III(b) of the exemption to include any IRA (currently existing or that Congress may create in the future) subject to the provisions of section 408(e) and/or section 4975 of the Code. The Department has decided not to expand the definition of IRA to include any IRA subject to the provisions of section 408(e) or section 4975 of the Code because the conditions contained in PTE 97–11 were developed based upon the specific characteristics of the IRAs and Keogh Plans described in section III(b) and (c), respectively. The Department does not believe that a sufficient showing has been made that the safeguards contained in the exemption would adequately address the concerns that the Department may have with regard to an unidentified class of IRAs.

In the alternative, the SIA requests that the Department expand the definition of the term IRA to include Roth IRAs and Education IRAs. Section III(b) of PTE 97–11 defines the term IRA as an ''individual retirement account'' described in section 408(a) of the Code. The definition further states that, for purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

Roth IRAs and Education IRAs were created as part of the Taxpayer Relief Act of 1997 (TRA) (Pub. L. 105–34, title III, Sec. 302(a), August 5, 1997, 111 Stat 788). Section 302(a) of the TRA amended the Code by adding section 408A and section 530 to create Roth IRAs and Education IRAs, respectively.

Section 408A(a) of the Code provides that, except as provided in this section, a Roth IRA shall be treated for purposes of this title in the same manner as an individual retirement plan. Section 408A(b) of the Code provides that for purposes of this title, the term ''Roth IRA'' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as a Roth IRA.

In Advisory Opinion 98–03A (March 6, 1998), the Department stated that a Roth IRA which satisfies the definition of an individual retirement plan contained in section 7701(a)(37)(A)[2] of the Code is an ''individual retirement account'' described in section 408(a) of the Code for purposes of the definition of the term ''IRA'' contained in section III(b) of PTE 97–11. Therefore, a Roth IRA, as described above, which is not an employee benefit plan covered by Title I of ERISA (except for certain SEPs and Simple Retirement Accounts described in section 408(k) and 408(p) of the Code, respectively) would be covered by the relief provided in PTE 97–11, if all conditions therein are met. Thus, section III(b) of PTE 97–11 does not need to be expanded with respect to Roth IRAs.

Section 530(b)(1) of the Code provides in part, that the term ''education individual retirement account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the designated beneficiary of the trust (and designated as an education individual retirement account at the time created or organized). Section 530(b)(1) further provides: but only if the written governing instrument creating the trust meets the following requirements:

(A) No contribution will be accepted—(i) unless it is in cash, (ii) after the date on which such beneficiary attains age 18, or (iii) except in the case of rollover contributions, if such contributions would result in aggregate contributions for the taxable year exceeding $500; (B) the trustee is a bank (as defined in section 408(n) of the Code or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan; (C) no part of the trust assets shall not be invested in life insurance contracts; (D) the assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund; and (E) upon the death of the designated beneficiary, any balance to the credit of the beneficiary shall be distributed within 30 days after the date of death to the estate of such beneficiary.

The Education IRA is subject to disqualification provisions which are similar to those in section 408(e)(2) and (4) of the Code which are applicable to IRAs described in section 408(a) of the Code (traditional IRAs).[3] In addition, as with traditional IRAs, the Education IRA balance can be transferred to different sponsoring institutions.[4] Further, the TRA amended the definition of ''plans'' as defined in section 4975(e)(1) of the Code to include an educational IRA described in section 530 of the Code. Based on the SIA's representations, it appears that Education IRAs share many of the same characteristics as those IRAs covered by the exemption. Thus, the Department sees merit in the SIA's request and, accordingly, has modified the definition of IRA in section III(b) of PTE 97–11 to include Education IRAs. The Department notes that all of the conditions of PTE 97–11 must be satisfied with respect to Education IRAs, as with all other IRAs and Keogh Plans covered by the exemption.

Notice to Interested Persons

Because many participants in IRAs and Keogh Plans and broker-dealers could conceivably be considered interested persons, the only practical form of notice is publication in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) Before an exemption may be granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the IRAs and Keogh Plans and their participants and beneficiaries and protective of the rights of the participants and beneficiaries of such plans.

(2) The proposed amendment if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

[2] Section 7701(a)(37) of the Code defines the term ''individual retirement plan'' to mean: (A) an individual retirement account described in section 408(a) of the Code, and (B) an individual retirement annuity described in section 408(b) of the Code.

[3] See section 530(e) of the Code.

[4] See section 530(d)(5) of the Code.

(3) If granted, the proposed amendment will be applicable to a transaction only if the conditions specified in the class exemption are met.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed amendment. Comments received will be available for public inspection with the referenced application at the above address.

Proposed Amendment

Under section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), the Department proposes to amend PTE 97–11 as set forth below:

Section III(b) is amended to read: ''The term ''IRA'' means an individual retirement account described in Code section 408(a) or an education individual retirement account described in section 530 of the Code. For purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.''

Signed at Washington, DC this 6th day of October 1998.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–28213 Filed 10–20–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Number: D–10567]

Proposed Amendment to Prohibited Transaction Exemption 93–33 (PTE 93–33) for the Receipt of Certain Services by Individuals for Whose Benefit Individual Retirement Accounts or Retirement Plans for Self-Employed Individuals Have Been Established or Maintained

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of Proposed Amendment to PTE 93–33.

SUMMARY: This document contains a notice of pendency before the Department of Labor of a proposed amendment to PTE 93–33. PTE 93–33 is a class exemption that permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a bank, provided that the conditions of the exemption are met. The proposed amendment, if adopted, would affect individuals with beneficial interests in such plans who receive such services as well as the banks that provide the services.

DATES: If adopted, the proposed amendment would be effective January 1, 1998. Written comments and requests for a public hearing should be received by the Department on or before December 7, 1998.

ADDRESSES: All written comments and requests for a public hearing (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Pension and Welfare Benefits Administration, room N–5649, 200 Constitution Ave, NW, Washington, DC 20210, (Attn: D–10567).

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams Lavigne, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U. S. Department of Labor, (202) 219–8971 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 93–33 (58 FR 31053, May 28, 1993, as amended, 59 FR 22686, May 2, 1994). PTE 93–33 provides relief from the restrictions of sections 406(a)(1)(D) and 406(b) of the Employee Retirement Income Security Act of 1974 (ERISA) and the sanctions resulting from the application of sections 4975 (a) and (b), 4975(c)(3) and 408(e)(2) of the Internal Revenue Code of 1986 (the Code) by reason of section 4975(c)(1)(D), (E) and (F) of the Code.[1] The amendment proposed herein was requested in an exemption application dated January 26, 1998, filed by the American Bankers Association (the ABA). The ABA is the largest banking trade association in the United States representing the interests of banking institutions. Its membership includes community, regional and money center banks and holding companies, savings associations, trust companies and savings banks. The application was filed pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990).

PTE 93–33, as amended, permits the receipt of services at reduced or no cost by an individual for whose benefit an IRA or Keogh Plan is established or maintained or by members of his or her family, from a bank pursuant to an arrangement in which the account balance in the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided the conditions of the exemption are met.

The ABA requests an amendment to PTE 93–33 which would expand the definition of the term ''IRA'' as defined in section III(b) of the exemption to include any plan account (currently existing or that Congress may create in the future) subject to the provisions of section 408(e) and/or section 4975 of the Code. The Department has decided not to expand the definition of the term ''IRA'' to include any plan account subject to the provisions of section 408(e) and/or section 4975 of the Code because the conditions contained in PTE 93–33, as amended, were developed based upon the specific characteristics of the IRAs and Keogh Plans described in section III(b) and (c) respectively. The Department does not believe that a sufficient showing has been made that the safeguards contained in the exemption would adequately address the concerns that the Department may have with regard to an unidentified class of new accounts.

In the alternative, the ABA requests that the Department expand the definition of the term ''IRA'' to include

[1] Section 102 of Reorganization Plan No. 4 of 1978 (42 FR 47713, October 17, 1978) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

the following new investment vehicles: Roth IRAs, education IRAs, Simple Retirement Accounts and Medical Savings Accounts. Section III(b) of the exemption defines the term ''IRA'' as an individual retirement account described in Code section 408(a). The definition further states that, for purposes of this exemption, the term ''IRA'' shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code which provides participants with the unrestricted authority to transfer their SEP balances to IRAs sponsored by different financial institutions.

The Taxpayer Relief Act of 1997 (TRA) established the Roth IRA by adding section 408A to the Code and the education IRA by adding section 530 to the Code.[2] The Small Business Job Protection Act of 1996 amended section 408 of the Code to create the Simple Retirement Account by adding section 408(p) to the Code.[3] The Medical Savings Account was established by the Health Insurance Portability Act of 1996 by adding section 220 to the Code.[4]

Section 408A(a) of the Code provides that, except as provided in this section, a Roth IRA shall be treated for purposes of this title in the same manner as an individual retirement plan. Section 408A(b) of the Code provides that, for purposes of this title, the term *Roth IRA* means an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as a Roth IRA.

In Advisory Opinion 98–03A (March 6, 1998), the Department stated that a Roth IRA which satisfies the definition of an individual retirement plan contained in section 7701(a)(37)(A)[5] of the Code is an ''individual retirement account'' described in section 408(a) of the Code for purposes of the definition of the term ''IRA'' contained in section III(b) of PTE 97–11 (62 FR 5855 (February 7, 1997))[6]. Therefore, a Roth IRA, as described above, which is not an employee benefit plan covered by Title I of ERISA (except for certain SEPs and Simple Retirement Accounts described in section 408(k) and 408(p) of the Code, respectively) would be covered by the relief provided in PTE 97–11, if all conditions therein are met. In this regard, we note that the definition of the term ''IRA'' used in section III(b) of PTE 93–33 is identical to the definition of an IRA contained in section III(b) of PTE 97–11 (except that the definition of the term ''IRA'' in PTE 97–11 was amended to include Simple Retirement Accounts). Accordingly, since the relevant portion of the definition of IRA under PTE 97–11 is identical to the language contained in PTE 93–33, the Department is of the view that a Roth IRA would be covered by the relief provided in PTE 93–33, if all the conditions therein are met. Thus, there is no need to specifically amend PTE 93–33 to include Roth IRAs.

Section 530(b)(1) of the Code provides in part, that the term ''education individual retirement account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the designated beneficiary of the trust (and designated as an education individual retirement account at the time created or organized). Section 530(b)(1) further provides: but only if the written governing instrument creating the trust meets the following requirements:

(A) no contribution will be accepted—(i) unless it is in cash, (ii) after the date on which such beneficiary attains age 18, or (iii) except in the case of rollover contributions, if such contributions would result in aggregate contributions for the taxable year exceeding $500; (B) the trustee is a bank (as defined in section 408(n) of the Code or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan; (C) no part of the trust assets shall be invested in life insurance contracts; (D) the assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund; and (E) upon the death of the designated beneficiary, any balance to the credit of the beneficiary shall be distributed within 30 days after the date of death to the estate of such beneficiary.

The Education IRA is subject to disqualification provisions which are similar to those in section 408(e)(2) and (4) of the Code that are applicable to IRAs described in section 408(a) of the Code.[7] In addition, as with section 408(a) IRAs, the Education IRA balance can be transferred to different sponsoring institutions.[8] Further, the TRA amended the definition of *plans* as defined in section 4975(e)(1) of the Code to include an educational IRA described in section 530 of the Code. Based on the ABA's representations, it appears that Education IRAs share many of the same characteristics as those IRAs covered by the exemption. Thus, the Department sees merit in the ABA's request, and, accordingly, has modified the definition of IRA in section III(b) of PTE 93–33 to include Education IRAs.

Simple Retirement Accounts are defined in section 408(p) of the Code as an individual retirement plan (as defined in section 7701(a)(37))—(A) with respect to which the requirements of paragraphs (3), (4) and (5) are met; and (B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement. Simple Retirement Accounts are funded by employee contributions and matching employer contributions.[9] Section 408(p)(7) of the Code provides that participants of Simple Retirement Accounts have the unrestricted authority to transfer their account balances without cost or penalty to Simple Retirement Accounts sponsored by different financial institutions. In its application, the ABA noted that the Department modified the definition of the term ''IRA'' under PTE 97–11 to include Simple Retirement Accounts. The Department agrees with the ABA and has modified section III(b) under the proposed amendment to include Simple Retirement Accounts.

Finally, the ABA represents that a Medical Savings Account is a tax-exempt trust or custodial account established to pay medical expenses.

[2] Taxpayer Relief Act of 1997 (Pub. L. 105–34, title III, sec. 302(a) and sec. 213(a), August 21, 1997, 111 Stat 788)

[3] Small Business Job Protection Act of 1996 (Pub. L. 104–188, title I, sec. 1421, August 20, 1996, 110 Stat 1755)

[4] Health Insurance Portability Act of 1996 (Pub. L. 104–191, title III, sec. 301(a), August 21, 1996, 110 Stat 1936; amended Pub. L. 105–34, title XVI, sec. 1602, August 5, 1997, 111 Stat 788)

[5] Section 7701(a)(37) of the Code defines the term ''individual retirement plan'' to mean: (A) an individual retirement account described in section 408(a) of the Code, and (B) an individual retirement annuity described in section 408(b) of the Code.

[6] PTE 97–11 permits the receipt of services at reduced or no cost by an individual for whose benefit an IRA or, if self-employed, a Keogh Plan, is established or maintained or by members of his or her family, from a broker-dealer registered under the Securities Exchange Act of 1934 pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided that the conditions of the exemption are met. The term ''IRA'' is defined in section III(b) of PTE 97–11 as an individual retirement account described in section 408(a) of the Code. For purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides the participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

[7] See section 530(e) of the Code.

[8] See section 530(d)(5) of the Code.

[9] See section 408(p)(2)(A) of the Code.

The ABA exemption application included a copy of IRS Notice 96–53, 1996–51 I.R.B. 5, (December 6, 1996) (the Notice) which describes the Medical Savings Accounts. Although the Notice states that a number of the rules that apply to Medical Savings Account also apply to IRAs, the Notice also states that Medical Savings Accounts differ from IRAs in important respects. In this regard, neither the ABA application nor the Notice discuss these differences. In addition, the Department does not believe that a sufficient showing has been made that the safeguards and conditions currently contained in PTE 93–33 are relevant in the context of Medical Savings Accounts. Consequently, the Department has determined not to propose the requested relief for Medical Savings Accounts.

Notice to Interested Persons

Because many participants in IRAs and Keogh Plans and banks could conceivably be considered interested persons, the only practical form of notice is publication in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) Before an exemption may be granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the IRAs and Keogh Plans and their participants and beneficiaries and protective of the rights of the participants and beneficiaries of such plans.

(2) The proposed amendment if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) If granted, the proposed amendment will be applicable to a transaction only if the conditions specified in the class exemption are met.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed amendment. Comments received will be available for public inspection with the referenced application at the above address.

Proposed Amendment

Under section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), the Department proposes to amend PTE 93–33 as set forth below:

Section III(b) is amended to read: ''The term *IRA* means an individual retirement account described in Code section 408(a) or an education individual retirement account described in section 530 of the Code. For purposes of this exemption, the term ''IRA'' shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.''

Signed at Washington, DC this 6th day of October, 1998.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–28214 Filed 10–20–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Opera Section (Education & Access category) to the National Council on the Arts will be held on November 16–17, 1998. The panel will meet from 9:00 a.m. to 6:00 p.m. on November 16th and from 9:00 a.m. to 3:30 p.m. on November 17th in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. A portion of this meeting, from 1:00 p.m. to 2:30 p.m. on November 17th, will be open to the public for a policy discussion on field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on November 16th and from 9:00 a.m. to 1:00 p.m. and 2:30 p.m. to 3:30 p.m. on November 17th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 14, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–28160 Filed 10–20–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Notice of Public Meeting

Date: Monday, October 26, 1998, 1:30 p.m. to 4:30 p.m. (CST).

Address: The meeting site will be: The Admiral's Club, Terminal III, Level 2, Chicago O'Hare International Airport, Chicago, IL 60666.

Status: The meeting will be open to the public. However, seating will be limited. Members of the public wishing to attend should contact Doug Seay, Research Director, at (202) 523–8217 to make arrangements for attendance.

Summary: At the meeting of the Research Subcommittee of the National Gambling Impact Study Commission, established under

Public Law 104–169, dated August 3, 1996, the members of the Subcommittee will discuss issues related to its research agenda, including the casino questionnaire.

Contact Persons: For further information on the agenda, meeting location or other matters contact Doug Seay at (202) 523–8217 or write to 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002.

Supplementary Information: Written comments can be sent to the Commission at any time at 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002. Visit the Commission's Website at *www.ngisc.gov*.

Tim Bidwill,

Special Assistant to the Chairman.

[FR Doc. 98–28259 Filed 10–20–98; 8:45 am]

BILLING CODE 6802–ET–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, P.L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 18, 1998. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 306–1030.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

Permit Application No. 99–013

1. *Applicant:* Jerry L. Mullins, Mail Stop 521, U.S. Geological Survey, Reston, Virginia 20192.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Areas. The applicant proposes to enter Cape Bird (ASPA #116), Cape Royds (ASPA #121) and Cape Crozier (ASPA #124). A GPS surveying team from the U.S. Geological Survey needs to establish geographical coordinates and elevations for pre-selected photo-identifiable points to meet national mapping accuracy standards for 1:25,000-scale image maps of these three sites.

Location: ASP #116—Cape Bird, Ross Island, ASPA #121—Cape Royds, Ross Island, and ASPA 124—Cape Crozier, Ross Island.

Dates: December 15, 1998–January 31, 2000.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 98–28185 Filed 10–20–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: Changes, Tests and Experiments, and Updating of Final Safety Analysis Reports (10 CFR Parts 50, 52 and 72).

3. The form number if applicable: Not applicable.

4. How often the collection is required: Information is required to be collected when changes, tests or experiments are made by the licensee; reporting of these changes is required either on an annual basis (Part 72 facilities and nonpower reactors), or every two years (power reactors). Updating the final safety analysis report (FSAR) is required on an annual basis for independent spent fuel storage installations (ISFSIs), with up to two years for power reactor facilities (updating not required for nonpower reactors).

5. Who will be required or asked to report: Reports are to submitted by licensees of production or utilization facilities licensed under 10 CFR Part 50 and by licensees and certificate holders for ISFSIs and spent fuel storage casks, pursuant to 10 CFR Part 72.

6. An estimate of the annual number of responses: Responses are required on a periodic basis from licensees or certificate holders. Summary reports of changes, and submittal of FSAR update pages are required; some of these submittals are required on an annual basis, and some are on a two year cycle. In addition, an application for amendment of a cask certificate by a certificate holder is expected to be submitted from about half of the holders per year. The annual number of responses thus is estimated as 253 reports.

7. The estimated number of annual respondents: The total number of respondents under Part 50 is 178 reactor licensees. In addition, there are 18 respondents subject to Part 72. Since some of the reporting for power reactors is on a two-year cycle, the annual number of respondents is estimated as 153 respondents.

8. An estimate of the total number of hours needed annually to complete the requirement or request: The total number of hours annually is estimated at 479,789 hours (an increase of 66,099 hours)—133,160 hours (an increase of 4,380) for reporting; 293,560 hours (an increase of 8,650) for recordkeeping. This total estimate also includes an annualized one-time burden of 53,069 hours for implementation of the revisions to the rule through procedures and training of personnel. The hours needed depend upon the number and complexity of changes that a licensee chooses to make. The hours needed for a power reactor respondent are estimated to be significantly greater than those for a spent fuel storage cask certificate holder or ISFSI licensee.

9. An indication of whether Section 3507(d), Public Law 104–13 applies: Applicable.

10. Abstract: The NRC is proposing to revise requirements pertaining to

changes, tests, and experiments, and for updating of final safety analysis reports. The purpose of the rulemaking is to clarify requirements and to allow more flexibility for certain changes that a licensee could make without receiving prior NRC approval. The NRC estimates that these rule changes will have only a minor impact upon the existing reporting and recordkeeping requirements in these sections of NRC regulations. There will be a one-time burden for revision of procedures and training.

Submit, by November 20, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be reviewed free of charge at the NRC Public Document Room, 2120 L Street, NE (lower level), Washington DC. The proposed rule indicated in the ''title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** notice. Instructions for accessing the electronic OMB clearance package for the rulemaking have been appended to the electronic rulemaking. Members of the public may access the electronic OMB clearance package by following the directions for electronic access provided in the preamble to the titled rulemaking.

Comments and questions should be directed to the OMB reviewer by November 20, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0011 and 3150–0132), NEOB—10202, Office of Management and Budget, Washington DC 20503. Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo Shelton, 301–414–7233.

Dated at Rockville, Maryland, this 8th day October of 1998.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–28068 Filed 10–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consumer Product Licensing Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to remind all importers and distributors of consumer products containing radioactive material regulated by the Nuclear Regulatory Commission (NRC) of NRC licensing requirements governing the distribution of these products to unlicensed persons (persons exempt from licensing).

FOR FURTHER INFORMATION CONTACT: Anthony Kirkwood, Mail Stop TWFN 8–F–5, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

SUPPLEMENTARY INFORMATION: Specific licensing requirements exist if you are the initial importer or distributor of a consumer product containing NRC regulated byproduct material, such as, watches illuminated by tritium paint or gas or neutron-irradiated gemstones. You must first obtain a possession and use license satisfying the general requirements of 10 CFR 30.33 or Agreement State equivalent. Therefore, you must apply for and obtain a specific license authorizing possession and use of byproduct material from the NRC regional office or applicable Agreement State, whoever has jurisdiction in your State. Clarifications in the jurisdictional control for your State may be obtained by contacting the NRC contact identified earlier in this notice. The information needed to apply for this license may be obtained from the NRC regional office for your area or from the state government as applicable. In addition, in order to initially distribute or transfer consumer products containing byproduct material to persons exempt from licensing, you must also apply for and obtain an exempt distribution license from NRC satisfying the requirements of 10 CFR 32. The product information to be submitted for a NRC distribution license is outlined in NUREG–1556, Vol. 8, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance About Exempt Distribution Licenses,'' dated September 1998, and may be obtained by writing to the Superintendent of Documents, U. S. Government Printing Office, P. O. Box 37082, Washington, D.C. 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy of the document is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555–0001.

Importers and initial distributors of consumer products containing radioactive material regulated by NRC, such as watches and gemstones, found without the proper licensure, are subject to enforcement action by NRC and state regulatory authorities. NRC enforcement action may include imposition of monetary penalties, referral to a Federal District Court to obtain an injunction and seizure of the radioactive products, or referral to the Department of Justice for potential criminal prosecution. Recently, the NRC took significant enforcement action against two watch importers and distributors for violations of NRC requirements involving the possession, use, and initial distribution of watches containing NRC-licensed material without having NRC licenses authorizing such activities. In one action, the company was issued a $26,400 civil penalty.

Dated at Rockville, Maryland this 9th day of October, 1998.

For the Nuclear Regulatory Commission.

Frederick C. Combs,

Acting Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–28192 Filed 10–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Announcement of Workshops on Draft Guidance on Radiological Criteria for License Termination

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of workshop.

SUMMARY: This notice announces the schedule for a series of workshops on the draft guidance, the website address and structure, and staff plans to hold additional technical meetings and telephone conferences, as needed, to discuss emerging issues and to prepare for the workshops. The date, time, location, and agendas for the workshops and meetings will be announced on the NRC web site.

Background

On July 8, 1998, the Commission approved the publication of the draft guidance for the final rule on Radiological Criteria for License Termination (License Termination Rule,

LTR) (62 FR 39058) for a two year interim use period. The Commission also directed the staff to maintain a dialogue with the public through the use of a website and public workshops. In addition, the Nuclear Regulatory Commission (NRC) staff is developing a standard review plan (SRP) for use in reviewing licensee submittals related to the LTR.

Workshops on Guidance for Radiological Criteria for License Termination

The NRC has scheduled six workshops during the period 12/98 to 10/99. All of the workshops will be held at NRC Headquarters in the auditorium of the Two White Flint North building. The address is 11545 Rockville Pike, Rockville MD, 20852. The dates for the workshops are listed below.

Workshop Dates: December 1–2, 1998, January 21–22, 1999, March 18–19, 1999, June 16–17, 1999, August 18–19, 1999, October 20–21, 1999.

The final workshop agendas will depend on the issues that emerge as industry, NRC, and other stakeholders review, and gain experience using, the draft guidance. However, the general topics to be covered are dose modeling, demonstrating as low as is reasonably achievable (ALARA), final status surveys, and restricted use/alternate criteria. Issues of concern that emerge from industry and stakeholder review and use of the guidance will be posted and discussed on the web site, and during any additional meetings held between the workshops. The workshops will be focused on specific technical or policy issues. The agendas will be posted 6–8 weeks in advance of the scheduled date. The final agenda for the first workshop, to be held on December 1–2, 1998, is not yet finalized, but is expected to include the following topics:

1. Overview of the process to solicit stakeholder input on the draft guidance,
2. NRC test cases,
3. resuspension factor parameter in the building occupancy model,
4. measuremements when the compliance levels are close to background,
5. NRC's approach to refining the screening model for alpha emitting radionuclides,
6. licensee test cases.

The address for the web site containing the technical conference on the draft guidance for the License Termination Rule is *HTTP://TECHCONF.LLNL.GOV/INDEX.HTML*. The site contains seven major functional areas. Four separate areas have been created for discussion on the major topics in Draft Regulatory Guide DG–4006, ''Demonstrating Compliance With The Radiological Criteria For Decommissioning.'' The four areas are: 1) dose modeling, 2) final status survey, 3) ALARA, and 4) restricted use/alternate criteria. Comments, questions, and case-specific experiences can be posted in these areas by any interested party. The issues raised in these discussion areas will be considered as topics for workshops, or for one of the periodic meetings or telephone conferences. The web site will also contain an area where NRC will post draft agendas for meetings and workshops for review and comment. The final agenda, including workshop and meeting dates, times, and locations will also be posted. Finally, the site will contain a Question and Answer (Q&A) area where NRC will post the resolution to issues raised during workshops and meetings. During a public meeting held on August 14, 1998, the Q&A format was suggested by the Nuclear Energy Institute as a useful format for publishing NRC's resolution of issues.

NRC strongly encourages stakeholder participation in this process to finalize RG–4006 and develop an SRP for the license termination rule. The data and information generated during the review and implementation of the draft guidance, as well as the results of industry research and test cases, will play a significant role in the development of effective final guidance documents.

FOR FURTHER INFORMATION CONTACT: For more information, contact Mr. David N. Fauver, Sr. Health Physicist, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC, 20555–0001, telephone number at (301) 415–6625.

Dated at Rockville, Maryland, this 14th day of October, 1998.

For the Nuclear Regulatory Commission.

Lawrence Bell,

Acting Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–28191 Filed 10–20–98; 8:45 am]

BILLING CODE 7509–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 26, 1998, through October 8, 1998. The last biweekly notice was published on October 7, 1998 (63 FR 53943).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By November 20, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: September 23, 1998.

Description of amendment request: Carolina Power & Light (CP&L) proposes to revise the Harris Nuclear Plant Technical Specification (TS) 3/4.6.1.3, ''Containment Air Locks,'' to clarify the requirements for locking an air lock door shut. CP&L also proposes to revise TS 3/4.6.1.3 to be consistent with NUREG 1431, Revision 1, ''Standard Technical Specifications, Westinghouse Plants,'' dated April 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Containment Air Locks are not an accident initiating system as described in the Final Safety Analysis Report [FSAR]. The proposed change implements guidance for Technical Specifications associated with air lock doors consistent with NUREG–1431, Revision 1, ''Standard Technical Specifications, Westinghouse Plants,'' dated April 1995. Additionally, clarification is provided to permit locking an inoperable air lock door as required by Technical Specifications [TS]. The proposed change does not affect another Structure, System, or Component. The operation and design of containment air locks will not be affected by this proposed change. The ability of containment to mitigate an accident will not be affected by this change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Containment Air Locks are designed to form part of the containment pressure boundary. The proposed change provides for administrative controls and operating restrictions for air lock doors consistent with guidance provided by the Commission. Containment Air Locks are not an accident initiating system as described in the Final Safety Analysis Report. The proposed change does not affect another Structure, System, or Component. The operation and design of containment air locks will not be affected by this proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change to containment air locks does not affect any of the parameters that relate to the margin of safety as described in the Bases of the TS or the FSAR. Accordingly, NRC Acceptance Limits are not affected by this change.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Pao-Tsin Kuo (Acting).

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: July 17, 1998 (Reference NRC–98–0044).

Description of amendment request: The proposed amendment will revise the License to allow the licensee to possess special nuclear material in a quantity totaling no more than 15 grams of uranium-235, uranium-233, or plutonium, or any combination thereof and with plutonium totaling no more than 2 curies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration using the standards in 10 CFR 50.92(c). The licensee's analysis is presented below:

(1) *Does the proposed change significantly increase the probability or consequences of an accident previously evaluated?*

The proposed changes do not involve a significant increase in the probability or consequences of an accident. Possessing trace amounts of special nuclear material cannot affect the probability of the analyzed sodium or liquid waste accidents. The ability to possess such material does not itself change any methods of handling liquid waste or sodium. Possession of special nuclear material could potentially increase the consequences of an accident if it was in use or in the vicinity if an accident occurs. However, the increase in consequences would not be significant due to the limitations on radioactivity content of such special nuclear material. The special nuclear material limit is below that requiring an emergency plan or maximum dose evaluation per 10 CFR 70.22(i). Since the quantity is below that requiring an offsite emergency plan or evaluation, even if all the special nuclear material allowed to be possessed by the proposed amendment were released during a postulated accident, the consequences would not be significantly increased. If the provision allowing for possession of more than 15 grams of special nuclear material or 2 curies of plutonium were to be used in the future due to identified plant contamination, the requirements of 10 CFR 70.22(i) would need to be assessed and a dose evaluation performed or an emergency plan submitted if required to ensure the analyzed accident is appropriately addressed and mitigated. Any such special nuclear material would be contained in the remaining plant contamination, since fuel and blanket material were shipped offsite during 1973–1975. Therefore, this amendment does not involve a significant increase in the probability or consequences of an accident.

(2) *Will the proposed amendment create the possibility of a new or different kind of accident from any accident previously analyzed?*

The proposed changes do not create the possibility of a new or different type of accident from any previously evaluated. Allowing possession of small amounts of special nuclear material does not change methods of monitoring the facility or operations or surveillance of any systems at Fermi 1. The amount requested is below that requiring criticality monitoring per 10 CFR 70.24, and the separation of the special nuclear material will not be permitted. Thus, there is no identified physical mechanism for creating an accident based on the existence of such material in the quantities specified. If the provision allowing for possession of more than 15 grams of special nuclear material or 2 curies of plutonium if is identified in plant contamination in the future were to be invoked, applicable provisions to ensure public safety per 10 CFR Part 70, Part 73, and Part 74 will apply. For these reasons, allowing Detroit Edison to possess very limited amounts of special nuclear material at Fermi 1 will not create the possibility of a new or different type of accident.

(3) *Will the proposed change significantly reduce the margin of safety at the facility?*

The proposed changes do not involve a significant reduction in the margin of safety at Fermi 1. No changes to any systems, or the status of any systems or structures, are created by this amendment. Being able to have a very limited amount of special nuclear material at Fermi 1 will not significantly reduce the margin of safety because a 10 CFR Part 20 program is already in place, and the amount of special nuclear material is being limited below criteria requiring an emergency plan, special nuclear material control program, or criticality monitoring. If more than 15 grams of special nuclear material or 2 curies of plutonium is identified in plant contamination in the future, the proposed license amendment will require the applicable portions of 10 CFR Part 70, Part 73, and Part 74 to apply for the amount identified. For these reasons, this amendment will not significantly reduce the margin of safety at Fermi 1.

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, NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Branch Chief: John W.N. Hickey.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: April 30, 1998.

Description of amendment request: Arkansas Nuclear One—Unit 2 (ANO–2) Technical Specification (TS) 4.8.1.1.2.c.3 has been revised to relocate the specific value for the single largest post-accident load to the Bases associated with TS 4.8. The revised TS 4.8.1.1.2.c.3 would require the licensee to verify the generator capability to reject a load greater than or equal to its associated single largest post-accident load.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Diesel Generators (DGs) are not identified as the initiator of any accident previously analyzed. The design and function of the DGs are unaffected by this proposed change. Applying more restrictive acceptance criterion to the single largest load rejection test can not result in an increase in the probability of accidents previously evaluated and will provide increased assurance that the DGs will perform as intended to support the mitigation of accidents previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change corrects information contained in the technical specification and does not involve any design change, plant modification, change in analyzed DG performance, or change in plant operation. Since the DGs are not considered to be event initiators, their accident mitigation function is unaffected, and normal operation is unaffected, the proposed change does not result in new or different accidents from those previously analyzed.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The design and function of the DGs are unaffected by the proposed change. Applying more restrictive acceptance criterion to the single largest load rejection test will provide increased assurance that the DGs will perform as intended to support the mitigation of postulated accidents. DG performance is proposed to meet a more stringent standard.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: May 18, 1998.

Description of amendment request: The proposed changes delete the ANO–2 TS 3.6.2.2 and 4.6.2.2 requirements, and their associated bases, for the sodium hydroxide addition system and add new limiting conditions for operation, action statements, surveillance requirements, and bases information for trisodium phosphate baskets which will be installed during the next ANO–2 refueling outage (2R13). The capability to add sodium hydroxide to the containment spray system during the initial phase of a loss-of-coolant accident will be replaced with crystalline trisodium phosphate (TSP) dodecahydrate stored in containers located on the floor of the containment building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change modifies the method of containment spray sump pH control. The containment spray function is important for containment heat removal/pressure mitigation. However, this change does not affect the probability of occurrence of the accident initiators which result in the need for containment heat removal and pressure mitigation. Since the TSP baskets are seismically mounted passive devices located inside the containment, they cannot initiate a transient or affect the probability of occurrence of any previously analyzed accident.

The proposed change only modifies the chemical composition of the containment spray and sump fluid. The proposed changes do not affect the heat removal/pressure mitigation functions of the system since the spray flow rate and droplet size are unchanged. The proposed change also will not adversely affect the radiological doses for the design basis accident (DBA) loss-of-coolant accident (LOCA) at the exclusion area boundary, low

population zone, control room, or emergency response facility. The change does not adversely affect the calculated peak clad temperature for the DBA LOCA or the environmental qualification (EQ) of components located inside containment.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change allows the use of TSP as a buffering agent for the containment sump instead of sodium hydroxide (NaOH) added via the containment spray system. The TSP baskets are passive devices that have minimal impact on any other system except through water chemistry. The change in water chemistry does not adversely affect any safety system or required safety functions. The replacement of NaOH additive with TSP will not change the probability of a malfunction of safety-related equipment.

Potential malfunctions relating to the proposed modification have been evaluated for their effect on plant safety and have been found to be non-significant. Additionally, the transient pH behavior of the containment spray flow does not adversely affect the EQ of components located inside containment.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The proposed change does not adversely affect the ability of the containment spray system to perform the functions of containment heat removal, pressure mitigation, and fission product (iodine) retention. The proposed change does not adversely affect any equipment credited in the safety analysis. Also, the proposed change does not increase the peak clad temperature or the offsite doses due to the DBA LOCA.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 29, 1998.

Description of amendment request: The proposed amendment would revise the as-found lift setting tolerance for the ANO–2 main steam safety valves (MSSVs) and pressurizer safety valves (PSVs) will be increased. The proposed increase in the lift setting tolerance is contingent upon a reduction in a linear power level-high setpoint and use of the latest small break loss of coolant accident (SBLOCA) methodology for development of the Core Operating Limits Report (COLR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change allows for a larger ±3% tolerance versus ±1%, −3% as-found lift setting tolerance. The proposed change does not involve any change to the physical characteristics of the main steam safety valves (MSSVs) and pressurizer safety valves (PSVs), and will have no impact on the as-left settings. During testing, the MSSVs and PSVs will continue to adjusted to ±1% of the Technical Specification (TS) lift setting.

The impact on the Safety Analysis Report (SAR) analyses when the as-found lift setting tolerances are increased has been evaluated and the effects upon the impacted events have been found to be within acceptable limits, providing the allowable linear power level with three inoperable MSSVs is revised from 45% to 36%, and that the latest NRC approved C-E small break loss of coolant analysis (LOCA) evaluation model, CENPD–137, Supplement 2–P–A, is included as a methodology for determination of operating parameters identified within the core operating limits report (COLR). With these concurrent changes, plant systems required for safe operation and shutdown will continue to be available to fulfill their safety function as described in the SAR. Steam production in excess of relief capacity is precluded by the physical design of the plant and operation of the reactor protection system. Revision of the MSSV as-found lift setting tolerance from ±1%, ±3% to ±3% does not alter safety analyses conclusions.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

This change does not create any new plant configuration or operational mode. This proposal to increase the MSSV and PSV as-found lift setting tolerance does not modify equipment or change the manner in which the MSSVs and PSVs will be operated. ASME design requirements for maintaining system operating pressure limits below the maximum design pressure of 1210 psia for plant secondary systems, and 2750 psia for the reactor coolant system (RCS) are not impacted. The reduction in allowable linear power level when three MSSVs are inoperable assures plant operation within current analysis assumptions. The addition of topical report CENPD–137, Supplement 2–P–A, as a reference to develop the COLR is bounded by assumptions within the existing safety analysis. The cycle specific COLR analyses will continue to be performed utilizing NRC approved methodologies. The TS changes do not require any new equipment be included in the design basis, and current equipment will continue to be operated in a manner consistent with its design.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The upper tolerance limit for design pressure is not affected by this change. During the most severe anticipated operational transient, the Secondary System pressure and RCS pressure will not exceed 110% of design pressure. The MSSV and PSV lift settings will continue to be set within −1% of the TS lift setting during surveillance testing.

The decrease in the peak cladding temperature of the reactor fuel, due to a change in the methodology for analysis, does not significantly impact previous analytical results. The current and previous analytical methodologies are approved by the Staff.

The impact of the proposed changes on the ANO–2 SAR analyses have been evaluated. The evaluation demonstrates that the results of the impacted events

remained within the acceptable limits providing the maximum linear power level percentage for three inoperable MSSVs is reduced. This reduction in maximum allowable linear power level assures that adequate steam relief capacity will be available to prevent overpressurizing the secondary steam system during the most severe anticipated operational transient.

Addition of topical report CENPD–137, Supplement 2-P-A, will not reduce the existing TS operability and surveillance requirements. The cycle specific COLR limits for future reloads will continue to be developed based on NRC-approved methodologies. The ANO–2 TSs will continue to require that the core be operated within these limits.

The cumulative impact of all of the proposed changes and the results of the impacted events have been found to be within acceptable limits. The system capabilities to mitigate and/or prevent accidents will be the same as they were prior to these changes.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 29, 1998.

Description of amendment request: These proposed changes are in Technical Specification 3.4.2, ''Reactor Coolant System—Safety Valves—Shutdown,'' and Technical Specification 3.4.12, ''Reactor Coolant System—Overpressure Protection'' regarding the low temperature overpressure protection system. The specific changes include modifying the requirements for the pressurizer code safety valve requirements specified by Technical Specification 3.4.2 and a modification of the safety injection tank isolation requirements specified in Technical Specification 3.4.12.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The reactor coolant system (RCS) is designed with overpressure protection devices to be used in all modes of operation. The changes to Technical specification (TS) 3.4.2 will ensure that, if no pressurizer code safety valves are operable, the RCS will be cooled down to the mode of applicability of the low temperature overpressure protection (LTOP) system (TS 3.4.12) within 12 hours. The LTOP relief valves provide sufficient relief capacity to protect the RCS from overpressurization when the RCS inlet temperature (T_c) less than or equal to 220° F. Therefore, this change will ensure the proper actions will be taken that will ensure adequate overpressure protection of the RCS. These actions are not accident initiators, and therefore do not involve a significant increase in the probability of any accident previously evaluated.

The proposed change to TS 3.4.12 provides additional operational flexibility for the use of the safety injection tanks (SITs) as an additional inventory source during Modes 4, 5, and 6 when the RCS is in LTOP conditions. The ability to use the SITs, with a pressure less than 300 psig is within the existing LTOP analysis. The LTOP analysis ensures that under the analyzed worst case overpressurization event, the RCS is protected. The 300 psig SIT pressure limit, corrected for instrument uncertainty, will prevent a challenge to the LTOP relief valves and therefore the RCS will be assured of overpressure protection. The SIT pressure limit will also be low enough to prevent an inadvertent isolation of the shutdown cooling system and thus prevent a loss of shutdown cooling due to placing an SIT in service. The remaining changes included in this amendment request are considered administrative in nature and are therefore considered acceptable.

Based on the above discussions, these changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes included in this amendment request provide additional operational flexibility for the use of the SITs and specify the proper actions to be taken that will ensure adequate overpressure protection of the RCS. The LTOP relief valves have already been evaluated for operation below 220° F. The changes do not introduce any new plant configurations. No new accident possibilities are being introduced by these changes. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not involve a significant reduction in the margin of safety.

The proposed change to the TS 3.4.2 action statement requires the T_c be less than or equal to 220° F when no pressurizer code safety valves are available. When Tc is less than or equal to 220° F, the LTOP system operability is required by TS 3.4.12. This action will provide assurance that the RCS will be protected from an overpressurization event and therefore increases the margin of safety.

The requirements to maintain one pressurizer code safety valve in Mode 4 when T_c is less than or equal to 220° F and in Mode 5 has been removed by the proposed revision to TS 3.4.2. The LTOPs provide adequate RCS over pressure protection during these modes without reliance on the pressurizer code safeties. Maintaining the requirement to require one pressurizer code safety to be operable at the same time as the LTOP system is required to be operable, provides no additional plant safety. An operable LTOP system prevents RCS pressure from increasing high enough to challenge the pressurizer code safety lift setpoints.

The current TS 3.4.12 LTOP limits are based on an analysis that uses the methodology outlined in the ASME Code Case N–514. This code case defines the margin of safety for the current LTOP limits. This code case was utilized in the development of TS 3.4.12. The safety factor utilized by the code case provides a reasonable vessel overpressure allowance for conditions expected during a low temperature transient. The margin of safety is not reduced with SITs in service and pressurized to less than 300 psig because this condition is bounded by the existing LTOP analysis. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 29, 1998.

Description of amendment request: The proposed change to the Arkansas Nuclear One Unit 2 Technical Specifications would provide a range of acceptable values for the 4160 Volt bus loss of voltage values. The present Technical Specification Table 3.3–4, item 7.a provides a single value for both the trip and the allowable values for the 4160 Volt bus loss of voltage requirements. These table entries do not include an acceptable range or an explicit indication of the allowed tolerance that the actual setting is allowed to vary from the indicated value. The proposed change replaces the specific trip value with an explicit range of acceptable allowable values.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The two 4160 Volt (V) vital bus loss of voltage protection relays that are provided on each of the 4160 V safety buses are provided to detect loss of voltage, isolate the safety buses, initiate load shedding, and start the associated emergency diesel generator. This safety function is unchanged by the proposed setpoint revisions. The revised settings for the loss of voltage protection relays will continue to provide the safety function with no appreciable additional time delay. The proposed time delays are within those assumed in the ANO–2 safety analyses. Additionally, the lower voltage settings will prevent unnecessary isolations from the off-site power sources which will contribute to reducing the probability of a loss of off-site power due to off-site power system transients.

The ANO–2 technical specifications will continue to require the 4160 V loss of voltage functions to be surveillance tested at their present frequency without changing the modes in which the surveillance is required or the modes of applicability for these components. The technical specifications will continue to require the same actions as currently exist for the inoperability of one or more of the 4160 V loss of voltage channels. Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change introduces no new modes of plant operation or new plant configuration. The 4160 V vital bus loss of voltage protection relays are required to operate following a complete loss of off-site power to initiate the bus power source transfer to on-site power, i.e., the emergency diesel generators, to prevent a loss of all AC power. This safety function is unchanged by the proposed setpoint revisions, and the proposed setpoints continue to provide the required actions consistent with the ANO–2 safety analysis. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The two undervoltage relays located on each 4160 V safety bus are provided to detect loss of voltage, isolate the safety buses, initiate load shedding, and start the emergency diesel generators. This safety function is unchanged by the proposed setpoint revisions.

The lower loss of voltage values do not affect the safety function since there is no appreciable time difference in reaching the lower setpoints during a loss of voltage event. The maximum proposed time delay setting with the minimum loss of voltage relay setting is within those used in the ANO–2 safety analysis. The revised settings for the relays will continue to provide the safety function with no appreciable additional time delay.

Removal of the trip value from the technical specifications is consistent with that which is presented in NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants.'' The current ANO–2 technical specifications and NUREG–1432 both indicate that if the setpoint is outside the allowable value column, the associated channel is declared inoperable. This approach is consistent with this proposed technical specification change.

The trip and allowable values listed in the technical specifications for the loss of voltage protection for the 4160 V buses are presently the same. With these values being the same, if the trip value is exceeded, the allowable value will also be exceeded. This change provides a range of acceptable allowable values for these relays. By relocating the trip values in the surveillance test procedures, the procedural limits for the voltage and time delay settings can be adjusted to ensure margin to the allowable values. Additionally, the lower voltage settings will help to prevent unnecessary isolation from the off-site power sources due to off-site perturbations in the electrical grid, and thus contribute to increasing the margin of safety. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 29, 1998.

Description of amendment request: The proposed Technical Specification change revises the surveillance testing requirements for the Arkansas Nuclear One—Unit 2 (ANO–2) direct current (DC) electrical distribution system. ANO–2 is planning on modifying the 120 volt vital alternating current (AC) electrical distribution system by installing new inverters during the next scheduled refueling outage (2R13). This modification will increase the normal 125 volt vital DC system loads by adding the inverters as a normal load. The power for each 125 volt vital DC system is normally supplied by its associated battery charger. ANO–2 is in the process of replacing the vital DC battery chargers by plant modification to ensure all the battery chargers are of sufficient capacity to provide the necessary current requirements for the normal 125 volt vital DC loads. The proposed change to specification 4.8.2.3.c.4 is required to ensure the new chargers are adequately tested to support the associated inverter replacement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification (TS) surveillance requirement (SR) 4.8.2.3.b.2 requires the battery banks for each of the vital 125 volt direct current (DC) systems to be inspected to ensure that no visible corrosion exists at the terminals or the connectors. This SR has been modified to allow the present corrosion inspection, or the measurement of the resistance of the associated battery connections. The resistance measurement provides an indication of physical damage or abnormal deterioration that could potentially degrade battery performance and has been an accepted alternative to the visual inspection requirement.

The Bases change associated with TS 3.8.2.3 Action ''b'' is considered administrative in nature and simply clarifies the intent of the action without changing the requirements of the action or its required completion time. The station batteries are not classified as accident initiators in the ANO–2 accident analysis. The 125 volt class 1E batteries are credited for accident mitigation in the accident analysis. The above described changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Each battery charger is required to have sufficient capacity to restore the battery from the design minimum charge to its fully charged state while supplying normal steady state loads. The minimum specified TS surveillance required charger amperage limit will ensure this capacity. The additional charger output is presently accounted for in the emergency diesel generator loading tables in the Safety Analysis Report (SAR). Loss of one train of the vital 125 volt DC system is an accident that has been evaluated in the SAR. The capacity of the battery chargers is not a factor in the probability of this accident occurring. Therefore, the changes associated with this technical specification amendment request do not increase the probability of any accident previously evaluated.

The proposed technical specification changes do not modify the limiting condition for operation or the associated action statements regarding operability of the battery chargers other than clarifying these requirements. The frequency at which the battery charger operability is demonstrated by surveillance testing is not being modified by this technical specification change request. The proposed battery charger surveillance testing acceptance criterion will more appropriately demonstrate the capability of this equipment. This change does not affect the consequences of any of the previously evaluated accidents.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

Technical specification SR 4.8.2.3.b.2 requires the battery banks for each of the 125 volt systems to be inspected to ensure that no visible corrosion exists at the terminals or the connectors. This SR has been modified to allow the present corrosion inspection, or to perform resistance readings on the associated battery connections. The visual inspection is required to detect corrosion of the battery connections. The resistance measurement of the associated battery connections provides an acceptable alternative to the visual inspection requirement and provides an indication of physical damage or abnormal deterioration that could potentially degrade battery performance.

The availability of an extra battery charger for each train following the plant modification provides a more reliable configuration without introduction of any new modes of plant operation. No new accident possibilities are being introduced by the proposed change to the surveillance testing specification for battery charger amperage. Increasing the surveillance testing amperage limit for the battery chargers does not create the potential for any different accident since the new value remains within the design capacity of the components.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

TS SR 4.8.2.3.b.2 has been modified to allow resistance readings on the associated battery connections or the performance of the present visual inspection requirements. The resistance measurement of the associated battery connections provides an acceptable alternative to the visual inspection requirement and provides an indication of physical damage or abnormal deterioration that could potentially degrade battery performance without a significant reduction in the margin of safety.

The proposed technical specification surveillance requirements for the battery chargers continues to require testing of battery chargers at the present duration and frequency. These requirements will also apply to the second charger being installed for each Class 1E battery train. Each of the new battery chargers has sufficient capacity to restore the battery from the design minimum charge to its fully charged state while supplying normal steady state loads. The proposed surveillance specification change does not involve a significant reduction in the margin to safety since the demonstrated capacity will be of a higher amperage requirement than is demonstrated during the surveillance test with the existing configuration. Increasing the required amperage value assures the surveillance test will continue to demonstrate the chargers can provide significantly more current than is necessary to meet the design requirements. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: August 6, 1998.

Description of amendment request: The proposed technical specification change revises the Action requirements for the Arkansas Nuclear One—Unit 2 (ANO–2) Control Element Assembly (CEA) position indicator channels. The Action requirements listed in Specification 3.1.3.2 are being modified consistent with the requirements of NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants.'' The proposed changes also include the relocation of Technical Specification Table 3.8–1, ''Containment Penetration Conductor Overcurrent Protective Devices'' per

NRC Generic Letter 91–08, ''Removal of Component Lists From Technical Specifications.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This technical specification (TS) change request contains the relocation of Table 3.8–1, Containment Penetration Conductor Overcurrent Protective Devices, and changes to the control element assembly (CEA) position indication.

Generic Letter (GL) 91–08, ''Removal of Component Lists From Technical Specifications,'' was issued as a TS line item improvement by the NRC. Table 3.8–1 is one of the specific lists of components contained in the GL. TS Table 3.8–1 and all its references have been removed from Specification 3/4.8.2.5 in accordance with the GL. This change is considered administrative in nature because the requirements for operability, the limiting conditions for operation, the surveillance requirements and their frequencies for the containment penetration conductor overcurrent protective devices remains the same. This amendment request fundamentally modifies the physical location of the devices listed in Table 3.8–1 from the TS to the plant procedures. These changes have no affect on the probability or consequences of any accident previously evaluated.

The remaining changes included in this amendment request are those relating to the CEA position indication. The Action requirements for TS 3.1.3.2 were modified to be consistent with the requirements of NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants.'' The most recent revision of NUREG–1432 was used to produce this change because it represents the latest guidance for the TS CEA position indication requirements that are applicable to ANO–2 and acceptable to the NRC.

The requirement was removed from TS 3.1.3.2 that restricted each CEA group to a maximum of one CEA with less than two of the required position indicator channels. NUREG–1432 places no requirements on the number of CEAs in a group with less than two of the required position indicator channels. NUREG–1432 would allow all the CEAs in a group to have only one of the required CEA position indications operable. In this situation, the associated CEAs with less than two of the required position indicator channels would have to be placed at their ''Full In'' or ''Full Out'' limits.

TS 3.1.3.2 was modified to allow the use of the ''Full In'' or ''Full Out'' limits which ensures this specification is consistent with its bases and NUREG–1432. The TS will still maintain the requirements for two independent means of determining CEA position with this amendment request. With two independent means of determining CEA position, reliable determination of actual CEA position will be maintained.

Additionally, NUREG–1432 does not require the placement of any other CEAs in the associated group at the ''Full Out'' limit when one of the CEAs in the group has only one of the required position indication systems operable. All of the remaining CEAs in the associated group still have at least two independent means of CEA position indication or they would already be required to be positioned to the ''Full Out'' limit to restore the second position indication. The TS retains the requirements for the individual and group CEA alignment in accordance with Specifications 3.1.3.1 and 3.1.3.6. These requirements also eliminate the need for pulling the remaining CEAs in the group to the ''Full Out'' limit as long as the alignment requirements are maintained.

These changes will allow the operator more time to focus on the individual CEA position indication problem rather than moving the remainder of the CEAs in the group unnecessarily. Anytime that a CEA is moved, a small probability exists for it to slip or drop into the core. If this were to occur while attempting to align the group to the ''Full Out'' limit, a reactor transient would be initiated. Additionally, anytime the CEAs are operated, a small probability of an error exists. Removing the unnecessary requirement for the group withdrawal could decrease the probability of CEA misoperation. CEA position indication is not considered as an accident initiator. Retaining the requirements to maintain at least two independent means of determining CEA position will ensure the consequences of all the accidents previously evaluated remain unchanged.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

The portions of this change that are made in accordance with GL 91–08 are considered administrative in nature and do not result in the creation of a new or different kind of accident from any previously evaluated.

The bases for TS 3.1.3.2 state that the action statements applicable to inoperable CEA position indicators permit continued operation when the positions of CEAs with inoperable position indicators can be verified by the ''Full In'' or ''Full Out'' limits. Although TS 3.1.3.2 may have originally been intended to allow continued operation using the ''Full In'' limits, it has never been clearly addressed in the specification. NUREG–1432 allows the use of both the ''Full In'' or ''Full Out'' limits. This amendment request will not change the methods for CEA operation, although it will reduce unnecessary CEA manipulations due to CEA position indication problems.

The requirements of Specification 3.1.3.1 will ensure that an individual CEA is maintained in proper alignment with the remaining CEAs in the group. Specification 3.1.3.6 will ensure the CEA groups are maintained within the proper withdrawal sequence and insertion limits. Specification 3.1.3.5 will ensure the shutdown CEA groups are maintained in the ''Full Out'' position. The CEA position indication changes allowed by this amendment request, including the allowance to use the ''Full In'' limits, can produce a CEA configuration that is different from that allowed by the current TSs. However, the allowed configurations will be bounded by the TS 3.1.3.2 Action ''c'' requirements for compliance with Specifications 3.1.3.1, 3.1.3.5, and 3.1.3.6. Therefore, the action requirements of TS 3.1.3.2 will ensure the CEAs are operated consistent with the safety analysis assumptions.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The portions of this change that are made in accordance with GL 91–08 are considered administrative in nature and have no effect on the margin of safety. The remaining changes can result in a lower probability of CEA misoperation and reduce the potential of plant transients due to CEAs that slip or drop into the core while performing unnecessary group realignments. These changes can also reduce unnecessary plant shutdowns, due to unneeded restrictions on CEA position indication. An unnecessary plant shutdown produces an opportunity for plant

upsets that can be avoided by this change. The proposed TS provide an equivalent level of safety as those specifications that currently exist. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: September 17, 1998.

Description of amendment request: The proposed amendment addresses a problem associated with the existing technical specifications being inconsistent with the design of the plant protection system (PPS). The PPS uses a design in which a single bistable is used to automatically enable the selected core protection calculator (CPC) trip functions whenever a permissive exists to bypass the high logarithmic power level trip function. The technical specifications allow the bypass of the high logarithmic power trip when power is above 10^{-4} percent power and allow bypasses of the affected CPC trips when power is below 10^{-4} percent power. The proposed technical specification change establishes a range for the bistable setpoint to be within such that it is possible to meet both of its design functions while also meeting the technical specification requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This technical specification (TS) change request modifies the power level at which two of the three operating bypasses can be set to operate. This change is necessary because the present plant bistable design requires a range for this bistable to operate within rather than a specific setpoint as required by the present TS. The single bistable associated with these operating bypasses is designed with an inherent hysteresis loop and therefore requires an operating range. The band of 10^{-4}% to 10^{-2}% of rated thermal power provides the bistable an adequate operating range to account for the inherent bistable hysteresis, allow for bistable drift, and provides margin for the applicable uncertainties. Regardless of the actual bistable setpoint within this band, the bistable design ensures that either the high logarithmic power level or the core protection calculator (CPC) generated trips are available to provide reactor trip protection. The CPC and logarithmic power operating bypasses and their setpoints are not considered credible accident initiators and therefore modifying their setpoints does not involve a significant increase in the probability of an accident previously evaluated.

The automatic removal function of these operating bypasses is designed to mitigate the consequences of accidents. As described within the background section of the TS change request, the safety analyses associated with operating bypasses have been reviewed for the acceptability of these changes. This review concluded that these changes are considered bounded by the existing safety analyses. Since these TS changes are bounded within the present safety analyses, they do not involve a significant increase in the consequences of an accident previously evaluated.

The remaining changes included in this TS change request are being made to clarify the existing requirements for the operating bypasses and to establish consistency with the above described changes. The remaining changes have been found acceptable because they are considered administrative in nature and have no effect on the probability or consequences of an accident previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any previously evaluated.

There are no physical plant modifications being made to the plant as a result of this change. The only function that is required by the TS and modified by this change is associated with the allowed setpoint for the automatic bypass removal feature of the CPCs. This feature will still be required by the TS, but will be allowed a slightly higher setpoint. The system connections and the reactor trip setpoints are not affected by this change. The CPC and logarithmic power operating bypasses and their setpoints are not considered as credible accident initiators. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The safety analyses associated with these operating bypasses have been reviewed for the acceptability of these changes. This review concluded that the changes associated with this TS change request are considered bounded within the existing safety analyses. The associated safety analyses have been considered to be acceptable because they have produced acceptable results and thus provide an acceptable margin to safety. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 29, 1998.

Description of amendment request: The proposed changes modify Technical Specification (TS) 3.7.6.1 (Control Room Emergency Air Filtration System—Modes 1–4), TS 3.7.6.2 (Control Room Emergency Air Filtration System—Modes 5 and 6), TS 3.7.6.3 (Control Room Air Temperature—Modes 1–4), TS 3.7.6.4 (Control Room Air Temperature—Modes 5 & 6), and TS 3.7.6.5 (Control Room Isolation and Pressurization), and the associated Bases.

The proposed changes to the control room ventilation TS affects the Applicability and the Actions. These changes will make the TS consistent with NUREG–1432 (Standard Technical Specifications Combustion Engineering

Plants), as applicable, and the accident analysis. The proposed changes to the TS Bases make the Bases consistent with the TS and also clarify that suspending movement of irradiated fuel assemblies shall not preclude movement to a safe conservative position.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise the control room ventilation Technical Specifications (TS) Actions to delete the Action statement to suspend all operations involving positive reactivity changes, and adds an Applicability and Action related to the movement of irradiated fuel assemblies. The changes also add an Applicability footnote and revise the Bases to allow irradiated fuel assemblies to be placed in a safe conservative position when movement is required to be suspended. Other changes to the Bases are being made to be consistent with the TS. These changes do not affect the probability of an accident. The control room ventilation systems (ventilation, temperature, or envelope) do not affect the initiators of an accident; therefore, the changes do not alter the initiators of any analyzed events.

The administrative and more restrictive changes do not affect the consequences of an accident. The administrative changes add an Applicability footnote and revise the TS Bases to make them consistent with the TS. This will ensure the applicable control room ventilation system TS are entered during movement of irradiated fuel assemblies and that there is no confusion associated with the Bases being inconsistent. The more restrictive change of adding the Applicability during movement of irradiated fuel assemblies and the Action to suspend movement of irradiated fuel assemblies eliminates the precursor to the fuel handling accident which prevents the fuel handling accident from occurring when the control room ventilation systems are inoperable. The addition of this Action ensures the event that may release radioactivity is precluded when the control room ventilation systems are inoperable.

The less restrictive changes (deleting the requirement to suspend positive reactivity changes and a Bases change which allows irradiated fuel assemblies to be placed in a safe conservative position when movement has been suspended) do not affect the consequences of an accident because no accident mitigator is affected. The safety analysis credits instrumentation to detect a boron dilution accident and alert the control room staff. After the control room staff is alerted, the accident is terminated without a radioactive consequence. These instruments are required to be Operable and if one is inoperable, positive reactivity changes are required to be suspended. If both instruments become inoperable, along with suspension of positive reactivity additions, boron concentration is required to be determined at frequencies specified in the Core Operating Limits Report (only when source range neutron flux monitors are inoperable). Also, the shutdown margin (SDM) is required to be met. If the SDM requirements are not met, action must be taken to borate (addition of negative reactivity) until the SDM is restored. Therefore, if the control room ventilation systems are inoperable, suspension of positive reactivity changes are not required. The added statement in the Bases allows irradiated fuel assemblies to be placed in a safe conservative position to preclude a fuel handling accident from occurring. These Actions ensure that appropriate measures are taken to preclude events that would require the control room to be isolated when any of the control room ventilation systems are inoperable.

Therefore, the proposed changes will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The proposed changes revise the control room ventilation TS Actions to delete the Action statement to suspend all operations involving positive reactivity changes, and adds an Applicability and Action related to the movement of irradiated fuel assemblies. The changes also add an Applicability footnote and revise the Bases to allow irradiated fuel assemblies to be placed in a safe conservative position when movement is required to be suspended. Other changes to the Bases are being made to be consistent with the TS. These changes do not alter the design or configuration of the plant. There has been no physical change to plant systems, structures, or components. The proposed changes will not reduce the ability of any of the safety-related equipment required to mitigate Anticipated Operational Occurrences (AOOs) or accidents. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes revise the control room TS Actions to delete the Action statement to suspend all operations involving positive reactivity changes, and adds an Applicability and Action related to the movement of irradiated fuel assemblies. The changes also add an Applicability footnote and revise the Bases to allow irradiated fuel assemblies to be placed in a safe conservative position when movement is required to be suspended. Other changes to the Bases are being made to be consistent with the TS. The margin of safety is not affected because the proposed changes to delete one Action and add an Applicability and Action ensures the assumptions of the accident analysis are being met. The administrative changes ensure the applicable TS are entered and eliminate confusion associated with the discrepancies between the TS and Bases. The more restrictive changes of adding an Applicability and Action eliminates the precursor to an event (fuel handling accident) that may release radioactivity when the control room ventilation systems are inoperable. The less restrictive changes revises the TS to rely on the instrumentation credited in the accident analysis and to allow irradiated fuel assemblies to be placed in a safe position to preclude a fuel handling accident. The instruments are required to be operable per TS. Compliance with these TS and also the SDM TS ensures that boron dilution event is precluded or can be mitigated. Therefore, suspension of positive reactivity changes is not required when the control room ventilation systems are inoperable. These Actions ensure that appropriate measures are taken to preclude events that would require the control room to be isolated when any of the control room ventilation systems are inoperable. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3 (Waterford 3), St. Charles Parish, Louisiana

Date of amendment request: August 12, 1998

Description of amendment request: The proposed amendment will change Technical Specifications (TS) 3.1.2.8, 3.5.1, 3.5.4, Figure 3.1–1, and Bases 3/4.5.2 for Waterford 3. It increases the maximum boron concentration in the Safety Injection Tanks (SITs) and the Refueling Water Storage Pool (RWSP) from 2300 ppm to 2900 ppm.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequence of any accident previously evaluated?

Response: No.

The proposed change increases the maximum boron concentration in the SITs and the RWSP from 2300 ppm to 2900 ppm. This change does not affect the probability of any accident. This increase in boron concentration affects the pH of water in the safety injection sump during a LOCA [Loss of Coolant Accident] and the potential for boron precipitation. The amount of TSP in containment is adequate to maintain the pH above 7.0. The revised long term cooling analysis shows that boron precipitation will not occur at the higher boron concentrations. Therefore, this change will not adversely impact post-LOCA core cooling. Thus, the consequences of a LOCA are not affected.

Therefore, the proposed change will not involve a significant increase in the probability or consequence of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will not create any new system connection or interactions. Thus, no new modes of failure are introduced. There is no significant impact on the corrosion rate in the safety injection system due to the slightly higher acidic solution with the higher boron concentration.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in margin of safety?

Response: No.

Sufficient TSP [Trisodium Phosphate Dodecahydrate] is provided in the containment to ensure that the pH of the safety injection sump water during a LOCA remains above 7.0 as stated in the Technical Specification bases. Adequate time and HPSI [High Pressure Safety Injection] flow exist to avoid boron precipitation during a LOCA. The higher boron concentration limit will also allow higher refueling boron concentrations which will increase the available shutdown margin.

Therefore, the proposed change does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005–3502

NRC Project Director: John N. Hannon

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: August 31, 1998.

Description of amendment request: The proposed amendment would revise Improved Technical Specification (ITS) 5.6.2.10, ''Steam Generator (OTSG [once-through steam generator]) Tube Surveillance Program,'' to include a new repair process, called a ''repair roll'' or ''re-roll.'' The process would be used to repair steam generator tubes with defects within the upper tubesheet. Changes to inservice inspection and reporting requirements are proposed for tubes which are repaired using this process. The proposed revision would also require inspection of both OTSGs during each inservice inspection. In addition, several format and editorial changes are proposed to ITS 5.6.2.10 and to ITS 5.7.2, ''Special Reports,'' for clarification purposes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed LAR [license amendment request] addresses several editorial and format changes which do not impact accident analyses. LAR #235 also proposes to implement the repair roll (re-roll) process.

The qualification of the re-roll joint is based on establishing a mechanical roll length which will carry all structural loads imposed on the tubes with required margins. A series of tests and analyses were performed to establish this length. Tests that were performed included leak, tensile, fatigue, ultimate load and eddy current measurement uncertainty. The analyses evaluated plant operating and faulted loads in addition to tubesheet bow effects. Any tube leakage will be bounded by the main steam line break (MSLB) evaluation presented in the Final Safety Analysis Report (FSAR). The proposed change also requires inspections of the joints created by the repair roll process. The addition of this inspection does not change any accident initiators. The proposed inspections after re-roll installation, and during future inservice inspections, assure continuous monitoring of these tubes such that inservice degradation of tubes repaired by the re-roll process will be detected. Based on the Framatome Technologies qualification, as well as the history for similar industry repair rolls, there are no new safety issues, as defined in BAW–2303P, Revision 3, associated with the repair roll. Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

No new failure modes or accident scenarios are created by the re-roll process. The new pressure boundary joint created by the repair roll process

has been shown by testing and analysis to provide structural and leakage integrity equivalent to the original design and construction for all normal operating and accident conditions. Furthermore, the testing and analysis demonstrate the repair roll process creates no new adverse effects for the repaired tube and does not change the design or operating characteristics of the OTSGs. In the unlikely event that a tube with a repair roll should fail and sever completely at the transition of the re-roll region, the tube would remain engaged in the tubesheet bore, preventing interaction with other surrounding tubes. In this case, leakage is bounded by the steam generator tube rupture (SGTR) accident analysis. Therefore, this change does not create a possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The repair roll process effectively removes the defective/degraded area of the tube from service. The new roll expanded interface created with the tubesheet satisfies all the necessary structural, leakage and heat transfer requirements. The joint is constrained within the tubesheet bore; thus, there is no additional risk associated with tube rupture. The accident leakage is shown to be well within the initial assumption of the MSLB analysis of one gallon per minute primary-to-secondary leakage. Therefore, the FSAR analyzed accident scenarios remain bounding, and the use of the repair roll process does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied.

Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P.O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Project Director: Frederick J. Hebdon.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3 (CR–3), Citrus County, Florida

Date of amendment request: August 31, 1998.

Description of amendment request: The proposed amendment will change the Improved Technical Specifications (ITS) to add three additional Regulatory Guide (RG) 1.97 Type A Category 1 post-accident monitoring (PAM) instrumentation variables and one Type B Category 1 PAM instrumentation variable to ITS Table 3.3.17–1, Post-Accident Monitoring Instrumentation. The Type A Category 1 variables added are low pressure injection (LPI) pump run status, LPI suction from reactor building (RB) sump isolation valves DHV–42 and DHV–43 open position, and high pressure injection (HPI) pump run status. The Type B Category 1 variable added is reactor coolant system (RCS) low range pressure.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

The addition of post-accident monitoring instrumentation to the CR–3 ITS and ITS Bases is to ensure instrumentation is available for use by the operators for performing manual actions, or to verify automatic actions have occurred, which are required to mitigate the effects of a design basis accident. The instrumentation is used for monitoring by the operators only after an accident occurs, performs no automatic functions, and there are no credible failures of this instrumentation which could initiate any accident previously evaluated. Therefore, the probability of occurrence of any accident previously evaluated is unaffected.

The availability and use of this instrumentation ensures that the prescribed manual operator actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred when necessary. Therefore, the availability and use of the instrumentation provides assurance that the consequences of accidents will not be greater than that previously evaluated.

2. Create the possibility of a new or different kind of accident from previously evaluated accidents?

The addition of post-accident monitoring instrumentation to the CR–3 ITS and ITS Bases is to ensure instrumentation is available for use by the operators for performing manual actions, or to verify automatic actions have occurred, which are required to mitigate the effects of a design basis accident. The instrumentation is used for monitoring by the operators only after an accident occurs, performs no automatic functions, and there are no credible failures of this instrumentation which could initiate a new or different kind of accident. Therefore, the possibility of a new or different kind of accident occurring as a result of this passive instrumentation is not created.

3. Involve a significant reduction in a margin of safety?

The addition of post-accident monitoring instrumentation to the CR–3 ITS and ITS Bases is to ensure instrumentation is available for use by the operators for performing manual actions, or to verify automatic actions have occurred, which are required to mitigate the effects of a design basis accident. The instrumentation is used for monitoring by the operators only after an accident occurs, and performs no automatic functions. The availability and use of this instrumentation ensures that the prescribed manual operator actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred when necessary. These required manual and automatic actions are necessary to preserve the margin of safety as defined in the CR–3 ITS and ITS Bases. The availability and use of this instrumentation provides assurance that the existing margin of safety will be maintained, and assumptions related to the margin of safety during mitigation of design basis accidents will be preserved. Therefore, the existing margin of safety will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied.

Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC–A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Project Director: Frederick J. Hebdon.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey.

Date of amendment request: May 5, 1998.

Description of amendment request: This request is to change the licensing basis to allow for a small amount of containment overpressure to ensure sufficient net positive suction head for the Emergency Core Cooling System pumps under post Loss of Cooling Accident (LOCA) conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to the licensing basis does not ''Involve a significant increase in the probability or consequences of an accident previously evaluated * * *''. As the strainers have no function until after the design basis LOCA occurs, the design of the strainer cannot affect the probability of a Large Break LOCA.

The requested change to raise the assumed containment overpressure for suction strainer design to 1.25 psig is less than that which is already used in LOCA analyses for offsite releases. Therefore, this change will not increase the offsite consequences of any previously analyzed accident. The frequency of a design basis LOCA occurrence at the Oyster Creek Nuclear Generating Station is conservatively estimated at 5.67×10^{-4} per year. The frequency of a design basis LOCA with a loss of containment overpressure is conservatively estimated at 2.46×10^{-7} per year.

Since the frequency of the design basis LOCA coincident with a loss of containment overpressure is insignificant (2.46×10^{-7}), the requested increase does not significantly impact the probability of exceeding the existing design bases. The core damage frequency increase due to the request for overpressure is mitigated, in part, by the current procedural requirement to flood containment following the design basis LOCA, thereby obviating the need for over pressure in the long term. The risk evaluation, performed in support of the request for over pressure, indicated a non-risk significant change in the core damage frequency.

The proposed change to the licensing bases does not ''Create the possibility of a new or different kind of accident from any accident previously evaluated * * *''. Both the new and existing strainers are passive. They function solely to prevent debris from entering the suction of the core and containment spray pumps. The only significant difference is that the new strainers can remove more debris without clogging. The slight amount of containment overpressure does not affect the operation of the strainers, and improves the ability of the core spray and containment spray systems to continue operation. Therefore, no new or different kind of accident is created or possible.

The proposed change to the licensing bases does not ''Involve a significant reduction in a margin of safety * * *.'' The modification increases the amount of debris that can be removed while maintaining core spray system operation. The requested change takes credit for 1.25 psig of wetwell overpressure. However, as the requested change is bounded by existing calculations for offsite release, no significant reduction in the margin of safety can occur. Additionally, as demonstrated in Attachment III, the probability of a LOCA with a loss of containment overpressure is not significant.

Guidance has been provided in ''Final Procedures and Standards on No Significant Hazards Considerations,'' Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provided examples of amendments which are and are not considered likely to involve significant hazards considerations.

Based on the above evaluation and the review of 51 FR 7744, this proposed change to the licensing basis of the Oyster Creek Nuclear Generating Station does not involve irreversible changes, a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings, or a significant relaxation of the bases for the limiting conditions for operations. Therefore, based on the guidance provided in the **Federal Register** and the criteria established in 10 CFR 50.92(c), the proposed change does not constitute a significant hazard.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Attorney for Licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: September 9, 1998.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) by: (1) Changing the TS Definitions 1.24, ''Core Operating Limits Report,'' 1.27, ''Engineering Safety Feature Response Time,'' and 1.31, ''Radiological Effluent Monitoring and Offsite Dose Calculation Manual (REMODCM)''; (2) changing TS 3.0.2, ''Limiting Condition For Operation,'' by adding a new TS 3.0.6 to the Limiting Condition For Operation TS section; (3) changing TS 4.0.5, ''Surveillance Requirements''; (4) changing the mode applicability of TS 3.2.3, ''Total Unrodded Integrated Radial Peaking Factor—F_r^T''; (5) changing TS 3.3.2.1, ''Engineered Safety Features Actuation System Instrumentation,'' by modifying TS Table 4.3–2 Table Notation (1) which it references; (6) changing TS 3.4.1.1, ''Reactor Coolant System—Coolant Loops and Coolant Circulation Startup and Power Operation'; and (7) changing TS 3.4.11, ''Reactor Coolant System—Reactor Coolant System Vents.'' The associated TS Bases sections would also be updated to reflect the proposed changes. The proposed changes would resolve identified compliance issues.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification Definitions

The minor editorial and non-technical changes to correct reference, spelling and terminology errors contained in the definitions will not result in any technical changes to the Millstone Unit No. 2 Technical Specifications. The proposed changes will have no adverse effect on plant operation. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.0.6

The new Technical Specification, 3.0.6, will provide guidance on returning inoperable equipment to service, under administrative control, to demonstrate operability of that

equipment, or the operability or other equipment. Various Technical Specification Actions require inoperable equipment to be removed from service, such as maintaining a containment isolation valve closed or tripping/bypassing a failed instrument channel. An exception to these required actions is necessary to allow the performance of testing to demonstrate the operability of the equipment being returned to service. Specifically, this Technical Specification addresses the situation where the inoperable equipment has been repaired, tested to the extent possible, and believed to be capable of performing its function. At this point, a presumption of the operability of the equipment is reasonable, and is supported by experience. Therefore, it is acceptable to place the equipment in service for testing under administrative control. Administrative controls will be used to ensure the time the equipment is returned to service is consistent with the Action Statements and is limited to the time necessary to perform the surveillance requirements.

This specification will also allow the inoperable equipment to be placed in a condition different from that required by the action statement to demonstrate the operability of other equipment. An example would be during the performance of an operability test on one reactor protection channel while another channel associated with the same function is inoperable. In this situation only one of the channels could be in the tripped condition, otherwise a reactor trip would be initiated. This is already permitted for reactor protection channels by Technical Specifications 3.3.1.1, ''Instrumentation—Reactor Protective Instrumentation,'' Action 2, and for engineered safety features channels by 3.3.2.1, ''Instrumentation—Engineered Safety Feature Actuation System Instrumentation,'' Action 2.

This provision is provided only to perform surveillance requirements to prove operability, and not to provide time to perform any other preventive or corrective maintenance. The testing will be performed consistent with the current Technical Specification Action Statement and will be limited to the time necessary to perform the surveillance requirement. The proposed changes will have no adverse effect on plant operations. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 4.0.5

The proposed changes will revise Technical Specification 4.0.5.a and Bases 3/4.4.10, ''Structural Integrity,'' by removing the phrase ''(g), except where specific written relief has been granted by the Commission pursuant to 10 CFR 50, Section 50.55a(g)(6)(i).'' The changes to Technical Specifications clarify that all applicable requirements in 10 CFR 50.55a apply. The changes relate to inservice inspection (ISI) and inservice testing (IST) requirements which are specified in 10 CFR 50.55a, ''Codes and Standards.'' The ISI and IST requirements are given in 10 CFR 50.55a, which the licensee documents via its 10 year interval program requirements. Upon finding a Code requirement impractical because of limitations in the design (including prohibitive dose rates), construction, or system configurations, NNECO [Northeast Nuclear Energy Company] would be required to prepare the determination describing the impractical condition(s) and the applicable code requirements that cannot be met in accordance with 10 CFR 50.55a, paragraphs (f)(5)(iii) and (iv), and (g)(5)(iii) and (iv) if within the first 12 months of a new interval. For example, 10 CFR 50.55a(f)(5)(iv), and (g)(5)(iv) allow a licensee up to a full year after the beginning of an updated interval to inform the NRC of the new Code requirements which cannot be met and to request relief. If an impracticality is identified after the first 12 months, the guidance contained in NUREG–1482 will be followed. This will eliminate inconsistencies between the Technical Specifications and the regulations. There will be no adverse effect on plant operations. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.2.3

The proposed change will change the mode of applicability for Technical Specification 3.2.3 from Mode 1 to Mode 1 with thermal power >20%. Data from the incore detectors are used for determining the measured radial peaking factors to verify compliance with Technical Specification 3.2.3. However, the accuracy of the neutron flux information from the incore detectors is not reliable below 20% power. The proposed change acknowledges this limitation of the incore detectors by changing the applicability of this specification to power levels where the data from the incore detectors is reliable. This will have no adverse effect on plant operations since the current Technical Specification surveillance requirements do not require the verification of this limit until prior to operation above 70% following each fuel loading, prior to 31 days accumulated operation in Mode 1, or if the azimuthal power tilt limit is exceeded (Technical Specification 3.2.4 which is applicable in Mode 1 above 50% power). Therefore, the proposed change has no impact on the initial conditions, with respect to power distribution, assumed in the accident analysis. Thus, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.3.2.1

The proposed change will add an exception to Technical Specification 4.0.4 that will allow the channel functional test of the automatic actuation logic associated with ESF [engineered safety feature] actuations for safety injection, containment spray, containment isolation, main steam line isolation, enclosure building filtration, and containment sump recirculation to be delayed during plant startup until the actuation blocks are removed. This will allow entry into Mode 3 where plant conditions (sufficient pressurizer and steam generator pressure) can be established that will automatically remove the blocks of these ESF actuations. The channel functional test of the automatic actuation logic, using the ATI [Automatic Testing Insertor] circuit, will then be performed. In addition, the channel functional tests of the automatic actuation logic must be performed prior to entering Mode 2.

The exception to Technical Specification 4.0.4 allows a mode change with equipment that is inoperable only because conditions [cannot] be established to perform the SR [surveillance requirement] until after the mode is entered. All other equipment operability requirements must be met. Even though operability of the automatic actuation logic for the affected ESF actuations cannot be verified prior to entering Mode 3, this equipment is still expected to be operable. The ESFAS [engineered safety feature actuation system] will continue to function as before. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.4.1.1

The Flow Dependent Setpoint Selector Switch was installed to allow power operation with less than four reactor coolant pumps (RCPs) in operation by changing the reactor trip setpoints for the variable high power, Reactor Coolant System (RCS) low flow,

and thermal margin low pressure (TM/LP) reactor trips. Millstone Unit No. 2 is not currently licensed to operate with less than four RCPs in operation. Therefore, this switch should be maintained in the four pump position.

The use of the switch position to ensure compliance with Technical Specification 3.4.1.1 provides an indirect verification of LCO [limiting condition for operation] compliance since the loss of an RCP will result in a reactor trip when in the four pump position. The proposed change will replace the method used for LCO verification with one that is more consistent with the LCO. Verification of switch position is performed as a prerequisite prior to reactor startup (entering Mode 2). It is not necessary to verify the switch position every 12 hours as currently required. The position of this switch is important to the operability of the associated Reactor Protection System (RPS) trips variable high power, RCS low flow, and TM/LP). The operability of these RPS trips and associated setpoints is already covered by Technical Specifications 2.2.1, ''Reactor Trip Setpoints,'' and 3.3.1.1, ''Reactor Protective Instrumentation.''

It is not necessary to verify the position of this switch fifteen minutes prior to reactor criticality since the switch position is verified prior to a reactor startup, and is not expected to be changed during power operation. If surveillance testing or maintenance activities are to be performed which may require the switch to be in other than the four pump position, the affected RPS channels will already have been removed from service (declared inoperable and placed in the tripped or bypassed condition) prior to commencing the activities. In addition, a light (''PUMP SETPOINT ERROR'') on each of the RPS Calibration and Indication Panels will illuminate if the switch is not in the four pump position.

It is also not necessary to verify compliance with the requirements of Technical Specification 3.4.1.1 within fifteen minutes prior to reactor criticality since this condition is verified prior to a reactor startup, and the RPS will initiate a reactor trip if less than four RCPs are in operation.

The proposed change will replace SR 4.4.1.1, verification of the Flow Dependent Setpoint Selector Switch position, with a verification check of the required RCS loops. This verification is more consistent with the Limiting Condition for Operation (LCO). This will not change the requirement that both RCS loops be operable and operating in Modes 1 and 2. The Technical Specification will continue to assure that the initial condition, with respect to RCS loops in service, in the accident analysis is applicable. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 3.4.11

The proposed change to modify the wording of SR 4.4.11.3 will not affect the operability requirements of the RCS Vent System. This change will provide operational flexibility to use a series of overlapping tests to verify flow through sections of the vent system, such that when completed, flow will be verified through all parts of the vent system. This will minimize potential contamination of the area surrounding the sparger and will eliminate the need to establish solid water conditions in the RCS.

The proposed surveillance requirement will still verify the ability of the vent valves to operate. This will provide reasonable assurance of system operability and availability if needed to mitigate the consequences of design basis accidents. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes have no adverse effect on any of the design basis accidents previously evaluated or on any equipment important to safety. Therefore, the license amendment request does not impact the probability of an accident previously evaluate nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will correct reference, spelling, and terminology errors in various Technical Specification Definitions; add a new Technical Specification, 3.0.6; modify Technical Specification 4.0.5 to remove an inconsistency between the Technical Specification and the regulations; change the applicability of Technical Specification 3.2.3; add an exception to Technical Specification 4.0.4 to Technical Specification 3.3.2.1; modify the wording of a surveillance requirement associated with RCS Technical Specification 3.4.1.1; and modify the wording of a surveillance requirement associated with the RCS Vent System, Technical Specification 3.4.11 to provide operational flexibility in the performance of the test. These changes will have no adverse effect on equipment important to safety. The equipment will continue to function as assumed in the design basis accident analysis. Therefore, there will be no significant reduction of the margin of safety as defined in the Bases for the Technical Specifications affected by these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Project Director: William M. Dean.

Philadelphia Electric Company, Docket No. 50–353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of amendment request: September 14, 1998.

Description of amendment request: The proposed amendment to the Limerick Generating Station (LGS), Unit 2, Technical Specifications (TS) would revise TS Table 4.4.6.1.3–1, ''Reactor Vessel Material Surveillance Program—Withdrawal Schedule.'' This table provides the schedule for withdrawing the reactor pressure vessel material surveillance program capsules. This proposed TS change involves revising the schedule for withdrawing the first surveillance capsule from 8 Effective Full Power years (EFPY) to 15 EFPY, and the second surveillance capsule from 20 EFPY to 30 EFPY.

A revision to TS Surveillance Requirement (SR) 4.4.6.1.4 is also proposed. This revision will remove the reference to flux wire removal and analysis that was originally required following the first cycle of operation. TS SR 4.4.6.1.4 will be changed to refer to the flux wires that are located within the surveillance capsules, which will be removed and analyzed in accordance with the surveillance capsule removal schedule, located in Table 4.4.6.1.3–1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications (TS) changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not increase the probability of occurrence of an accident previously evaluated in the safety analysis report and do not affect any accident initiators as described in the Safety Analysis Report (SAR). The change revises the withdrawal schedule for the reactor vessel material surveillance capsules. The capsules are not an initiator of any previously analyzed accident nor does the withdrawal schedule of the surveillance capsules affect the probability or consequences of any previously analyzed accident.

The proposed changes will not affect the Pressure-Temperature (P-T) limits as specified in LGS TS Figure 3.4.6.1–1 and Updated Final Safety Analysis Report (UFSAR) Figure 5.3–4. P-T limits are imposed on the reactor coolant system to ensure that adequate safety margins exist during normal operation, anticipated operational occurrences, and system hydrostatic tests. The P-T limits are related to the RT_{NDT} [reference temperatures], as described in ASME Section III, Appendix G. Changes in the fracture toughness properties of RPV [reactor pressure vessel] beltline materials, resulting from neutron irradiation and the thermal environment, are monitored by a surveillance program in compliance with the requirements of 10 CFR 50 Appendix H. The effect of neutron fluence on the shift in the RT_{NDT} is predicted by methods given in Regulatory Guide 1.99, Rev.2.

As detailed in Attachment 3 [of the September 14, 1998, submittal], for LGS, Unit 2, the combination of low expected RT_{NDT} shift for the plate material due to low predicted fluence and excellent material chemistry; Supplemental Surveillance Program (SSP) data on similar material; and the inherent margin in the P-T curve calculations, with the withdrawal schedule of the first surveillance capsule modified from 8 EFPY to 15 EFPY and the second surveillance capsule modified from 20 EFPY to 30 EFPY, will result in more credible sets of surveillance data, while ensuring the continued safe operation of LGS, Unit 2.

The current LGS P–T limits were established based on adjusted reference temperatures developed in accordance with the procedures prescribed in Regulatory Guide 1.99, Revision 2, Regulatory Position 1, ''Surveillance Data Not Available.'' Calculation of adjusted reference temperature by these procedures includes a conservative base fluence estimate; power rerate adjustment of a 110% fluence multiplier from startup, instead of a 105% fluence multiplier since 2R03 [third refueling outage]; and a margin term to ensure conservative, upper-bound values are used for the calculation of the P–T limits. Revision of the first capsule withdrawal schedule will not affect the P–T limits because they will continue to be established in accordance with Regulatory Position 1 guidance. Also, as indicated in Attachment 3, it is also appropriate to extend the withdrawal of the LGS, Unit 2, second capsule. The current schedule specifies withdrawal of the second capsule at 20 EFPY. Based upon the information provided in Attachment 3 supporting withdrawal of the first capsule at 15 EFPY, there will be an insignificant shift in material properties at 20 EFPY, after only an additional exposure of 5 EFPY. It is appropriate to extend this schedule to 30 EFPY which meets the intent of ASTM E185–82, such that the withdrawal of the second capsule occurs before the accumulated neutron fluence of the capsule corresponds to the approximate EOL [end of life] fluence at the reactor pressure vessel inner wall location, and provides consistency with the LGS, Unit 1, withdrawal schedule.

In accordance with the guidance stipulated in Regulatory Guide 1.99, ''Radiation Embrittlement of Reactor Vessel Materials,'' Revision 2, Regulatory Position 2, ''Surveillance Data Available,'' the collection of two (2) or more sets of credible surveillance data is necessary to empirically calculate the adjusted reference temperature (ART). Each surveillance capsule constitutes one set of credible surveillance data. This calculated ART can be used to revise the P–T curves (TS Figure 3.4.6.1–1). Without two (2) or more sets of credible data, the ART must be calculated and the P-T curves revised, based upon the calculational methodologies as provided in the Regulatory Guide 1.99, Revision 2, Regulatory Position 1, ''Surveillance Data Not Available.'' These methodologies use plant specific chemistry and fluence values to determine a calculated shift in RT_{NDT}. A ''margin'' term is then added, to obtain conservative, upper-bound values of adjusted reference temperature.

The existing LGS, Unit 2, P–T curves are based upon the Regulatory Position 1 methodology, and are currently valid up to 10 EFPY. With first capsule removal at either 8 or 15 EFPY, the existing P–T curves will require a revision, prior to reaching 10 EFPY, based upon the calculational methodologies as contained in the Regulatory Guide 1.99, Revision 2, Regulatory Position 1, ''Surveillance Data Not Available.'' Therefore, the Technical Specification revision to the first capsule withdrawal schedule, as supported by this Safety Evaluation [supporting information described in attachments 1 and 3 of the September 14, 1998, submittal], results in no impact to the calculational methodologies that will be used for the P-T curve revision that will be necessary to extend the curves beyond 10 EFPY.

The fluence data as determined from the surveillance capsule flux wires at 15 EFPY will provide an accurate indication of neutron fluence. In accordance with Regulatory Guide 1.99, Revision 2, Regulatory Position 1 methodology, data from these flux wires will permit an adjustment of TS Figure 3.4.6.1–1 in accordance with TS SR 4.4.6.1.3, if required, and will meet the requirements of 10 CFR 50, Appendix H, and ASTM E–185.

The proposed changes will not affect any plant safety limits or limiting conditions of operation. The proposed changes will not affect reactor pressure vessel performance as it involves no physical changes and LGS P–T limits will remain conservative in accordance with Regulatory Guide 1.99, Revision 2, guidance. The proposed changes will not cause the reactor pressure vessel or interfacing systems to be operated outside of their design or testing limits.

The proposed changes do not increase the probability of the occurrence of a malfunction, or consequences of a malfunction, of equipment important to safety previously evaluated in the SAR. The proposed changes do not involve any physical changes to equipment important to safety. The potential for reactor vessel failure will be adequately assessed by the proposed withdrawal schedule. In addition, the results from

the Supplemental Surveillance Program (SSP) will provide industry data that bounds the materials used in the LGS vessel until the data from the first LGS capsule is available. The proposed change provides the same level of confidence in the integrity of the vessel. The P–T curves are currently controlled by the TS and are determined using the conservative methodology delineated in Regulatory Guide 1.99. Therefore, the possibility of failure of the reactor vessel is not increased. The current P–T limit curves are inherently conservative and will continue to be adhered to.

Therefore, the proposed TS changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a different type of accident than any previously evaluated in the SAR. The proposed changes are a revision of the withdrawal schedule for the first reactor pressure vessel material surveillance capsule from 8 EFPY to 15 EFPY, and for the second capsule from 20 EFPY to 30 EFPY. The proposed changes do not involve a physical modification of the design of plant structures, systems, or components. The proposed changes will not impact the manner in which the plant is operated as plant operating and testing procedures will not be affected by the change. No new accident types or failure modes will be introduced as a result of the proposed change.

LGS's current P–T limits were established based on adjusted reference temperatures developed in accordance with the procedures prescribed in Regulatory Guide 1.99, Revision 2, Regulatory Position 1, ''Surveillance Data Not Available.'' Calculation of adjusted reference temperature by these procedures includes a conservative base fluence estimate; power rerate adjustment of a 110% fluence multiplier from startup, instead of a 105% fluence multiplier since 2R03; and a margin term to ensure conservative, upper-bound values are used for the calculation of the P–T limits. Revision of the first capsule withdrawal schedule will not affect the P–T limits because they will continue to be established in accordance with the guidance of Regulatory Position 1 of Regulatory Guide 1.99. Also, as specified in Attachment 3, it is appropriate to extend the withdrawal of the LGS, Unit 2, second capsule. The current schedule specifies withdrawal of the second capsule at 20 EFPY. Based upon the information provided in Attachment 3 supporting withdrawal of the first capsule at 15 EFPY, there will be an insignificant shift in material properties at 20 EFPY, after only an additional exposure of 5 EFPY. It is appropriate to extend this schedule to 30 EFPY which meets the intent of ASTM E185–82, such that the withdrawal of the second capsule occurs before the accumulated neutron fluence of the capsule corresponds to the approximate EOL fluence at the reactor inner wall location, and provides consistency with the LGS, Unit 1, withdrawal schedule.

The existing LGS, Unit 2, P–T curves are based upon the Regulatory Position 1 methodology, and are currently valid up to 10 EFPY. With first capsule removal at either 8 or 15 EFPY, the existing P–T curves will require a revision, prior to reaching 10 EFPY, based upon the calculational methodologies as contained in the Regulatory Guide 1.99, Revision 2, Regulatory Position 1, ''Surveillance Data Not Available.'' Therefore, the proposed TS revision to the first capsule withdrawal schedule results in no impact to the calculational methodologies that will be used for the P–T curve revision that will be necessary to extend the curves beyond 10 EFPY.

The fluence data as determined from the surveillance capsule flux wires at 15 EFPY will provide an accurate indication of neutron fluence. In accordance with Regulatory Guide 1.99, Revision 2, Regulatory Position 1 methodology, data from these flux wires will permit an adjustment of TS Figure 3.4.6.1–1 in accordance with TS SR 4.4.6.1.3, if required, and will meet the requirements of 10 CFR 50, Appendix H, and ASTM E–185.

The potential for reactor vessel failure will be adequately assessed by the proposed withdrawal schedule. In addition, the results from the SSP will provide industry data that bounds the materials used in the LGS vessel, until the data from the first LGS capsule is available. The proposed changes provide the same level of confidence in the integrity of the vessel . The P–T curves are currently controlled by the TS and are determined using the conservative methodology in Regulatory Guide 1.99. Therefore, the possibility of failure of the reactor vessel is not increased. The current P–T limit curves are inherently conservative and will continue to be adhered to.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes to the TS do not reduce the margin of safety as defined in the Bases for any TS. The proposed changes will not affect any safety limits, limiting safety system settings, or limiting conditions of operation. The proposed changes do not represent a change in initial conditions, system response time, or in any other parameter affecting the course of an accident analysis supporting the Bases of any TS. The proposed changes do not involve revision of the P–T limits, but rather a revision of the withdrawal schedule for the surveillance capsules. The current P–T limits were established based on the adjusted reference temperatures for reactor pressure vessel beltline materials calculated in accordance with the guidance stipulated in Regulatory Position 1 of Regulatory Guide 1.99, Revision 2. P–T limits will continue to be revised as necessary for changes in adjusted reference temperature due to changes in fluence according to Regulatory Position 1 until two (2) or more credible surveillance data sets becomes available. When two (2) or more credible surveillance data sets become available, P–T limits will be revised as prescribed by Regulatory Position 2 of Regulatory Guide 1.99, Revision 2, or other NRC approved guidance.

The current P–T limit curves are inherently conservative and provide sufficient margin to ensure the integrity of the reactor vessel. The changes do not adversely affect these curves. The fluence data as determined from the surveillance capsule flux wires at 15 EFPY will provide an accurate indication of neutron fluence. In accordance with Regulatory Guide 1.99, Revision 2, Regulatory Position 1 methodology, data from these flux wires will permit an adjustment of TS Figure 3.4.6.1–1 in accordance with TS SR 4.4.6.1.3, if required, and will meet the requirements of 10 CFR 50, Appendix H, and ASTM E–185.

Therefore, the proposed TS changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Project Director: Robert A. Capra.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: April 16, 1998.

Description of amendment request: This application for amendment to the Indian Point 3 Technical Specifications (TSs) proposes to modify a testing requirement for the emergency diesel generators (EDGs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response:

No. The three Emergency Diesel Generators (EDG) at Indian Point 3 are designed to provide a source of power to support a safe and orderly plant shutdown in the event that all other normal and standby sources of power are not available, such as during a postulated Loss of Offsite Power (LOOP). The probability of such events occurring is not affected by the proposed amendment. Any two of the three EDGs are capable of supplying the minimum power requirements for emergency safeguards equipment that mitigate the consequences of postulated design basis accident conditions. Periodic preventive maintenance and surveillance testing are performed to provide assurance that the operability of all three EDGs is maintained. In the event that an inoperable EDG is identified, both the existing specification and the proposed change provide for actions that verify the operability of the remaining 2 EDGs. Operability of 2 EDGs ensures that sufficient emergency power is available, if needed, to mitigate the consequences of postulated accidents. Therefore, the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

No. The proposed license amendment does not involve any physical changes to plant systems or component setpoints. Also, there are no changes to the way in which systems or equipment are operated. The proposed change will continue to require that the operability of the remaining two EDGs be verified if one of the three EDGs is found to be inoperable. The proposed change to allow the use of a common cause failure evaluation, as an alternative to testing, to accomplish the operability verification can benefit overall EDG reliability by eliminating unnecessary EDG starts. Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

No. Important performance requirements for the EDGs include electrical output capacity, elapsed time to start and reach rated output, and fuel storage supply to support a minimum period of operation. The proposed amendment does not change EDG performance requirements. The existing specification allows a period of 24 hours in which to verify the operability of the remaining 2 EDGs if one of the three EDGs is found inoperable. The proposed amendment does not change the 24-hour time limit. Operability verification, either by testing or evaluation, within 24 hours provides assurance that this source of emergency power is available if needed. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety. Also, this verification method has been approved for use with the current Standard Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: April 16, 1998, as supplemented August 20, 1998.

Description of amendment request: This application for amendment to Table 4.1–1 of the Indian Point 3 Technical Specifications (TSs) proposes to change surveillance frequency requirements for the various instrument channels to accommodate a 24-month operating cycle. The proposed amendment also revises Section 6 of the TSs to reflect updated analyses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response:

No. The proposed license amendment to extend the calibration surveillance frequency of the following instrument channels is being made to support plant operation with a 24-month fuel cycle:

(a) Pressurizer Water Level

(b) Accumulator Level and Pressure

(c) Reactor Coolant System Subcooling Margin Monitor

(d) Core Exit Thermocouples

(e) Reactor Vessel Level Indication System

Changing the calibration intervals for these instrument channels neither directly nor indirectly affects the initiation or probability of any previously analyzed accident. The changes do not affect the integrity of any of the principal barriers against radiation release (fuel cladding, reactor vessel, and containment building). The ability of the plant to mitigate the consequences of any previously analyzed accidents is not adversely affected. Evaluation of the proposed change to the surveillance interval demonstrates that licensing basis safety analyses acceptance criteria and Indian Point 3 Emergency Operating Procedure (EOP) criteria continue to be met.

Item (a) provides an input to the Reactor Protection System (RPS) to initiate a reactor trip if the measured parameters exceed specified values. Item (b) is used by control room operators to ensure that the accident mitigation capability of the accumulators is maintained within specified limits. Items (c), (d), and (e)

provide post-accident information to control room operators to support recovery efforts. Item (d) is also used to monitor core performance for fuel management activities.

The proposed new surveillance frequency for these instrument channels was evaluated using the guidance of Generic Letter 91–04. The basis for the changes includes a quantitative evaluation of instrument drift. Also, loop accuracy/setpoint calculations were updated to accommodate the extended surveillance period. Analyses and evaluations completed to assess the proposed increase in the surveillance interval demonstrate that the effectiveness of these instruments in fulfilling their respective functions is maintained. Channel checks required to be performed each shift or each day, according to Technical Specifications for the subject channels, will continue to be performed to provide assurance of instrument channel operability. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of any previously analyzed accident.

Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

No. The increased calibration surveillance intervals for the above listed instrument channels were justified based on evaluation of past equipment performance and do not require any plant hardware changes or changes in normal system operation. Changing the calibration intervals for these channels neither directly nor indirectly has any means of creating the possibility of a new or different kind of accident. Certain alarm and EOP setpoint changes will be made consistent with the revised uncertainty calculations for the subject channels. These new setpoints and related operator responses support existing accident mitigation strategies and do not create the possibility of a new or different kind of accident from any previously analyzed. Therefore, there are no new failure modes introduced as a result of extending these surveillance intervals, and the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

No. Pressurizer water level instrumentation provides input to the reactor protection system and to the pressurizer water level control system. Pressurizer water level, as indicated by the selected control channel, is used to establish the initial condition pressurizer water level assumption for certain UFSAR [Updated Final Safety Analysis Report] Chapter 14 safety analyses. The proposed change to the calibration surveillance interval was evaluated using the criteria of 95% probability/95% confidence level for process sensor drift. The loop accuracy/setpoint calculations were updated for the level channels to demonstrate the acceptability of the proposed increase in the surveillance interval. There are no changes required to the limiting safety system setting (LSSS) stated in the Technical Specifications for these channels. The LSSS for high pressurizer water level will remain at [less than or equal to] 92% of span. The margin of safety between the specified LSSS value required by Technical Specifications and the safety limit used in the UFSAR Chapter 14 safety analyses is unchanged.

The instrument channels for accumulator pressure and level do not provide input to the reactor protection system or the engineered safety features system. These instruments provide alarms and indication to control room operators to maintain accumulator cover gas pressure and water volume within specified limits. They are also used for establishing initial condition accumulator pressure and level assumptions for certain UFSAR Chapter 14 safety analyses. Accordingly, the process sensor drift analysis was performed using the criteria of 95% probability/75% confidence level.

The remaining three instrument channels addressed by this proposed license change are used to provide indication of adequate core cooling following certain hypothetical accident conditions. These instrument channels are not associated with any margin of safety specified by the Technical Specifications, and they are not factors in any UFSAR Chapter 14 safety analyses. However, they are factored into the calculations of pertinent setpoints used in alarm response procedures and EOPs. The updated drift and uncertainty calculations and evaluations for these instrument channels demonstrate that applicable accuracy requirements for Indian Point 3 are satisfied with the proposed new surveillance intervals. The instrument channels will remain effective to support plant operator implementation of the Emergency Operating Procedures, which are consistent with the Westinghouse Owners' Group Emergency Response Guidelines.

Changing the calibration interval for these channels does not affect margin of safety for previously analyzed accidents. Also, the evaluation of related changes to UFSAR Chapter 14 safety analyses input assumptions has demonstrated that licensing basis safety analysis acceptance criteria and EOP criteria continue to be met, and previously existing margins based on these pertinent acceptance criteria continue to be maintained.

Therefore, 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 50.92(c) are satisfied. The staff has also reviewed the licensee's proposed change to reflect updated safety analyses in Section 6 of the TSs and it appears that the three standards of 50.92(c) are satisfied for these changes as well. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: September 17, 1998.

Description of amendment request: The amendments would revise Technical Specification (TS) 3/4.8.2, ''Electrical Power Sources—Shutdown,'' for the AC distribution system and the 125-volt and 28-volt DC distribution systems. Specifically, the amendments would change the Applicability and Action Statements, if less than the complement of equipment and busses are operable, to eliminate the need to establish containment integrity and to add the action to suspend core alterations, positive reactivity additions, and movement of irradiated fuel assemblies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or

consequences of an accident previously evaluated.

In Modes 1 through 4 [power operation through hot shutdown], a Design Basis Accident would cause the release of radioactive material into the containment. Release of that radioactive material to the environment is prevented during operation in Modes 1 through 4 by maintaining containment integrity. In Modes 5 and 6 [cold shutdown and refueling] the probability and consequences of this event are lower because of the reduced reactor coolant pressure and temperature limitations of these modes.

A minimum complement of electrical power sources and distribution systems is established in Modes 5 and 6 to assure that adequate electrical power is available to mitigate the consequences of a fuel handling accident. Because of the lack of containment pressurization potential during a fuel handling accident, less stringent requirements are needed to isolate containment from the outside atmosphere. These requirements are applied during refueling operations by Technical Specification 3.9.4, Refueling Operations, Containment Building Penetrations. Technical Specification 3.9.4 is applicable in Mode 6 and establishes containment closure vice containment integrity during refueling operation (core alterations and movement of irradiated fuel within containment).

In Mode 5, fuel handling is generally limited to placement of new fuel prior to core off load or movement of irradiated fuel within the spent fuel pool. Because the Spent Fuel Pool is not located within containment, establishment of either containment integrity or containment closure would not help to mitigate the consequences of a fuel handling accident in that area. Mitigation of a fuel handling accident is accomplished through Technical Specification 3.9.12, Refueling Operations, Fuel Handling Area Ventilation System, which requires that the Fuel Handling Area Ventilation system be operable whenever irradiated fuel is present in the storage pool. This insures that all radioactive material released from the rupture of an irradiated fuel assembly would be filtered through filtration equipment prior to discharge to the atmosphere.

With the number of energized A.C. or D.C. power distribution systems less than the required, sufficient power may not be available to recover from a fuel handling accident. Consequently, the Action statements require immediate suspension of all operations involving core alterations, positive reactivity changes, and movement of irradiated fuel assemblies. This precludes the possibility of a fuel handling accident and the need for containment integrity.

Based upon the above, the proposed change will not increase the probability or consequences of an accident previously analyzed.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not require any change in the configuration or operation of the plant. Specifically, no new hardware is being added to the plant as part of the proposed change, no existing equipment is being modified, and no significant changes in operations are being introduced. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed change will not alter any assumptions, initial conditions, or results of any accident analyses. The proposed additional Applicability will ensure proper operation of the Fuel Handling Area Ventilation system during movement of irradiated fuel in the spent fuel pool. The proposed ACTIONS, to be taken in the event that the LCO [limiting condition for operation] is not met, will preclude the conditions that would lead to the need for establishing containment integrity. The change will, therefore, not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: September 29, 1998.

Description of amendment request: The proposed amendments would revise Technical Specification 3/4.9.4, ''Refueling Operations, Containment Building Penetrations,'' to permit the use of equivalent methods to obtain containment closure during refueling operations. Specifically, the proposed changes would allow the installation of an outage equipment door or other closure devices that are capable of providing access for temporary services needed to support maintenance activities within containment.

In addition to the above changes, the terminology for the Containment Equipment Hatch inside door used in LCO 3.9.4.a is being changed. The term ''Containment Equipment Door'' is being changed to ''Containment Equipment Hatch Inside Door'' to bring it into agreement with the terminology used in Salem design documents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

In Modes 1 through 4 [power operations through hot shutdown], a Design Basis Accident would cause the release of radioactive material into the containment. The release of radioactive material from the containment to the environment is prevented during operation in Modes 1 through 4 by maintaining CONTAINMENT INTEGRITY. In Mode 5 and 6 [cold shutdown and refueling] the requirements to prevent releases from the containment to the environment from postulated accidents are less stringent because of the reduced reactor coolant pressure and temperature limitations of these modes. In all cases, the containment serves as a passive barrier to mitigate the consequences of accidents analyzed. The containment is not considered to be a contributor to the probability of those accidents. Therefore, this change, which will permit the use of equivalent methods for establishing containment closure during refueling operations, will not increase the probability of an accident previously analyzed.

During refueling operations, a release of radioactive material to the containment could occur as the result of a fuel handling accident. Actions are taken to mitigate the consequences of a fuel handling accident inside containment during refueling operations through application of technical specification requirements for Refueling Cavity water level, minimum decay time prior to CORE ALTERATIONS, and Containment Building Penetrations.

Because of the lack of containment pressurization potential and the reduced

source term during a fuel handling accident, less stringent requirements are needed to isolate containment from the outside atmosphere. These requirements are applied during refueling operations by Technical Specification 3.9.4, Refueling Operations, Containment Building Penetrations. Technical Specification 3.9.4 is applicable in Mode 6 and establishes containment closure vice CONTAINMENT INTEGRITY during CORE ALTERATIONS and movement of irradiated fuel within containment. Containment closure means that all potential release paths are closed or capable of being closed to provide an atmospheric pressure, ventilation barrier. Since there is no potential for containment pressurization, establishment of a pressure tight boundary is not required.

As a part of the containment closure requirements of Technical Specification 3.9.4, the Containment Equipment Hatch inside door must be installed with a minimum of four bolts. In addition, each penetration providing direct access from the containment atmosphere to the outside atmosphere must be closed by either an isolation valve, a blind flange, or a manual valve, or must be capable of being closed by an OPERABLE automatic containment isolation valve.

The proposed changes will modify Technical Specification 3/4.9.4 to permit the use of an equivalent closure device as an alternative to installation of the inner door with a minimum of four bolts to provide containment closure for the Containment Equipment Hatch. The proposed change will also modify Technical Specification 3.9.4 to permit the use of an equivalent method for containment closure for containment penetrations providing direct access from the containment to the outside atmosphere as an alternate method to closure by an isolation valve, blind flange, or manual valve. Any alternate method used will be designed, fabricated, installed, tested, and utilized in accordance with established procedures to ensure that it is capable of providing containment closure during a fuel handling accident to prevent the release of fission product radioactivity to the environment. Because the proposed technical specifications must provide equivalent containment closure, these changes will not increase the consequences of an accident previously evaluated.

Based upon the above, the proposed changes do not increase the probability or the consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not require any change in the operation of the plant. The proposed changes will permit the use of an equivalent method to achieve containment closure for the Containment Equipment Hatch or for individual containment penetrations that provide direct access to the outside atmosphere. However, any equivalent method used will be designed, fabricated, installed, tested, and utilized in accordance with established procedures to ensure that the closure method meets design requirements.

Based upon the above, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed change will not affect the existing analysis that forms the basis for the Technical Specifications, and does not violate Technical Specification and Updated Final Safety Analysis Report (UFSAR) requirements. The proposed change will not affect any design or functional requirements of the containment, the Containment Equipment Hatch, or containment penetrations or any conditions or assumptions of the applicable safety analyses.

Based upon the above, the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

Southern California Edison Company, et al., Docket No. 50–362, San Onofre Nuclear Generating Station, Unit No. 3, San Diego County, California

Date of amendment request: September 22, 1998.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS) to change the parameter used to establish and remove the bypasses for high reactor power trips. The parameter would be changed from the current ''THERMAL POWER'' to logarithmic power. This amendment was processed on San Onofre Nuclear Generating Station (SONGS) Unit 2 under emergency circumstances to allow resumption of power operations, and is being processed under normal notice circumstances on SONGS Unit 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification (TS) 3.3.1 does not adversely impact structure, system, or component design or operation in a manner which would result in a change in the frequency of occurrence of accident initiation. The reactor trip bypass and automatic enable functions are not accident initiators. Consequently, the proposed TS change will not significantly increase the probability of accidents previously evaluated. Clarifying the input process variable of the operating bypasses and automatic bypass removals of the affected reactor trips does not alter the setpoint nor the manner of operation of the operating bypasses and automatic bypass removals. Therefore, the consequences of previously evaluated accidents remain unchanged.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new or different accidents result from clarifying the input process variable of the operating bypasses and automatic bypass removals of the affected reactor trips. The results of previously performed accident analyses remain valid. Therefore, this amendment request does not create the possibility of a new or different kind of accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not alter the setpoint nor the manner of operation of the operating bypasses and automatic bypass removals of the affected reactor trips. The change merely replaces the identification of the input process variable with the appropriate identification of power. Therefore, this amendment request does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, Irvine, California 92713.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770.

NRC Project Director: William H. Bateman.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 31, 1998.

Description of amendment request: The proposed amendment would revise the cold overpressure mitigation curves in Technical Specification (TS) Figure 3.4–4. This change would account for the TS maximum allowable power-operated relief valve setpoint changes associated with the new Model Delta 94 steam generator operating parameters.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current pressurizer maximum allowable Power Operated Relief Valve (PORV) setpoints, provided by the Cold Overpressure Mitigation System (COMS) curves (Figure 3.4–4) of Technical Specification 3.4.9.3, are nonconservative for application with the new Delta 94 Replacement Steam Generators. The South Texas Project Cold Overpressure Event has been re-analyzed as a result of changed operating parameters due to installation of new Delta 94 Steam Generators. The re-analysis determined that maximum allowable PORV setpoint required decreases to ensure that the Cold Overpressure Mitigation System (COMS) continued to provide design basis low temperature overpressure protection with Delta 94 Steam Generators. New COMS curves have been developed and are to be incorporated into Technical Specification 3.4.9.3 by this change request. Since the proposed COMS curves result in maximum allowable PORV setpoint decreases to account for the changed Delta 94 Steam Generator operating parameters, these curves are more conservative than the existing COMS curves utilized for Model E Steam Generators. Therefore, application of these proposed COMS curves for a unit with Model E or Delta 94 Steam Generators ensures compliance with the original design basis of the Cold Overpressure Mitigation System for the South Texas Project.

This proposed change is based on a re-analysis which accounts for changed operating parameters associated with the Delta 94 Replacement Steam Generators. Reflecting actual operating parameters and adjusting the maximum allowable PORV setpoints, as necessary, in the conservative direction has no adverse effect on the probability or consequences of an accident previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed PORV maximum allowable setpoint changes do no create any new operating conditions or modes. The proposed change only revises the maximum allowable PORV setpoint curves for the Cold Overpressure Mitigation System to account for the revised operating parameters associated with Delta 94 Steam Generators. The actions of this system continue to be performed in accordance with existing requirements, which are sufficient to ensure plant safety is maintained.

The proposed change is the result of a re-analysis of a previously evaluated accident. Therefore, the proposed change does not create the possibility of a new or different kind of accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change reflects the revised operating parameters associated with the new Delta 94 Steam Generators. The revised COMS curves are the result of a re-analysis of the COMS analysis performed to ensure the margin of safety is not reduced with Delta 94 Steam Generators. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: August 31, 1998.

Description of amendment request: The proposed amendment would modify Technical Specification Surveillance Requirement 3.6.1.3.4 to permit removal of the inclined fuel transfer system primary containment blind flange while primary containment integrity is required.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change permits removal of the blind flange on the Inclined Fuel Transfer System (IFTS) when primary containment operability is required in Modes 1, 2 and 3. This will permit operation of IFTS when the plant is operating. This aspect of the containment structure does not directly interface with the reactor coolant pressure boundary. The removal of this blind flange does not involve modifications to plant systems or design parameters that could contribute to the initiation of any accidents previously evaluated. Operation of IFTS is unrelated to the operation of the reactor, and there is no aspect of IFTS operation that could lead to or contribute to the probability of occurrence of an accident previously evaluated. Removal of the blind flange and operation of IFTS does not result in changes to procedures that could impact the probability of occurrence of an accident.

With respect to consequences, the function of the containment is to

mitigate the radiological consequences of a loss of coolant accident (LOCA) or other postulated events that could result in radiation release from the fuel inside containment. The pressure and temperature transient resulting from a design basis loss of coolant accident (LOCA) is considered the primary challenge to the integrity of the containment. While the proposed change does not change the plant design, it does permit alteration of the containment boundary for the IFTS penetration. Altering the containment boundary in this case (removing the blind flange) results in some IFTS components possibly seeing a containment pressure rise should a LOCA occur. The thermal and mechanical load requirements do not appreciably change as a result of such a small pressure increase (peak post-accident pressure (P_a) of 7.8 psig). The IFTS components will be more than adequate and capable of withstanding the Design Basis LOCA and associated loads prior to implementation of this amendment. Therefore, they are considered an acceptable barrier to prevent uncontrolled release of post-accident fission products for this proposed change.

The proposed change required examination of two potential leakage pathways. The larger is the transfer tube itself, the other, much smaller one, is the drain piping. It is clear that the gate valve at the bottom of the transfer tube is always water sealed and maintained so by the submergence of the water in the transfer tube and in the Fuel Handling Building Fuel Transfer Pool. The height of this water seal is greater than that necessary to prevent leakage from the bottom of the transfer tube during accidents that result in the calculated peak post-accident pressure (P_a). The potential leakage pathway from the drain piping which attaches to the transfer tube will be isolated if required, via administrative controls on the drain piping isolation valve. Additionally, the drain piping isolation valve will be added to the Primary Containment Leakage Rate Testing Program (Specification 5.5.12) to ensure that leakage past this valve will be maintained consistent with the leakage rate assumptions of the accident analysis. Due to the test methodology, the portion of the large transfer tube piping outboard of the blind flange (the portion of the tube which becomes exposed to containment air during the draining portion of the IFTS operation) will also be part of the leakage rate test boundary and will therefore also be tested with air. Therefore, no unidentified leakage paths will exist from the piping and components that are outboard of the blind flange, and the leakage rate assumptions of the accident analysis will be maintained.

Therefore, the proposed change does not result in a significant increase in the probability or the consequences of previously evaluated accidents.

(2) The proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change consists of the removal of a passive component which is not part of the primary reactor coolant pressure boundary nor involved in the operation or shutdown of the reactor. Being passive, its presence or absence does not affect any of the parameters or conditions that could contribute to the initiation of any incidents or accidents that are created from loss of coolant or positive reactivity. Re-aligning the boundary of the primary containment to include portions of the IFTS is also passive in nature and therefore has no influence on, nor does it contribute to the possibility of a new or different kind of incident, accident or malfunction from those previously analyzed. Furthermore, operation of IFTS is unrelated to the operation of the reactor and there is no mishap in the process that can lead or contribute to the possibility of losing any coolant in the reactor or introducing the chance for positive or negative reactivity or other accidents different from and not bounded by those previously evaluated.

Therefore, the proposed change does not result in creating the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change will not involve a significant reduction in the margin of safety.

The proposed change involves the re-alignment of the primary containment boundary by removing the blind flange which is a passive component. The margin of safety that has the potential of being impacted by the proposed change involves the dose consequences of postulated accidents which are directly related to potential leakage through the primary containment boundary. The potential leakage pathways due to the proposed change have been reviewed, and leakage can only occur from the administratively controlled IFTS transfer tube drain piping. An individual will be designated to provide timely isolation of this drain piping during the durations of time when this proposed change is in effect. The conservatively calculated dose which might be received by the designated individual while isolating the drain piping is less than or equal to 1.9 rem, well within the guidelines of General Design Criterion 19. Furthermore, the drain piping isolation valve will be added into the Primary Containment Leakage Rate Testing Program (Specification 5.5.12) to ensure that leakage from the piping and components located outboard of the blind flange will be maintained consistent with the leakage rate assumptions of the accident analysis. Therefore, the dose consequences of an event would be unchanged, and the associated margin of safety would also be unchanged.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Stuart A. Richards.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: September 3, 1998.

Description of amendment request: The proposed amendment would permit an Emergency Diesel Generator (EDG) Technical Specification (TS) Action Completion Time of up to 14 days for a Division 1 or 2 EDG and allow performance of the EDG 24-hour TS surveillance requirement test in modes 1 and 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification changes do not significantly increase the probability of occurrence of a previously evaluated accident because the standby

Emergency Diesel Generators (EDGs), including the High Pressure Core Spray diesel generator, are not initiators of previously evaluated accidents. The EDGs mitigate the consequences of previously evaluated accidents involving a loss of offsite power. The proposed changes to the Technical Specification Action Completion Times do not affect any of the assumptions used in the deterministic or Probabilistic Safety Analysis (PSA).

The proposed Technical Specification changes will continue to ensure the EDGs perform their function when called upon. Extending the Technical Specification Completion Times to 14 days and allowing the performance of the EDG 24-hour run test in either Modes 1 or 2 does not affect the design of the EDGs, the operational characteristics of the EDGs, the interfaces between the EDGs and other plant systems, the function, or the reliability of the EDGs. Thus, the EDGs will be capable of performing their accident mitigation function and there is no impact to the radiological consequences of any accident analysis.

To fully evaluate the effect of the EDG Completion Time extension, PSA methods and deterministic analysis were utilized. The results of this analysis show no significant increase in the Core Damage Frequency. The proposed changes remain bounded by the Core Damage Frequency identified in the Individual Plant Examination.

The Configuration Risk Management Program (CRMP) is an administrative program that assesses risk based on plant status. Adding the requirement to implement the CRMP for Technical Specification 3.8.1 requires the consideration of other measures to mitigate consequences of an accident occurring while an EDG is inoperable.

The proposed change will not alter the operation of any plant equipment assumed to function in response to an analyzed event or otherwise increase its failure probability. Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not change the design, configuration, or method of operation of the plant. The proposed activity involves a change to the allowed plant mode for the performance of specific Technical Specification surveillance requirements. No physical or operational changes to the EDGs or supporting systems are made by this activity. Since the proposed changes do not involve a change to the plant design or operation, no new system interactions are created by this change. The proposed Technical Specification changes do not produce any parameters or conditions that could contribute to the initiation of accidents different from those already evaluated in the Updated Safety Analysis Report.

The proposed changes only address the methods used to ensure EDG reliability. Thus, the proposed Technical Specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not affect the Limiting Conditions for Operation or their Bases that are used in the deterministic analysis to establish any margin of safety. PSA evaluations were used to evaluate these changes, and these evaluations determined that the changes are either risk neutral or risk beneficial. The proposed activity involves changes to certain Completion Times and to the allowed plant mode for the performance of specific Technical Specification Surveillance Requirements. The proposed change remains bounded by the existing Surveillance Requirement Completion Times and therefore has no impact to the margins of safety.

The proposed change does not involve a change to the plant design or operation, and thus does not affect the design of the EDGs, the operational characteristics of the EDGs, the interfaces between the EDGs, and other plant systems, or the function or reliability of the EDGs. Because EDG performance and reliability will continue to be ensured by the proposed Technical Specification changes, the proposed changes do not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Stuart A. Richards.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: September 9, 1998.

Description of amendment request: The proposed license amendment concerns hydrostatic (water) testing of containment isolation valves in the Feedwater System lines. The proposed technical specification change stipulates that water leakage from the feedwater motor-operated containment isolation valves will be added into the Primary Coolant Sources Outside of Containment Program (Technical Specification 5.5.2), and therefore the feedwater check valves do not need to be included in the hydrostatic test program addressed by Surveillance Requirement 3.6.1.3.11. The proposed testing change is based on design and licensing basis changes being implemented to improve functioning of the Feedwater Leakage Control System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

It is proposed that water leakage from the Feedwater motor-operated containment isolation valves will be added into the Primary Coolant Sources Outside Containment Program (Technical Specification 5.5.2), and therefore the Feedwater lines do not need to also be included in the hydrostatic test program addressed by Surveillance Requirement 3.6.1.3.11. The proposed testing change is based on design/licensing basis changes being implemented to improve functioning of the Feedwater Leakage Control System. The proposed design change will provide Feedwater Leakage Control System seal water directly to the bonnets and seats of the motor operated gate valves in the Feedwater lines, and allow for power to the valves to be provided from redundant power supplies.

The proposed changes do not increase the probability of occurrence of an accident previously evaluated because the Feedwater Leakage Control System is not an initiator of a previously evaluated accident. The Feedwater Leakage Control System is used to

mitigate the consequences of an event that has already been initiated due to some other cause, specifically a design basis Loss of Coolant Accident (LOCA). Therefore, changes to the design and testing on the Feedwater Leakage Control System have no impact on the probability of occurrence of an accident previously evaluated. The Feedwater Leakage Control System is a manually initiated system, and the probability of an inadvertent initiation remains unchanged from that previously reviewed, so the possibility of a loss of feedwater transient is not increased.

The proposed changes do not significantly increase the radiological consequences of an accident previously evaluated, because the Feedwater lines will continue to be isolated following a LOCA either inside or outside of containment. For a line break outside of containment, the check valves will provide the necessary short-term closure function to prevent significant loss of reactor coolant inventory, as currently stated in Updated Safety Analysis Report (USAR) Section 6.2.4.2.2.1.a.1. The third (gate) valves in the Feedwater line will also be available to provide the long-term, high integrity leakage protection. The check valves Code Class 1 closure function will be verified at an appropriate frequency by performance of an exercise closed (EC) test comprised of a visual inspection of the internals of the valves, in accordance with the Inservice Testing Program. The radiological consequences of such a line break outside of containment event are not significant, as there is no postulated fuel damage.

For a line break inside of containment (a design basis LOCA event), the majority of the currently reviewed and accepted licensing basis is being maintained. Design changes are being implemented to improve the functioning of the Feedwater Leakage Control System. The redundant subsystems will be piped to the bonnets of the third, high integrity valves in the Feedwater lines (the gate valves) to provide a more rapid and effective seal on the stem, bonnet and flexible wedge seats. Water leakage from the stem, bonnets and seats of the gate valves will be addressed through controls imposed by Technical Specification 5.5.2, ''Primary Coolant Sources Outside Containment.'' The doses from such water leakage are accounted for in the radiological dose calculations. Since the leakage from the Feedwater lines is accounted for by the Primary Coolant Sources Outside Containment Program, there is no need to include the water test results of the Feedwater lines into the Surveillance Requirement 3.6.1.3.11 leak test totals.

The branch lines off of the Feedwater lines will also be addressed either through the Primary Coolant Sources Outside Containment Program (Technical Specification 5.5.2) or through additional Appendix J air leak rate test requirements (Technical Specification Surveillance Requirement 3.6.1.1.1 and Specification 5.5.12, ''Primary Containment Leakage Rate Testing Program''). The new test methods for these lines do not impact the existing radiological dose calculations, since the existing leakage limits of the leak rate test programs are not changed by the proposal.

The design changes associated with the Feedwater Leakage Control System will continue to satisfy licensing/design criteria for this piping to an equivalent degree as the current design. The minor exception is where the two Feedwater Leakage Control subsystems tie in to the bonnets of the gate valves, and this constitutes only a separation issue. Since the Feedwater Leakage Control System piping at this juncture is Code Class 2, break excluded, and protected from pipe whips and jet impingements, it is considered to be acceptable.

Addition of the provisions for an alternate power supply to be provided to the gate valves (if necessary following a LOCA event) will improve the probability of closure of these high integrity valves without creating an electrical separation concern. A separation concern will not be created since the supply circuitry from the alternate power source will be a permanent modification, and physical and electrical separation between electrical divisions will be maintained by employing two features:

1. Normally open, fused disconnect switches at both ends of the circuit, and
2. Fuses normally stored out of the circuit.

Based on the discussions above, it is concluded that neither the probability nor the consequences of previously evaluated accidents are significantly increased as a result of the proposed changes to the Technical Specifications and to the licensing bases for the Feedwater penetrations.

(2) This proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Feedwater Leakage Control System was developed specifically to mitigate the consequences of a design basis LOCA inside the containment. The system itself and the proposed changes do not produce parameters or conditions that could contribute to the initiation of accidents different than those already evaluated in the Updated Safety Analysis Report. The proposed changes are intended to improve the functioning of the Feedwater Leakage Control System should it be called upon following a LOCA. The changes affect mitigation of that previously evaluated event.

In other plant conditions, including normal operation, the system is not activated and cannot induce events. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) This proposed amendment does not involve a significant reduction in a margin of safety.

The proposed changes only affect the methods used to ensure Feedwater Leakage Control System performance and reliability, and clarification of the licensing/design basis of the system. The new proposed Note in Surveillance Requirement 3.6.1.3.11 clarifies that the water leakage from the Feedwater lines does not need to be counted in two separate leak test programs. The Primary Coolant Sources Outside Containment Program (Technical Specification 5.5.2) will ensure that leakage from the Feedwater lines is minimized, and accounted for in an appropriate fashion in the radiological does calculations. Leak rate testing on the branch lines off of the Feedwater lines will also be controlled and limited by existing acceptance criteria for plant programs that protect the assumptions of the radiological dose calculations. Therefore, the margin of safety provided in the Perry Nuclear Power Plant dose calculations will remain unchanged.

The majority of the existing licensing basis, and therefore the margins of safety, are maintained by this proposal. The items that are changed are done so to improve the reliability of the system or for an administrative clarification. The Feedwater Leakage Control System Technical Specification itself (Technical Specification 3.6.1.8) does not need revision. The design changes will maintain the existing licensing/design criteria, with the minor exception of divisional separation at the point that the two divisions have to be piped into the bonnets of the third (gate) valve. Since the piping at this junction point is Code Class 2, break excluded, and protected from pipe whips and jet impingements, it is considered to be acceptable. It will not lead to a significant reduction in a margin of safety. The manually initiated divisional cross-tie will not create an electrical separation concern. The alternate power supply provision will be a permanent

modification, and physical and electrical separation between electrical divisions will be maintained.

Based on the above discussions, the proposed license amendment is concluded to not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Stuart A. Richards.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Energy Corporation , Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: September 17, 1998.

Description of amendment request: The proposed amendments would allow a revision to the Oconee Updated Final Safety Analysis Report that addresses potential plant conditions that could occur during engineered safeguards functional tests of the emergency electrical system. These tests are planned to be performed on Unit 3 in November 1998, with Unit 3 in the cold shutdown condition, and Units 1 and 2 operating at power. If an actual loss-of-coolant accident with loss of offsite power were to occur on Unit 1 or 2, simultaneously with test initiation on Unit 3, the Emergency Power System would be placed in a condition outside the present design basis. This involves an unreviewed safety question that requires NRC approval before implementation of the tests.

Date of publication of individual notice in **Federal Register**: September 30, 1998 (63 FR 52304).

Expiration date of individual notice: October 30, 1998.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: September 19, 1998.

Description of amendment request: The amendment would revise Section 5.4.8 of the Oyster Creek Nuclear Generating Station Updated Final Safety Analysis Report (UFSAR) such that it incorporates the use of a freeze seal as a temporary part of the reactor coolant pressure boundary.

Date of publication of individual notice in **Federal Register**: September 30, 1998 (63 FR 52307).

Expiration date of individual notice: October 30, 1998.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment requests: January 29, 1997, as supplemented February 11, 12, March 7, 10, 11, 19, 20, April 29, June 30, and July 10, 1997, June 20, June 22, July 24 and September 15, 1998.

Brief description of amendment request: The proposed amendments would change the design basis of the cooling water system emergency intake line flow capacity. The licensee determined through testing that the emergency intake line flow capacity was less than the design value stated in the Updated Safety Analysis Report. The proposed changes reflect the use of operator actions to control cooling water system flow following a seismic event. The proposed changes also reclassify the intake canal for use during a seismic event, which would be an additional source of cooling water during a seismic event.

Date of publication of individual notice in **Federal Register**: October 1, 1998 (63 FR 52772).

Expiration date of individual notice: November 2, 1998.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: October 14, 1997, as supplemented July 23, 1998.

Description of amendment request: The amendment would update the Technical Specifications to provide for installation of additional racks to increase spent fuel storage capacity, and to correct the maximum exposure dependent, infinite lattice multiplication factor for fuel bundles.

Date of publication of individual notice in **Federal Register**: August 24, 1998 (63 FR 45096).

Expiration date of individual notice: September 23, 1998.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: August 8, 1997, as supplemented by letters dated March 9, May 6, July 6, July 31, September 4, and September 11, 1998, and advanced information related to the application submitted April 17, 1998.

Description of amendment request: The proposed amendments would revise the Technical Specifications to accommodate an increase in the maximum licensed thermal power level from 2558 megawatts thermal (MWt) to 2736 MWt.

Date of publication of individual notice in **Federal Register**: October 6, 1998 (63 FR 53730).

Expiration date of individual notice: November 5, 1998.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: September 4, 1998.

Description of amendment request: The amendment would revise the Technical Specifications to reflect an increase in the spent fuel storage capacity.

Date of publication of individual notice in **Federal Register**: October 1, 1998. (63 FR 52774)

Expiration date of individual notice: November 2, 1998.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: June 13, 1995, as supplemented by letters dated August 16, 1995, June 9, 1998, and September 6, 1998.

Brief description of amendment: These amendments revise TS 3.5.1, ''Safety Injection Tanks (SITs)—Operating,'' and TS 3.5.2, ''Safety Injection Tanks—Shutdown,'' to extend the allowed outage times for the SITs.

Date of issuance: October 2, 1998.

Effective date: October 2, 1998.

Amendment No.: 118.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 25, 1995 (60 FR 54715)

The June 9, 1998, and September 6, 1998, letters provided additional clarifying information and do not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: June 12, 1997, as supplemented by letter dated August 27, 1998. The August 27, 1998, supplemental letter provided clarifying information only, and did not change the initial no significant hazards consideration determination.

Brief description of amendment: This amendment changes the description of the Harris Nuclear Plant Operations organization in TS 6.0, ''Administrative Controls.''

Date of issuance: October 7, 1998.

Effective date: October 7, 1998.

Amendment No: 83.

Facility Operating License No. NPF–63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: July 30, 1997 (62 FR 40847).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 7, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 30, 1997.

Brief description of amendments: The amendments change the Technical Specifications for the condensate storage tank (CST) level and the automatic auxiliary feedwater pump switchover from the suction of the CST to the essential service water system.

Date of issuance: October 6, 1998.

Effective date: October 6, 1998.

Amendment Nos.: 104; 104 & 96; 96.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 25, 1998. (63 FR 9596)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 6, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: May 18, 1998.

Brief description of amendments: The amendments will change several Technical Specification (TS) values to reflect design values. These TS values affect (1) 125/250 volts direct current (Vdc) electrolyte temperature; (2) control rod drive accumulator pressure; (3) standby liquid control solution temperature; (4) ultimate heat sink minimum water level; (5) shutdown

suppression chamber level (Quad Cities only); and (6) a degraded voltage setpoint (Quad Cities only).

Date of issuance: October 8, 1998.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: Dresden 169 & 164; Quad Cities 181 & 179.

Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 17, 1998 (63 FR 33105).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Duke Energy Corporation, et al., Docket No. 50–414, Catawba Nuclear Station, Unit 2, York County, South Carolina

Date of application for amendment: August 6, 1998.

Brief description of amendment: The amendment deletes Surveillance Requirement 4.8.1.1.2.i.2, regarding diesel fuel oil system pressure testing, from the Technical Specifications on the basis that the staff had previously approved alternative surveillance based on Code Case N–498–1 of the American Society of Mechanical Engineers.

Date of issuance: September 28, 1998.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 164.

Facility Operating License No. NPF–52: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 17, 1998 (63 FR 43962).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: October 22, 1996, as supplemented by letters dated March 19, July 6, and September 15, 1998.

Brief description of amendments: The amendments allow continued plant operation at elevated Containment Lower Compartment temperatures between 125 °F and 135 °F for a period not to exceed 72 cumulative hours per calendar year.

Date of issuance: September 28, 1998.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–183; Unit 2–165.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 12, 1997 (62 FR 6574).

The March 19, July 6, and September 15, 1998, submittals provided clarifying information that did not change the scope of the October 22, 1996, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 28, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, Charlotte, North Carolina.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application of amendment: July 21, 1998.

Brief description of amendment: The amendment permits an alternative to the requirement to perform Control Rod Drive scram time testing with the reactor pressurized prior to resuming power operation. The change permits: (1) scram time testing with the reactor depressurized prior to resuming operation, and (2) a second scram time test with the reactor pressure above 800 psig, prior to exceeding 40% reactor power.

Date of Issuance: October 1, 1998.

Effective date: October 21, 1998, to be implemented within 30 days.

Amendment No.: 198.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 12, 1998 (63 FR 43204).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

GPU Nuclear, Inc., et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: March 23, 1998, as supplemented June 30, 1998.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.1.2, to incorporate new pressure/temperature limits for reactor vessel pressurization heatup, cooldown, and inservice leak and hydrostatic test.

Date of issuance: October 5, 1998.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 208.

Facility Operating License No. DPR–50: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19970). The June 30, 1998, submittal provided additional information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: April 15, 1998.

Brief description of amendment: The amendment revises the Technical Specifications by updating the existing pressure-temperature curves with new curves with values from 18 to 32 effective full power years. Applicable surveillance requirements are also revised to reflect operation with the new curves.

Date of issuance: October 1, 1998.

Effective date: October 1, 1998.

Amendment No.: 224.

Facility Operating License No. DPR–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25110).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Illinois Power Company, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: May 20, 1998, as supplemented July 17 and August 6, 1998.

Brief description of amendment: The amendment provides for automatic operation of a new emergency reserve auxiliary transformer to provide power to the plant 4.16-kV buses from the offsite 138-kV transmission network.

Date of issuance: October 1, 1998.

Effective date: October 1, 1998.

Amendment No.: 116.

Facility Operating License No. NPF–62: The amendment authorized revision of the Updated Safety Analysis Report.

Date of initial notice in **Federal Register**: June 4, 1998 (63 FR 30519).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, IL 61727.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: May 23, 1997, as supplemented by letter dated September 11, 1998. The September 11, 1998, letter provided the typed TS pages that did not change the Nuclear Regulatory Commission staff's proposed no significant hazards consideration determination.

Brief description of amendments: The proposed amendments would revise the Technical Specifications TSs to exclude the Main Steam Isolation Valves leakage from the total Type B and Type C local leak rate test results.

Date of issuance: October 1, 1998.

Effective date: The amendments are effective as of the date of issuance, and are to be implemented within 30 days from the date of their issuance.

Amendments Nos.: 223 and 227.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 2, 1998 (62 FR 35852).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

PECO Energy Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: May 1, 1998, as supplemented by letter dated September 11, 1998.

Brief description of amendments: These amendments revise the technical specifications to delete the requirements for functional testing of safety relief valves during each unit startup.

Date of issuance: October 5, 1998.

Effective date: As of the date of issuance and is to be implemented, Unit 2, prior to October 1998 refueling outage and Unit 3, prior to October 1999 refueling outage.

Amendments Nos.: 224 and 228.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 29, 1998 (63 FR 40559).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

PECO Energy Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 20, 1998, as supplemented by letters dated June 26, August 11, and September 14, 1998. The August 11 an September 14 letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

Brief description of amendments: These amendments would revise the Technical Specifications to permit incorporation of end-of-cycle recirculation pump trip systems.

Date of issuance: October 5, 1998.

Effective date: Both units, as of date of issuance, to be implemented within 30 days.

Amendments Nos.: 225 and 229.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 29, 1998 (63 FR 40558).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: March 24, 1997, as supplemented September 4, 1998.

Brief description of amendments: These amendments approve the deletion of the Drywell and Suppression Chamber Purge System operational time limit, removal of a footnote regarding 1-inch and 2-inch valves, and the addition of a surveillance requirement ensuring the purge system large supply and exhaust valves are closed as required.

Date of issuance: October 1, 1998.

Effective date: Units 1 and 2, As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 130 and 91.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 4, 1997 (62 FR 30643).

The September 4, 1998, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County , New York

Date of application for amendment: November 13, 1997.

Brief description of amendment: The amendment changes the Technical Specifications by increasing the minimum test frequency for main turbine stop valves.

Date of issuance: October 5, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 182.

Facility Operating License No. DPR–64: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: July 15, 1998 (63 FR 38203).

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: May 13, 1998.

Brief description of amendment: This amendment revises Technical Specification (TS) 3/4.10.8, ''Inservice Leak and Hydrostatic Testing,'' to delete the requirement for an operable High Drywell Pressure trip function. Specifically, TS 3.10.8.a is being revised to remove the reference to the Secondary Containment Isolation Actuation Instrumentation trip function 2.b.

Date of issuance: October 1, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 112.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 1, 1998 (63 FR 35994).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: December 31, 1997, as supplemented June 30, August 6, August 18, and August 27, 1998.

Brief description of amendments: The amendments revised TS 2.1 (Safety Limits), 2.2 (Limiting Safety System Settings), and 3/4.2.5 (Departure from Nucleate Boiling Parameters) by including alternate operating criteria to allow continued plant operation with a reduced measured reactor coolant system flow rate, if necessary.

Date of issuance: September 29, 1998.

Effective date: September 29, 1998.

Amendment Nos.: Unit 1—Amendment No. 97; Unit 2—Amendment No. 84.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4325).

The additional information contained in the supplemental letters dated June 30, August 6, August 18, and August 27, 1998, were clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio.

Date of application for amendment: April 18, 1997, as supplemented by letters dated October 10, 1997, and February 27 and September 8, 1998.

Brief description of amendment: This amendment revises TS Section 3/4.7.6, ''Plant Systems—Control Room Emergency Ventilation System,'' and the associated bases. Action statements have been added related to the availability of the station vent normal range radiation monitoring instrumentation. The bases have been modified consistent with these changes.

Date of issuance: October 5, 1998.

Effective date: October 5, 1998.

Amendment No.: 227.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 4, 1997 (62 FR 30646). The supplemental information submitted by letters dated October 10, 1997, and September 8, 1998, did not affect the proposed no significant hazards consideration. However, the supplemental letter dated February 27, 1998, included a new analysis of the issue of no significant hazards consideration. Based on this, the Commission issued a new proposed finding that the amendment involves no significant hazards consideration (63 FR 25117). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: August 8, 1997, as supplemented by letters dated December 16, 1997, January 20, 1998, March 4, 1998, March 17, 1998, June 29, 1998, and July 28, 1998.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.7–2 to specify that the lift setting tolerance for the main steam line safety valves is +3/−1 percent as-found and +/−1 percent as-left. The amendment also revised TS Table 2.2–1 to reduce the sensor error for the pressurizer pressure-high trip.

Date of issuance: October 2, 1998.

Effective date: October 2, 1998, to be implemented within 30 days from the date of issuance.

Amendment No.: 128.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (62 FR 66144).

The December 16, 1997, January 20, 1998, March 4, 1998, March 17, 1998, June 29, 1998, and July 28, 1998, supplemental letters provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Elmer Ellis Library, University of Missouri, Columbia, Missouri 65201–5149.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: May 14, 1998, supplemented July 3, August 27, and October 1, 1998.

Brief description of amendment: This amendment redefines the pressure boundary for Westinghouse mechanical hybrid expansion joints (HEJs) in sleeved steam generator tubes. TS 4.2 b, ''Steam Generator Tubes,'' is changed to incorporate a length criterion to allow tubes with degraded HEJ sleeves to remain in service if a minimum length of the HEJ is free of flaws.

Date of issuance: October 2, 1998.

Effective date: October 2, 1998.

Amendment No.: 139.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 3, 1998 (63 FR 30269).

The July 3, August 27, and October 1, 1998 submittals provided clarifying information within the scope of the original **Federal Register** notice and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001

Dated at Rockville, Maryland, this 14th day of October 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–28069 Filed 10–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Exempt Distribution Licenses,'' Dated September 1998

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the completion and availability of NUREG–1556, Vol. 8, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance About Exempt Distribution Licenses,'' dated September 1998.

ADDRESSES: Copies of NUREG–1556, Vol. 8, may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P. O. Box 37082, Washington, D.C. 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy of the document is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555–0001.

FOR FURTHER INFORMATION, CONTACT: Anthony Kirkwood, Mail Stop TWFN 8–F–5, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: 301–415–6140.

SUPPLEMENTARY INFORMATION:

On April 7, 1997 (62 FR 16630), NRC announced the availability of draft NUREG–1562, ''Standard Review Plan for Applications for Licenses to Distribute Byproduct Material to Persons Exempt from the Requirements for an NRC License,'' dated January 1997, and requested comments on it. The final version of NUREG–1562 will be published as NUREG–1556, Vol. 8, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Exempt Distribution Licenses,'' dated September 1998. In finalizing the NUREG report, the staff considered all the comments, including constructive suggestions, to improve the document.

This report is intended for use by applicants, licensees, and NRC staff, and will also be available to Agreement States. It combines, updates, and supersedes the guidance found in Draft NUREG–1562, ''Standard Review Plan for Applications for Licenses to Distribute Byproduct Material to Persons Exempt from the Requirements for an NRC License.'' When published, this final report should be used in applications for exempt distribution. NRC staff will use this final report in reviewing these applications.

Electronic Access

NUREG–1556, Volume 8, will be available electronically, approximately 1 month after the date of this notice, by visiting NRC's Home Page (http://www.nrc.gov) and choosing ''Nuclear Materials,'' and then ''NUREG–1556, Volume 8.''

Small Business Regulatory Enforcement Fairness Act

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

Dated at Rockville, Maryland, this 14th day of October, 1998.

For the Nuclear Regulatory Commission.

Josephine M. Piccone,

Acting Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–28190 Filed 10–20–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, November 2, 1998; 8:30 a.m., Tuesday, November 3, 1998.

PLACE: Potomac, Maryland, at the William F. Bolger Center for Leadership Development, 9600 Newbridge Drive, Main Building in Room 200.

STATUS: November 2 (Closed); November 3 (Open).

MATTERS TO BE CONSIDERED:

Monday, November 2—1:00 p.m. (Closed)

1. International Mail Rates.
2. Compensation Issues.

Tuesday, November 3—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, October 5–6, 1998.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Quarterly Report on Service Performance.
4. Capital Investments.
   a. Stamford, Connecticut, Springdale Station.
   b. Tray Management System Phase II—Additional Funding.
5. Briefing on the Diversity Study.
6. Tentative Agenda for the December 7–8, 1998, meeting in Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–28407 Filed 10–19–98; 8:45 am]

BILLING CODE 7710–12–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

Board Votes to Close Meeting

In person and by telephone vote on October 16, 1998, a majority of the members contacted and voting, the Board of Governors voted to close to public observation a meeting held in Washington, D.C. via teleconference. The Board determined that prior public notice was not possible.

ITEM CONSIDERED: 1. Postal Rate Commission Opinion and Recommended Decision in Docket No. MC98–1, Mailing Online.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–3800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–28408 Filed 10–19–98; 3:49 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23487; 812–11178]

The Dreyfus/Laurel Tax-Free Municipal Funds; Notice of Application

October 15, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order to permit one series of The Dreyfus/Laurel Tax-Free Municipal Funds (''Trust'') to acquire all of the assets and liabilities of two other series of the Trust.

FILING DATES: The application was filed on June 17, 1998, and amended on September 28, 1998. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 9, 1998, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Timothy R. Kane, Staff Attorney, at (202) 942–0615, or Mary Kay Frech, Branch Chief, at (202) 942–0564, Division of Investment Management, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (telephone 202–942–8090).

Applicant's Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company. Dreyfus Premier Limited Term Municipal Fund (''Acquiring Fund'') is one of seven series of the Trust. Dreyfus Premier Limited Term California Municipal Fund (''California Fund'') and the Dreyfus Premier Limited Term New York Municipal Fund (''New York Fund'') are also series of the Trust. California Fund and New York Fund are collectively referred to as the ''Acquired Funds.'' The Acquiring Fund and the Acquired Funds collectively are referred to as the ''Funds.''

2. The Dreyfus Corporation (''Adviser''), an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser for the Acquiring Fund and the Acquired Funds. The Adviser is a wholly-owned subsidiary of Mellon bank, N.A., which is a wholly-owned subsidiary of Mellon Bank Corporation (''Mellon''). Mellon owns, with power to vote in the aggregate, approximately 58% of the outstanding voting securities of the California Fund, approximately 57% of the outstanding voting securities of the New York Fund, and approximately 53% of the outstanding voting securities of the Acquiring Fund.

3. On April 23, 1998, the Trust's board of trustees (''Board''), including the non-interested trustees, unanimously approved an Agreement and Plan of Reorganization (''Plan of Reorganization'') for each Acquired Fund pursuant to which the Acquiring Fund will acquire all of the assets and liabilities of each Acquired Fund in exchange for shares of the corresponding classes of the Acquiring Fund having an aggregate net asset value equal to the assets transferred minus the liabilities of the Acquired Fund (''Reorganization''). Each Acquired Fund will endeavor to discharge all of its known liabilities and obligations prior to closing of the Reorganization, presently expected to occur on or about November 13, 1998 (''Closing Date'').

4. The Acquiring Fund and the Acquired Funds offer four share classes: Class A, Class B, Class C, and Class R. Each class of the Acquired Funds has identical rights and expense ratios as its corresponding share class of the Acquiring Fund. Class A shares are sold with a maximum sales charge of 3%, Class B shares are subject to a maximum 3% contingent deferred sales charge (''CDSC'') if redeemed within five years of purchase, and convert to Class A shares in approximately six years after the date of purchase; Class C shares are subject to a 0.75% CDSC if redeemed within one year of purchase; and Class R shares pay no sales charges. Classes A, B, and C pay for distribution expenses at various rates through a rule 12b–1 plan.

5. As a result of the Reorganization, each Acquired Fund shareholder will receive Acquiring Fund shares having an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares held by that shareholder calculated as of the Closing Date. For purposes of calculating the CDSC on Classes B and C and the conversion rights of Class B shares, Class B and Class C shareholders of the Acquired Funds will be deemed to have held Class B and Class C shares of the Acquiring Fund since the date the shareholders initially purchased the shares of the Acquired Funds.

6. The investment objectives of the Acquiring Fund and each Acquired Fund are to maximize current income exempt from federal income tax. The California Fund has the additional objective of seeking income exempt from California's state income tax; the New York Fund has the additional objective of seeking income exempt from both the state of New York's

income tax and New York City's personal income tax.

7. The Board found that participation in the Reorganization was in the best interests of the relevant Fund and that the interests of the existing shareholders of each relevant Fund would not be diluted as a result of the Reorganization. The Board considered a number of factors in authorizing the Reorganization including: (a) The compatibility of the Funds' investment objectives, management policies and restrictions, as well as shareholder services offered by the respective Funds; (b) the comparative investment performance of the Funds; (c) the terms and conditions of the Reorganization; (d) the Funds' expense ratios; (e) the increased tax liability to shareholders in the Acquired Funds who invest to reduce their state and local tax liabilities; (f) the Acquired Funds' inability to attract larger levels of assets; (g) the costs to the Funds of the Reorganization; and (h) alternatives to the Reorganization. The Reorganization is expected to be tax-free to shareholders of the Acquired Funds and each Fund will bear its *pro rata* share of Reorganization expenses.

8. On June 12, 1998, the Acquiring Fund filed with the SEC a registration statement on Form N–14 containing a preliminary combined prospectus/proxy statement for the Reorganization. On July 24, 1998, the Acquiring Fund filed the final prospectus/proxy statement with the SEC and mailed it to shareholders on July 27, 1998. The shareholders of the Acquired Funds held a joint special meeting on September 15, 1998, which was adjourned until September 29, 1998, and approved the Reorganization.

9. The Reorganization is subject to a number of conditions including: (a) Each Fund will have received an opinion of counsel stating, among other things, that the Reorganization will not result in federal income tax liability for the Fund or its shareholders; (b) the Acquired Funds' shareholders will have approved the Reorganization; and (c) the Funds will have received from the SEC an order exempting the Reorganization from the provisions of section 17(a) of the Act. Applicant agrees not to make any material changes to the Plans of Reorganization without prior SEC approval.

Applicant's Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of the person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines the term ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person; and (d) if the other person is an investment company, any investment adviser of the person.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) of the Act mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a ''common investment adviser, common directors, and/or common officers,'' provided that certain conditions are satisfied.

3. Applicant believes that it cannot rely on rule 17a–8 under the Act because the Acquiring and Acquired Funds may be affiliated for reasons other than those set forth in the rule. The Funds may be affiliated persons of Mellon because Mellon and its affiliates, as fiduciaries for their customers, own of record more than 5% of the outstanding securities of the Funds. Mellon, in turn, is an affiliated person of an affiliated person of the funds because its wholly-owned subsidiary serves as investment adviser to the Funds.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from section 17(a) of the Act if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

5. Applicant requests an order under section 17(b) of the Act exempting it from section 17(a) of the Act to the extent necessary to consummate the Reorganization. Applicant submits that the Reorganization satisfies the provisions of section 17(b) of the Act. Applicant states that its Board has determined that the Reorganization is in the best interests of the shareholders of the Acquiring and the Acquired Funds and that the interests of the existing shareholders will not be diluted as a result of the Reorganization. In addition, applicant states that the exchange of the Acquired Funds' shares for shares of the Acquiring Funds will be based on the relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28167 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23486; International Series Release No. 1162; 812–10998]

Formus Communications, Inc., et al.; Notice of Application

October 14, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: The order would permit applicants and certain of their controlled companies to participate in certain foreign telecommunication ventures without being subject to the provisions of the Act.

APPLICANTS: Forums Communications, Inc. (''Formus'') and Formus International, Inc. (''FII'').

FILING DATES: The application was filed on February 6, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 9, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 720 South Colorado

Boulevard, Suite 600N, Denver, Colorado 80246.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulations).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. Formus, a Delaware corporation, was organied in 1996 to acquire local multipoint distribution services (''LMDS'') licenses in the United States and comparable spectrum in certain international markets, and to build, own, and operate telecommunications systems based on these licenses. Formus conducts its foreign operations primarily through FII, a wholly-owned subsidiary. In the future, Formus may acquire and hold interests in foreign telecommunications ventures through subsidiaries other than FII.

2. FII, a Delaware corporation, is engaged through its subsidiaries in the acquisition, development, operation, and management of integrated voice, video, and data services through the development of LMDS and LMDS-like wireless networks in selected markets primarily outside the United States. At present, FII's primary focus is on doing business in European, Latin American and Asian/Pacific countries that have a market economy, stable political environment, and favorable regulatory framework. FII generally forms a separate subsidiary for each country in which it operates a LMDS system,[1] which then forms a subsidiary to acquire licenses and build and operate the LMDS system within the respective country. FII typically works with local partners who are knowledgeable about local governmental regulations and local business practices. FII currently holds interests in telecommunications entities in Ecuador, Poland, New Zealand and Germany.

3. Formus and FII request relief to permit them and each entity that is now or in the future controlled by, or under common control with, Formus or FII (each, including Formus and FII, a ''Covered Entity'') to engage, either directly or indirectly through subsidiaries, in certain foreign telecommunications ventures without being subject to the provisions of the Act. For purposes of the application, applicants represent that ''foreign telecommunications venture'' means any and all activities outside the United States involving: communications; media; the creation, storage, and transmission of analog or digital voice, video, or data; programming, including entertainment, news, information, and home shopping services; broadband and satellite distribution; over the air broadcast; telecommunications; wireless and wireline distribution and telephony; network construction; design, operation, and ownership of related transport construction; and any and all related similar activities, services, and assets.

4. Applicants participate in foreign telecommunications ventures in either of two ways. In one, an applicant, directly or through one or more other Covered Entities, invests in a foreign telecommunications company. ''Foreign telecommunications company,'' as used in the application, means any corporation, partnership, joint venture, association, joint stock company, limited liability company, or other form of organization (i) substantially all of whose operations are conducted outside of the United States, (ii) that owns the assets of a foreign telecommunications venture (which may consist of capital assets or stock of operating subsidiaries), and (iii) whose business primarily relates to, or whose operations consist primarily of, the ownership, development, and operation of, or the provision of managment or operational services relating to, foreign telecommunications ventures. An applicant, directly or through one or more other Covered Entities, acquires a substantial interest in the foreign telecommunications company, and provides active developmental assistance to the foreign telecommunications company. For purposes of the application, applicants represent that ''substantial interest'' means any ownership interest that represents at least a 10% economic or voting interest. In addition, applicants represent that ''active developmental assistance'' means material involvement in the creation, development or operation of, the provision of material managerial, advisory, technical, or operations services relating to, or significant input on material decisions affecting the development or operations of, a foreign telecommunications venture.

5. The second way applicants participate in foreign telecommunications ventures is to invest, either directly or through one or more other Covered Entities, in a telecommunications partnership. Applicants represent that, for purposes of the application, a ''telecommunications partnership'' means any partnership, joint venture, limited liability company or other unincorporated association (i) substantially all of whose operations are conducted outside the United States, and (ii) whose purpose is to acquire interests in, and to develop, operate, or provide management services to, one or more foreign telecommunications companies. Representatives of an applicant or other Covered Entity participate on the management committee or similar governing body of the telecommunications partnership. An applicant, directly or through one or more other Covered Entities, acquires a substantial interest in the telecommunications partnership which, in turn, directly or through one or more subsidiaries, acquires a substantial interest in one or more foreign telecommunications companies. An applicant or another Covered Entity, either directly or through the telecommunications partnership, would provide active developmental assistance to the foreign telecommunications ventures of the telecommunications partnership.

6. Applicants represent that providing ''active developmental assistance'' requires an applicant or other Covered Entity to be or have been materially involved in providing such assistance. Thus, an applicant or another Covered Entity may rely on the exemptive order even though it no longer provides active developmental assistance so long as it continues to have a substantial interest in the foreign telecommunications venture, which is past the developmental stage, and a Covered Entity provided active developmental assistance during the venture's developmental stage. Similarly, if a Covered Entity acquires a substantial interest in a foreign telecommunications venture after the development stage and a Covered Entity provides active developmental assistance to the foreign telecommunications venture, then the first Covered Entity may continue to rely on the exemptive order, even though active developmental assistance ceases, so long as the first Covered Entity continues to have a substantial interest in the venture, and (i) the business of the foreign telecommunications venture was significantly enhanced by the active developmental assistance of a Covered Entity or (ii) such foreign

[1] The subsidiary may be organized and operated in the United States.

telecommunications venture (x) is merged or combined with, or acquired by, a company in the same or a related business, or (y) effects an initial public offering of voting stock.

7. Applicants represent that Formus, FII, or another Covered Entity provides active developmental assistance to each foreign telecommunications venture in which it takes a substantial interest by either developing, conducting, or expanding the venture's operations. A Covered Entity gives assistance in four areas: network design and engineering; purchase of goods and services; recruitment and training of personnel; and the deployment and operations of telecommunication ventures.

8. Network design and engineering services may begin before a bid is submitted for an LMDS-like license, and continue until completion of network build out. LMDS systems are based on radio transmission of signals from one point to another. Therefore, transmitters, or ''cell sites,'' must be placed at strategic sites within a transmission area, or ''cell.'' To permit efficient transmission of signals, cell sites are typically on the tallest buildings within a cell. Employees of a Covered Entity, with the assistance of consultants hired and supervised by such employees, survey both the physical layout of a service area as well as the demographics of potential end-users within an area. The location of cell sites and the hardware and software used in building a particular network are based on the interplay between the physical area serviced (*i.e.*, the availability of appropriate cell sites) and the needs of the users in that area. For example, if a cell is dominated by businesses, network design will be different from the design for an area dominated by individual users. Design also takes into account any regulatory limitations. Applicants state, for example, that the license held in a particular country may be limited to television transmission while in another country it may cover any and all services that could be transmitted on a particular bandwidth. Another factor considered by the Covered Entity's employees is preexisting competition from other transmission systems (for example, cable television systems). System design also includes specifications for the ''central switching sites'' that control the flow of signals among cell sites.

9. Active developmental assistance also includes assistance with purchasing goods and services (including hardware and software) necessary in building an LMDS network. FII is currently negotiating bulk purchasing arrangements with a variety of vendors that it believes provide quality equipment, software, or services. In Formus' experience, most foreign telecommunications ventures do not have contacts or knowledge of the vendors of the necessary goods and services. These arrangements will make goods and services readily available, on prenegotiated terms and at discounted prices, to any foreign telecommunications venture in which a Covered Entity holds a substantial interest′.

10. Covered Entities also provide assistance with recruiting and training qualified senior personnel to operate a foreign telecommunications venture. To date, senior personnel of the applicants' foreign telecommunications ventures in Poland and New Zealand have been recruited from among former employees or consultants of the applicants. FII is currently establishing a training program which will permit it to bring key personnel of a foreign telecommunications venture to the United States for training in various aspects of the business, including engineering, installation, field maintenance, sales, and marketing and customer service.

11. Covered Entities also will provide assistance in deploying and operating the networks of foreign telecommunications ventures. This will include matters such as operating an in-country or regional net fault center (i.e., a computer system to monitor and identify faults in an operating network), oversight of administration, including field operations and the supervision of customer service personnel, maintenance of operating networks, provisioning of signal (i.e., developing computer programs to tell a network what facilities and capabilities are available to best provide a particular service requested by a particular customer), and the development and deployment of billing and financial systems and training personnel to operate them.

12. Applicants' participation in foreign telecommunications ventures with local or strategic partnerships is a result of both restrictions on ownership of foreign telecommunications ventures under the laws of many countries, as well as various benefits, both tangible and intangible, that an applicant may obtain from joining with strategic partners to create, develop and operate such ventures. Applicants' structure was not established for the purpose of creating an investment company within the contemplation of the Act. While applicants believe that today they are not required to register under the Act, they are seeking the requested relief as they are increasingly constrained in structuring their foreign telecommunications ventures by the requirements of the Act.

Applicants' Legal Analysis

1. Section 3(a)(1)(C) of the Act defines an ''investment company'' to include any issuer that is engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and owns investment securities having a value exceeding 40% of the value of the issuer's total assets (exclusive of Government securities and cash items). Section 3(a)(2) of the Act defines ''investment securities'' to include, in pertinent part, all securities except securities issued by majority-owned subsidiaries of the owner which are not investment companies and which are not excepted from the definition of investment company by section 3(c)(1) or section 3(c)(7). Section 2(a)(24) defines a ''majority-owned subsidiary'' of a person as a company 50% or more of the outstanding voting securities of which are owned by the person, or by a company which, with the meaning of section 2(a)(24), is a majority-owned subsidiary of the person.

2. Rule 3a–1 under the Act deems certain issuers that meet the statutory definition of investment company in section 3(a)(1)(C) of the Act not to be investment companies, provided the issuer meets certain criteria. An issuer can qualify for this exemption only if no more then 45% of its total assets consist of, and no more than 45% of its net income is derived from, securities other than, among others, securities of certain companies controlled primarily by the issuer.[2]

3. Applicants represent that they seek to acquire a majority voting interest in their foreign telecommunications ventures or, where such an interest is not permitted under applicable foreign investment laws or is inadvisable for business reasons, seek to acquire interests that grant them primary control. Applicants assert that these ownership thresholds are prohibitively large, as the applicants often seek to join with two or three strategic partners in a foreign telecommunications venture. Applicants represent that each partner typically desires an interest in, and rights over, the venture that is equal to that of the other partners. Hence, applicants state that the acquisition of a

[2] ''Primary control'' under rule 3a–1 means a degree of control that is greater than that of any other person. *See* Health Communications Services, Inc. (pub. avail. Apr. 26, 1985).

majority interest, or the largest interest, in a foreign telecommunications venture is often impossible.

4. Applicants state that they may participate in a foreign telecommunications venture through a ''joint venture,'' in which an applicant's interest may not be a ''security'' for purposes of the Act. However, applicants state that whether an arrangement is a joint venture is sometimes difficult to determine.

5. Applicants assert that the need to structure their participation in foreign telecommunications ventures in a manner that complies with the Act has resulted in severe constraints on their ability to operate effectively and efficiently and grow their business. Applicants state that if a Covered Entity is unable to obtain either a majority interest or primary control for purposes of section 3(a)(1)(C) or rule 3a–1, or a degree of control that will allow it to obtain an opinion of counsel that it can classify its participation as a joint venture interest, then the Covered Entity most likely will abstain from participating in that foreign telecommunications venture.

6. Applicants also state that as a venture grows out of the development stage, it will often seek to expand its businesses through acquisitions, or will seek public financing. Applicants note that these goals are often in direct conflict with the Covered Entity's need to maintain its ownership interest at a level that permits the interest to be classified as a non-investment security. Applicants submit that this can result in serious delays in the development of their foreign telecommunications ventures, as they seek to structure transactions around the requirements of the Act. Applicants state that at times, especially when the Covered Entity's interest would fall below the level of presumptive control as set forth in section 2(a)(9) of the Act, the Covered Entity may have to deny the foreign telecommunications venture permission to undertake a transaction that would have been in the best interest of the Covered Entity and that venture.

7. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act or any rule or regulation under the Act, if and 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 policy and provisions of the Act. Applicants request an order under section 6(c) to permit applicants and the other Covered Entities to engage, directly or through subsidiaries, in foreign telecommunications ventures without being subject to the Act.

8. Applicants believe that the requested exemption is necessary and appropriate in the public interest. Applicants assert that their interests in the foreign telecommunications ventures, unlike the assets of investment companies, are not liquid, mobile or otherwise readily negotiable because Formus, directly or indirectly, will be actively and materially involved in the business activities of the foreign telecommunications ventures. Applicants also state that they are not a so-called ''special situation'' investment company that takes a controlling position in other issuers primarily for the purpose of making a profit in the sale of the controlled company's securities. Instead, applicants state that the Covered Entities will provide active developmental assistance for the purpose of participating in the profits from the foreign telecommunications ventures. Applicants maintain that their active developmental assistance, which requires personnel with expertise in planning, operating, managing, and providing services to a foreign telecommunications venture, requires resources far beyond those available to the manager of an investment company. Accordingly, applicants assert that the Covered Entities engage in business activities that do not entail the types of abuses that the Act was designed to address.

9. Applicants believe that the requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requirements of their business, their strategy that each Covered Entity own or hold directly or indirectly a substantial interest in a foreign telecommunications company or partnership, and their representation that each Covered Entity will provide active developmental assistance to a foreign telecommunications ventures demonstrate that none of the applicants is of the type that engages in the activities which the Act was designed to address.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. No covered Entity that proposes to rely on the requested relief will hold itself out as being engaged in the business of investing, reinvesting, or trading in securities.

2. A Covered Entity may rely on the order granting the requested relief only if the manner in which it is involved in foreign telecommunications ventures does not differ materially from that described in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28168 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–91–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23488; 812–11312]

The Victory Portfolios and Key Asset Management, Inc.; Notice of Application

October 15, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 19940 (the ''Act'') for an exemption from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would supersede a prior order and permit applicants to implement a ''fund of funds'' arrangement. In addition to the fund and funds investing in other funds in the same group of investment companies, the order would permit the fund of funds to invest a portion of its assets in funds that are not part of the same group of investment companies in reliance on section 12(d)(1)(F) of the Act. The order would also allow the funds of funds to offer its shares to the public with a sales load that exceeds the 1.5% limit of section 12(d)(1)(F)(ii).

APPLICANTS: The Victory Portfolios (''VP'') and Key Asset Management, Inc. (''KAM'').

FLING DATE: The application was filed on September 18, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail, Hearing requests should be received by the Commission by 5:30 p.m. on November 9, 1998 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street N.W., Washington, DC 20549. Applicant, 3435 Stelzer Road, Columbus, Ohio 43219.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or Nadya B. Roytblat, Assistant Director at (202) 942–0564, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street N.W., Washington, D.C. 20549 (tel 202–942–8090).

Applicants' Representations

1. VP is a Delaware business trust registered under the Act as an open-end management investment company currently consisting of 30 portfolios. KAM, registered under the Investment Advisers Act of 1940, serves as investment adviser to VP.

2. Applicants request relief to permit certain series of VP (the ''Direct Funds'') to invest in certain other series of VP that are in the same group of investment companies as the Direct Funds (the ''Underlying Portfolios'').[1] The Direct Funds also would invest in other registered open-end management investment companies that are not part of the same group of investment companies as VP (the ''Other Portfolios'') in reliance on section 12(d)(1)(F) of the Act discussed below. With respect to a Direct Fund's investment in Other Portfolios, applicants also seek an exemption from the sales load limitation in section 12(d)(1)(F) of the Act. Applicants believe that the proposed structure of the Direct Funds will provide a consolidated and efficient means through which investors can have access to a comprehensive investment vehicle.[2]

[1] The requested order would supersede a prior order, Key Mutual Funds, et al., Investment Company Act Rel. 22486 (January 30, 1997 (notice) and 22526 (February 25, 1997) (order).

[2] Applicants also request relief for each registered open-end management investment company that currently, or in the future, is part of the same ''group of investment companies'' as the Direct Funds as defined in section 12(d)(1)(G)(ii) of the Act. All registered open-end management investment companies which currently intend to rely on the order are named as applicants. Any registered open-end management investment company that relies on the order in the future will do so only in accordance with the terms and conditions of the application.

Applicants' Legal Analysis

Section 12(d)(1) of the Act

1. Section 12(d)(1)(D) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) shall not apply to the securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and the acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) by a securities association registered under section 15A of the Securities Exchange Act of 1934, or the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trust in reliance on section 12(d)(1)(F) or (G). Section 12(d)(1)(G)(ii) defines the term ''group of investment companies'' to mean any two or more registered investment companies that hold themselves out to investors as related companies for purposes of investment and investor services. Because the Direct Funds will invest in shares of the Other Portfolios, they cannot rely on the exemption from sections 12(d)(1)(A) and (B) afforded by section 12(d)(1)(G).

3. Section 12(d)(1)(F) of the Act provides that section 12(d)(1) shall not apply to an acquiring company if the company and its affiliates own no more than 3% of an acquired company's securities, provided that the acquiring company does not impose a sales load of more than 1.5% of its shares. In addition, the section provides that no acquired company is obligated to honor any acquiring company redemption request in excess of 1% of the acquired company's securities during any period of less than 30 days, and the acquiring company must vote its acquired company shares either in accordance with instructions from its shareholders or in the same proportion as all other shareholders of the acquired company. The Direct Funds will invest in Other Portfolios in reliance on section 12(d)(1)(F). If the requested relief is granted, shares of the Direct Funds will be sold with a sales load that exceeds 1.5%.

4. Section 12(d)(1)(J) provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors.

5. Applicants request relief under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1) (A) and (B) to permit the Direct Funds to invest in the Underlying Portfolios and from section 12(d)(1)(F) to permit the Direct Funds to sell shares to the public with a sales load that exceeds 1.5%.

6. Applicants state that the Direct Funds' investments in the Underlying Portfolios do not raise the concerns about undue influence that sections 12(d)(1) (A) and (B) were designed to address. Applicants further state that the proposed conditions would appropriately address any concerns about the layering of sales charges or other fees.

7. The Direct Funds will invest in Other Portfolios only within the limits of section 12(d)(1)(F). Applicants believe that an exemption from the sales load limitation in that section is consistent with the protection of investors because applicants' proposed sales load limit would cap the aggregate sales charges of the Direct Fund and the Other Portfolio in which it invests. Applicants have agreed, as a condition to the relief, that any sales charges, asset-based distribution and service fees relating to the Direct Fund's shares, when aggregated with any sales charges, asset-based distribution and service fees paid by the Direct Fund relating to its acquisition, holding, or disposition of shares of the Underlying Portfolios and Other Portfolios, will not exceed the limits set forth in Rule 2830 of the Conduct Rules of the National Association of Securities Dealers (''NASD Conduct Rules'').

Section 17(a) of the Act

8. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company. Applicants submit that the Direct Funds and Underlying Portfolios may be deemed to be affiliated persons of one another by virtue of being under common control of KAM, or because the Direct Funds own 5% or more of the shares of an Underlying Portfolio. Applicants state that purchases and redemptions of shares of the Underlying Portfolios by the Direct Funds could be deemed to be principal transactions between affiliated persons under section 17(a).

9. Section 17(b) provides that the Commission shall exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

10. Section 6(c) of the Act provides that the Commission may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Direct Funds to purchase and redeem shares to the Underlying Portfolios.

11. Applicants state that the terms of the proposed transactions will be reasonable and fair and will not involve overreaching because shares of Underlying Portfolios will be sold and redeemed at their net asset values. Applicants also state that the investment by the Direct Funds in the Underlying Portfolios will be effected in accordance with the investment restrictions of the Direct Funds and will be consistent with the policies as set forth in the registration statement of the Direct Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. All Underlying Portfolios will be part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Direct Funds.

2. No Underlying Portfolio or Other Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Portfolio or Other Portfolio (a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Portfolio or Other Portfolio to (i) acquire securities of one or more affiliated investment companies for short-term cash management purposes; or (ii) engaged in interfund borrowing and lending transactions.

3. Any sales charges, distribution-related fees, and service fees relating to the shares of the Direct Funds, when aggregated with any sales charges, distribution-related fees, and service fees paid by the Direct Funds relating to their acquisition, holding, or disposition of shares of the Underlying Portfolios and Other Portfolios, will not exceed the limits set forth in rule 2830 of the NASD Conduct Rules.

4. Before approving any advisory contract under section 15 of the Act, the boards of directors/trustees of the Direct Funds, including a majority of the directors/trustees who are not ''interested persons,'' as defined in section (2)(a)(19), will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio or Other Portfolio advisory contract. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Direct Funds.

5. Each Direct Fund will comply with section 12(d)(1)(F) in all respects except for the sales load limitation of section 12(d)(1)(F)(ii).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28166 Filed 10–20 –98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40550; File No. SR–CHX–98–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Chicago Stock Exchange, Inc. Relating to the Submission of Written Statements by Respondents In Disciplinary Investigations, or ''Wells Submissions''

October 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4(e)(6) thereunder,[2] notice is hereby given that on October 7, 1998, the Chicago Stock Exchange, Incorporated (''CHX'' or the ''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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add interpretation and policy .01 to Rule 1 of Article XII of the Exchange's Rules to codify the Exchange's practice of permitting, but not requiring, the Exchange staff to notify persons that they are the subject of an investigative report and give those persons the opportunity to submit a written statement prior to the CHX president's review of the investigative report to determine whether charges should be brought (a so-called Wells Submission).[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b(e)(6).

[3] The CHX notes that its disciplinary procedures are currently being amended to change the person reviewing the report from the CHX President to an Initial Determination Panel. *See* SR–CHX–96–31. Upon approval by the Commission, this new interpretation will apply to current procedures, as well as procedures existing after the approval of SR–CHX–96–31.

The text of the proposed rule change is set forth below (additions are italicized):

ARTICLE XII

Discipline and Trial Proceedings

Rule 1

Interpretations and Policies:

.01 Notice and Statement. Prior to making a report pursuant to paragraph (a) of this Rule 1, the staff may notify the person(s) who is (are) the subject of the report (''Subject'') of the general nature of the allegations and of the specific provisions of the Exchange Act, rules and regulations promulgated thereunder or constitutional provisions, by-laws or rules of the Exchange or any interpretation thereof or any resolution of the board regulating the conduct of business on the Exchange, that appear to have been violated. The Subject(s) may, within the time frame set forth in the notice from the staff, then submit a written statement to the Exchange setting forth their interests and position in regard to the subject matter of the investigation. To assist a Subject in preparing such a written statement he or she shall, upon request, have access to any documents and other materials in the investigative file of the Exchange that were furnished by him or her or his or her agents to the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to codify the Exchange's practice of permitting Wells Submissions in connection with its disciplinary process. Prior to submitting any investigative report in which the staff of the Exchange submits that there is a reasonable basis to believe a violation within the disciplinary jurisdiction of the Exchange has occurred, the staff may, but is not required to, notify the person who is the subject of the report (the ''Subject'') of the pending investigation. This notice includes the general nature of the allegations and the specific rule or by-law that appears to have been violated. If the staff provides such notice, the Subject will generally then submit a written statement to the staff setting forth his or her interests and positions regarding the subject matter of the investigation.[4] This written statement is usually referred to as a Wells Submission and is used by the Commission and other self-regulatory organizations in their enforcement programs. The Exchange has, in the past, accepted Wells Submissions and is now merely codifying such practice within its rules.[5] The current policy, as codified, gives the Subject notified of a pending disciplinary investigation a reasonable period of time, depending on the circumstances of the matter, to comment on the notice and proposed disciplinary action. The deadline for the responsive Wells Submission will be included in the notice to the Subject. If such a response is received within the timeframe set forth in the notice, the staff will include the Wells Submission with its report to the CHX President (or, upon approval of SR–CHX–96–31, to the Initial Determination Panel). The staff, of course, reserves the right to amend its report to respond to the arguments raised in the Wells Submission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Act, in general, and furthers the objectives of Section 6(b)(7),[7] in particular, by providing a fair procedure for the disciplining of members and persons associated with members by codifying the existing practice permitting the Exchange to (a) notify members and associated persons of their involvement in a disciplinary investigation, and (b) permit members and associated persons an opportunity to comment upon such notice prior to the commencement of enforcement proceedings.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from October 7, 1998, the date on which it was filed and, since the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (e)(6) of Rule 19b–4 thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appopriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solictation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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

[4] Several additional non-substantive textual changes were also provided by telephone call on October 8, 1998. Telephone call between Kirsten M. Carlson, Foley & Lardner, and Anitra T. Cassas, Division of Market Regulation, Commission.

[5] *See* Chicago Board Options Exchange Rule 17.2(d), Philadelphia Stock Exchange Rule 960.2(e), and proposed Cincinnati Stock Exchange Rule 8.2(d) which are all similar to this rule, except that those rules require the staff of those exchanges to provide notification of pending disciplinary investigations. The proposed CHX rule permits, but does not require, the staff to provide such notification. The permissive nature of the proposed CHX rule is similar to current Commission procedures and is consistent with the NASD's policy, as addressed in connection with its recently revised disciplinary procedures. *See* NASD Notice to Members 97–55.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(7).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(e)(6).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to the File No. SR–CHX–98–23 and should be submitted by November 12, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28198 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40553; File No. 4–208]

Intermarket Trading System; Order Approving Thirteenth Amendment to the ITS Plan Relating to the Elimination of the Requirement That the Cincinnati Stock Exchange, Inc. Submit Proposed Rule Changes to its Rule 11.9 or the Description of NSTS Processing to Other ITS Participants for Review and Comment Prior to Filing Such Changes With the Securities and Exchange Commission, and Making Certain Technical Changes

October 14, 1998.

I. Introduction

On August 17, 1998, the Intermarket Trading System (''ITS'') submitted to the Securities and Exchange Commission (''Commission'') an amendment (''Thirteenth Amendment'') to the Restated ITS Plan (''Plan'')[1] pursuant to Section 11A of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[2] and Rule 11Aa3–2 thereunder[3] to eliminate the requirement that the Cincinnati Stock Exchange, Inc. (''CSE''), submit proposed rule changes to its Rule 11.9 or the description of National Securities Trading System (''NSTS'') processing to other ITS Participants for review and comment prior to filing such changed with the Commission, and to make certain technical changes. The proposed plan amendment was published for comment in the **Federal Register** on September 3, 1998.[4] No comments were received on the proposal. For the reasons discussed below, the Commission is approving the proposal.

The ITS is a communications and order routing network linking eight national securities exchanges and the electronic over-the-counter (''OTC'') market operated by the National Association of Securities Dealers, Inc. (''NASD''). The ITS was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets.

Participants to the ITS Plan include the American Stock Exchange, Inc., (''Amex''), the Boston Stock Exchange, Inc., (''BSE''), the Chicago Board Options Exchange, Inc. (''CBOE''), the Chicago Stock Exchange, Inc. (''CHX''), the CSE, the NASD, the New York Stock Exchange, Inc. (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''PHLX'').

II. Description

The purpose of the amendment is to: (1) eliminate the requirement that the CSE submit proposed changes to its Rule 11.9 or the description of NSTS processing to other ITS Participants for review and comment prior to filing such changes with the Commission; (2) recognize the change in corporate name from the Pacific Stock Exchange, Inc. (''PSE'') to the Pacific Exchange, Inc. (''PCX''); (3) change the corporate address of the CSE; and (4) make a technical correction to Section 8(e)(iv)(D).

The change concerning prior review of CSE rule changes responds to the Commission's request in its letter to all Participants, dated may 27, 1997.[5]

III. Discussion

The Commission finds that the proposed amendments to the Plan are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national market system plan, and, in particular, with the requirements of Section 11A.[6] Specifically, the Commission believes the proposal is consistent with the requirements of Sections 11A(a)(1)(C)(ii) and (D)[7] which provide for fair competition among the ITS Participants and their members, and the linking of all markets for qualified securities through communications and data processing facilities which foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to the best execution of such orders. The Commission also finds that the amendment is consistent with Rule 11Aa3–2(c)(2)[8] which requires the Commission to determine that the amendment is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

The ITS Plan currently provides a special right of review to ITS Participants for proposed rule changes involving the operating of the CSE's NSTS. NSTS, described in CSE Rule 11.9, is an electronic securities communications and execution system through which bids and offers of public orders and competing dealers are consolidated for review and execution. Under ITS Plan Section 8(e)(iii), any rule, interpretation, or amendment to CSE Rule 11.9, or the description of the NSTS, cannot be submitted by the CSE for Commission approval until other ITS Participants have been afforded a reasonable opportunity to review and comment on the interpretation or amendment. The Commission notes that when the NSTS–ITS link was approved in 1986, the novel nature of NSTS provided some support for this approach. The Commission believes, however, that eliminating the special right of review is appropriate because such review permits other Participants to hinder the CSE from improving its market without prior notice to and comment from its market competitors. Other markets do not have a similar impediment to adjusting their trading systems. The Commission further notes that any system changes to NSTS must be filed with the Commission, and market participants may present any views they have during the comment period.[9] In addition, the Commission notes that the ITS Participants have acted to eliminate this review requirement in response to the Commission's request.[10] Therefore, the Commission believes that the proposed

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[10] 17 CFR 200.30–3(a)(12).

[1] The ITS Plan is a National Market System (''NMS'') plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2. Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938.

[2] 15 U.S.C. 78k–1.

[3] 17 CFR 240.11Aa3–2.

[4] Exchange Act Release No. 40373 (August 27, 1998), 63 FR 47050.

[5] *See* letter from Jonathan G. Katz, Secretary, Commission, to ITS Participants, dated May 27, 1997 (''ITS Letter'').

[6] U.S.C. 78k–1.

[7] U.S.C. 78k–1(a)(1)(C)(ii) and (D).

[8] 17 CFR 240.11Aa3–2(c)(2).

[9] The Commission wishes to point out that this filing requirement for systems changes applies equally to all self-regulatory organizations.

[10] *See* ITS Letter, *supra* note 5.

change to the Plan to eliminate the special right of review of CSE rule changes is reasonable and consistent with the Act because it will eliminate an unfair and anti-competitive burden on the CSE.

The Commission also finds that the additional, technical amendments to the Plan provided in the proposal are reasonable and consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A(a)(3)(B) of the Act,[11] that the amendment be, and hereby is, approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28170 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78k–1(a)(3)(B).

[12] CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40552; SR–DTC–98–16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of a Proposed Rule Change Modifying the Initial Public Offering Tracking System

October 14, 1998

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 19, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, DTC will modify its Initial Public Offering (''IPO'') tracking system. Specifically, DTC will process resales by institutional customers of shares in new issues that are being tracked through the IPO tracking system without first determining the identity of the syndicate members that distributed the shares being resold. In addition, DTC will begin to fill stock loans of shares in new issues with shares purchased in the secondary market prior to using shares received in the initial distribution.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Resales of IPO Shares by Institutions

The IPO tracking system[4] allows lead managers of new issues to monitor ''flipping''[5] of shares in new issues that are distributed by book-entry through DTC rather than by use of certificates. When a lead manager in an IPO notifies DTC of its decision to use the IPO tracking system, the system establishes a database of information about the customers who purchased the IPO shares (''IPO database''). Before DTC processes a resale of IPO shares, the redelivering participant is required to provide information about its customer which is then compared with the customer detail in the IPO database so that DTC can determine and report to the lead manager the identity of the syndicate member(s) whose customer has resold IPO shares.

When IPO shares are sold by a retail customer, the customer detail used is normally provided by the same participant that populated the IPO database (*i.e.*, the syndicate member). Therefore, it is unlikely for the processing of a resale of IPO shares to be delayed because of a failure to match the identity of the reselling customer with any of the customers included in the IPO database.

When the IPO shares are distributed to an institutional customer, the syndicate member making the distribution is rarely the same participant that acts as an institution's agent for settlement. As a result, before DTC will process an institutional customer's resale of IPO shares, the IPO tracking system must match customer detail provided by the redelivering participant (*i.e.*, the institution's agent) with customer detail included in the IPO database by the syndicate member.

DTC believes that many redeliveries of IPO shares for institutional customers during the period from three days prior to closing to three days after closing are not being processed efficiently because the customer detail provided by the institution's agent does not match any customer in the IPO database.[6] Usually, a mismatch occurs because incorrect customer account information (*e.g.*, missing digits or transposed characters) was entered into the IPO database and does not match the customer account information entered by the reselling institution's agent.[7] A failure to match may also occur when on the day an issue closes an institution's agent attempts to redeliver IPO shares that were not distributed to its participant account until late in the processing day.[8]

Therefore, DTC is proposing to process resales by institutional customers of shares in new issues that are being tracked through the IPO tracking system without first determining the identity of syndicate members that distributed the shares being resold. DTC intends for the

[1] 15 U.S.C. 78s(b)(1).

[2] DTC has prepared written procedures concerning resales by institutions and stock loans to implement the proposed rule change. The complete text of these procedures is attached as Exhibit 2 to DTC's filing, which is available for inspection and copying at the Commission's public reference room and through DTC.

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] For a detailed description of the IPO tracking system, refer to Securities Exchange Act Release No. 37208 (May 13, 1996) (order approving proposed rule change).

[5] Flipping occurs when a syndicate's lead manager is supporting an IPO with a stabilization bid (*i.e.*, the lead manager is purchasing shares in the secondary market in order to keep the price of the issue from dropping below its initial offering price), and shares in the IPO that had been distributed to investors are resold by those investors in the secondary market to a syndicate member. The lead manager may wish to identify flipped transactions so that underwriting concessions (*i.e.*, the discount from the offering price received by syndicate members) can be recovered from the appropriate syndicate members.

[6] Because shares in new issues can be traded on a when-issued basis, the IPO tracking system allows participants to enter redeliveries of IPO shares as early as three business days prior to the date the issue closes and is distributed through the depository.

[7] In order for processing of the redelivery to be effected in a timely manner, the institution's agent must immediately react to the mismatch either by reclaiming the IPO shares to the syndicate member that distributed the shares to the institution and requesting that the customer account information be corrected or by making adjustments to the IPO database itself.

[8] Ordinarily, assuming the agent has sufficient position in an issue, the redelivery would be effected. However, if an issue is being tracked, the redelivery will fail because account information relating to its reselling institutional customer is not yet resident in the IPO database.

proposed rule change to eliminate inefficiencies in the IPO tracking system that may unnecessarily cause redeliveries of IPO shares to fail. DTC believes that even with the proposed modification, a lead manager should in most cases be able to determine the identity of the syndicate member(s) whose institutional customer has resold IPO shares.[9]

2. Stock Loans

Currently, when a participant that has received a distribution of shares in an issue that is being tracked makes a stock loan in that issue, the system attempts to fulfill that delivery by first using shares received during the initial distribution. DTC then reports these transactions to the lead manager. Under the proposed rule change, DTC will attempt to satisfy the stock loan by first using the lending participant's ''secondary market shares'' (*i.e.*, shares previously reported to the lead manager as having been ''flipped'' or shares purchased by the participant in the secondary market). As a result, stock loan transactions will not be reported to the lead manager to the extent that they are processed using secondary market shares. The purpose of this proposal is simply to eliminate unnecessary reporting.

DTC believes that the proposed rule change is consistent with Section 17A of the Act[10] and the rules and regulations thereunder because it will eliminate inefficiencies in the system. In addition, DTC believes that the availability of the IPO tracking system reduces the costs, risks, and delays associated with the physical delivery of certificates.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition 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 proposed rule change is supported by the IPO Tracking Industry Working Group, an industry group representing underwriters and custodian banks that meets monthly with DTC to discuss the operation of the IPO tracking system.

[9] DTC has informed the Commission that the IPO tracking system will continue to try to determine the identity of the syndicate members whose institutional customer has resold IPO shares.

[10] 15 U.S.C. 78q–1.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it funds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof 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 in 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 DTC. All submissions should refer to File No. SR–DTC–98–16 and should be submitted by November 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28169 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40549; File No. SR–NSCC–98–11]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change to Modify NSCC's Rules Regarding Its Mutual Fund Services Transfer Service

October 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on July 30, 1998, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–98–11) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. 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 proposed rule change will modify NSCC's procedures regarding its Mutual Fund Services transfer service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A),(B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will modify NSCC's rules regarding its Mutual Fund Services transfer service. The Mutual Fund Services transfer service enables fund members and mutual fund processors to transfer between each other the value of Fund/Serv eligible mutual fund shares or UIT units on an automated basis.

The proposed rule change will enable NSCC to implement a request by a users

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by NSCC.

advisory group to modify Section 21(c) of NSCC's Rule 52A so that the time frame between a delivering fund member's acknowledgment and confirmation is shortened thereby permitting ore expeditious transfers. Currently, a delivering fund member that has acknowledged a transfer request must confirm the value of the Fund/SERV eligible mutual fund shares or UIT units to be transferred by submitting a confirmation to NSCC no earlier than two days and no later than sixty business days after the submission of an acknowledgment. The proposed rule change will permit the delivering fund member to submit a confirmation no earlier than one day and, as is the case today, no later than sixty business days after the submission of an acknowledgment. The users advisory group has informed NSCC that a one day time frame is sufficient for the submission of a confirmation. NSCC will notify members by Important Notice of the specific implementation date, which is expected to be in December 1998.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder since it will facilitate the prompt and accurate clearance and settlement of securities transactions and, in general, will protect investors and the public interest.

(B) Self-Regulatory Organization's Statement of Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Acting

Within thirty-five days of the date of publication of this notice in the **Federal Register** within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so findings or (ii) as to which the NSCC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof 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 in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–98–11 and should be submitted by November 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28194 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40539; File No. SR–NYSE–98–31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. to Amend Rule 46 to Increase the Number of Floor Governors

October 9, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on September 30, 1998, the New York Stock Exchange, Inc. (''NYSE'' 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Rule 46 to increase the number of Floor Governors. The text of the proposed rule change is available at the Office of the Secretary, NYSE and is available at the Commission

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The increase in trading volume and number of listed securities in recent years has resulted in higher demand for the services of Floor governors who are responsible for overseeing unusual market situations on the trading Floor. Therefore, to maintain sufficient levels of Floor Governor supervision and timely response, the Exchange proposes to amend Rule 46 to increase the number of Floor Governors from 16 to 20. The last increase in Floor Governors occurred in 1980 when the number was increased from 14 to 16. The Exchange believes the proposed rule change will permit its Floor Governors to perform more effectively those duties prescribed in the rules relating to supervisions and regulation of Floor matters.

In addition to the increase in the number of Floor Governors, the Exchange proposes to correct a typographical error in Rule 46. The last sentence in the first paragraph of Rule 46 should read, in relevant part, ''who shall be empowered to perform any duty, make any decision or take[n] any action assigned to or required of a Floor

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

Director. . . .'' (Brackets indicate deletions.)[2]

2. Statutory Basis

The proposed rule change relates to Section 6(b)(1) of the Act[3] in that it will permit the Exchange, through its Floor Governors, to perform more effectively those duties prescribed in the rules relating to supervision and regulation of Floor matters.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule change is concerned solely with the administration of the Exchange and, as such, may take upon filing with the Commission pursuant to Section 19(b)(3)(A)(iii)[4] of the Act and Rule 19b–4(e)(3) under the Act.[5] This designation is based on the fact that the rule change relates solely to the increase in the number of Floor Governors performing duties prescribed in the rules concerning supervision and regulation of Floor matters. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[6] 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–31 and should be submitted by November 12, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28195 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

[2] Telephone call between Donald Siemer, Director, NYSE Market Surveillance, and Joseph P. Corcoran, Division of Market Regulation, Commission.

[3] 15 U.S.C. 78f(b)(1).

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(e)(3).

[6] In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40551; File No. SR–PCX–98–36]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Pacific Exchange, Inc., Relating to the OptiMark System—Specialists Bids and Offers

October 14, 1998.

I. Introduction

On July 2, 1998, the Pacific Exchange, Inc. (''PCX'' or the ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would require Specialists to ensure that their best bids and offers will be represented in the OptiMark System.

On August 27, 1998, the proposed rule change was published for comment in the **Federal Register.**[3] The Commission received one comment letter on the proposal.[4]

This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt new Rule 15.3(b) to require PCX Specialists to use the PCX Application of the OptiMark System (''PCX Application'') with respect to the bids and offers that they publish. The purpose of the rule is to facilitate best execution of customer orders by requiring PCX Specialists to include best bids and offers in the OptiMark System as Profiles. Specifically, proposed Rule 15.3(b) provides that PCX Specialists must ensure that at all relevant times during regular trading hours, their best bids and offers (whether reflecting limit orders or the Specialist's own interest) will be included in the OptiMark System. Once included, such trading interest is expected to interact with other trading interest, resulting in improved execution opportunities on the PCX. The Exchange believes that the rule change will facilitate interaction between the PCX Application and existing trading interest on the PCX floors, thereby promoting more efficient and effective market operations.

The Exchange is also proposing to modify PCX Rule 15.2 by adding the following provision: ''The Exchange will assure that each Specialist is provided with appropriate access to the PCX Application for the purpose of submitting Profiles from the Specialist's Post.''

III. Discussion

After careful review, the Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposed rule change is consistent with Section 11A(a)(1)(C)(iii) and (iv) of the Act. Congress found in those provisions that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure that availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure

[1] 15 U.S.C. 78s(b)(1).

[2] 17 U.S.C. 19b–4.

[3] Securities Exchange Act Release No. 40348 (August 20, 1998), 63 FR 45892.

[4] Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jonathan G. Katz, dated September 16, 1998. In the comment letter, the NYSE took no position on whether the Commission should approve PCX's proposal. NYSE noted, however, that the filing does not address the NYSE's concerns regarding proposed amendments to the plan governing the Intermarket Trading System to accommodate the OptiMark System and the PCX Application.

the practicability of brokers executing investors' orders in the best market.[5] The proposed rule change will assure the availability of information with respect to quotations because it requires specialists to enter best bids and offers (whether their own or those of customers) into the OptiMark System at all relevant times during regular trading hours. Similarly, because customer limit orders as well as the Specialist's own bids and offers must be entered into the OptiMark System, there will be an opportunity for price improvement for quotations in the OptiMark System.

In addition, the Commission believes the proposal is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange not be designed to discrimination against broker-dealers issuers and others using the Exchange because each PCX Specialist must be provided with appropriate access to the PCX Application at the Specialist's Post.[7]

In approving the proposal, the Commission is not suggesting that PCX Specialists' use of the OptiMark System satisfies those specialists' best execution obligations. By enhancing the investment choices available to investors over a broad range of trading scenarios, however, the proposal should help to ensure that investors that trade through PCX have a enhanced opportunity to obtain better prices for their securities transactions.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (PCX–98–36) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28196 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78k–1(a)(1)(C) (iii) and (iv).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving these rules, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40548; File No. SR–PCX–98–50]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. to Make the LMM Book Pilot Program Permanent

October 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by PCX. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is proposing to modify PCX Rule 6.82 to make the LMM Book Pilot Program permanent. Proposed new language is in *italics*; proposed deletions are in [brackets].

Text of the Proposed Rule Change

Lead Market Makers

¶5181

Rule 6.82(a)–(h), No Change.

Commentary:

.01.—.02., No Change.

[.03. The provisions of Rule 6.82(h) are subject to a pilot program, which is set to expire on October 12, 1998.]

.03. [.04.], No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In it filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background. The Commission approved the Lead Market Maker (''LMM'') Book Pilot Program on October 11, 1996,[3] Under the program, a limited number of LMMs are able to assume operational responsibility for the options limit order book (''Book'') in certain options issues.[4] The approved LMMs manage the Book function, take responsibility for trading disputes and errors, set rates for Book execution, and pay the Exchange a fee for systems and services. The program allows LMMs to have greater control over their operations by allowing them to set their own rates for execution services provided to customers.

In April 1997, the Commission approved an Exchange proposal to expand the scope of the pilot program to allow up to nine LMMs to participate and up to 150 symbols to be used.[5] In September 1997, the Commission approved PCX's request to extend the pilot program for one year.[6] In addition, the Commission approved inclusion of non-multiply-listed options issues in the program in February 1998; elimination of the cap on the number of symbols that may be used under the program in May 1998; and elimination of the cap of the number of LMMs that may participate in the program in August 1998.[7] The program currently has 10 LMM participants that are collectively trading 155 options issues (and 194 option symbols) as part of the pilot program.

Proposal. PCX is proposing to make the LMM Book Pilot Program permanent. The Exchange believes the program is operating successfully and without any problems, and on that basis, the Exchange believes that making the LMM Book Pilot Program permanent is warranted. The Exchange submitted a report on September 28, 1998, as requested by the Commission in Exchange Act Release No. 37810, which related to the one year extension of the pilot program approved in September

[3] *See* Exchange Act Release No. 37810 (October 11, 1996), 61 FR 54481 (October 18, 1996).

[4] *Id.*

[5] *See* Exchange Act Release No. 38462 (April 1, 1997), 62 FR 16886 (April 8, 1997).

[6] *See* Exchange Act Release No. 39106 (September 22, 1997), 62 FR 51172 (September 30, 1997).

[7] *See* Exchange Act Release Nos. 39667 (February 13, 1998), 63 FR 9895 (February 26, 1998); 40020 (May 21, 1998), 63 FR 29286 (May 28, 1998); and 40328 (August 17, 1998), 63 FR 45276 (August 25, 1998).

1997.[8] The report indicated that the Exchange had received no formal complaints on the operation of the pilot since the previous report. Moreover, the Exchange found no significant impact from the pilot on bid/ask spreads, depth, and continuity in the Exchange's options markets.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to perfect the mechanism of a free and open market, to promote just and equitable principles of trade, to facilitate transactions in securities, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–98–50 and should be submitted by November 12, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that PCX's proposal to make the LMM Book Pilot Program permanent is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commissions finds that the proposal is consistent with Section 6(b)(5)[11] of the Act.

Section 6(b)(5) requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to protect investors and the public interest and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Commission believes that the proposal is consistent with these provisions of the Act because it is designed to give LMMs greater control over their operations on the Exchange floor while maintaining sufficient safeguards to permit proper Exchange oversight of the LMMs managing the Book function.[12]

The Commission notes that the LLM Book Pilot Program has been in operation two years without significant problems and may have resulted in cost savings to customers in Book execution charges while improving the Exchange's competitiveness.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication. The Commission notes when the LMM Book Pilot Program was initially proposed, notice was published in the **Federal Register** for the full 21-day comment period without any comments being received by the Commission.[13] Moreover, amendments to the LMM Book Pilot Program did not generate public comment.[14] Finally, the Commission believes it is important to ensure that the proposal runs without interruption. As a result, it is approved permanently.

It is therefore ordered, pursuant to Section 19(b)(2)[15] of the Act that the proposed rule change (SR–PCX–98–50) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–28197 Filed 10–20–98; 8:45 am]

Billing Code 8010–01–M

[8] *See* n. 3 above.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* n. 3 above (order approving pilot and noting that, among other safeguards, the Exchange's Options Allocation Committee will evaluate LMMs at least semiannually.)

[13] *See,* n. 3 above.

[14] *Id.*

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200:30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40557; File No. SR–Phlx–97–55]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Establishing an Enhanced Parity Split Pilot Program for Specialists in Foreign Currency Options Effective Until October 1, 1999

October 15, 1998.

I. Introduction

On December 1, 1997, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish an enhanced parity split pilot program for Exchange specialists trading foreign currently options. The proposed rule change was published for comment in the **Federal Register** on January 23, 1998.[3] The Commission did not receive any comment letters with respect to the proposal. The Exchange submitted Amendment No. 1 to the proposal on June 17, 1998,[4] and Amendment No. 2 on October 2, 1998.[5] This order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39552 (Jan. 15, 1998), 63 FR 3611 (Jan. 23, 1998).

[4] Amendment No. 1 modifies the application of the enhanced parity split in situations where a customer order for 100 or more FCO contracts is on parity. The revision requires that for customer bids/offers of 100 FCO contracts or more, no such customer order on parity shall receive a smaller participation than any other crowd participant, including the specialist. Amendment No. 1 also revises the text of the proposed rule to clarify that customer orders for less than 100 FCO contracts have time priority. *See* Letter to Michael Loftus, Attorney, Division of Market Regulation, Commission, from Nandita Yagnik, Counsel, Exchange, dated June 16, 1998.

[5] Amendment No. 2 extends the expiration date of the pilot program to October 1, 1999. *See* Letter to Michael Loftus, Attorney, Division of Market Regulation, Commission, from Nandita Yagnik, Counsel, Exchange, dated September 30, 1998.

approves the Exchange's proposed rule change and accelerates approval of Amendment Nos. 1 and 2.

II. Description of the Proposal

The proposed rule change would revise Exchange Rule 1014(h) to establish an enhanced parity split pilot program (''Pilot Program'') for the Exchange's foreign currency option (''FCO'') specialists. The Exchange seeks to implement an enhanced parity split procedure similar to the one currently applied to transactions in equity and index options at the Exchange.[6] Under the Pilot Program, however, the application of the proposed FCO enhanced parity split would be more widespread, and the enhanced parity split would be available to all FCO specialists assigned to FCO products.[7] The Pilot Program would remain in effect until October 1, 1999.

The proposed enhanced parity split would apply to the first 500 contracts in a FCO transaction when the specialist is on parity with one or more trading crowd participants. When the enhanced parity split is applied, the FCO specialist will be counted as two crowd participants when determining the allocation of the FCO contracts among the trading crowd participants on parity, except in the following circumstances: (i) When there is one other trading crowd participant on parity, the FCO specialist will receive 60% of the FCO contracts making up the order; or (ii) when there are two other trading crowd participants on parity, the FCO specialist will receive 40% of the FCO contracts making up the order.

Because a customer bid/offer for less than 100 FCO contracts currently is deemed to have time priority over all other bids/offers, such a customer order will not be subject to the enhanced parity split.[8] This provision will help ensure that small customer orders are not disadvantaged by the application of the enhanced parity split. In addition, any customer order that is on parity, and is for 100 or more FCO contracts, will not receive a smaller participation than any other crowd participant, including the specialist. This measure ensures that larger customer orders (*i.e.*, 100 or more FCO contracts) will not be negatively impacted by the proposed enhanced parity split. Finally, if a FCO transaction involves more than 500 contracts, these contracts exceeding the 500 contract threshold will be allocated on a pro rata basis among the crowd participants on parity.

The Commission notes that the application of the enhanced parity split for FCO specialists will be mandatory. Therefore, with respect to any FCO transaction that implicates the enhanced parity split, the FCO specialist will be required to accept the preferential allocation and may not decline the enhancement.[9]

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest.[11] The Commission also finds that the proposal may serve to remove impediments to and perfect the mechanism of a free and open market by encouraging the Exchange's FCO specialists to maintain tight markets in order to attract order flow to the Exchange.

The Exchange previously provided an enhanced parity split to the specialist dealing in dollar denominated delivery German Mark (''3D German Mark'') options.[12] The enhanced parity split gave the specialist 50% of the first 500 contracts of any parity trade in 3D German Mark options, except for customer orders involving less than 100 contracts. The Exchange eliminated the enhanced parity split in September, 1997, because the specialist in 3D German Mark options found the enhancement to be of little benefit.[13] At the time the enhanced parity split was eliminated, the Exchange informed the Commission that ti would continue to study the potential use of an enhanced parity split for all FCO specialists on a broader basis. This proposed rule change represents the Exchange's plan for the expanded use of the enhanced parity split in FCOs.

The purpose of the enhanced parity split is to encourage FCO specialist to make deep and liquid markets in order to attract order flow to the Exchange. The Commission has previously noted that specialists have responsibilities that other crowd participants do not share, such as the staff costs associated with continually updating and disseminating quotes.[14] As a result, the Commission believes it is reasonable for the Exchange to grant certain advantages to specialists, such as the enhanced parity split, to attract and retain well capitalized specialists at the Exchange. As long as these advantages do not unreasonably restrain competition and do not harm investors, the Commission believes that the granting of such benefits to specialists, in general, is within the business judgment of the Exchange. Therefore, even though the

[6] The enhanced parity split for equity and index option specialists works as follows: when an equity or index option specialist is on parity with one controlled account (any account controlled by or under common control with a member broker-dealer) and the order is for more than 5 contracts, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than 5 contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than 5 contracts, the specialist will be counted as 2 crowd participants when allocating the contracts. In any of these situations, if a customer is on parity, he will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

In December, 1997, the Exchange amended its enhanced parity split pilot program for equity and index option specialists to expand its application. As a result of the revisions, all index options and all newly listed equity options receive the enhanced parity split. However, only 50% of those equity options not considered ''newly listed'' are eligible to receive the enhanced parity split. In addition, specialists are now permitted to revise the list of eligible equity options on a quarterly basis, rather than an annual basis. *See* Securities Exchange Act Release No. 39401 (Dec. 4, 1997), 62 FR 65300 (Dec. 11, 1997).

[7] It should be noted that because FCOs on the Italian Lira and the Spanish Peseta are traded as customized options, there are not specialists assigned to those products. For simplicity and clarity, all further references to FCOs shall not include these two products.

[8] Exchange Rule 1014(h), ''Options on Foreign Currencies,'' Subsection (i), states that ''all bids/offers of customer accounts for under 100 contracts have time priority over all other bids/offers'' on the FCO floor. In that instance, the FCO specialist cannot be on parity with such customer so the enhanced parity split will not apply.

[9] Telephone conversation between Michele R. Weisbaum, Vice President and Associate General Counsel, Exchange, and Michael L. Loftus, Attorney, Division of Market Regulation, Commission (December 15, 1997).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] The enhanced parity split for the specialist in 3D German Mark options was first approved on December 29, 1994. *See* Securities Exchange Act Release No. 35177 (Dec. 29, 1994), 60 FR 2419 (Jan. 9, 1995). 3D German Mark options are cash-settled, European-style, cash/spot foreign currency option contracts on the German mark.

[13] The enhanced parity split was eliminated as of September 8, 1997. *See* Securities Exchange Act Release No. 39030 (Sept. 8, 1997), 62 FR 48332 (Sept. 15, 1997). The sole specialist firm trading 3D German Mark options indicated that the enhanced parity split was not particularly useful. Furthermore, the Exchange represented that the 3D German Mark enhanced parity split did not serve as an effective means of attracting order flow to the Exchange.

[14] *See e.g.*, Securities Exchange Act Release No. 35177 (Dec. 29, 1994), 60 FR 2419 (Jan. 9, 1995).

proposed rule change could arguably have some negative impact on crown participants, other than customers, the Commission believes the proposal is consistent with the Act.

The Commission believes that customers, as they are defined in Exchange Rule 1014(h),[15] will not be disadvantaged by the proposal and that current benefits available to customers will not be affected. Specifically, customer bids/offers for less than 100 FCO contracts will continue to have time priority over all other bids/offers. In that instance, an FCO specialist cannot be on parity with such customer, and as a result the enhanced parity split will not apply. The time priority ensures that customers' smaller FCO orders will be filled first and that FCO specialists will not benefit to the detriment of FCO customers.

The Commission notes that Exchange Rule 1014(h) does not confer time priority on customer order for 100 or more FCO contracts. Under the proposal, therefore, an FCO specialist on parity with a customer orders for 100 or more FCO contracts will receive the enhanced parity split. However, the proposal specifies that the application of the enhanced parity split cannot cause the customer to receive a smaller participation than any other crowd participant, including the specialist. The Commission believes this provision adequately protects customer orders for 100 or more FCO contracts from any negative impact that might flow from application of the enhanced parity split. As a result, the customer is ensured a participation that, at a minimum, is equal to that given any other crowd participant on parity. Finally, the Commission notes that this provision is consistent with the enhanced parity split that applies to specialists trading equity and index options.[16]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission believes the Exchange's FCO specialists should begin receiving the benefits of the enhanced parity without delay. The Commission notes that Amendment No. 1 provides protection to customer orders for 100 or more FCO contracts by requiring that any such customer order on parity may not receive a smaller participation than any other crowd participant, including the specialist. The Commission believes this change strengthens the proposal by providing protection to customer order for 100 or more FCO contracts that might otherwise be impacted negatively by full application of the enhanced parity split. Finally, Amendment No. 2 extends the expiration date of the Pilot Program to October 1, 1999, to allow the Exchange to implement the Pilot Program for one full year. The Commission believes, the Exchange will benefit by operating the Pilot Program for one year rather than a shorter period of time. A one year Pilot Program should provide the Exchange with sufficient experience to determine in what form the Pilot Program should be extended or made permanent, or whether the Pilot Program should be discontinued. Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act[17] to approve Amendment Nos. 1 and 2 to the Exchange's proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2 to the proposal, including whether the proposed rule change as modified by Amendment Nos. 1 and 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submissions, 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–97–55 and should be submitted by November 12, 1998.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–Phlx–97–55), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

[FR Doc. 98–28193 Filed 10–20–98; 8:45 am]

BILLING CODE 8010–01–M

[15] Exchange Rule 1014(h) defines customer accounts as ''all accounts other than ROT [Registered Options Trader], member or specialist accounts.''

[16] *See* Description of the enhanced parity split available to Exchange specialists trading equity and index options *supra* note 6.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Aerospace Equipment (ISAC–1)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee (ISAC–1) will hold a meeting on October 21, 1998 from 9:00 a.m. to 2:30 p.m. The meeting will be upon to the public from 9:00 a.m. to 9:30 a.m. and closed to the public from 9:30 a.m. to 2:30 p.m.

DATES: The meeting is scheduled for October 21,1998, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce Room 6808, located at 14th Street and Constitution Avenue, N.W., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Fred Elliot, Department of Commerce, 14th St. Constitution Ave., N.W., Washington, D.C. 20230, (202) 482–1233 or Bill Daley, Office of the United States Trade Representative, 600 17th St. N.W., Washington, D.C. 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: The ISAC–1 will hold a meeting on October 21, 1998 from 9:00 a.m. to 2:30 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code and Executive Order 11846 of March 27, 1975, the Office of the U.S. Trade Representative has determined that part of this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. During the discussion of such matters, the meeting will be closed to the public from 9:30 a.m. to 2:30 p.m. The meeting will be open to

the public and press from 9:00 a.m. to 9:30 a.m. when other trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committees will not be invited to comment.

Pate Felts,

Acting Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 98–28226 Filed 10–20–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before November 20, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW. Washington, DC 20590.

This notice of receipt of applications for new exemption is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 1, 1998.

J. Suzanne Hedgepeth,

Director, Office Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12071–N	RSPA–1998–4562	Pennwalt India Limited, Worli, Mumbai, IN.	49 CFR 172.101(B9), (B64) (B65) (T16) (T41) 249).	To authorize the transportation in commerce of IM101 portable tanks equipped with Polyvinylidenefluoride liner permanently fitted within ISO frame for use in transporting Bromine or Bromine solutions, Class 8. (Modes 1, 2, and 3.)
12142–N	RSPA–1998–4476	Aristech Chemical Corp., Pittsburgh, PA.	49 CFR 174.67(i)	To authorize rail cars to remain standing with unloading fittings attached without the physical presence of an unloader. (Mode 3.)
12143–N	RSPA–1998–4477	Austin Powder Co. Cleveland, OH.	49 CFR 172.101, 176.83(b).	To authorize the transportation of certain 5.1 oxidizers and 1.1 explosives be exempt from certain segregation criteria. (Mode 3.)
12144–N	RSPA–1998–4478	Sea-Land Service, Inc., Charlotte, NC.	49 CFR 176.170(b)	To authorize the transportation of explosive substances in freight containers that exceed the authorize net limit. (Mode 3.)
12145–N	RSPA–1998–4479	Dorbyl Heavy Engineering, Duncanville Vereeniging, SA.	49 CFR 178.245	To authorize the use of non-DOT specification steel portable tanks permanently fixed within ISO frames which are similar to DOT 51 portable tanks for use in transporting various hazardous materials. (Modes 1, 2, and 3.)
12146–N	RSPA–1998–4526	Luxfer Gas Cylinders, Riverside, CA.	49 CFR 173.302(a)(1), 175.3.	To authorize the manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop-wrapped cylinders for use in transporting nonflammable gases, Division 2.2 (Modes 1, 2, 3, 4, and 5.)
12147–N	RSPA–1998–4480	Portland General Electric, Rainer, OR.	49 CFR 173.416(a), 173.467.	To authorize the one-time transportation in commerce of a reactor vessel for disposal containing Class 7, radioactive material. (Modes 1, 3).
12148–N	RSPA–1998–4527	Eastman Kodak Company, Rochester, NY.	49 CFR 172.320, 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To authorize the transportation in commerce of not more than 25 grams of explosives and pyrotechnic material in a specially designed container. (Modes 1, 3, and 4).
12149–N	RSPA–1998–4528	CP Industries, Inc., McKeesport, PA.	49 CFR 178.45(h)	To provide for ultrasonically scanning of DOT 3T cylinders at time of manufacturing for use in transporting Division 2.1, 2.2 and 2.3 gases. (Modes 1, 2, 3, and 4).
12155–N	RSPA–1998–4558	S&C Electric Co., Chicago, IL.	49 CFR 172.301(c), 173.304.	To authorize the transportation in commerce of a specially designed non-DOT specification packaging containing compressed sulfur hexafluoride, Division 2.2. (Modes 1, 2, 3, and 4).

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12156–N	RSPA–1998–4559	Columbia Falls Aluminum Co., Columbia Falls, MT.	49 CFR 174.67(I)	To authorize rail cars containing Elevated Temperature Liquid, n.o.s., Class 9, to remain connected during unloading process without the physical presence of an unloader. (Mode 2).
12157–N	RSPA–1998–4560	Raytheon Systems Co. Fort Wayne, IN.	49 CFR 173.306	To authorize the transportation in commerce of a specially designed packaging consisting of a gas cylinder containing limited quantities of hazardous materials to be transported as essentially unregulated by air. (Mode 4).
12158–N	RSPA–1998–4561	Hickson Corporation Conley, GA.	49 CFR 174.67(i) & (j)	To authorize rail cars containing Chromic Acid solution, Class 8, to remain connected to valves without the physical presence of an unloader. (Mode 2).

[FR Doc. 98–28151 Filed 10–20–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before November 5, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Docket No.	Applicant	Modification of exemption
7657–M		Welker Engineering Company, Sugar Land, TX (See Footnote 1)	7657
8009–M		CP Industries, Inc., McKeesport, PA (See Footnote 2)	8009
9275–M		Estee Lauder Company, Melville, NY (See Footnote 3)	9275
10429–M		HCI USA Distribution Companies, Inc., Santa Ana, CA (See Footnote 4)	10429
10966–M		Columbia Helicopters, Inc., Portland, OR (See Footnote 5)	10966
11327–M		Phoenix Services Limited Partnership, Pasadena, MD (See Footnote 6)	11327
11379–M		TRW Vehicle Safety Systems, Inc., Washington, MI (See Footnote 7)	11379
11537–M		Industrial Chemtex, Inc., Longview, TX (See Footnote 8)	11537
11984–M	RSPA–1997–3173	United Parcel Service Company, Louisville, KY (See Footnote 9)	11984
12094–M	RSPA–1998–4018	Suburban Propane, Inc., Anchorage, AK (See Footnote 10)	12094

(1) To modify the exemption to provide for Class 2.3 as an additional class of material for the transportation of certain compressed gases in non-DOT specification cylinders.

(2) To modify the exemption to authorize increased ultrasonic scanning speeds on DOT–3AAX cylinders (trailer tubes) made of 4130X steel, for CNG service, at the time of manufacturing.

(3) To modify the exemption to include flammable deodorant sticks reclassed as a consumer commodity which contain 78–79% ethyl alcohol authorized to be transported as essentially unregulated.

(4) To modify exemption to allow UN31A IBCs having capacities not exceeding 660 gallons for the discharge of certain Class 3 and Class 8 liquids from DOT Specification 57 stainless steel portable tanks without removing tanks from vehicle on which it is transportated; the addition of certain Calss 9 materials.

(5) To modify the exemption to provide for an additional non-DOT specification container for the transportation by helicopter of a Class 3 material, a combustible liquid, and a Class 8 material in non-DOT specification rotationally molded, cross-linked polyethylene portable tanks.

(6) To modify the exemption to include changes to the packaging system for the transportation of regulated medical waste in non-DOT specification dual packaging.

(7) To modify the exemption to authorize a cylinder (pressure vessel) design/testing change for use as components of automobile vehicle safety systems charged with non-toxic, non-liquefied gases, or mixtures thereof.

(8) To modify the exemption to include UN31HA1 intermediate bulk containers for the transportation in commerce of certain Class 8 material in IBCs that are securely mounted to a flatbed trailer, but not removed from the vehicle prior to loading or unloading of container.

(9) To modify the exemption to authorize, for the return of oxygen generators (equipped either with one, or two independent, means of preventing actuation) to their original manufacturer only, the use of a non-DOT specification strong outer packaging.

(10) To reissue the exemption originally issued on an emergency basis to authorize the transportation of propane, Division 2.1, in DOT 51M portable tanks, that exceed the quantity limitations.

This notice of receipt of applications for modifications of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1086; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 1, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 98–28152 Filed 10–20–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–27: OTS Nos. H–2338 and 06087]

ComFed, M.H.C., North Palm Beach, Florida; Approval of Conversion Application

Notice is hereby given that on October 9, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of ComFed, M.H.C., North Palm Beach, Florida, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Southeast Regional Office, Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, GA 30309.

Dated: October 15, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–28176 Filed 10–20–98; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 63, No. 203

Wednesday, October 21, 1998

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 AGRICULTURE

Forest Service

Northwest Sacramento Provincial Advisory Committee (PAC)

Correction

In notice document 98–27642, appearing on page 55359, in the issue of Thursday, October 15, 1998, in the **SUMMARY** section, in the third line, ''October 9, 1998'' should read ''October 29, 1998''.

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0560–AE61

Enforcement and Collection of Shared Appreciation Agreements

Correction

In rule document 98–3314 beginning on page 6627 in the issue of Tuesday, February 10, 1998, make the following correction:

On page 6628, in the third column, amendatory instruction 3. is corrected to read as follows:

''3. Section 1951.909 is amended by revising paragraphs (e)(2)(vii), (e)(2)(viii) introductory text, and (e)(2)(viii)(A), (h)(3)(viii), and (j) to read as follows and by removing paragraphs (k), (l), and (m):''.

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 97-D018]

Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation; Part 215 Rewrite

Correction

In rule document 98–27091 beginning on page 55040 in the issue of Wednesday, October 14, 1998, make the following correction:

217.7103–3 [Corrected]

On page 55052, in the first column, after amendatory instruction 4. and the section heading name, paragraph (b) of section 217.7103–3 was omitted. Under the section heading insert paragraph (b) to read as follows:

''(b) Prepare the solicitation in the uniform contract format and in accordance with FAR Subpart 14.2 or 15.2, as applicable.

* * * * *''

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS)

Correction

In notice document 98–27586 appearing on page 55405 in the issue of Thursday, October 15, 1998, make the following corrections:

1. On page 55405, in the second column, in the **DATES:** section, in the second line, ''1998'' should read ''1999''.

2. On page 55405, in the second column, in the tenth line from the bottom, ''1998'' should read ''1999''.

BILLING CODE 1505–01–D

federal register

Wednesday
October 21, 1998

Part II

Environmental Protection Agency

40 CFR Parts 52 and 97

Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[FRL–6170–6]

RIN 2060–AH88

Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: In accordance with section 126 of the Clean Air Act (CAA), EPA is proposing action on petitions filed by eight Northeastern States seeking to mitigate what they describe as significant transport of one of the main precursors of ground-level ozone, nitrogen oxides (NO_X), across State boundaries. Each petition specifically requests that EPA make a finding that NO_X emissions from certain stationary sources emit in violation of the CAA's prohibition on emissions that significantly contribute to ozone nonattainment problems in the petitioning State. If EPA makes such a finding of significant contribution, EPA is authorized to establish Federal emissions limits for the sources. The eight Northeastern States that filed petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

This notice proposes to find that portions of certain petitions are technically meritorious under the test applicable under section 126. The EPA is proposing that the technically meritorious portions of the petitions be deemed granted or denied at certain later dates pending certain actions by the States and EPA regarding State submittals in response to the final NO_X State implementation plan call (NO_X SIP call). This notice describes the schedule and conditions under which applicable final findings on the petitions would be automatically triggered. Further, this notice proposes the control requirements that would apply to sources in the source categories for which a final finding is ultimately granted. This notice also proposes to deny certain petitions, in whole or in part. The EPA published a shorter proposal on the section 126 petitions on September 30, 1998 that announced the availability of this longer proposal in the docket and on EPA's Website, announced the public hearing, and requested comment on the proposal.

The transport of ozone and its precursors is important because ozone, which is a primary harmful component of urban smog, has long been recognized, in both clinical and epidemiological research, to affect public health. There is a wide range of ozone-induced health effects, including decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), increased hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-existing respiratory disease such as asthma), increased inflammation of the lung, and possible long-term damage to the lungs.

DATES: Comments may be submitted until November 30, 1998, as previously announced in a shorter notice of proposed rulemaking published in the **Federal Register** on September 30, 1998.

Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). The public hearings for the section 126 and FIP proposals will be held on October 28 and 29, 1998, as previously announced in a shorter notice of proposed rulemaking published in the **Federal Register** on September 30, 1998.

ADDRESSES: Comments may be submitted to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–97–43, U.S. Environmental Protection Agency, 401 M Street SW, room M–1500, Washington, DC 20460, telephone (202) 260–7548. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail. For comments that include color graphics, a courtesy copy of comments to Carla Oldham would be appreciated at Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3347, fax (919) 541–0824, e-mail address oldham.carla@epa.gov. The address for sending overnight packages is U.S. EPA, Air Quality Strategies and Standards Division, 411 W Chapel Hill St., Durham, NC 27701.

The public hearing will be held at the EPA Auditorium, 401 St., SW., Washington, DC.

Documents relevant to this action are available for inspection at the Docket Office, at the above address, between 8 a.m. and 4 p.m., Monday though Friday, excluding legal holidays. A reasonable copying fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action should be addressed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–3347. Please refer to **SUPPLEMENTARY INFORMATION** below for a list of contacts for specific subjects described in today's action.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under docket number A–97–43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–97–43. Electronic comments on this NPR rule may be filed online at many Federal Depository Libraries.

The EPA has issued a separate rule on NO_X transport entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (see notices included in the docket for this rulemaking). The rulemaking docket for that rule, hereafter referred to as the NO_X State implementation plan (SIP) call (NO_X SIP call), contains information and analyses that are relied upon in today's proposal on the section 126 petitions. Therefore, EPA is incorporating by reference the entire NO_X SIP call record for purposes of the section 126 rulemaking. Documents related to the NO_X SIP call rulemaking are available for inspection in Docket No. A–96-56 at the address and times

given above. In addition, the proposed NO_X SIP call and associated documents are located at http://www.epa.gov/ttn/oarpg/otagsip.html. The EPA is finalizing action on the NO_X SIP call concurrently with today's proposal on the section 126 petitions.

Additional information relevant to this NPR concerning the Ozone Transport Assessment Group (OTAG) is available on the Agency's Office of Air Quality Planning and Standards' (OAQPS) Technology Transfer Network (TTN) via the web at http://www.epa.gov/ttn/. If assistance is needed in accessing the system, call the help desk at (919) 541–5384 in Research Triangle Park, NC. Documents related to OTAG can be downloaded directly from OTAG's webpage at http://www.epa.gov/ttn/otag. The OTAG's technical data are located at http://www.iceis.mcnc.org/OTAGDC.

For Additional Information

For additional information related to air quality analysis, please contact Carey Jang, Office of Air Quality Planning and Standards; Emissions, Monitoring, and Analysis Division, MD–14, Research Triangle Park, NC 27711, telephone (919) 541–5638. For legal questions, please contact Howard Hoffman, Office of General Counsel, 401 M Street SW, Mc-2344, Washington, DC, 20460, telephone (202) 260–5892. For questions regarding the NO_X cap-and-trade program, please contact Melanie Dean, Office of Atmospheric Programs, Acid Rain Division, MC–6204J, 401 M Street SW, Washington, DC 20460, telephone (202) 564–9189. For questions regarding regulatory cost analyses for electricity generating sources, please contact Ravi Srivastava, Office of Atmospheric Programs, Acid Rain Division, MC–6204J, 401 M Street SW, Washington, DC 20460, telephone (202) 564–9093. For questions regarding regulatory cost analyses for other stationary sources, please contact Scott Mathias, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5310.

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I. National Technology Transfer and Advancement Act

I. Background

A. Summary of Rulemaking

In today's action, EPA is proposing to make a technical determination that certain major stationary sources and source categories identified in the section 126 petitions are significantly contributing to nonattainment in, or interfering with maintenance by, one or more petitioning State with respect to one or more of the national ambient air quality standards for ozone (hereafter

referred to as a positive or affirmative technical determination). On the basis of that proposed affirmative technical determination, EPA is proposing that the petitions naming these sources and source categories be granted or denied at certain later dates pending certain actions by the States and EPA regarding State submittals in response to the final NO_X SIP call. The schedule and conditions under which the applicable final findings on the petitions would be triggered are discussed below in Section II.F. The EPA's analysis of significant contribution is discussed in Section II below.

Under the 1-hour ozone standard, EPA is proposing to make affirmative technical determinations as to a subset of sources and source categories named in the petitions from Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island. The source categories for which EPA is proposing this affirmative technical determination of significant contribution are discussed in Section II. The existing sources that are affected by this technical determination are listed in appendix A to proposed part 97.

The EPA is also proposing to partially deny the petitions from Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island because EPA believes some of the sources or source categories named in the petitions are not significantly contributing to nonattainment in the relevant petitioning State with respect to the 1-hour ozone standard. The EPA is proposing to deny the Vermont petition in full with respect to the 1-hour ozone standard because the 1-hour standard no longer applies in that State (See 63 FR 31014).

Three of the petitioners, Massachusetts, Pennsylvania, and Vermont, also directed their petitions at the new 8-hour ozone standard. Under the 8-hour ozone standard, EPA is proposing to make a positive technical determination as to a subset of sources named in the petitions from Massachusetts and Pennsylvania. The source categories for which EPA is proposing this affirmative technical determination of significant contribution are discussed in Section II. The existing sources that are affected by this technical determination are listed in appendix A to proposed part 97. The EPA is proposing to deny the Vermont petition in full with respect to the 8-hour ozone standard because Vermont has no current 8-hour ozone nonattainment problems and no future projected nonattainment problems based on available analyses.

In aggregate for all petitions and both ozone standards, the sources and source categories that EPA is proposing to find significantly contribute to nonattainment in, or interfere with maintenance by, (hereafter simply contribute significantly to) one or more of the petitioning States are located in the following States: Alabama, Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia. The combined list of existing sources affected by a positive technical determination with respect to at least one petition, along with proposed emissions limitations in the form of tradable allowance allocations, is located in Appendix A to proposed part 97. The EPA intends to update the list of affected sources on a periodic basis to include new sources in the source categories that are significantly contributing.

Some of the sources that EPA is proposing do not significantly contribute to the petitioning States may be located in States that are affected by a separate rulemaking on NO_X transport, the NO_X SIP call. While emissions from sources in certain States may not be significantly contributing to nonattainment or maintenance problems in any of the eight petitioning States, the sources may be significantly contributing to nonattainment problems in other downwind States. In acting on these section 126 petitions, EPA can only consider the impacts on downwind nonattainment problems in the petitioning States, which are all located in the Northeast. In the NO_X SIP call, EPA considered impacts on nonattainment problems throughout the eastern half of the United States. Therefore, a determination that sources in certain States are not significantly contributing for purposes of this action on the section 126 petitions should not be assumed to reflect EPA's conclusions on significant contribution with regard to the NO_X SIP call or other transport-related rulemakings.

The section 126 petitions varied with regard to the control requirements they recommend for mitigating the interstate transport. While EPA considered the recommendations, section 126 does not limit EPA to the recommended controls in determining an appropriate remedy. In Section III, EPA proposes the emissions limitations that would be necessary to ensure that the affected sources do not or would not emit in violation of the applicable statutory prohibition on significant contribution by upwind States to downwind air quality problems. The control remedy is based on the uniform application of highly cost-effective controls (as determined based on cost per ton of NO_X reduced for each type of source). In selecting the control measures, EPA considered the recommendations made by OTAG on July 8, 1997 and the analyses for the NO_X SIP call. The EPA considered controls that would effectively minimize emissions while not exceeding a source-categorywide $2000 per ton for reductions of ozone season NO_X (in 1990 dollars), on average, for each source category. For electricity generating units larger than 25 MWe, EPA is proposing a control level corresponding to 0.15 lb/mmBtu. For industrial boilers and turbines greater that 250 mmBtu/hr, EPA is proposing a control level corresponding to a 60 percent reduction from an uncontrolled baseline. For small sources and process heaters, EPA is proposing no additional controls. For purposes of this rulemaking, EPA is defining small sources as: (1) Electricity generating boilers and turbines serving a generator 25 MWe or less, and (2) other indirect heat exchangers with a heat input of 250 mmBtu/hr or less. The control requirements are consistent with the assumptions used in developing the final budgets for the NO_X SIP call. Further discussion concerning small point sources can be found in Section II of this preamble.

The EPA intends to implement the control requirements through a Federal NO_X cap-and-trade program, which is described in Section III. The EPA believes a trading program is the most cost-effective approach for achieving emissions reductions from large stationary sources. The proposed trading program is consistent with the model trading rule that EPA is finalizing for purposes of the NO_X SIP call, except for changes necessary to account for Federal implementation instead of State implementation. The EPA envisions that there would be a common trading program among section 126 sources and NO_X SIP call sources in States that choose to participate in the State trading program, and sources subject to a Federal implementation plan under the NO_X SIP call.

In accordance with section 126, sources must comply with the control requirements no later than 3 years from a final positive finding on the petitions, on a schedule to be determined by the EPA Administrator. The EPA is proposing that the full 3 years is necessary for compliance. As discussed below, EPA is proposing that the technically meritorious portions of the

petitions be deemed granted or denied at certain later dates, pending certain actions by States and EPA regarding implementation plans required in response to the NO_X SIP call. The EPA intends to take final action by April 30, 1999 on the technical determination described above, the decision as to when each portion of the petitions would be deemed granted or denied, and the emissions limitations that would apply to any sources for which a petition is ultimately deemed granted.

B. Ozone Transport, Ozone Transport Commission NO_X Memorandum of Understanding (OTC NO_X MOU), OTAG, the NO_X SIP Call, the Revised Ozone National Ambient Air Quality Standard (NAAQS), and Ozone Effects

Today's action occurs against a background of a major national effort, spanning at least the last 10 years, to analyze and take steps to mitigate the problem of the transport of ozone and its precursors across State boundaries. This effort has grown more intensive in the past several years with the approval of the OTC NO_X MOU by 11 of the Northeastern States and the District of Columbia included in the Northeast Ozone Transport Region (OTR), the completion of the OTAG process (described below), and the publication of EPA's proposed NO_X SIP call. In addition, on July 18, 1997, EPA issued a revised NAAQS for ozone, for which is determined over an 8-hour period (the 8-hour standard) (62 FR 38856). In establishing the 8-hour standard, EPA is setting the standard at 0.08 parts per million and defines the new standard as a ''concentration-based'' form, specifically the 3-year average of the annual 4th-highest daily maximum 8-hour ozone concentrations. This has resulted in more areas and larger areas with monitoring data indicating nonattainment. Thus, it is even more important to implement regional control strategies to mitigate interstate pollution in order to assist downwind areas in achieving attainment. This new 8-hour standard must now be taken into account, along with the pre-existing 1-hour standard, in resolving transport issues. These issues and events are detailed in the proposed NO_X SIP call (62 FR 60318) and familiarity with that notice is assumed for purposes of today's notice. In addition, in many areas of the country, the 1-hour standard has been revoked because the areas are attaining that standard (63 FR 31013; June 5, 1998 and 63 FR 39432, July 22, 1998). A State may petition under section 126 for the both the 1-hour standard, to the extent that it still applies in the petitioning State, and the 8-hour standard.

The 1990 CAA set forth many requirements to address nonattainment of the 1-hour ozone NAAQS. Many States have found it difficult to demonstrate attainment of the NAAQS due to the widespread transport of ozone and its precursors. The Environmental Council of the States (ECOS) recommended formation of a national work group to allow for a thoughtful assessment and development of consensus solutions to the problem. This work group, OTAG, was established 3 years ago to undertake an assessment of the regional transport problem in the eastern half of the United States. The OTAG was a collaborative process conducted by representatives from the affected States, EPA, and interested members of the public, including environmental groups and industry, to evaluate the ozone transport problem and develop solutions. The OTAG region included the 37 eastern-most States and the District of Columbia. Through the OTAG process, the States concluded that widespread NO_X reductions are needed in order to enable areas to attain and maintain the ozone NAAQS. Based on information generated by OTAG and other available data, EPA determined that certain States in the OTAG region were significantly contributing to nonattainment problems in downwind States. Therefore, EPA issued a proposed NO_X SIP call requiring the States to revise their SIPs to include NO_X control measures to mitigate the ozone transport. The EPA is finalizing the NO_X SIP call in the same timeframe as this proposal on the section 126 petitions.

The EPA's response to the section 126 petitions differs from EPA's action in the NO_X SIP call rulemaking in several ways. In the NO_X SIP call, where EPA concludes that NO_X emissions from a State are significantly contributing to nonattainment problems in downwind States, EPA will require the State to submit SIP provisions to prohibit an amount of NO_X emissions which represents the significant contribution. The State will have the discretion to select the mix of controls measures for their sources to meet the required statewide NO_X reduction reductions. If the State does not make the required SIP submission, EPA is required to promulgate a Federal implementation plan (FIP) within 2 years of the State failure. In the November 7, 1997 NO_X SIP call proposal, EPA announced that it intended to expedite the FIP promulgation in order to assure that the downwind States receive the air quality benefits of regional NO_X reductions as soon as practicable. Therefore, the EPA is proposing FIPs for all the States affected by the NO_X SIP call in conjunction with EPA's issuance of the final NO_X SIP call.

By comparison, section 126 petitions are limited to addressing emissions from upwind stationary sources and not other sectors of the inventory. If EPA grants the petitions, it is EPA, not the States, that promulgates control requirements for the sources. The control remedy for sources in the section 126 petitions that EPA is proposing in this action is consistent with the control assumptions EPA used for these sources in determining reductions projected to meet the final statewide NO_X budgets for States subject to the NO_X SIP call.

Because the NO_X SIP call process overlaps considerably with the section 126 petition process, in that they both address NO_X transport in the eastern United States, EPA believes it is important to coordinate the two actions as much as possible. As discussed below, EPA and the petitioning States developed a proposed consent decree on the rulemaking schedule for the petitions that takes into consideration the NO_X SIP call rulemaking.

All of the States that submitted section 126 petitions are included in the OTR and participated in the OTAG process. In addition, all of the upwind sources identified in the petitions are located in the OTAG region. All eight petitions rely, in part, on the OTAG analyses for technical justification. The OTAG process concluded in June 1997 prior to the promulgation of the new 8-hour ozone standard and, therefore, the OTAG analyses focused on the 1-hour standard. All the petitions request relief under the 1-hour standard. Three of the petitions also request relief under the new 8-hour standard. In acting on the section 126 petitions, EPA believes that it can only consider 8-hour nonattainment problems for the petitioning States that expressly requested relief under that standard. Under the NO_X SIP call, EPA considered both 1-hour and 8-hour nonattainment problems throughout the OTAG region.

Ground-level ozone, the main harmful ingredient in smog, is produced in complex chemical reactions when its precursors, volatile organic compounds (VOCs) and NO_X, react in the presence of sunlight. The chemical reactions that create ozone take place while the pollutants are being blown through the air by the wind, which means that ozone can be more severe many miles away from the source of emissions than it is at the source.

At ground level, ozone can cause a variety of ill effects to human health, crops and trees. Specifically, ground-level ozone induces the following health effects:

- Decreased lung function, primarily in children active outdoors,
- Increased respiratory symptoms, particularly in highly sensitive individuals,
- Hospital admissions and emergency room visits for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma,
- Inflammation of the lung,
- Possible long-term damage to the lungs.

The new 8-hour primary ambient air quality standard will provide increased protection to the public from these health effects.

Each year, ground-level ozone above background is also responsible for several hundred million dollars worth of agricultural crop yield loss. It is estimated that full compliance of the newly promulgated ozone NAAQS will result in about $500 million of prevented crop yield loss. Ozone also causes noticeable foliar damage in many crops, trees, and ornamental plants (i.e., grass, flowers, shrubs, and trees) and causes reduced growth in plants. Studies indicate that current ambient levels of ozone are responsible for damage to forests and ecosystems (including habitat for native animal species).

C. Section 126

Subsection (a) of section 126 requires, among other things, that SIPs require major proposed new (or modified) stationary sources to notify nearby States for which the air pollution levels may be affected by the fact that such sources have been permitted to commence construction. Subsection (b) provides:

> Any State or political subdivision may petition the Administrator for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(D)(ii) * * * or this section.

Subsection (c) of section 126 states that—

> [I]t shall be a violation of this section and the applicable implementation plan in such State [in which the source is located or intends to locate]—
>
> (1) For any major proposed new (or modified) source with respect to which a finding has been made under subsection (b) of this section to be constructed or to operate in violation of the prohibition of section 110(a)(2)(D)(ii) * * * or this section, or
>
> (2) For any major existing source to operate more than three months after such finding has been made with respect to it.

However, subsection (c) further provides that EPA may permit the continued operation of such major existing sources beyond the 3-month period, if such sources comply with EPA-promulgated emissions limits within 3 years of the date of the finding.

Section 110(a)(2)(D) provides the requirement that a SIP contain adequate provisions—

> (i) Prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—
>
> (I) Contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to [any] national * * * ambient air quality standard, or
>
> (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility.
>
> (ii) Insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement) * * *

As explained in detail in Section II.A., below, it is EPA's view that, with respect to existing stationary sources, sections 126(b)–(c) and 110(a)(2)(D), read together, authorize a downwind State to petition EPA for a finding that major stationary sources or groups of sources upwind of the State emit in violation of the prohibition of section 110(a)(2)(D)(i) because, among other reasons, their emissions contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in the State. If EPA grants the requested finding, the existing sources must shut down in 3 months unless EPA directly regulates the sources by establishing emissions limitations and a compliance period extending beyond 3 months but no later than 3 years from the finding. In accordance with section 302(j) of the CAA, the term major stationary source means ''any stationary facility or source which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant. * * *'' For the purpose of this rulemaking the relevant pollutant is NO_X emissions.

The EPA acknowledges that others have urged different readings of sections 126(b)–(c) and 110(a)(2)(D) and EPA solicits comments thereon in this rulemaking, as described in Section II.A.1., below.

D. Summary of Section 126 Petitions

The petitions vary as to the type and geographic location of the source categories identified as significant contributors. All the petitions identified source categories; some petitions also provided lists of sources within the specified categories. The source categories include electric generating plants, fossil fuel-fired boilers and other indirect heat exchangers, and certain other related stationary sources that emit NO_X. All the petitions target sources in the Midwest; some also target sources in the South and Northeast. The geographic area covered by each petition is shown in Figure 2. The EPA requests comment from the petitioning States as to whether EPA has correctly interpreted the geographic scope of their petitions.

The petitions also vary as to the level of controls they recommend be applied to the sources to mitigate the transport problem. Several recommend EPA establish a 0.15 lb/mmBtu NO_X emission limitation and several recommend that controls be implemented through a cap-and-trade program. The petitions are described in greater detail below.

All of the petitions rely, in part, on OTAG analyses for technical support. In addition, the States submitted a variety of other technical analyses which include computerized urban airshed modeling, wind trajectory analyses, results of a transport study by the Northeast States for Coordinated Air Use Management, and culpability analyses.

Table I–1 shows, by petitioner, the named source categories, the named geographic areas, and the requested remedy sought by the petitioning States. The named source categories are worded as they appear in the petitions. A map of the OTAG Subregions is provided in part 52, appendix F, Figure 1.

TABLE I–1.—EPA'S SUMMARY OF SECTION 126 PETITIONS

State	Named source categories	Named States	Requested remedy
CT	Fossil fuel-fired boilers or other indirect heat exchangers with a maximum gross heat input rate of 250 mmBtu/hr or greater and electric utility generating facilities with a rated output of 15 MW or greater.	Sources in OTAG Subregions 2, 6, and 7 and portion of OTR extending west and south of CT. Includes all or parts of IN, KY, MI, NC, OH, TN, VA, WV. And OTR States DC, DE, MD, NJ, NY, PA.	Establish, at a minimum, emission limitations and a schedule of compliance consistent with the OTC NO_X MOU, and a cap-and-trade program. Does not request remedy for OTR States because of OTC NO_X MOU.
ME	Electric utilities and steam-generating units with a heat input capacity of 250 mmBtu/hr or greater.	Sources within 600 miles of Maine's ozone nonattainmen t areas. Includes all or parts of NC, OH, VA, WV, and OTR States CT, DE, DC, MD, MA, NJ, NY, NH, PA, RI, VT.	Establish compliance schedule and emissions limitation of 0.15 lb/mmBtu for electric utilities and the OTC NO_X MOU level of control for steam generating units, in a multi-state cap-and-trade NO_X market system.
MA	Electricity generating plants.	Sources in region within 3 counties on either side of the Ohio River in IN, KY, OH, WV.	Establish emissions limitation of 0.15 lb/mmBtu or 1.5 lb/MWh and a compliance schedule.
NH	Fossil fuel-fired indirect heat exchange combustion units and fossil fuel-fired electric generating facilities which emit ten tons of NO_X or more per day.	Sources in OTR States and OTAG Subregions 1 through 7. Includes all or parts of IL, IN, IA, KY, MI, MO, NC, OH, TN, VA, WV, WI. Also OTR States CT, DE, DC, MD, MA, ME, NJ, NY, PA, RI, VT.	Establish compliance schedule and emission limitations no less stringent than: (a) Phase III OTC NO_X MOU reductions; and/or (b) 85% reductions from projected 2007 baseline; and/or (c) An emission rate of 0.15 lb/mmBtu.
NY	Fossil fuel-fired boilers or indirect heat exchangers with a maximum heat input rate of 250 mmBtu/hr or greater and electric utility generating facilities with a rated output of 15 MW or greater.	Sources in OTAG Subregions 2 6, and 7 and portion of OTR extending west and south of NY. Includes all or parts of IN, KY, MI, NC, OH, TN, VA, WV. And OTR States DC, DE, MD, NJ, PA.	Establish, at a minimum, emission limitations and a schedule of compliance consistent with the OTC NO_X MOU, and a cap-and-trade program. Does not request remedy for OTR States because of OTC NO_X MOU.
PA	Fossil fuel-fired indirect heat exchange combustion units with a maximum rated heat input capacity of 250 mmBtu/hr or greater, and fossil fuel-fired electric generating facilities rated at 15 MW or greater.	AL, AR, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, OH, SC, TN, VA, WV, WI.	Establish emission limitations and a compliance schedule for a cap-and-trade program requiring: (a) seasonal reductions of the less stringent of 55% from 1990 baseline levels, or 0.20 lb/mmBtu, beginning by May 1999; (b) if necessary, seasonal reductions of the less stringent of 75% from 1990 baseline levels, or 0.15 lb/mmBtu, beginning by May 2003; (c) such additional reductions as necessary beginning in 2005.
RI	Electricity generating plants	Sources in region within 3 counties on either side of Ohio River in IN, KY, OH, WV.	Establish emissions limitation of 0.15 lb/mmBtu or 1.5 lb/MWh and a compliance schedule.
VT	Fossil fuel-fired electric utility generating facilities with a maximum gross heat input rate of 250 mmBtu/hr or greater and potentially other unidentified major sources.	Sources located within a geographic area extending 1000 miles southwest from Bennington, VT. Includes all or parts of IL, IN, KY, MI, NC, OH, TN, VA, WV. Also AL GA, IA, MO, SC, WI. Also OTR States CT, DE, DC, MD, MA, NJ, NY, PA.	Establish emissions limitation of 0.15 lb/mmBtu or 1.5 lb/MWh and a compliance schedule. Does not request remedy for OTR States because of OTC NO_X MOU.

1. Control Remedies Recommended by Petitions

The petitions vary regarding the remedy requested. Several of these petitions reference the OTC NO_X MOU, with regard to control levels, affected sources, or compliance deadlines. All of the petitioning States were signatories on the OTC NO_X MOU. The OTC NO_X MOU commits these States (and the 4 other signatory parties—New Jersey, Maryland, Delaware, and the District of Columbia) to reductions in ozone season NO_X emissions from large utility and industrial combustion sources through implementation of a phased-in regionwide cap-and-trade program. Specifically, affected sources in the OTR are fossil fuel-fired boilers and other indirect heat exchangers with a maximum rated heat input capacity of 250 mmBtu/hr or greater, and electric generating facilities with a rated output of 15 megawatts (MW) or greater.

The OTC NO_X MOU established emissions reduction requirements for these sources in the OTR, creating emissions budgets for 1999 (Phase II) and 2003 (Phase III). (Phase I required the installation of reasonably available control technology (RACT) by May 1995.) The requirements vary across three control zones in the region: an inner zone ranging from the District of Columbia metropolitan area northeast to southeastern New Hampshire (covering all contiguous moderate and above nonattainment areas), an outer zone ranging out from the inner zone to western Pennsylvania, and a northern zone which includes much of northern New York and northern New England (including most of New Hampshire).

For Phase II of the OTC NO_X MOU, which begins in 1999, sources in the inner zone are subject to emissions reduction requirements based on the less stringent of an emission rate of 0.20 pounds NO_X per million British thermal units of heat input (lb/mmBtu), or a 65 percent reduction from 1990 NO_X levels; sources in the outer zone are subject to emissions reduction requirements based on the less stringent of a 0.20 lb/mmBtu rate, or a 55 percent reduction from 1990 NO_X levels; and

sources in the northern zone must adopt RACT. The Phase III requirements, which may be altered by a ''mid-course correction'' based on new information such as refined air quality modeling, establish emissions reduction requirements based on the lesser of a 0.15 lb/mmBtu rate, or a 75 percent reduction from 1990 levels for sources in both the inner and outer zones. Northern zone sources would face emissions reduction requirements based on the lesser of a 0.20 lb/mmBtu rate, or a 55 percent reduction from 1990 levels. In both Phase II and III in all three zones, electric generating facilities less than 250 mmBtu/hr but above 15 MW are subject only to a capping of emissions at 1990 levels for purposes of budget calculation. However, individual States determine specific allocations for each source from their overall budget based on independent allocation formulas, and thus the allocation for these sources will not necessarily reflect this level.

Though all of the petitions request that EPA impose controls in terms of various emissions limitations, four of the eight petitions—New York, Connecticut, Pennsylvania, and Maine—also request that a trading program with a cap, or emissions budget, be established to implement these controls. Massachusetts, Rhode Island, and Vermont request that limitations be established for all named sources at 0.15 lb/mmBtu, which is the level of control for electric generating facilities used to calculate the budget in the proposed NO_X SIP call. Maine requests an emission limitation of 0.15 lb/mmBtu for named electric utilities, but the OTC NO_X MOU level of control for named steam generating units. New Hampshire requests emission limitations no less stringent than the Phase III OTC NO_X MOU reductions, and/or 85 percent reductions from the projected 2007 baseline, and/or an emission rate of 0.15 lb/mmBtu. New York, Connecticut and Pennsylvania all request that emissions limitations consistent with the OTC NO_X MOU be imposed on named sources, but Pennsylvania and Connecticut specify the outer zone requirements; New York does not specify a zone. The level of reduction requested for 2003 in these three petitions specifying basic OTC NO_X MOU requirements appears to be less stringent than that in the petitions requesting 0.15 lb/mmBtu, since the remedy requested would allow sources the option to implement the less stringent of a percentage reduction or an emission rate. In terms of smaller sources named by these three States, Pennsylvania's petition appears to seek somewhat more reductions than the OTC NO_X MOU by requiring the same emission level for electric generating facilities less than 250 mmBtu/hr and greater than 15MW as for larger units. Both Connecticut and New York appear to be aligned with the OTC NO_X MOU in seeking only a capping of emissions at 1990 levels for these smaller sources.

New York, Connecticut and Pennsylvania recommend a date for the implementation by sources of control requirements: the OTC NO_X MOU schedule of compliance, including its phased-in controls and implementation dates of 1999 and 2003. The remaining States request that EPA establish a schedule of compliance requiring sources to comply with emission limitations as expeditiously as practicable.

2. Sources Covered by Petitions

The petitions vary somewhat regarding the universe of sources they name as significant contributors to their ozone problem. Three of the petitioning States—New York, Connecticut, and Pennsylvania—name the same universe of sources covered by the OTC NO_X MOU. New Hampshire names fossil fuel-fired indirect heat exchangers and electric generating facilities as well, but uses a tonnage applicability cut-off to include only sources that emit ten tons or more of NO_X per day. Massachusetts and Rhode Island name ''electricity generating plants'' as the universe requiring controls, without naming a specific size cutoff. Finally, Vermont names fossil fuel-fired electric generating facilities of 250 mmBtu or greater.

All of the section 126 petitions, except Pennsylvania's, Massachusetts' and Rhode Island's, named some States in the OTR as significant contributors. However, only New Hampshire and Maine requested relief beyond OTC NO_X MOU requirements from sources in the OTR. The geographic scope of each petition is discussed in Section II.

Section 126 allows States to petition EPA for a finding against sources and groups of sources that ''emit'' or ''would emit'' pollution that significantly contributes to nonattainment problems in the petitioning State. Thus, a finding could potentially apply not only to existing sources within a particular source category, but also to sources that would be built in the future. The EPA believes the current section 126 petitions are ambiguous as to whether the requested findings are intended to encompass new sources.

All of the petitions describe the requested finding as against source categories that ''are emitting'' significantly contributing levels of NO_X. This suggests that perhaps the petitions are only intended to address existing sources. In addition, four petitions (Massachusetts, New Hampshire, New York, and Rhode Island) provide lists of sources in the targeted source categories and do not indicate that future sources should be added. However, it is notable that, in defining the universe of covered sources, all of the petitions identified specific source categories rather than just identifying specific sources. If emissions from the existing sources in the named source categories are of concern to the petitioning States, then it follows that emissions from new sources of the same type would also be of concern because they would increase the amount of emissions emitted by the category as a whole.

The recommended control remedies in the petitions may provide the best insight into whether the petitions are to cover new sources. As discussed above, all of the petitioning States are signatories on the OTC NO_X MOU. The OTC NO_X MOU outlines a cap-and-trade control program designed to reduce NO_X transport from certain groups of stationary sources in the OTR that are generally the same types of sources as covered by the petitions. The OTC NO_X MOU program does include controls on both existing and new sources. The Connecticut, New Hampshire, New York, and Pennsylvania petitions all request the section 126 control remedy to be consistent with the OTC NO_X MOU. Maine also requests that a control remedy be implemented through a cap-and-trade program. Further, five of the eight petitions request that EPA make a section 126 finding against sources in other OTR States, in addition to sources outside the OTR. It does not seem reasonable that any of the petitioning States would determine that both existing and new sources should be controlled for transport purposes within the OTR through the OTC NO_X MOU, while recommending that outside the OTR only existing sources of the same type would need to be controlled for transport.

Based on the above information, EPA is proposing to interpret all eight section 126 petitions to cover both existing and new sources. Therefore, if any final findings are triggered for source categories in a particular geographic area, new sources in those source categories locating in that area would also be subject to the section 126 control remedy. If any of the petitioning States disagrees with this interpretation as to its petition, EPA requests that the State

submit clarifying comments on this issue.

E. Litigation on Rulemaking Schedule

Section 126(b) requires EPA to make the requested finding, or deny the petition, within 60 days of receipt. It also requires EPA to provide a public hearing for the petition. In addition, EPA's action under section 126 is subject to the procedural requirements of section 307(d) of the CAA. One of these requirements is notice-and-comment rulemaking. Section 307(d) provides for a time extension, under certain circumstances, for rulemakings subject to that provision. Specifically, it allows statutory deadlines that require promulgation in less than 6 months from proposal to be extended to not more than 6 months from proposal to afford the public and the Agency adequate opportunity to carry out the purposes of section 307(d). In three notices dated October 22, 1997 (62 FR 55769), November 20, 1997 (62 FR 6194), and January 2, 1998 (63 FR 26), EPA ultimately extended the deadline for its requirement to take action on the eight petitions to December 18, 1997.

On February 25, 1998, the eight petitioning States filed a complaint in the U.S. District Court for the Southern District of New York to compel EPA to take action on the States' section 126 petitions. *State of Connecticut* v. *Browner,* No. 98–1376. The EPA and the eight States filed a proposed consent decree that would establish a schedule for EPA to act on the petitions. Pursuant to CAA section 113(g), the EPA solicited comments on the proposed consent decree, by notice dated March 5, 1998 (63 FR 10874). The comment period closed April 6, 1998. On August 21, 1998, after considering the comments received in the section 113(g) process, EPA requested the Court to enter a slightly modified version of the consent decree. Pending the Court's action on that request, EPA is continuing to follow the schedule in the proposed consent decree.

The schedule recommended in the proposed consent decree would require EPA to take final action on at least the technical merits of the petitions by April 30, 1999. The recommendation would further permit EPA to structure the final action it would take by April 30, 1999 so as to defer the granting or denial of the petitions to certain later dates extending to as late as May 1, 2000. The section 126 rulemaking schedule is described in more detail in Section II.A.2. of this notice.

F. Advance Notice of Proposed Rulemaking on Petitions

In accordance with the schedule in the proposed consent decree, on April 30, 1998, EPA published in the **Federal Register** (63 FR 24058) an advance notice of proposed rulemaking (ANPR) on the section 126 petitions. The ANPR provided EPA's preliminary identification of source categories named in the petitions that significantly contribute to nonattainment problems in the petitioning States, provided EPA's preliminary assessment of the types of recommended emissions limitations and compliance schedules, provided EPA's preliminary assessment of the remedy the Agency would propose for approvable petitions, discussed legal and policy issues raised under section 126, and outlined the rulemaking schedule for the petitions. The ANPR solicited comment on all of the issues and preliminary assessments. The EPA received approximately 50 comments on the ANPR from industry, States, and environmental groups. These comments covered the full spectrum of issues discussed in the ANPR and were carefully considered in the development of today's proposal. The EPA appreciates the efforts by the commenters to provide early, thoughtful input on this rulemaking. The EPA will respond to the ANPR comments, if any response is appropriate, when EPA responds to comments on this proposal. After reading this proposal, if any commenters on the ANPR believe their comments are still relevant, there is no need to resubmit the comments in full. Instead, commenters may simply submit a letter requesting that EPA consider their ANPR comments for purposes of today's proposal action. This proposal supersedes any preliminary positions taken in the ANPR.

II. EPA's Analytical Approach and Proposed Action on Petitions

A. EPA's Proposed Interpretation of Section 126 and Analytical Approach for Determining Whether to Grant or Deny the Petitions

1. The Appropriate Test Under Section 126

Section 126(b) provides that a State may petition EPA for a finding that specified sources or groups of sources in other States emit or would emit air pollutants ''in violation of the prohibition of section 110(a)(2)(D)(ii) of this title or this section.'' [1] Section 110 (a)(2)(D) provides the requirement that a SIP:

Contain adequate provisions:

(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to (any) national ambient air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,

(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement).

* * * * *

One issue is whether the cross-reference in section 126(b) to section 110(a)(2)(D)(ii) is valid, or instead should be considered to be a scrivener's error and be read to refer to section 110(a)(2)(D)(i). The EPA has offered the latter view in general and preliminary guidance. *See, e.g.,* 62 FR 55769 (Oct. 22, 1997) and 63 FR 24058 (Apr. 30, 1998).

Some have argued that section 126(b) should be read literally and that this reading would require EPA to deny the 8 petitions on grounds that section 126 allows a State to file a petition with EPA only to force other States to meet the requirements of section 126 itself (i.e., the requirement in section 126(a) that SIPs include provisions to require new and modified major stationary sources to give preconstruction notification to nearby States under certain circumstances). [2]

In the alternative, some have argued that, if in fact there is a scrivener's error, the proper cross-reference should be to section 110(a)(2)(D)(i)(II), and not section 110(a)(2)(d)(i)(I). UARG letter. The effect of this reading would be to limit section 126 petitions to cases in which the upwind sources are adversely affecting clean areas under the prevention of significant deterioration requirements of part C of title I of the CAA, or visibility.

The EPA believes that there is a scrivener's error in section 126. Furthermore, EPA disagrees that the scrivener's error is a misreference to section 110(a)(2)(D)(i)(II). In this

[1] The cross-reference to section 110(a)(2)(D)(ii) is repeated 3 times in section 126(b). The EPA will refer to these cross-references in the singular.

[2] *See* Letter from Henry V. Nickel, et al., Counsel for the Utility Air Regulatory Group, to Carol M. Browner, Administrator, U.S. EPA, November 21, 1997 (UARG Letter); Letter from Betty D. Montgomery, Attorney General of Ohio et. al., to Richard Wilson, Acting Assistant Administrator for Air & Radiation, U.S. EPA, November 5, 1997 (letters included in the docket to this rulemaking).

proposed action, EPA takes the position that the reference in section 126(b) to section 110(a)(2)(D)(ii) is a drafting error and that Congress intended to reference section 110(a)(2)(D)(i). The merit of this statutory interpretation is apparent on several levels. First, the reference to ''the prohibition of section 110(a)(2)(D)(ii)'' is ambiguous at best, and arguably nonsensical, since section 110(a)(2)(D)(ii) contains no prohibition, yet 110(a)(2)(D)(i) does. Second, the statutory cross reference contained in section 126(b), if taken on its face, would render section 126(b) largely meaningless. Finally, the legislative history of the CAA Amendments supports this interpretation. The EPA's interpretation is consistent with the reading of the CAA prior to the 1990 Amendments and Congress expressed no indication that it meant to substantively revise this provision of the statute at the time it administratively renumbered the provision.

The EPA also does not believe that the reference to section 110(a)(2)(D)(ii) is a mistaken cross-reference to section 110(a)(2)(D)(i)(II). Such a cross-reference would limit the availability of section 126 to the prevention of significant deterioration and visibility provisions of section 110(a)(2)(D)(i), a severe limitation for which there is no indication in the legislative history.

Section 126(b) authorizes the EPA to find that any major source or group of stationary sources emits or would emit any air pollutant ''in violation of the *prohibition of section (a)(2)(D)(ii)* of this title or this section'' (emphasis added). However, section 110(a)(2)(D)(ii) contains no prohibition. Rather, it provides that SIPs must ''contain adequate provisions insuring compliance with'' statutory sections relating to interstate and international pollution abatement.

By contrast, section 110(a)(2)(D)(i)—the provision that EPA believes Congress intended to cross-reference in section 126(b)—does contain a prohibition. It requires that SIPs contain adequate provisions ''prohibiting'' any source or other type of emissions activity within the State from emitting any air pollutant in amounts that, among other things, will contribute significantly to nonattainment in, or interfere with maintenance by, another State with respect to the NAAQS. Thus, the textual interplay between sections 126(b) and 110(a)(2)(D) provides strong evidence that the CAA contains ''a simple scrivener's error, a mistake made by someone unfamiliar with the law's object and design.'' *In re Chateaugay Corp.*, 89 F.3d 942, 954 (2d Cir. 1996) (holding that courts are empowered to correct an erroneous statutory cross-reference that inadvertently results from legislative changes (quoting *United States Nat'l Bank* v. *Independent Ins. Agents*, 508 U.S. 439, 462 (1993)); *see also, United States* v. *Gibson*, 770 F.2d 306, 308 (2d Cir. 1985) (per curiam) (correcting ambiguity in criminal fraud statute that resulted from the error of a scrivener in using the word 'and' rather than 'or' when codifying the statute).

As further support, reading section 126(b) as cross-referencing section 110(a)(2)(D)(ii) essentially renders that provision redundant and meaningless. Section 126 allows a party to petition EPA with respect to a ''violation of the prohibition in section 110(a)(2)(D)(ii) or this section.'' Section 110(a)(2)(D)(ii) cross-references back to section 126, as well as to section 115. To the extent section 110(a)(2)(D)(ii) cross-references back to section 126, the statute is redundant. Reading the two provisions together, section 126 would provide an opportunity for parties to file a petition claiming that a SIP violates the prohibition of section 110(a)(2)(D)(ii) (i.e., section 126) or this section (i.e., section 126).

Moreover, to the extent section 110(a)(2)(D)(ii) references section 115, the provision is meaningless. There is no relief that can be provided under section 126. Sections 126 and 115 create separate processes for different parties to petition the Agency for a finding that SIP is inadequate. Under section 115, the Administrator may issue a SIP Call to a State based on a request by an international agency or the Secretary of State that an air pollutant or pollutants emitted in the United States ''cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country.'' In contrast, only ''States'' or ''political subdivisions''—entities under the jurisdiction of the United States—may request relief under section 126. If Congress intended States or political subdivisions in the United States with the opportunity to seek relief for pollution transported to foreign countries, Congress could have provided so in a much clearer fashion in section 115. It is highly doubtful that Congress would have used such a cryptic reference to grant political entities within the United States the power to address pollution being transported out of the country from other States.

Finally, EPA's interpretation that there is a scrivener's error and that the reference should be to section 110(a)(2)(D)(i), fits with the legislative history on this provision. Courts ''recognize that during the drafting process an error may creep in,'' and that ''statutes are not drafted with mathematical precision, and should be construed with some insight into Congress' purpose at the time of the enactment.'' *In re Chateaugay Corp.*, 89 F.3d at 953. Here, the legislative history, as set forth in the Senate Report and the House Conference Report regarding the 1990 CAA Amendments, provides additional, persuasive evidence that section 126(b)'s cross-reference to section 110(a)(2)(D)(ii) is erroneous. *See Pierpont* v. *Barnes*, 94 F.3d 813, 817 (2d Cir. 1996) (committee reports are ''particularly good indicator(s) of congressional intent,'') cert. denied, 117 S. Ct. 1691 (1997).

To start, the Senate Report observes that the CAA, prior to the 1990 amendments, allowed section 126 to be used only for violations of section 110(a)(2)(E)(i), which ''relate(d) to the preparation of SIP(s).'' S. Rep. No. 101–228, 101st Cong., 2d Sess. 75 (1989), *reprinted in* 1990 U.S.C.C.A.N. 3385, 3461. Thus, under section 126(b)'s pre-1990 version, ''a State being injured by another State's pollution (could) file a complaint about the offending State's SIP, but not the pollution itself.'' *Id.* at 76, 1990 U.S.C.C.A.N. 3385, 3462. Notably, the Senate Report makes no mention of changing section 126(b)'s cross-reference to section 110(a)(2)(E)(i)— nor would it, since section 110(a)(2)(E)(i) had defined the SIP violation historically redressable under section 126(b). Because the amendments simply revised the text of former section 110(a)(2)(E)(i) and then renumbered it as section 110(a)(2)(D)(i), *compare* 42 U.S.C.A. 7410(a)(2)(E)(i) (1990) *with* 42 U.S.C.A. 7410(a)(2)(D)(i) (1995), [3] there is substantial reason to believe that section 126(b)'s current cross-reference to section 110(a)(2)(D)(*ii*) is mistaken.

Indeed, ''[w]hen Congress revises and renumbers existing laws, a court should not infer any legislative aim to change the law's effect unless such intention is clearly expressed.'' *In re Chateaugay Corp.*, 89 F.3d at 953 (citing *Finley* v. *United States*, 490 U.S. 545, 554 (1989)). Far from expressing a clear intent to effectuate the fundamental change in law that would result from section 126(b)'s new cross-reference to section 110(a)(2)(D)(ii), the legislative history for the 1990 CAA Amendments actually

[3] The 1990 CAA Amendments revised section 110(a)(2)(D) by dropping certain provisions not relevant here, and incorporating other provisions previously contained in section 110(a)(2)(E). *See* CAA Amendments of 1990, Pub. L. 101–549, 101(b), 104 Stat. 2404(1990); S. Rep. No. 101–228, 101st Cong., 2d Sess. 20 (1989), *reprinted* in 1990 U.S.C.C.A.N. 3385, 3406.

demonstrates a contrary purpose. According to the House Conference Report, these amendments sought to ''enhance the enforcement authority of the Federal government under the CAA, ''including ''EPA enforcement authority regarding violations of State Implementation Plans.'' H. Rep. No. 101–952, 101st Cong. 2d Sess. 347 (1990), *reprinted in,* 1990 U.S.C.C.A.N. 3385, 3879. As noted above, however, the ambiguous change in section 126(b)'s cross-reference would apparently divest the EPA of its former jurisdiction to redress—via the section 126 petition process—SIP violations regarding interstate pollution. See 42 U.S.C.A. 7426(b) (1990) (authorizing EPA to adjudicate petitions alleging violations of SIP requirements that are now substantially incorporated into section 110(a)(2)(D)(i)). Given the lack of any legislative history that would support such a significant shift in policy, and considering Congress' stated desire to enhance the EPA's SIP enforcement authority, this contradictory result is highly suspect. *See* In re Chateaugay Corp., 89 F.3d at 953 (''where it appears plain that an error in drafting has occurred, so that a literal construction would make a dramatic change in long-standing law, it is both sensible and permissible for judges to consider, in conjunction with other factors, Congress' complete silence on the literal effect of the change.'')[4]

The EPA believes that its proposed interpretation is permissible because it resolves the ambiguity in the interplay between sections 126 and 110(a)(2)(D) in a manner that harmonizes and gives meaning to all of their provisions and reasonably accommodates the purposes of the provisions. *See Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council,* 467 U.S. 837, 844 (1984).

[4] The Senate Report also expresses a congressional desire to promote the EPA's enforcement activity, not to constrain it. As the Senate committee observed, prior to 1990, the CAA ''allow(ed) a State to file a petition with the Administrator complaining of interstate air pollution (in violation of section 110(a)(2)(E)(i)), but not to file a lawsuit for violation of section 126. The amendment to section 304, (however,) allow(ed) a State, and citizens, to sue in Federal district court for violation of section 126.'' S. Rep. No. 101–228, 101st Cong., 2d Sess. 76 (1989), reprinted in 1990 U.S.C.C.A.N. 3385,3462. That Congress created a judicial mechanism by which to compel the EPA to respond to section 126 petitions is instructive. Because this legislative action is clearly inconsistent with any construction of the CAA that divests the EPA of its authority to enforce the very SIP requirements formerly contained in section 110(a)(2)(E)(i), it casts serious doubt upon the validity of section 126(b)'s amended cross-reference to section 110(a)(2)(D)(ii).

2. EPA's Analytical Approach for Determining Whether To Grant or Deny the Petitions

a. EPA's Interpretation of Significant Contribution under Section 110. The EPA's final NO_X SIP call rule sets forth EPA's interpretations of section 110(a)(2)(D)(i)(I) in the context of regional transport of ozone. The EPA proposes and is seeking comment on retaining and employing those interpretations for purposes of determining, under section 126(b), whether any of the sources and source categories named in the petitions ''emits or would emit any air pollutant in violation of the prohibition'' of section 110(a)(2)(D)(i)(I). For purposes of this proposal, EPA incorporates into the proposal, by reference, the explanation of those interpretations, as well as all of the supporting rationale and technical support for them. See, especially, Section II of the preamble to the final NO_X SIP call rule. Each of these steps is discussed in the remainder of Section II of this notice.

b. Applying EPA's Section 110 Interpretation of ''Significant Contribution'' and ''Interference'' under Section 126. The EPA proposes to apply its interpretation of section 110(a)(2)(D)(i)(I) to determine which if any NO_X sources or source categories named in the section 126 petitions ''emits or would emit any air pollutant in violation of the prohibition'' in section 110(a)(2)(D)(i)(I). The EPA believes that its interpretations in the context of section 110 apply with relative ease to its decision under section 126, with one additional step noted below.

First, in acting on the section 126 petitions, EPA proposes to use the linkages it drew in the NO_X SIP call rulemaking between specific upwind States and nonattainment and maintenance problems in specific downwind States. The EPA is seeking comment on and will carefully evaluate these linkages, and in particular, the linkages EPA has made between some of the more distant States, such as the linkages made between Alabama and Pennsylvania and Missouri and Pennsylvania.

In the next step, EPA determines which of that ''covered'' upwind State's major stationary NO_X sources that are named in the downwind State's petition may emit in violation of the prohibition in section 110(a)(2)(D)(i) because they emit in amounts that contribute significantly to nonattainment in, or interfere with maintenance by, the petitioning State. For this, EPA proposes to use its analysis of highly cost-effective measures in the NO_X SIP call rule to determine which of the covered upwind States' major stationary NO_X sources named in the petitions emit NO_X in amounts that contribute significantly. Thus, if EPA identified highly cost-effective measures for a particular source category in the NO_X SIP call, then EPA proposes in this notice to make an affirmative ''technical determination''—i.e., a finding that any source in that category located in a covered upwind State emits in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, the petitioning State(s) linked to that upwind State.

This methodology applies both to a petition that names sources in the entire contributing upwind State and to a petition that names sources in only a small portion of an upwind contributing State. As described more fully in the NO_X SIP call rulemaking, the only viable solution to ozone nonattainment is to apply pollution-reduction measures to a large collection of sources in many States, each one of which by itself may produce a small or perhaps immeasurable impact on the nonattainment problem for a particular area. Under this collective contribution approach, if EPA determines that the full set of NO_X sources in an upwind State significantly contributes to nonattainment in, or interferes with maintenance by, a particular downwind State, then any NO_X sources in the upwind State that can apply highly cost-effective control measures must be considered part of the solution to those downwind problems and therefore contributes to downwind nonattainment.

c. Emitting ''In Violation of the Prohibition'' in Section 110—the Decision Whether to Grant or Deny Each Petition. As noted above, the test under EPA's interpretation of section 126 is whether the sources named in the petitions emit in violation of the section 110(a)(2)(D)(i) prohibition. That prohibition, however, by the terms of section 110(a)(2)(D)(i), should be included in SIP provisions. The EPA has now issued its NO_X SIP call rule under that section, and has set forth a track that upwind States must follow to satisfy its terms. Under the NO_X SIP call, EPA has given the covered States until September 1999 to submit SIPs satisfying the rule, and has specified that those SIPs must prohibit the NO_X emissions that contribute significantly by a date no later than May 1, 2003. By that rule, EPA has established emissions budgets for each State, which reflect elimination of the significant contribution of NO_X emissions within

the State. The EPA has further established by rule May 1, 2003 as the final date by which all measures to meet that budget must be implemented. In addition, EPA has proposed a FIP that could be promulgated if a State fails to respond adequately to the NO_X SIP call.

Section 126 calls for relief where EPA finds that sources are emitting ''in violation of the prohibition'' of section 110(a)(2)(D)(i). The EPA believes that it is sensible to interpret this language in light of the ongoing action of both States and EPA. Thus, so long as EPA and States (and ultimately the sources the State determines to regulate) are on track to meet the goals of the NO_X SIP call, EPA believes it is appropriate to determine that sources are not emitting in violation of the prohibition in section 110(a)(2)(D)(i) for purposes of section 126(b). States and EPA will be on track if States timely submit a complete and approvable SIP and EPA acts promptly to approve the plan. In the alternative, if a State fails to submit in a timely manner a complete or approvable plan, efforts will be on track so long as EPA promulgates a FIP. The EPA further believes this approach is sensible because an alternative interpretation, which would result in a section 126 remedy going into effect despite timely action by States and EPA in response to the NO_X SIP call, would lead to unnecessary and duplicative efforts. Such an approach would not only waste Agency resources, but could ultimately undermine efforts to reduce interstate transport by adding confusion to the process.

Based on this interpretation of the language in section 126, EPA has considered an alternative form of final action on the section 126 petitions that takes into account whether the State and/or EPA is on track to institute a satisfactory plan in response to the NO_X SIP call rule.

As described in Section I above, the proposed consent decree would require EPA to take a final action on the section 126 petitions by April 30, 1999. In formulating the proposed consent decree, EPA developed an alternative approach that it believes would harmonize the section 126 and 110 actions. Specifically, paragraph 5.b. and c. state that:

b. Unless EPA takes the final action described in paragraph 6, as to each individual petition, EPA's final action will be to—

(i) Grant the requested finding, in whole or part; and/or

(ii) Deny the petition, in whole or part.

c. Unless EPA denies a petition in whole, its final action will include promulgation of a remedy under CAA section 126(c) for sources to the extent that a requested finding is granted with respect to those sources.

Then paragraph 6 states:

6. EPA shall be deemed to have complied with the requirements of Paragraph 5(a) if it instead takes a final action by April 30, 1999, that—

a. makes an affirmative determination concerning the technical components of the ''contribute significantly to nonattainment'' or ''interfere with maintenance'' tests under CAA section 110(a)(2)(D)(i), 42 U.S.C. section 7410(a)(2)(D)(i);

b. further provides that:

(i) If EPA does not issue a proposed approval of the relevant Upwind State's SIP revision (submitted in response to the NO_X SIP call) by November 30, 1999, then the finding will be deemed to be granted as of November 30, 1999, without any further action by EPA;

(ii) If EPA issues a proposed approval of said SIP revision by November 30, 1999, but does not issue a final approval of said SIP revision by May 1, 2000, then the finding will be deemed to be granted as of May 1, 2000, without any further action by EPA;

(iii) If EPA issues a final approval of said SIP revision by May 1, 2000, EPA must take any and all further actions, if necessary to complete its action under section 126, no later than May 1, 2000; and

c. Promulgates a remedy under CAA section 126(c) for sources to the extent that an affirmative determination is made with respect to those sources.

The EPA believes that the alternative form of final action set forth in Paragraph 6 of the proposed decree best harmonizes sections 110(a)(2)(D)(i)(I) and 126. The EPA believes that sources in an upwind State should not be considered to be emitting an air pollutant in violation of the section 110 prohibition, and hence EPA should not grant a petition naming such sources, if the State is adhering to the NO_X SIP call rule's schedule for submission of an approvable SIP revision, and EPA is acting speedily to approve the SIP—or, failing that, if EPA has promulgated a FIP for the State. After all, if EPA's rule provides a particular path for the development of a plan calling on sources to reduce interstate pollution by May 1, 2003, and under that rule either the upwind State or EPA is moving forward to develop, take action on or promulgate a satisfactory plan meeting that rule and achieving attainment as expeditiously as practicable, it would be difficult to conclude that an affected source in the upwind State ''emits or would emit in violation'' of the prohibition that the plan is not yet required to contain.[5]

For these reasons, EPA proposes to follow the alternative described in Paragraph 6 of the proposed decree. Thus, EPA proposes to structure its final action to contain: (1) A series of ''technical determinations'' as to which sources in which States named in the petitions would emit in violation of the section 110 prohibition if the State or EPA were to fall off track in putting a timely and satisfactory plan in place; (2) determinations that the petitions will automatically be deemed granted or denied on the basis of the events set forth in Paragraph 6; and (3) the remedial requirements that will apply to the sources receiving affirmative technical determinations if a petition naming those sources is ultimately deemed granted.

The EPA believes that the timeframes and triggers in Paragraph 6 are reasonable and feasible, and the Agency intends to execute them timely. For States that make a timely SIP submission, EPA believes it is feasible for the Agency to issue a proposed rule within 60 days of the submission deadline. Under the CAA, EPA is provided 60 days—but no more than 6 months—in which to affirmatively determine whether a submission is complete.

If EPA does not make an affirmative completeness determination, the submission is deemed complete. Once a submission is affirmatively found to be or is deemed complete, the CAA then provides EPA with 12 months to approve or disapprove the submission. Thus, at maximum, the CAA provides EPA with 18 months to approve or disapprove a SIP submission. The EPA is proposing a 7-month period to act on submissions in response to the NO_X SIP call. While this period is shorter than the maximum period contemplated under the CAA, EPA believes that it is feasible and appropriate in the present circumstances. The EPA anticipates that the EPA Regional Offices will be working with States as States draft rules in response to the NO_X SIP call and will be well prepared to issue a proposed determination within 60 days of the required submission date. Further, in light of EPA's work with the States in development of their plans, the 5-month period between proposal and final action should allow the Agency ample time to review any comments and to

[5] Moreover there does appear to be tension between section 110(a)(2)(D), which does not establish the timing as to when the SIP prohibition needs to be effective against sources (i.e., when sources need to implement controls to reduce emissions) and the timing in section 126, which requires implementation no later than 3 years following a section 126(b) determination. The EPA does not believe that Congress intended section 126 to be used to shorten timeframes for action that EPA has previously determined are approvable for purposes of eliminating significant contribution to nonattainment areas in other States.

prepare a final action. An additional benefit of this schedule for EPA action is that it will provide sources with certainty about the applicable requirements well before the latest implementation date that is permitted by the NO_X SIP call. Moreover, if the State fails to submit an approvable plan, EPA will be well positioned to promulgate a FIP for the State, based on the FIP proposal that the Agency is issuing separately. It is important to achieve the NO_X reductions necessary to protect public health and to attain the NAAQS as expeditiously as practicable. Therefore, where a State or EPA has failed to meet a deadline it will be critical to have the section 126 remedy go into effect as soon as possible thereafter in order to ensure that the NO_X emission reductions are achieved as soon as practicable, which in the NO_X SIP call EPA has determined to be May 1, 2003. The schedule EPA has proposed to enter into is intended to ensure that either the FIP or the 126 remedy goes into effect in order to achieve the NO_X emission reductions by May 1, 2003.

B. Weight of Evidence Determination of Named Upwind States

As discussed above, in acting on the section 126 petitions EPA proposes to rely on the conclusions it drew in the final NO_X SIP call rulemaking to determine whether the emissions in named upwind States contribute significantly to the 1-hour and 8-hour nonattainment and maintenance problems in the petitioning States. To evaluate the air quality impacts in the final NO_X SIP call rulemaking, EPA used a weight-of-evidence approach involving three sets of modeling information: The State-by-State UAM–V zero-out modeling, the CAMx source apportionment modeling, and the OTAG subregional modeling and other information such as emission density and transport distance.[6] A number of ''metrics'' (i.e., measures of ozone contributions) were used to assess the air quality effects from several perspectives of contribution from sources in various upwind States. The technical details of the modeling information and metrics are described in the final NO_X SIP call rulemaking.

The named upwind States which are linked as containing sources that are significant contributors to each petitioning State in the final NO_X SIP call rulemaking are listed in Tables II–1 for the 1-hour NAAQS and Table II–2 for the 8-hour NAAQS. The information that EPA relied on in making these significance linkages is provided in the final NO_X SIP call rulemaking. All of the information that is contained in the docket of the NO_X SIP call rulemaking is incorporated by reference into this proposal. The EPA concluded from all of this information that the following 20 jurisdictions contain sources that make a significant contribution to nonattainment in, or interfere with maintenance by, one or more petitioning States under the 1-hour and/or the 8-hour NAAQS:

Alabama
Connecticut
Delaware
District of Columbia
Illinois
Indiana
Kentucky
Maryland
Massachusetts
Michigan
Missouri
New Jersey
New York
North Carolina
Ohio
Pennsylvania
Rhode Island
Tennessee
Virginia
West Virginia

TABLE II–1.—NAMED UPWIND STATES WHICH CONTAIN SOURCES THAT CONTRIBUTE SIGNIFICANTLY TO 1-HR NONATTAINMENT IN PETITIONING STATES

Petitioning State (nonattainment area)	Named upwind States
New York	DE, DC, IN, KY, MD, MI, NC, NJ, OH, PA, VA, WV.
Connecticut	DE, DC, IN,* KY,* MD, MI,, NC,, NJ, NY, OH, PA, VA, WV.
Pennsylvania	NC, OH, VA, WV.
Massachusetts	OH, WV.
Rhode Island	OH, WV.
Maine	CT, DE, DC, MD, MA, NJ, NY, PA, RI.
New Hampshire	CT, DE,* DC,* MA, MD,* NJ, NY, PA, RI, VA.*
Vermont	None.
Total	CT, DE, DC, IN, KY, MA, MD, MI, NC, NJ, NY, OH, PA, RI, VA, WV.

*Upwind States marked with an asterisk are included in the table because they contribute to an interstate nonattainment area that includes part of the petitioning State. Part of New Hampshire is included in the Boston/Portsmouth nonattainment area; part of Connecticut is included in the New York City nonattainment area.

TABLE II–2. NAMED UPWIND STATES WHICH CONTAIN SOURCES THAT CONTRIBUTE SIGNIFICANTLY TO 8-HR NONATTAINMENT IN PETITIONING STATES

Petitioning State	Named upwind States
Pennsylvania	AL, IL, IN, KY, MI, MO, NC, OH, TN, VA, WV.
Massachusetts	OH, WV.
Vermont	None.
Total	AL, IL, IN, KY, MI, MO, NC, OH, TN, VA, WV.

The EPA also concluded that sources in the following 11 States do not make a significant contribution to nonattainment in, or interfere with maintenance by, any of the petitioning States under the 1-hour and/or the 8-hour NAAQS:

[6] The UAM–V is the Variable-grid Urban Airshed Model. The CAMx is the Comprehensive Air Quality Model With Extensions.

Arkansas
Georgia
Iowa
Louisiana
Maine
Minnesota
Mississippi
New Hampshire
South Carolina
Wisconsin
Vermont

As discussed below, in Section II.F., EPA does not have the same level of information available regarding the named States of Maine, New Hampshire, and Vermont as it has for the other States named in petitions. Therefore, EPA intends to conduct further analyses on these three States. If the additional analyses show that sources in any of these States significantly contribute to a relevant petitioning State, EPA will issue a supplemental notice of proposed rulemaking based on the new information.

C. Cost Effectiveness of Emissions Reductions

As described in Section II.A, above, the second prong of the significant-contribution interpretation that EPA applied in the NO_X SIP call rule, and that EPA proposes to apply for purposes of this proposal, is the extent to which ''highly cost-effective'' NO_X control measures are available for the types of stationary sources named in the petitions.[7].

As in the NO_X SIP call rule, the EPA proposes to select these highly cost-effective measures by examining the technological feasibility, administrative feasibility and cost-per-ton-reduced of various multistate ozone season NO_X control measures and determining what measures feasibly achieve the greatest NO_X reductions and are among the most reasonable in light of other actions taken by EPA and States to control NO_X.[7]

1. What NO_X Controls Are Highly Cost Effective

The first step in the cost-effectiveness process was to identify the types of sources named in the various petitions. The petitioning States have identified the source categories that they believe significantly impact their ability to achieve attainment of the ozone standard. These categories are listed in Table I–1 earlier in this notice. The EPA has determined that the named source categories can be combined into one general category—fossil fuel-fired indirect heat exchangers. This term applies to boilers and turbines used for the production of steam, electricity, and in some cases mechanical work, and to process heaters. To assure equity among the various subcategories of such sources and the industries they represent, EPA considered the cost effectiveness of controls for each subcategory separately throughout the affected 20-jurisdiction region described in Section II.B above. Sources are combined into a common subcategory if they serve the same general industry (e.g., boilers and turbines that are used by the electricity generation industry are combined in the same subcategory). The EPA believes that this categorization better reflects the industrial sectors served. Thereby, the EPA split the population of indirect heat exchanges into four subcategories, consistent with the approach EPA took in the final NO_X SIP call: (1) A subcategory of boilers and turbines serving generators greater than 25 MWe that produce electricity for sale to the grid (''large EGUs''); (2) a subcategory of boilers and turbines with a heat input greater than 250 mmBtu/hr that exclusively generate steam and/or mechanical work (e.g., provide energy to an industrial pump), or produce electricity for internal use only and not for sale (''large non-EGUs''); (3) a subcategory of process heaters with a heat input greater than 250 mmBtu/hr (''large process heaters''); and (4) a subcategory of smaller indirect heat exchangers, i.e., all such sources not included in the first three subcategories (''small sources'').

As mentioned above, in evaluating the cost effectiveness of NO_X controls for indirect heat exchangers, the EPA has taken the same approach as that taken in the final NO_X SIP call. See generally, Section II.D of the preamble to the final NO_X SIP call rule. In short, for each subcategory, the amounts of emissions that cause subcategories in the covered upwind States to contribute significantly to a petitioning State's nonattainment were determined based on the application of NO_X controls that achieve the greatest feasible emissions reduction while still falling within a cost-per-ton-reduced range that EPA considers to be highly cost effective. The NO_X controls for this rulemaking were considered highly cost effective for the purposes of reducing ozone transport to the extent they achieve the greatest feasible emissions reduction but still cost no more than $2,000 per ton of ozone season NO_X emissions removed (in 1990 dollars), on average, for each subcategory. The discussion below further describes the basis for this cost amount and the techniques used for each subcategory. The EPA believes that certain controls that cost more than $2,000 per ton of NO_X reduced are reasonably cost effective in reducing ozone transport or in achieving attainment with the ozone NAAQS in specific nonattainment areas; however, EPA proposes to base the significant-contribution determination on only highly cost-effective reductions. In addition, as discussed further below, in determining whether to assume reductions from the small source subcategory, EPA considered administrative efficiency in evaluating this subcategory.

More specifically, to determine what level of control can be considered highly cost effective, EPA considered other recently undertaken or planned NO_X control measures. Table II–3 provides a reference list of measures that EPA and States have undertaken to reduce NO_X and their average annual costs per ton of NO_X reduced. These measures cost up to $2,000 per ton. With few exceptions, the average cost effectiveness of these measures is representative of the average cost effectiveness of the types of controls EPA and States have needed to adopt most recently, since their previous planning efforts have already taken advantage of opportunities for even cheaper controls. The measures listed in Table II–3 generally represent the average costs (i.e., middle of the range of costs) that the nation has been willing to bear recently to reduce NO_X. The EPA believes that the cost effectiveness of measures that it or States have adopted, or proposed to adopt, forms a good reference point for determining which of the available additional NO_X control measures are among the most cost-effective measures that can be implemented by the sources considered in today's action.

[7] As discussed in this section, the highly cost-effective NO_X controls happen to apply only to major stationary sources. Under section 126, EPA can make a finding for ''any major source or group of stationary sources.'' In other words, even if not all sources subject to this action were major, they would be part of a group of stationary sources that contribute significantly to nonattainment and hence could potentially be subject to finding.

[7] As discussed in this section, the highly cost-effective NO_X controls happen to apply only to major stationary sources. Under section 126, EPA can make a finding for ''any major source or group of stationary sources.'' In other words, even if not all sources subject to this action were major, they would be part of a group of stationary sources that contribute significantly to nonattainment and hence could potentially be subject to a finding.

TABLE II–3.—AVERAGE COST EFFECTIVENESS OF NO_X Control Measures Recently Undertaken For Stationary Sources

[1990 $]

Control measure	Cost per ton of NO_X removed
NO_X RACT	150–1,300.
Final NO_X SIP call	Up to 2,000.
State Implementation of the Ozone Transport Commission Memorandum of Understanding	950–1,600.
New Source Performance Standards for Fossil Steam Electric Generation Units	1,290.
New Source Performance Standards for Industrial Boilers	1,790.

The EPA notes that there are also a number of less expensive measures recently undertaken by the Agency to reduce NO_X emission levels that do not appear in Table II–3. These actions include the title IV NO_X reduction program. Though these actions are very cost effective, the Agency is focusing on what other measures exist, at a potentially higher (though still not the highest reasonable) cost-effectiveness value, that can further reduce NO_X emissions. Table II–3 is thereby useful as a reference of the next higher level of NO_X reduction cost effectiveness that the Agency considers among the most reasonable to undertake. As a result, the Agency proposes that NO_X controls that can feasibly be achieved and have an average subcategory-specific cost effectiveness less than $2,000 per ton of NO_X removed be considered highly cost effective. The subcategories that EPA proposes to control are those major stationary sources in the named categories for which EPA finds that these highly cost-effective controls are available.

2. Determining the Cost Effectiveness of NO_X Controls

In an effort to determine what, if any, highly cost-effective mix of controls is available for each subcategory (i.e., large EGUs, large non-EGUs, large process heaters, and small sources) the Agency considered the average cost effectiveness of alternative levels of controls for each subcategory as described in the final NO_X SIP call. That analysis is summarized here. The average cost effectiveness of the controls was calculated from a baseline level that included all currently applicable Federal or State NO_X control measures for each subcategory. The baseline did not include Phase II and Phase III of the OTC NO_X MOU since those measures are not federally required and they have not yet been adopted by all the involved States;[8] if the MOU were included in the baseline, the overall costs would be lower. In determining the cost of NO_X reductions from large EGUs, EPA assumed an emissions trading system. As discussed in the final NO_X SIP call, EPA evaluated and compared the likely air quality impacts both with and without a multistate NO_X emissions trading system for electricity generating sources. This analysis shows that a multistate trading program causes no significant adverse air quality impacts. Because such a program would result in significant cost savings, EPA's cost-effectiveness determination for large electricity generating boilers and turbines (i.e., the majority of the core group of sources in the trading program) assumes sources will participate in a multistate trading program.[9] For non-EGU sources, EPA used a least cost method which is equivalent to an assumption of an intrastate trading program. Inclusion of these sources in a multistate trading program would provide further cost savings.

Table II–4 summarizes the control options investigated for each subcategory covered by the petitions and the resulting average, multistate cost effectiveness as presented in EPA's final NO_X SIP call. Note that these cost figures are obtained by performing the analysis over the 23-jurisdiction NO_X SIP call area. The values will be only slightly different for the States covered by this action; those differences are insignificant for purposes of identifying highly cost-effective controls. Additionally, the cost effectiveness analysis included a consideration of each subcategory's growth, including new sources. Thus, the control levels arrived at are cost-effective for new sources also.

TABLE II–4.—AVERAGE COST EFFECTIVENESS OF OPTIONS ANALYZED[10]

[1990 dollars in 2007]

Subcategory	Average cost-effectiveness ($/ozone season ton) for each control option	Average cost-effectiveness ($/ozone season ton) for each control option	Average cost-effectiveness ($/ozone season ton) for each control option
Large EGUs	0.20 lb/mmBtu $1,263	0.15 lb/mmBtu $1,468	0.12 lb/mmBtu. $1,760.
Large Non-EGUs	50% reduction $1,235	60% reduction $1,477	70% reduction. $2,155.
Process Heaters	$3,000/ton maximum per source. $2,859	$4,000/ton maximum per source. $2,891	$5,000/ton maximum per source. $2,891.

[10] The cost-effectiveness values in Table II–4 are multistate averages. In the case of large EGUs the cost-effectiveness values represent reductions beyond those required by title IV or title I RACT, where applicable. For large non-EGUs and process heaters, the cost-effectiveness values represent reductions from uncontrolled levels.

[8] However, in the Regulatory Analysis of the final NO_X SIP call, EPA evaluates the economic impact of including the MOU in the baseline for the electric power industry.

[9] The EPA envisions sources in States that are covered by (1) the section 110 NO_X SIP call, (2) the section 110 FIP, or (3) section 126, to be able to trade among each other.

The following discussion explains the controls determined by EPA to be highly cost-effective for each subcategory.

i. Large EGUs. For large EGUs, the control level was determined by applying a uniform NO_X emissions rate across the 20 jurisdictions potentially subject to section 126 findings. The cost-effectiveness for each control level was determined using the Integrated Planning Model (IPM). Details regarding the methodologies used can be found in the Regulatory Impact Analysis of the NO_X SIP call rulemaking. Table II–4 summarizes the control levels and resulting cost effectiveness of three levels analyzed.

A regionwide level of 0.20 lb/mmBtu was rejected because though it resulted in an average cost effectiveness of less than $2,000 per ton, the air quality benefits were less than those for the 0.15 lb/mmBtu level which was also less than $2,000 per ton. The results suggest that a multistate level of 0.15 lb/mmBtu should be assumed when determining the emission levels for this subcategory. This control level has an average cost-effectiveness of $1,468 per ozone season ton removed.[11] This amount is consistent with the range for cost-effectiveness that EPA has derived from recently adopted (or proposed to be adopted) control measures.

The EPA acknowledges that a control level of 0.12 lb/mmBtu, which carries a cost effectiveness of $1,760 per ozone season ton removed, appears to be within the upper range of cost effectiveness. However, for reasons explained in Section II.D. of the final NO_X SIP call, the EPA is proposing in the section 126 action not to base the EGU control level on 0.12 lb/mmBtu. Therefore, EPA proposes to retain and apply here its determination from the NO_X SIP call rulemaking that it is highly cost effective to control emissions from large EGUs to a control level corresponding to 0.15 lb/mmBtu.

ii. Large Non-EGUs. The EPA determined a highly cost-effective control level for large non-EGUs by applying a uniform percent reduction multistate in increments of 10 percent. Details regarding the methodologies used are in the Regulatory Impact Analysis. Table II–4 summarizes the control levels and resulting cost effectiveness for non-EGUs.

For large non-EGUs, the cost-effectiveness determination includes estimates of the additional emissions monitoring costs that sources would incur in order to participate in a trading program. Some non-EGUs already monitor their emissions. In the proposed NO_X SIP call, EPA had not included monitoring costs in the cost-effectiveness determination because such costs could not be estimated at that time. Since then, EPA has evaluated monitoring system costs. These costs are defined in terms of dollars per ton of NO_X removed so that they can be combined with the cost-effectiveness figures related to control costs. Monitoring costs varied from about $150 to $400 per ton of NO_X removed, depending on the type of subcategory.

The EPA, therefore, proposes to retain and apply here its determination from the NO_X SIP call rulemaking that for large non-EGUs a control level corresponding to 60 percent reduction from baseline levels is highly cost effective (this percent reduction corresponds to a multistate control level of about 0.17 lb/mmBtu).

iii. Large Process Heaters. For large process heaters, the control level was determined by applying various cost-effectiveness thresholds, because trading was not assumed to be readily available for this subcategory. Details regarding the methodologies used are in the Regulatory Impact Analysis. Table II–4 summarizes the control levels and resulting cost effectiveness for each option under this subcategory.

The EPA determined that controlling process heaters, though reasonably cost effective, is not highly cost effective. Thus EPA proposes that these sources do not emit in amounts that significantly contribute to petitioning States' nonattainment or maintenance problems.

iv. Small Sources. For the subcategory of small sources, EPA is proposing to determine that no additional control measures or levels of control are highly cost effective and feasible to mandate. For the purposes of this rulemaking, EPA considers the following sizes of point sources to be small: (1) Electricity generating boilers and turbines serving a generator 25 MWe or less, and (2) other indirect heat exchangers with a heat input of 250 mmBtu/hr or less. In the NO_X SIP call, EPA found that the collective emissions from small sources were relatively small (in the context of that rulemaking) and the administrative burden, to the permitting authority and to regulated entities, of controlling such sources was likely to be considerable.

In today's action, for the same reasons as described in the final NO_X SIP call, EPA proposes that these sources do not emit in amounts that significantly contribute to petitioning States' nonattainment or maintenance problems. Further discussion concerning small point sources may be found in the final NO_X SIP call preamble.

v. Summary of Control Measures. Table II–5 summarizes the controls that are assumed for each subcategory. More detailed discussions of the controls assumed are contained in the sections that describe each sector.

TABLE II–5.—SUMMARY OF FEASIBLE, HIGHLY COST-EFFECTIVE NO_X Control Measures

Subcategory	Control measures
Large EGUs	State-by-State ozone season emissions level (in tons) based on applying a NO_X emission rate of 0.15 lb/mmBtu on all applicable sources.
Large Non-EGUs	State-by-State ozone season emissions level (in tons) based on applying a 60 percent reduction from uncontrolled emissions on all applicable sources.
Large Process Heaters	No additional controls highly cost effective.
Small Sources	No additional controls highly cost effective.

3. Other Cost-Related Considerations

The EPA has addressed other cost-related considerations as described in Section II.D of the final NO_X SIP call notice. The EPA proposes to rely on that analysis in this rulemaking.

D. Identifying Sources

As discussed previously, all of the petitions named specific upwind source categories as significantly contributing

[11] It should be noted that in the final NO_X SIP call EPA also investigated the regionwide cost-effectiveness of NO_X reductions if each State individually met the budget component for large electricity generating boilers and turbines (i.e., through intra-state trading). In the case of the 0.15 lb/mmBtu strategy intra-State trading resulted in a regionwide cost-effectiveness of $1,499/ton compared to $1,468/ton for regionwide trading.

to nonattainment in, or interfering with maintenance by, the petitioning State. Four petitioning States (Massachusetts, New Hampshire, New York, and Rhode Island) also attempted to identify the existing sources in the targeted source categories. However, the petitioners cautioned EPA that the lists might not be complete and that any omissions were unintentional. In addition, the EPA has received several comments from sources on the State lists saying that they do not meet the source category definitions provided in the petitions. In order to identify and verify the sources in the named source categories for the geographic areas covered by each petition, EPA used the most up-to-date emission inventory available. These data sources are described in Section III of this notice. The existing sources in the source categories for which EPA is making an affirmative technical determination are listed in Appendix A to proposed part 97. The EPA seeks comment on whether it has identified correctly the sources covered by the petitions.

E. Air Quality Assessment

In the final NO_X SIP Call rulemaking, EPA evaluated the ozone benefits in the petitioning States of NO_X controls proposed in today's action. The EPA believes that the results of that modeling analysis are valid for the purpose of this proposed rulemaking, as well. The EPA performed the modeling for the 23 jurisdictions covered in the NO_X SIP Call to confirm that those States collectively contribute significantly to downwind nonattainment. The collective contribution of all the upwind States is one factor that went into EPA's decision that each individual upwind State contributes significantly to downwind nonattainment.

The ozone benefits determined in the final NO_X SIP Call were based on air quality modeling of the emissions scenarios described below. Each emissions scenario was modeled by EPA using UAM–V run for all four of the OTAG episodes (i.e., July 1–11, 1988; July 13–21, 1991; July 20–30, 1993; and July 7–18, 1995). In brief, the emissions scenarios include a 2007 Base Case and a control scenario designed to evaluate the effects of NO_X controls on nonattainment in downwind States, including each of the petitioning States. The Base Case scenario accounts for growth in emissions and reductions associated with Clean Air Act mandated controls and additional Federal measures. In the control strategy scenario, NO_X emissions from utility and non-utility sources were reduced by applying controls, very similar to those in today's proposal, to all such sources in the 23 jurisdictions which EPA has found, in the NO_X SIP Call, contain emissions which make a significant contribution to nonattainment in downwind areas. The details on the development of these two emissions scenarios are described in the final NO_X SIP Call rulemaking.

The EPA recognizes that the amount of emissions reduction in the modeled strategy is not identical to the amount of emissions reduction in today's proposal. This is because of differences in (a) the underlying emissions inventories and (b) the level of emissions controls applied to individual sources. However, the overall effect of these differences on the percent emissions reductions is small. Specifically, the difference in the total NO_X emission reductions for the 20 jurisdictions covered by today's proposal between what was assumed in the modeling compared to what is being proposed today is only 3 percent. The EPA also recognizes that there are three additional upwind States (i.e., Georgia, South Carolina, and Wisconsin) which are controlled in the modeled strategy that are not covered by today's proposal. These three States were covered in the NO_X SIP Call because of their contributions to States other than the petitioning States. Since EPA believes that emissions from sources in these States do not contribute significantly to nonattainment in any of the petitioning States, it is reasonable to assume that emissions reductions in these States will not have any appreciable impact on nonattainment in any of the petitioning States. The EPA believes that the differences between today's proposal and what was modeled, as described above, are relatively small, and thus, the overall conclusions on air quality benefits from the modeled strategy are applicable to the controls in today's proposal.

The EPA used a number of ''metrics'' (i.e., measures of ozone contribution or impact) to evaluate the air quality benefits in the petitioning States of the proposed NO_X controls. The technical details of the air quality modeling information and metrics are described in the final NO_X SIP call rulemaking. The results of this modeling indicate that the proposed NO_X controls applied to the sources in the upwind States proposed as making a significant contribution to nonattainment in one or more of the petitioning States will provide substantial ozone benefits in each of the petitioning States.

F. Conclusions on Granting or Denying the Petitions

The EPA is proposing action on the petitions based on the outcome of the multi-step process described in the preceding sections. The EPA's proposed action consists of three components: (1) Technical determinations of which upwind sources or source categories named in each petition significantly contribute to nonattainment or interfere with maintenance of the relevant ozone standard in each petitioning State; (2) action specifying when a finding that such sources emit or would emit in violation of the section 110(a)(2)(D)(i)(I) prohibition will be deemed made or not made (or made but subsequently withdrawn) and, thus, when a petition for such a finding will be deemed granted or denied (or granted but subsequently denied) for purposes of section 126(b); and (3) the specific emissions-reduction requirements that will apply when such a finding is deemed made. Each of these proposed actions is described in more detail below. Under EPA's proposed action, certain types of new and existing sources in 20 upwind States are potentially subject to a section 126(b) finding and therefore to the requirements set forth in this proposal.

1. Technical Determinations

First, EPA proposes to make affirmative and negative technical determinations as to which of the new (or modified [12]) or existing major sources or groups of stationary sources named in each petition emit or would emit NO_X in amounts that will contribute significantly to nonattainment of the 1-hour or 8-hour standard in (or interfere with maintenance of the 8-hour standard by) each respective petitioning State. The regulatory text accompanying today's proposal sets forth each of those proposed technical determinations for sources named in each petition.

In short, for each petition, with respect to each ozone standard, EPA proposes to make affirmative technical determinations of significant contribution (or interference) for those large EGU and non-EGU sources for which highly cost-effective controls are available (as described in Section II.C.), to the extent those sources are located in one of the ''Named Upwind States'' corresponding to that petition in Tables II–1 and II–2. Thus, to illustrate, for the petition from New York, EPA proposes to find that large EGUs and non-EGUs

[12] Whenever the word ''new'' is used in relation to sources affected by this proposed rule, it includes both new and modified sources.

of the types described in Section II.C. that are located in the named portions of Delaware, the District of Columbia, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia emit NO_X in amounts that contribute significantly to nonattainment of the 1-hour standard in New York. By contrast, EPA proposes to find that such sources located in Tennessee, which New York also named in its petition, do not emit NO_X in amounts that have that effect on New York. The result is that EPA proposes to find that the large EGUs and non-EGUs in at least some upwind States named in every petition except Vermont's contribute significantly to nonattainment of at least one of the standards (or interfere with maintenance of the 8-hour standard) in the petitioning State. The EPA refers the reader to the regulatory text for a full description of each of the proposed technical determinations for each petition.

The EPA notes that the Agency is not proposing to make affirmative technical determinations as to any sources located in Vermont, New Hampshire, or Maine. That is because, based on the more limited modeling and other assessments that EPA has done thus far with respect to those States, EPA is not yet prepared to conclude that sources in any of those States do contribute significantly to nonattainment (or interfere with maintenance) of an ozone standard in any downwind State named in one of those three States in its petition.[13] However, EPA is continuing to study the impacts of sources in those States on downwind States, so that it can make final decisions based on the fuller set of information available today for other States. If EPA believes, after completing its assessments, that large EGU or non-EGU sources in any of those three States do contribute significantly to downwind air quality problems in any of the States that name them in their petitions, EPA will issue a supplemental notice of proposed rulemaking based on those results.

Appendix A to proposed part 97 lists all existing sources for which EPA proposes to make an affirmative technical determination linking those sources to at least one petitioning State. These are the existing sources that could receive a positive section 126(b) finding, depending on the circumstances described in the next section.

[13] Maine's petition named sources in Vermont and New Hampshire and New Hampshire's petition named sources in Maine and Vermont.

2. Action on Whether To Grant or Deny Each Petition

a. Portions of Petitions for Which EPA Is Proposing an Affirmative Technical Determination. For the reasons described in Section II.A.2.c., EPA proposes to issue the type of final action on the petitions described in that section. Under that approach, EPA's final action for sources that EPA is proposing an affirmative technical determination would provide that a finding that certain sources emit or would emit in violation of the prohibition in section 110(a)(2)(D)(i)(I) would be deemed made as of certain specified dates if certain events do not occur by those dates. More specifically, a finding that new or existing sources, for which EPA has made an affirmative technical determination, do emit in violation of section 110(a)(2)(D)(i)(I) would be deemed made:

- As of November 30, 1999, if by such date EPA does not issue either a proposed approval, under section 110(k) of the CAA, of a State implementation plan revision submitted by such State to comply with the requirements of section 110(a)(2)(D)(i)(I) of the CAA; or final Federal implementation plan meeting such requirements for such State in which the affected sources are or will be located,
- As of May 1, 2000, if by November 30, 1999, EPA takes the action described above for such State, but, by May 1, 2000, EPA does not approve or promulgate implementation plan provisions meeting such requirements for such State.

The EPA also proposes to find, as described earlier, that any such finding as to any such major source or group of stationary sources would be considered a finding under section 126(b) and, therefore, would trigger the remedial requirements of the final rule. At such time as a finding is deemed made, EPA intends to publish a notice in the **Federal Register** announcing the source categories and locations affected by the finding.

Furthermore, EPA proposes that as to any portion of a petition for which EPA has made an affirmative technical determination (as described above) that portion of the petition shall be deemed denied as of May 1, 2000, if a section 126(b) finding has not been deemed to have been made by that date. In other words, if EPA has taken final action putting into place an implementation plan meeting the requirements of section 110(a)(2)(D)(i)(I) by May 1, 2000, any outstanding portions of petitions will be deemed denied by that date. In addition, after a section 126(b) finding has been deemed made as to sources or groups of stationary sources in an upwind State, that finding will be deemed withdrawn, and the corresponding part of the relevant petition(s) denied, if the Administrator either approves a SIP or promulgates a FIP which complies with the requirements of section 110(a)(2)(D)(i)(I) for such upwind State. This would minimize any overlap between an effective section 126(b) finding, on one hand, and the application of satisfactory SIP or FIP provisions, on the other.

b. Portions of Petitions for Which EPA Is Proposing a Negative Technical Determination. Consistent with this overall approach, EPA proposes that the sources for which EPA would make a negative technical determination (as described above) do not or would not emit in violation of the section 110(a)(2)(D)(i)(I) prohibition. As a result, EPA proposes to deny each aspect of each petition relating to such sources. For example, EPA proposes to deny New York's petition as to sources in any State (or portion of a State) named in New York's petition that is outside the large EGU and non-EGU categories described in Section II.C., as well as any named sources of any type in Tennessee. Another example is that EPA proposes today to deny Vermont's section 126 petition in its entirety, because EPA proposes to find that no sources named in Vermont's petition, in any of the upwind States that the petition names, contribute significantly to nonattainment of either the 1-hour or the 8-hour standard, nor interfere with maintenance of the 8-hour standard, in Vermont.

3. Requirements for Sources for Which EPA Makes a Section 126(b) Finding

The EPA proposes in Section III, below, the requirements that would apply to any new or existing major source or group of stationary sources for which a section 126(b) finding is ultimately made under the approach just described. Section 126(c) states, in relevant part, that:

> it shall be a violation of this section and the applicable implementation plan in such State
>
> (1) for any major proposed new (or modified) source with respect to which a finding has been made under subsection (b) to be constructed or to operate in violation of this section and the prohibition of section 110(a)(2)(D)([i]) or this section or
>
> (2) for any major existing source to operate more than three months after such finding has been made with respect to it.

The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if

such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirements contained in section 110(a)(2)(D)([i]) as expeditiously as practicable, but in no case later than three years after the date of such finding.

The remedial requirements that EPA proposes to apply to sources for which a section 126(b) finding is ultimately made would satisfy the requirements just quoted. First, EPA proposes to find that new sources for which a section 126(b) finding is ultimately made must comply with the requirements described in Section III to ensure that they do not emit in violation of the section 110(a)(2)(D)(i) prohibition. Second, the program EPA is proposing serves as the alternative set of requirements that the Administrator may apply for the purpose of allowing existing sources subject to a section 126(b) finding to operate for more than three months after the finding is made. Consistent with section 126(c), the compliance period in EPA's proposed program extends no further than three years from the making of the finding. To the extent a finding is deemed made as of November 30, 1999, compliance will be required by November 30, 2002. But since the program EPA is proposing would require actual emissions reductions only in the ozone season, actual reductions will not need to occur until May 1, 2003, the start of the first ozone season after the November 30, 2002, compliance date. Thus, compliance by November 30, 2002 would not require actual reductions until May 1, 2003. As described in Section V.A.1 of the final NO_X SIP call, EPA believes that compliance by the ozone season beginning May 1, 2003 is feasible. Section III of this notice describes the proposed section 126 control requirements in greater detail.

III. Federal NO_X Budget Trading Program

A. Program Summary

1. Purpose of the Federal NO_X Budget Trading Program

Under section 126(c), EPA proposes to implement the Federal NO_X Budget Trading Program, a capped market-based system for certain combustion sources in covered upwind States to bring sources covered by any final section 126 finding into compliance. This type of program is a proven method for achieving the highly cost-effective emissions reductions described above while providing sources compliance flexibility. (See SNPR for NO_X SIP call at 63 FR 25918–19, discussing OTAG's conclusions concerning advantages of market-based systems).

The Federal NO_X Budget Trading Program would be triggered automatically if EPA makes a final finding as to any sources under section 126, as described in Section II.F. Participation in the Federal program would be mandatory for all sources affected by a triggering of this section 126 remedy. It would also be mandatory for all sources required to reduce emissions by the promulgated FIP, with the exception of cement kilns and internal combustion engines.

The EPA would like to clarify that the use of the term ''budget'' in the context of the Federal NO_X Budget Trading Program does not mean that there is an aggregate emissions level that is enforceable for the purposes of the section 126 remedy. Rather, the term refers to the aggregate emission levels in each State for units required to participate in the Federal NO_X Budget Trading Program as a section 126 remedy or as part of a FIP. The aggregation of sources allocations is initially only for purposes of determining the total amount available for allocation and and should not be construed to represent a separate requirement for sources in the program for purposes of any section 126 remedy.

The Federal NO_X Budget Trading Rule is proposed in a new Part 97 in Title 40 of the Code of Federal Regulations. Because EPA is proposing to implement the Federal NO_X Budget Trading Program both in response to the section 126 petitions and as part of a FIP if necessary; EPA intends to finalize part 97 in whichever of these actions is finalized first. (The EPA expects part 97 will be finalized in the section 126 rulemaking because final action on the remedy portion of section 126 is required by April 30, 1999 under the proposed consent decree discussed above.) In finalizing part 97, EPA intends to respond to the comments it receives regarding part 97 through both the proposed section 126 remedy and the proposed FIP. Therefore, commenters who have identical comments in both rulemakings may submit their comments to one docket and merely reference such comments in their submission to the other docket. However, to the extent comments on part 97 are solely related to how it would be applied through a triggering of the section 126 remedy, commenters should submit such comments to the docket for this proposed section 126 remedy.

2. Relationship of the Section 126 Remedy to the NO_X SIP Call and the FIP.

The sources or groups of sources identified in the section 126 petitions are also sources for which EPA recommends States adopt emission limitations and control strategies in response to the NO_X SIP call. The NO_X SIP call establishes an emissions budget for all sources of NO_X emissions in all States determined by EPA to significantly contribute to nonattainment or interfere with maintenance of the ozone NAAQS in any other jurisdiction. The FIP sets specific stationary source rules to decrease NO_X emissions and meet the NO_X SIP call budget. The section 126 proposed action, on the other hand, is limited to major stationary sources or groups of stationary sources that are named in the section 126 petitions and that EPA finds emit or would emit in violation of the prohibition in section 110(a)(2)(D)(i) relative to a petitioning State. Despite this difference in the scope of the proposed section 126 action and the proposed FIP or final NO_X SIP call, all three actions are aimed at reducing the transport of ozone by controlling emissions from sources in a given State that are found to be contributing significantly to nonattainment or maintenance problems in another State.

The EPA has promulgated the State NO_X Budget Trading Program, a cap-and-trade program for large combustion sources, to assist States in meeting their obligations under the final NO_X SIP call. The EPA believes that this State NO_X Budget Trading Program—if selected by States to meet their SIP call obligations—could be coordinated and integrated with the Federal NO_X Budget Trading Program promulgated in a section 126 rule or a FIP, in order to address the transport problem on a regional scale.

Integration is possible because, as noted above, both the NO_X SIP call, the corresponding FIP, and the section 126 petitions seek to mitigate the ozone transport problem by reducing emissions from upwind sources that hinder attainment or maintenance of the ozone NAAQS downwind. Further, the sources covered in the State NO_X Budget Trading Program under the NO_X SIP call include a majority of the sources named by petitioning States, and are identical in size and categorization to sources for which EPA proposes issue rules in the section 126 and FIP proposed actions.

In order to be eligible to participate in a cap-and-trade program, the EPA

believes that there are two principal criteria that sources must meet, as stated in the supplemental notice for the proposed NO_X SIP call (62 FR 25923). The first criterion requires that sources be able to account accurately and consistently for all of their emissions in order to maintain emissions within a cap. The second criterion is the ability to identify a responsible party for each regulated source who would be accountable for demonstrating and ensuring compliance with the program's provisions. Assuming that these criteria are met, and consistent control levels are used in setting emission requirements for the covered sources, EPA supports the establishment of a common trading program among sources subject to a trading program under the NO_X SIP call, a section 126 remedy, or a FIP among sources subject to a trading program under the NO_X SIP call, a section 126 remedy or a FIP.

The resulting multi-state trading program could include all sources in States found to be significantly contributing to nonattainment or interfering with maintenance of the ozone standard in another State. Under this common trading program, sources subject to the Federal NO_X Budget Trading Program under the section 126 rulemaking or the FIP, and sources in States choosing to participate in the State NO_X Budget Trading Program in response to the NO_X SIP call, could trade with one another under a NO_X cap across participating States. The EPA's analyses in conjunction with the NO_X SIP call exhibit that implementation of a single trading program with a uniform control level results in no significant changes in location of emissions reductions as compared to a non-trading scenario. Therefore, the common trading program will achieve the intended emissions reductions while providing flexibility and cost savings to the covered sources.

Integration of the trading programs reduces the possibility of inconsistent or conflicting deadlines or requirements, increases the potential cost savings for sources, and streamlines program administration. Inconsistency could hamper the sources' ability to plan and achieve the needed reductions as cost-effectively as possible. In addition, if a State subsequently elects to submit a SIP including a trading program after EPA has already established a Federal NO_X Budget Trading Program under a FIP or section 126 remedy, disruptions to sources that would shift from regulation under a FIP or section 126 remedy to regulation under a SIP would be minimized.

Because sources may be included in the common trading program through one of three possible mechanisms, the sources included in the trading program for purposes of the NO_X SIP call may vary from sources included for purposes of the section 126 remedy. The EPA does not foresee this to be problematic since sources would face consistent control requirements regardless of which rulemaking includes the sources in the common trading program. That the requirements would be consistent follows from the similar nature of the rulemakings and the comparable level of control which EPA has determined to be cost-effective for each source category across all three actions.

The EPA proposes in part 97 to establish the geographic boundaries of the common trading program as those States submitting SIPs in response to the final NO_X SIP call or subject to FIPs and/or the sources in States for which EPA makes a finding for the section 126 petitions. The EPA would administer this common trading program in collaboration with affected States.

The EPA is proposing a Federal NO_X Budget Trading Program as part of the FIP or section 126 remedy which mirrors, to the extent feasible, the State NO_X Budget Trading Program (set forth in part 96) which is the model trading program that is available for States to adopt in response to the NO_X SIP call. While EPA is proposing to keep the programs as similar as possible, there are several differences which are more fully described below. These differences arise primarily from the need for Federal implementation of the program rather than State implementation. For example, EPA must determine the NO_X allowance allocations for each unit in the Federal NO_X Budget Trading Program, rather than simply provide an example that States may use to determine allocations, as is the case in the State NO_X Budget Trading Program.

B. Federal NO_X Budget Trading Program

1. Program Overview

In part 97, the EPA proposes a cap-and-trade program as an aggregate remedy for the section 126 petitions which it today proposes to determine are technically valid. Four of the eight petitioning States (New York, Connecticut, Pennsylvania, and Maine) requested that EPA establish such a trading program to implement the required reductions.

The EPA has authority under section 126 to require sources or groups of sources for which a finding of significant contribution is made to comply with a cap-and-trade program. Section 126(c) provides that such sources or groups of sources may continue to operate if they comply ''with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance'' with section 110(a)(2)(D). Under section 302, an ''emission limitation'' is ''a requirement * * * which limits the quantity, rate, or concentration of emission of air pollutants on a continuous basis.'' In fact, title IV of the CAA refers to the allowance requirements of the Acid Rain SO_2 cap-and-trade program as ''emission limitations.'' 42 U.S.C. 7651c(a).

Under a cap-and-trade program, the Administrator sets an emission limitation and compliance schedule for each unit subject to the program. The emission limitation for each unit is the requirement that the quantity of the unit's emissions during a specified period (here, the tonnage of NO_X emissions during the ozone season) cannot exceed the amount authorized by the allowances (here, NO_X allowances, each authorizing one ton of emissions) that the unit holds. Allowances are allocated to units subject to the program, and the total number of allowances allocated to all such units for each control period is fixed or capped at a specified level. The compliance schedule is set by establishing a deadline by which units must begin to comply with the requirement to hold allowances sufficient to cover emissions. In essence, for purposes of complying with section 126, EPA would be translating emission limits into allowance requirements. Since under section 126 EPA has the authority to establish emission limits, and allowance requirements are equivalent to emission limits, EPA has the authority to promulgate allowance requirements and allocate allowances for purposes of section 126. Since a cap-and-trade program is a compliance mechanism which enables sources to make cost-effective decisions to meet their allowance requirements, which are equivalent to emission limits, EPA believes it has the authority under section 126(c) to adopt a cap-and-trade program as a cost effective means of implementing the requirements of sections 126 and 110(a)(2)(D).

Sources potentially subject to the emission limitations and compliance schedule in the Federal NO_X Budget Trading Program for the purposes of the section 126 petitions are those sources named by petitioning States and found by EPA to be emitting in violation of the prohibition in a petitioning State. The

section 126 remedy will apply to these sources in States for which a finding is triggered by the terms of today's proposed rule. For the reasons discussed in Section II, these sources include any fossil fuel-fired unit (boiler, turbine, or combined cycle) that serves a generator with a nameplate capacity greater than 25 MWe, and any fossil fuel-fired unit (boiler, turbine, or combined cycle) that has a maximum design heat input of greater than 250 mmBtu/hr, located in any of the following twenty States: Alabama, Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia.

The EPA requests comment as to whether additional stationary sources that emit to a stack, can monitor NO_X mass emissions, and are located in a State where a finding is made under section 126, but are not named in a petition, should be able to voluntarily participate in the trading program. In today's notice, EPA proposes providing these individual stationary sources the opportunity to opt in to enable further cost savings from the Federal NO_X Budget Trading Program. These opt-in provisions would be very similar to the opt-in provisions allowed under the State NO_X Budget Trading Program in part 96 (see Section III.B.3.e for explanation).

The NO_X allowances—each allowance representing a limited authorization to emit one ton of NO_X—would be the currency used in the trading program. A fixed number of NO_X allowances would be allocated to sources for each ozone season equal to the total amount of the aggregate emissions permitted among the sources in each State included in the Federal NO_X Budget Trading Program for purposes of the section 126 remedy. The EPA has included in today's proposal several alternative methodologies that EPA could use to allocate NO_X allowances to units. Appendix A proposed part 97 sets forth the allocation for each unit based on the proposed methodologies.

The control period for the trading program (i.e., the period during which a source must hold sufficient NO_X allowances to cover emissions) would extend from May 1 through September 30, which is the same as the control period under the NO_X SIP call and the FIP proposal. The EPA's proposed trading program remedy is based on the application of a uniform control level to the covered universe of sources. Based on analyses done in connection with the proposed NO_X SIP call (63 FR 25921) and the final NO_X SIP call, EPA maintains that trading could occur across States included in a NO_X Budget Trading Program without restrictions, other than the requirement to comply with existing emission limits under title I and title IV of the CAA, as well as any other State limitations.

Under today's proposed rule, sources in the Federal NO_X Budget Trading Program would be required to monitor and report their emissions in accordance with relevant portions of 40 CFR part 75. The EPA has promulgated revisions to part 75 that establish NO_X mass monitoring requirements and provide greater flexibility to regulated sources. Consistent and accurate monitoring of emissions is necessary for accountability regarding compliance with the requirement to hold NO_X allowances and to ensure that a ton of emissions attributed to one source in one State is equivalent to a ton attributed to another source in the same or another State.

Under today's proposed rule, EPA would be responsible for all aspects of program implementation, with the exception of permitting. Permitting would be handled by States in accordance with the requirements of the proposed rule. As further explained in Section III.B.2.c., the Federal NO_X Budget Trading Program does not require a new or separate permit. If a source already has in place a federally enforceable permit, either title V or non-title V, the source's trading program obligations must be incorporated into this permit; if a source does not have a federally enforceable permit, the federally-enforceable NO_X Budget Trading Rule applies to the source on its own accord.

As discussed herein, EPA proposes to make the Federal and State NO_X Budget Trading Programs as similar as possible and has modeled proposed part 97 after part 96 just finalized. The EPA notes that discussion of the evolution of the NO_X Budget Trading Program is set forth in the supplemental notice of the proposed NO_X SIP call rule at 63 FR 25921–23 and in the final NO_X SIP call rule.

2. Elements of the Federal NO_X Budget Trading Program That Are the Same as the State NO_X Budget Trading Program

Under part 97, as proposed, the following sections would be virtually identical to the corresponding sections in part 96, which sets forth the State NO_X Budget Trading Program. The EPA proposes to retain and rely on the analyses and considerations undertaken in the NO_X SIP call process to determine these program elements. Moreover, the provisions in part 97 would be numbered in the same sequence as the corresponding provisions in part 96, so that, for example, § 97.2 and § 96.2 or § 97.81 and § 96.81 would address the same subject matter. The major differences between the part 97 sections listed below and their corresponding part 96 sections would be the renumbering of cross references to other regulatory provisions so that a section in part 97 would reference the appropriate section in that part, as opposed to the section in part 96. More detailed information on the rationale for the part 96 provisions themselves can be found in the preamble accompanying the proposed part 96 (63 FR 25917–43) and the final part 96.

Subpart A—Federal NO_X Budget Trading Program General Provisions

Sec.
97.3 Measurements, abbreviations, and acronyms.
97.5 Retired unit exemption.
97.7 Computation of time.

Subpart B—Authorized Account Representative for NO_X Budget Sources

97.10 Authorization and responsibilities of the NO_X authorized account representative.
97.11 Alternate NO_X authorized account representative.
97.12 Changing the NO_X authorized account representative and alternate NO_X authorized account representative; changes in the owners and operators.
97.13 Account certificate of representation.
97.14 Objections concerning the NO_X authorized account representative.

Subpart C—Permits

97.20 General NO_X Budget permit requirements.
97.21 Submission of NO_X Budget permit applications.
97.22 Information requirements for NO_X Budget permit applications.
97.23 NO_X Budget permit contents.
97.24 Effective date of initial NO_X Budget permit.
97.25 NO_X Budget permit revisions.

Subpart D—Compliance Certification

97.30 Compliance certification report.

Subpart F—NO_X Allowance Tracking System

97.50 NO_X Allowance Tracking System accounts.
97.51 Establishment of accounts.
97.52 NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.
97.53 Recordation of NO_X allowance allocations.
97.54 Compliance.
97.55 Banking.
97.56 Account error.
97.57 Closing of general accounts.

Subpart G—NO_X Allowance Transfers

97.60 Scope and submission of NO_X allowance transfers.
97.61 EPA recordation.
97.62 Notification.

The EPA requests comment on whether any of the part 97 provisions listed above should differ substantively from the corresponding provisions in part 96. If a commenter believes substantive differences in the rules are appropriate, the commenter should describe the favored changes and explain why these changes are appropriate.

a. General Provisions. For part 97, EPA is proposing to use the same measurements, abbreviations, and acronyms, the same retired unit exemption, and the same provisions for computation of time as those that apply in part 96, with cross references to the appropriate sections in part 97, rather than to sections in part 96. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25923–27) and final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

b. Authorized Account Representative. The NO_X Authorized Account Representative (NO_X AAR) is the individual who is authorized to represent the owners and operators of each NO_X Budget unit at a NO_X Budget source in matters pertaining to the NO_X Budget Trading Program. Subpart B of part 97 addresses, among other things, the process for designating and changing the NO_X AAR and the responsibilities of the NO_X AAR and alternate NO_X AAR. These provisions are the same as those in part 96, with cross references to the appropriate sections of part 97. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25927) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

c. Permits. The regulations governing State permitting under title V define an ''applicable requirement,'' which must be reflected in a title V operating permit, as including ''[a]ny standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the CAA that implements the relevant requirements of the CAA, including any revisions to that plan promulgated in part 52 of this chapter.'' 40 CFR 70.2. Since today's proposed rule is being promulgated under title I (i.e., under section 126), the requirements of this rule are applicable requirements under § 70.2 and must be reflected in the title V operating permit of NO_X Budget sources required to have such a permit. The EPA believes that the majority of NO_X Budget sources will be required to have a title V permit. Further, all State and local air permitting authorities currently have EPA-approved title V operating permits programs. These State and local agencies would be the permitting authorities for the majority of NO_X Budget sources with title V permits, for which the trading program requirements would be applicable requirements. For any sources that do not have a title V permit, such a permit is not required. If a source has a federally enforceable non-title V permit, the trading program requirements must also be incorporated into this permit. If a source does not have a federally enforceable permit, the requirements of the Federal NO_X Budget Trading Rule would be federally enforceable without the federally enforceable permit.

Subpart C of part 97 addresses, among other things, the administration of a permit, permit applications, permit contents, effective date, and permit revisions. These provisions are the same as those in part 96, with cross references to the appropriate sections in part 97. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25927–29) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

d. Compliance Certification. The NO_X AAR must certify at the end of each control period that the unit was in compliance with the emissions limitation and other requirements of the Federal NO_X Budget Trading Program. Proposed § 97.30 sets forth the same provisions for compliance certification reports as those in part 96, with cross references to the appropriate sections in part 97. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25929) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

e. NO_X Allowance Tracking System. The NO_X Allowance Tracking System is an automated system used to track NO_X allowances held by NO_X Budget units under the NO_X Budget Trading Program, as well as those allowances held by other organizations and individuals. Subpart F of part 97 addresses, among other things, NO_X allowance tracking system accounts, the account responsibilities of the NO_X AAR, the recordation of NO_X allowance allocations, the compliance process, account error, and account closing. These provisions are the same as those in part 96, with cross references to the appropriate sections in part 97. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25933–37) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

f. Banking. The EPA proposes to include banking as a feature in the Federal NO_X Budget Trading Program for the reasons set forth in the final NO_X SIP call. Proposed § 97.55 sets forth the same provisions for banking and the management of banked allowances as specified in part 96. In accordance with these provisions, NO_X allowances held by units subject to the Federal NO_X Budget Trading Program may be banked for future use starting in 2003 (except as noted in Section III.B.3.e.ii. of this preamble). However, as in the State NO_X Budget Trading Program, the Federal NO_X Budget Trading Program contains a flow control mechanism to limit the variability associated with banking. This mechanism allows unlimited banking by units subject to the Federal NO_X Budget Trading Program, but discourages the ''excessive'' use of banked allowances by establishing a discount rate on the use of banked allowances over a certain level. Proposed part § 97.55 establishes a flow control mechanism which applies a 2-for-1 discount ratio to the use of banked allowances above a certain level when the total number of banked allowances in the program exceeds 10 percent of the allowable NO_X emissions for all sources covered by the Federal trading program. This flow control mechanism, along with the overall banking provisions, is proposed for the reasons set forth in both the proposed NO_X SIP call (63 FR 25934–37) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

g. NO_X Allowance Transfers. Subpart G of part 97 addresses, among other things, submission, recordation, and notification of transfers of NO_X allowances under the NO_X Budget Trading Program. These provisions are the same as those in part 96, with cross references to the appropriate sections in part 97. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25937–38) and the final NO_X SIP call, and in order to minimize

differences between the Federal and State NO_X Budget Trading Programs.

h. Audits. While program audits are not explicitly required by today's rule, EPA intends to perform the same types of audits discussed concerning the proposed NO_X SIP call (63 FR 25942) and the final NO_X SIP call.

3. Elements of the Federal NO_X Budget Trading Program That Differ From the State NO_X Budget Trading Program

The EPA proposes that the following sections in part 97 incorporate certain differences from the corresponding sections in part 96 to provide for Federal implementation of the NO_X Budget Trading Program.

Subpart A—Federal NO_X Budget Trading Program General Provisions

Sec. 97.1 Purpose.
Sec. 97.2 Definitions.
Sec. 97.4 Applicability.
Sec. 97.6 Standard Requirements.

Subpart D—Compliance Certification

Sec. 97.31 Administrator's action on compliance certifications.

Subpart E—NO_X Allowance Allocations

Sec. 97.40 Trading program budget.
Sec. 97.41 Timing requirements for NO_X allowance allocations.
Sec. 97.42 NO_X allowance allocations.

Subpart H—Monitoring and Reporting

Sec. 97.70 General requirements.
Sec. 97.71 Initial certification and recertification procedures.
Sec. 97.72 Out of control periods.
Sec. 97.73 Notifications.
Sec. 97.74 Recordkeeping and reporting.
Sec. 97.75 Petitions.
Sec. 97.76 Additional requirements to provide data for allocations purposes.

Subpart I—Individual Unit Opt-Ins

Sec. 97.80 Applicability.
Sec. 97.81 General.
Sec. 97.82 NO_X authorized account representative.
Sec. 97.83 Applying for NO_X Budget opt-in permit.
Sec. 97.84 Opt-in process.
Sec. 97.85 NO_X Budget opt-in permit contents.
Sec. 97.86 Withdrawal from NO_X Budget Trading Program.
Sec. 97.87 Change in regulatory status.
Sec. 97.88 NO_X allowance allocations to opt-in units.

a. General Provisions. i. Purpose. Proposed Sec. 97.1 explains that proposed part 97 sets forth the provisions for the Federal NO_X Budget Trading Program addressing interstate transport of ozone and NO_X. As discussed above, this program would be activated either under section 126 or under a FIP.

ii. Definitions. For part 97, EPA is proposing to use the same definitions as those that apply in part 96, with cross references to the appropriate sections in part 97, with three exceptions. First, the definition of the term ''NO_X Budget Trading Program'' would be altered to reflect the fact that the Federal trading program is established pursuant to part 52, as opposed to part 51.121, as is the case with the State NO_X Budget Trading Program under part 96. Secondly, the definition for the term ''State'' would be altered to reference only those States that would be covered by any final section 126 or FIP action, and to reflect the fact that the Federal trading program would be promulgated for a State, as opposed to adopted by the State as is the case with the State NO_X Budget Trading Program. Last, the term ''State trading program budget'' would be replaced with the term ''trading program budget''. For purposes of the FIP, the trading program budget would be the aggregated budget for all sources affected by the requirements to participate in the trading program in a given State under the FIP. For purposes of the section 126 action, the trading program budget would be referred to as the ''section 126 trading program budget for the State''. The term ''section 126 trading program budget for the State'' is used to clarify the fact that the budget for the Federal NO_X Budget Trading Program is not aggregated to a State level for the purposes of the section 126 action except for the allocation calculation, since the focus in the remedy is sources rather than States.

The following example illustrates the approach taken concerning the unchanged definitions: the term ''NO_X Budget Unit'' is defined under part 97 as ''a unit that is subject to the NO_X Budget Trading Program emissions limitation under Sec. 97.4 and Sec. 97.80'', while that term has the same definition under part 96 except that appropriate sections in part 96 are referenced (63 FR 25923).

iii. Applicability. For the reasons discussed above, EPA proposes in part 97 that the Federal NO_X Budget Trading Program for purposes of the section 126 remedy would apply to any fossil fuel-fired unit (boiler, combustion turbine, or combined cycle) that serves a generator with a nameplate capacity greater than 25 MWe, and any fossil fuel-fired unit (boiler, combustion turbine, or combined cycle) that has a maximum design heat input of greater than 250 mmBtu/hr, located in any of the following twenty States: Alabama, Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia. The remedy will apply to these sources in those States for which EPA makes a final finding granting a section 126 petition under the triggers included in the proposed rule. These are the same source categories included in the core group applicability for the voluntary State NO_X Budget Trading Program, only in a more narrow range of States.

In the NO_X SIP call, EPA offered States the option of allowing units with a very low federally enforceable permit limitation (i.e., 25 tons per season) to be exempt from the trading program, even though they were above the applicability threshold (63 FR 25926). The EPA proposes to include this provision in the Federal NO_X Budget Trading Program and solicits comment on the appropriateness of such inclusion.

iv. Standard Requirements. Under the Federal NO_X Budget Trading Program, the NO_X Budget units and their owners, operators, and NO_X AARs must meet certain standard requirements that incorporate the full range of program requirements by referencing other sections of the NO_X Budget Trading Rule. These provisions are the same as the related provisions in part 96, with cross references to the appropriate sections of part 97, except that the Administrator, rather than the permitting authority, would allocate NO_X allowances under the Federal NO_X Budget Trading Program. This reflects the fact that the NO_X Budget Trading Program would be Federally run, rather than run by the State as under the NO_X SIP call.

b. Compliance Certification. Proposed § 97.31 is the same as § 96.31 except that the Administrator has the sole responsibility for reviewing and auditing compliance certifications and other submissions under the Federal NO_X Budget Trading Program. This reflects the fact that the part 97 NO_X Budget Trading Program would be federally run rather than run by the State as under the NO_X SIP call. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25929) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

c. Aggregate NO_X Emissions Levels and Allowance Allocations. This section discusses the calculation of State specific aggregate emission levels and the methodology and timing for issuance of NO_X Budget unit allocations. The EPA calculated the State specific aggregate emission levels that would remain after the application of reasonable and highly cost-effective

NO_X controls to upwind sources which contribute significantly to nonattainment or maintenance problems in downwind States. These aggregate emission levels for each State for which a finding under section 126 may be triggered are listed in appendix C of today's notice for both EGUs and non-EGUs. Section II.C of this preamble describes the controls that were assumed for each subcategory of sources. In determining what controls to assume in calculation of the proposed emissions level for each subcategory, EPA used the cost-effectiveness rationale also described in Section II.C.

The EPA also calculated individual unit allocations based on the State specific aggregate emission levels described in this section. Subpart E of today's proposed Federal NO_X Budget Trading Rule addresses the allocation of NO_X allowances to NO_X budget units for purposes of the section 126 remedy. As in the allocation-related provisions in part 96, part 97 includes provisions for the timing of allocation issuance, the methodology for issuing allocations, and the allocations for new sources. However, in part 97, the Administrator, rather than the State, will determine the allocations.

i. Data Sources. (1) EGUs. The EGU data base developed for this analysis consists of both utility EGUs and non-utility EGUs. The non-utility EGUs include independent power producers (IPPs) and non-utility generators (NUGs). Eight data sources were used to develop the base year EGU data: (1) EPA's Acid Rain Data Base (ARDB) (Pechan, 1997c); (2) EPA's 2007 Integrated Planning Model (IPM) Year 2007; (3) EPA's Emission Tracking System/Continuous Emissions Monitoring System (ETS/CEM) (EPA, 1997b); (4) DOE's Form EIA–860 (DOE, 1995a); (5) DOE's Form EIA–767 (DOE, 1995b); (6) EPA's National Emissions Trends Data Base (NET) (EPA, 1997c); (7) DOE's Form EIA–867 (DOE, 1995c); (8) the OTAG Emission Inventory (Pechan, 1997a); and (9) incorporation of comments to the proposed NO_X SIP call NPR dated November 7, 1997. More details regarding these data sources can be found in the technical support document (TSD) of EPA's NO_X SIP call.

(2) Non-EGUs. The starting point for the non-EGU data base was the 1990 OTAG Inventory. This inventory was prepared with 1990 State ozone SIP emission inventories supplemented with either State inventory data, if available, or EPA's National Emission Trends (NET) data if State data were not available. This inventory was further refined by the incorporation of comments to the proposed NO_X SIP call NPR dated November 7, 1997. All records with utility SCCs (first 3 digits 101 or 201) were removed from the 1990 OTAG Inventory because it was assumed that emissions from these sources would be accounted for in the EGU component of the inventory. More details regarding these data sources can be found in the TSD of EPA's NO_X SIP call.

ii. Methodology Used To Determine Controlled Emission Levels. Section II of this preamble identifies the two subcategories that EPA proposes to control (i.e., large EGUs and large non-EGUs) and the emission levels that are highly cost-effective to achieve (i.e., 0.15 lb/mmBtu for EGUs and 60 percent reduction from uncontrolled levels for non-EGUs) in response to the section 126 petitions. This section describes the methodology used in determining each of these subcategory's emissions level on a State-by-State basis.

(1) Large EGUs. For reasons explained in the final NO_X SIP call, EPA is proposing to calculate each State's summer season large EGU emissions level using a specific NO_X emission rate and the projected summer season utilization of the year 2007. Specifically, EPA proposes calculating each State's large EGU NO_X emissions level by multiplying: (1) Each State's summer activity level in mmBtu (EPA selected the higher of each State's overall 1995 or 1996 summer utilization), by (2) each State's projected growth between 1996 and 2007 (using the IPM model), by (3) a NO_X rate of 0.15 lb/mmBtu. The resulting figure, in lbs, was divided by 2000 (lbs per ton) to determine tons.

In general, new units built to meet economic growth are lower emitting than the older units they augment or replace. Thus, though the industry's fuel utilization may increase over time, the industry's average NO_X rate may decrease as newer, cleaner units are built and operated, and total emissions may or may not increase.

The EPA proposes to incorporate growth in industrial activity when determining the large EGU emissions level, and thus accommodate new sources into the section 126 remedy. Specifically, EPA projects each State's projected change in utilization from current levels to the year 2007 and sets an emissions level based on that future year's utilization. This approach directly accommodates industrial growth. Additionally, this was the type of approach taken in the final NO_X SIP call in determining various State emissions levels. Thus, EPA is proposing to use this type of approach for addressing activity growth and, as described below, using the IPM growth projections. Appendix C of proposed part 97 of this notice presents the resulting proposed large EGU emissions level per State along with each State's projected growth from 1996 to 2007.

(2) Large Non-EGUs. For reasons explained in the final NO_X SIP call, EPA is proposing to calculate each State's summer season large non-EGU emissions level by reducing each State's uncontrolled non-EGU NO_X emissions levels (in tons) by 60 percent and assuming growth through the year 2007. Appendix C of proposed part 97 presents the resulting large non-EGU emissions level and projected growth rate for each State.

iii. Development of Section 126 Trading Program Budget. Proposed § 97.40 provides that the section 126 trading program budget for each State would equal the sum of the aggregate emission levels for large electric generating units and large non-electric generating units in each State calculated as discussed in Section III.B.3.c.ii of this preamble. Under section 126, the Administrator determines the ''emission limitations and compliance schedules'' with which NO_X Budget units under § 97.4 must comply. In the Federal NO_X Budget Trading Program being proposed for the section 126 remedy, these NO_X ''emission limitations'' take the form of NO_X ''allowance allocations'' and are assigned based on the aggregate emission levels for the subcategories in the trading program. The approach to issuing allocations under a section 126 action is similar to that under the NO_X SIP call, with the exception that under § 96.40, the State permitting authority, rather than the Administrator, determines, through the SIP, the total amount of allowable NO_X emissions apportioned to NO_X Budget units.

iv. Timing Provisions. Proposed § 97.41 sets forth the provisions for when the Administrator will issue allocations of NO_X allowances to NO_X Budget units. Under the Federal NO_X Budget Trading Program, the Administrator (rather than the State permitting authority) determines the NO_X allowance allocations, as well as records them in the NO_X Allowance Tracking System. Thus, proposed § 97.41 does not provide, or set deadlines, for the permitting authority's submission of allocations to EPA. However, as discussed in the final NO_X SIP call, EPA believes it is important to issue the allocations at least a couple years into the future to provide some predictability for sources in their control planning and build confidence in the market. Therefore, under part 97, the Administrator will issue NO_X allowances in EPA's NO_X Allowance

Tracking System (NATS) by April 1 of every year for the control period that is three years later. For example, EPA would issue the allocations for the 2003 control period by April 1, 2000, for those sources for which a finding has been triggered under section 126 at this time. For those sources for which a finding is not triggered by April 1, 2000, but for which a final finding is automatically triggered on May 1, 2000, EPA would issue the allocations for the 2003 control period to NATS as soon as practicable in the year 2000, consistent with the allocations finalized with this rulemaking. In both cases, EPA would issue the allocations for the 2004 control period by April 1, 2001, etc. so that the allocations are always known three years in advance. These provisions are consistent with the minimum timing requirements specified in the final NO_X SIP call rulemaking.

As stated in the previous paragraph, EPA will issue allocations in the NATS on an annual basis three years prior to the relevant control period. However, EPA proposes to use the same allocations for the first three years of the program (based upon one of the proposed methodologies described below), unless a State replaces the section 126 action with its own allocations in an approved SIP. The EPA proposes constant allocations for the first three control periods to provide more consistency and certainty and to build market confidence during the start-up phase of the program. Therefore, while the Agency will not record the allocations in unit accounts until April 1 of the year three years preceding each relevant control period, the allocations for 2004 and 2005 will be the same as the allocations for the 2003 control period. However, if a State, as part of an approved SIP, submits allocations for the 2004 control period to EPA prior to April 1, 2001, or for the 2005 control period prior to April 1, 2002, the State's allocations will replace the allocations EPA planned to issue for the relevant control season. By issuing allocations into accounts one year at a time, EPA is providing States the ability to replace a section 126 action with an approved SIP while still ensuring that sources receive allocations at least three years prior to the relevant control season.

After the initial three year period, EPA may update its allocations on an annual basis three years prior to the relevant control season. As discussed in the final NO_X SIP call, updating allocations on an annual basis (three years ahead) is intended to allow the allocation system to accommodate changes in market conditions.

The EPA is proposing these part 97 provisions for the reasons set forth in the final NO_X SIP call concerning part 96 and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

v. NO_X Allowance Allocation Methodology. The EPA proposes that part 97 include the methodology that the Administrator will use for allocating NO_X allowances to NO_X Budget units. While in part 96 the Agency lays out an optional allocation methodology that may be used by a State permitting authority for issuing allocations, part 97 will prescribe the methodology that the Administrator would use.

(1) EGUs. The EPA requests comment on three separate methodologies that the Administrator could use for the initial allocation period (the control periods in 2003 through 2005) for electricity generating units. In whichever of these methodologies the Agency finalizes, the total number of allowances issued would equal the portion of the section 126 trading program budget in each State attributed to large electricity generating units (calculated as described in Section III.B.3.c.ii of this preamble by multiplying a specified emission rate by a State's summer activity level projected to 2007). The first option is to allocate allowances based on the product of an emission rate in pounds of NO_X/mmBtu and the mmBtus of energy utilized for all units in the Federal NO_X Budget Trading Program; the proposed part 97 describes this approach. The second option is to allocate allowances to fossil-fuel-fired electric generating units in the Federal NO_X Budget Trading Program based on the product of an emission rate in pounds of NO_X/kWh and the kWh of electricity generated. A third option considered by EPA would allocate allowances to all large electric generating units, regardless of fuel type, in the States affected by the section 126 rulemaking based on their electricity generated. For the second and third options, EPA would use a surrogate for electricity generation data where electricity generation data is not available. The EPA solicits comment on these three methodologies.

With regard to the allocation methodology to be used by the Administrator for the control periods starting in 2006, EPA requests comment on the same three general methodologies mentioned in the previous paragraph. To facilitate the use of the second and third approaches for the control periods in 2006 and thereafter, EPA proposes to work with stakeholders to design a system based on electricity generation that could be used after the initial allocation period. The EPA plans to propose an allocation system based on electricity generation in 1999 and finalize the approach in 2000. Appropriate data could then be measured and collected at NO_X Budget units during the control periods in the years 2001 and 2002. When it becomes available, this approach could be incorporated into part 97 if the Agency decides to allocate allowances based on electricity generation.

For whichever of these three allocation methods the Agency selects, EPA proposes to use the average of the data for the two highest control periods for the years 1995, 1996, and 1997 in determining an electric generating unit's allocation for the control periods in 2003, 2004, and 2005. This approach using data from 1995, 1996, and 1997 differs slightly from the way the aggregate emission level was calculated for the EGU subcategory. As explained in Section III.B.3.c.ii of this preamble, EPA calculated the aggregate emission level based upon the greater of the State heat input data from 1995 or 1996. However, the Agency believes it is useful to base the first three years of allocations to individual units on operating data reflecting the average of the highest of two out of the three most recent years. In this way, the initial allocations better represent the operation of particular units.

Once several years of allocations have been built into the system, the Agency believes it is possible to move to an annually updating allocation system that calculates allocations based on operating data from a single year. Using data from a single year as a basis for allocations enables the Agency to develop an updating allocation system that can reflect changes in utilization or electricity generation. By this time, the trading market should be more established and companies will have several years of experience with the program. Therefore, companies will better be able to accommodate variations in single year allocations through the trading market and company-wide compliance strategies. Therefore, after the initial period of allocations, EPA would use data measured during the control period of the year that is four years before the year for which allocations are being calculated.

Furthermore, for reasons discussed in the final NO_X SIP call, EPA proposes the establishment of an allocation set-aside account for new units (units that commence operation during or after the period on which general NO_X allowance allocations are based) to be used in whichever allocation methodology EPA adopts equaling 5 percent of the section

126 trading program budget in each State in 2003, 2004, and 2005 and 2 percent of the section 126 trading program budget in each State in the subsequent years. The Agency believes that if a new source set-aside is employed, it should be large enough to provide allocations to all new units entering the Federal trading program. Based on analyses EPA conducted using the Integrated Planning Model (IPM) and on the Agency's proposal to reallocate by April 1, 2003 for the control period in 2006, 5 percent appears to be a reasonable portion of NO_X allowances to set-aside for new units in the initial three years of the program and 2 percent for the subsequent years.

However, while 5 percent (and 2 percent) may be an appropriate region-wide average, an individual State may experience either more or less growth in new sources during the relevant time period. The EPA calculated the State-specific aggregate emission levels for each subcategory using State-specific growth rates (see the rulemaking docket). Therefore, EPA solicits comment on using State-specific growth rates to determine the appropriate size of a State new source set-aside. Additionally, the 5 percent (and 2 percent) numbers were calculated based upon estimated growth in utilization by new sources and therefore may be more appropriate when the first proposed allocation methodology is employed. The EPA solicits comment on the use of a different percentage for the set-aside if the Agency adopts an electricity generation-based allocation system.

Using each of the three allocation methodologies on which EPA solicits comment, the Agency has calculated unit specific allocations. Two of the three sets of unit-specific allocations are in appendix A of proposed part 97, the third set is included in the rulemaking docket. The EPA is providing these unit specific allocations to solicit comment on the underlying data used in these allocations and the methodologies employed in determining the allocations. The Agency will select and describe a set of allocations for all sources potentially subject to the section 126 rulemaking in the final notice. The EPA would issue the finalized set of the 2003 control period allocations in the NATS by April 1, 2000 for those sources for which a finding has been triggered under section 126 at this time. For those sources for which a finding is not triggered by April 1, 2000, but for which a final finding is automatically triggered on May 1, 2000, EPA would issue the allocations for the 2003 control period to NATS as soon as practicable in the year 2000, consistent with the allocations finalized with this rulemaking.

For the first allocation approach in part 97, EPA determined initial unadjusted allocations to existing electric generating NO_X Budget units by multiplying a NO_X emission rate of 0.15 lb/mmBtu by the units' historical heat input calculated by taking the average of the heat input for the two highest control periods for the years 1995, 1996, and 1997. The Agency used the heat input data reported to EPA in quarterly reports during ozone season for utilities affected under the Acid Rain Program. For non-utility electricity generators, EPA used heat input information reported to EIA on EIA Form 867.

After determining the initial unadjusted unit allocations, EPA adjusted the allocation for each unit upward or downward to match the portion of the section 126 trading program budget in the State attributed to large electricity generating units. Then, the Agency adjusted the allocation for each unit in the State proportionately so that the total allocations equaled 95 percent of the portion of the section 126 trading program budget in the State attributed to large electricity generating units. This created a new source set-aside of 5 percent.

For the second allocation approach, EPA multiplied the unit heat input in mmBtu and the generator heat rate [14] associated with the generation for that unit, in Btu/kWh, to determine each unit's associated historical electrical generation in kWh.[15] For non-utility electricity generators, EPA used heat input from OTAG's database (1995 data) and the average heat rate values found below in Table III–1. The Agency used this indirect approach to calculate electrical output because EPA did not have access to unit-specific generation data for non-utility electricity generators. The EPA used average heat rate values for generators for which heat rates were not publicly available, as shown in the table below.

TABLE III–1.—AVERAGE UTILITY GENERATOR HEAT RATES

Unit and fuel type	Generator size (MW)	Average heat rate (Btu/kWh)
Combustion Turbine (gas or No. 2 fuel oil/diesel).	≤50	14250
	>50	13200
Combined Cycle Turbine (gas or No. 2 fuel oil/diesel).	≤100	11100
	>100	8500
Oil-or Gas-fired Steam Boiler.	≤400	10600
	>400	10000
Coal-fired Boiler	≤500	10400
	>500	9800

Some units are cogenerators, which are electrical generators that divert part of their steam to provide steam output, rather than to generate electricity. The Agency calculated output from cogenerating units as described in the previous paragraph. That approach assumes that heat input is converted into electricity at a particular efficiency. The EPA's proposed approach does not account for the fact that steam generation is generally more efficient than electricity generation. The EPA encourages commenters to provide the Agency electrical output data and steam output data to determine the efficiency of cogenerating units.

To determine the individual unit allocations, EPA determined the total electricity generation from all affected electricity generating units within each State as estimated in the previous paragraphs and calculated each unit's share of the total State electricity generation. Each unit was then assigned an allocation based upon its share of electricity generation. For example, if the Agency calculated that a unit contributed 0.4 percent of a State's total electricity generation, then it would receive 0.4 percent of the section 126 trading program budget in the State attributed to large fossil-fuel-fired electricity generating units. After determining the initial unadjusted allocation, the Agency adjusted the allocation for each unit proportionately so that the total allocation equaled 95% of the portion of the section 126 trading program budget for the State attributed to large fossil-fuel-fired electricity generating units (to create the new source set-aside).

The EPA is also proposing a third allocation approach which would provide allowances to all electricity generators in the applicable region regardless of the energy source. For fossil fuel-fired power plants, EPA used the approach described above in determining the electrical generation

[14] Utilities report their generator-specific heat rates to EIA on EIA Form 860.

[15] The EPA used the average generation for the ozone season during the highest two of the years from 1995 through 1997, similar to the approach with heat input.

from individual combustion units. For nuclear power plants and hydroelectric plants, EPA used electrical generation reported by utilities to EIA on EIA Form 759. The Agency was unable to find data for all plants. The Agency solicits comment on these methods for determining electricity generation data. The EPA also requests comment on the data itself and solicits any additional information for the plants for which EPA has not found data.

The Agency determined the initial unadjusted allocations in the same manner as described for the electricity generation-based allocations to fossil-fuel-fired units only. That is, the Agency determined the total electricity generation within each State, calculated each unit's share of the total electricity generation, and calculated an allocation based upon that share of the section 126 trading program budget for the State attributed to large electricity generating units. The Agency then adjusted the allocation for each unit proportionately so that the total allocation equaled 95 percent of the portion of the section 126 trading program budget for the State attributed to large electricity generating units.

For each of these three allocation methodologies, the Agency solicits comment on the data used to determine the allocations. Electricity generators, and utilities in particular, already report many of these data to Federal or State government agencies. The necessary data and their sources include:

1. For each plant:

a. Plant name—as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the state environmental agency

b. ORISPL number, if available (or other unique identification number for the plant, if no ORISPL number exists)—as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the state environmental agency

iii. State postal abbreviation and county FIPS code as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the state environmental agency

iv. Monitoring locations at the plant (e.g., stacks or fuel pipes where monitoring equipment would be located) for existing monitoring equipment, as reported to U.S. EPA, or to the state environmental agency

2. For each unit (boiler or combustion turbine) at the plant:

a. An identification designation (e.g., 1, CT2) as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the state environmental agency

b. A description of each unit (e.g. combustion turbine, coal-fired wet-bottom boiler) as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State environmental agency or state utility commission

c. Fuel or energy source used—as reported to the U.S. Energy Information Administration (EIA) or to the state utility commission

d. Heat input (mmBtu) in May 1 through September 30 of 1995, 1996 and 1997 as reported to U.S. EPA and EIA;

e. Estimated historical NO_X mass emissions in May 1 through September 30 of 1995, 1996 and 1997 (as reported to the U.S. EPA or the state environmental agency).

3. For each electrical generator at the plant:

a. Generation identification designation—as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the state utility commission

b. Nameplate capacity in MWe-as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the state utility commission.

c. Electrical generation (MWh)in May 1 through September 30 of 1995, 1996 and 1997—as reported to EIA;

4. For each steam turbines at the plant that is used to generate steam output instead or in addition to electricity:

a. An identification designation

b. Capacity, in mmBtu/hr output rate

c. Steam output (mmBtu) (not used for electrical generation) in May 1 through September 30 of 1995, 1996 and 1997

The Agency believes these data are needed both to determine the output of each source and to establish a unique identity for each source and its units. The EPA requests comment on the specific data as well as the type of data supporting the proposed allocations under part 97.

(2) Non-EGUs. For any allocation methodology adopted, the total number of allocations issued to non-electric generating units would equal the portion (less the 5 percent set-aside discussed below) of the section 126 trading program budget for each State attributed to large non-electricity generating units (calculated as described in Section III.B.3.c.ii of this preamble by reducing each State's uncontrolled non-EGU NO_X emissions level by 60 percent and assuming activity growth through 2007). At this time, the Agency proposes to use heat input as the basis for determining allocations for large non-electricity generating units in the Federal NO_X Budget Trading Program. The EPA proposes this basis for both the initial allocation period of 2003 through 2005 and for subsequent years of the program. This differs from the method used to determine the aggregate emission level for non-electric generating units (a percentage reduction from historical emissions) because at the time the aggregate level was determined (during the SIP call proposal process), heat input data for individual units was not available. Distributing allocations on a heat-input basis provides a fuel-neutral method of allocating to the units in the trading program similar to the allocation approaches proposed for the electric generating units. Heat-input-based allocations also allow for reallocating in the future (to accommodate new units) whereas allocations based upon a specific percentage reduction do not. Heat input data is now available for use in developing allocations, and the Agency solicits comment on the data as well as the use of heat input in developing allocations.

At this time, the Agency is not aware of any databases on steam output information for industrial boilers. Therefore, for combustion sources other than electrical generators, EPA finds that it is most appropriate to base allocations upon heat input. However, EPA requests comment on any methods for distributing allowances on an output basis to non-electricity generating units. Comments should address the availability, quality, and appropriateness of the data for regulatory purposes and/or methods to obtain such data.

For the non-electricity generating units subject to the Federal trading program, EPA proposes to use 1995 heat input data in the allocation calculation for the control periods in 2003, 2004, and 2005. The 1995 data are the most recent data the Agency knows are currently available for non-electricity generating units. After this initial period of allocations, as with the electric generating units, the Agency will use data measured during the control period of the year that is four years before the year for which allocations are being calculated.

As was done for electricity generating units, the Agency has calculated unit specific allocations for large non-electricity generating units. These unit specific allocations are provided in Appendix A of proposed part 97. The EPA solicits comment on the underlying data used in these allocations and the methodology employed in determining the allocations. The Agency plans to describe a set of allocations in the final notice. The EPA would issue the final allocations for the control period in

2003 by placing them in the NATS by April 1, 2000 for those sources for which a finding has been triggered under section 126 at this time. For those sources for which a finding is not triggered by April 1, 2000, but for which a final finding is automatically trigger on May 1, 2000, EPA would issue the allocations for the 2000 control period to NATS as soon as practicable in the year 2000, consistent with the allocations finalized with this rulemaking.

For the non-electricity generating unit allocations proposed in today's notice, EPA determined initial unadjusted allocations to existing non-electric generating NO_X Budget units by multiplying a NO_X emission rate of 0.17 lb/mmBtu (the average emission rate for existing non-electricity generating budget units after controls are in place) by the units' historical heat input (described above as 1995 control season data).

After determining the initial unadjusted unit allocations, EPA adjusted the allocation for each unit upward or downward to match the portion of the section 126 trading program budget for the State attributed to large non-electricity generating units. Then, the Agency adjusted the allocation for each unit in the State proportionately so that the total allocations equaled 95 percent of the portion of the section 126 trading program budget for the State attributed to large non-electricity generating units.

The Agency proposes to set-aside 5 percent of the non-electricity generating unit allocations to be consistent with the allocation for electricity generating units. The EPA solicits comment on this approach and the proposed size of the set-aside.

(3) Treatment of New Sources. As discussed in previous sections, the Agency has proposed in part 97 a set-aside for new sources consistent with the provisions of part 96. New electricity generating units and non-electricity generating units required to participate in the Federal NO_X Budget Trading Program will have access to this set-aside. In 2003, 2004, and 2005, each State set-aside would initially hold NO_X allowances equal to 5 percent of the NO_X allowances in the section 126 trading program budget in the State. Starting in 2006, each State set-aside would originally hold 2 percent of the NO_X allowances in the section 126 trading program budget in the State. At the end of each relevant control period, EPA will return any allowances remaining in the account on a pro-rata basis to the units that had received an original allocation that had been adjusted to create the new source set-aside in the State.

The NO_X allowances in the allocation set-aside would be available to any unit that would otherwise be eligible for an allocation in a control period but did not receive one because the unit commenced operation during or after the period on which the NO_X allowance allocations for existing units were based. To receive NO_X allowances from the allocation set-aside, the NO_X Authorized Account Representative for a unit would submit a NO_X allowance request to the Administrator. The request could be for no more than 5 consecutive control periods, starting with the control period during which the unit is projected to commence operation and ending with the control period preceding the control period for which it has sufficient data to receive an allocation with existing budget units. For the sixth year or later (and possibly earlier), there would be sufficient operating data for the unit to be incorporated into the NO_X allowance allocations with existing NO_X Budget units. The NO_X allowance request would need to be submitted prior to May 1 of the first control period for which NO_X allowances are requested and after the date on which the State issues a permit to construct the new unit.

Consistent with part 96, the allowances would be issued to new units on a first-come first-served basis. For the first allocation approach proposed for electric generating units, allowances to new electric generation units would be issued at a rate of 0.15 lb/mmBtu multiplied by the unit's maximum design heat input. Following each control period, the unit would be subject to a reduced utilization calculation. EPA would deduct NO_X allowances following each control period based on the unit's actual utilization. Because the allocation for a new unit from the set-aside is based on maximum design heat input, this procedure adjusts the allocation by actual heat input for the control period of the allocation. This adjustment is a surrogate for the use of actual utilization in a prior baseline period which is the approach used for allocating NO_X allowances to existing units.

For new non-electric generating units, allowances would be issued at the average emission rate (e.g., .17 lbs/mmBtu) for existing budget units (after controls are in place) multiplied by the budget unit's maximum design heat input. Following each control period, the source would be subject to a reduced utilization calculation similar to that described above for electric generating units.

For the second and third allocation approaches proposed for electric generating units, allowances to new electric generating units would be issued at the average emission rate (in lbs/kWh) for existing budget units (after controls are put in place) multiplied by the maximum design electrical generation derived from operation of the new budget unit. Following each control period, the budget unit would be subject to a reduced utilization calculation similar to that described above under the first approach.

d. Compliance Supplement Pool. This notice proposes to establish Federal emissions limits for sources found to significantly contribute to ozone nonattainment problems in a petitioning State. These sources would be required to comply with the emissions limits by May 1, 2003. As discussed in the final NO_X SIP call and the technical support document ''Feasibility of Installing NO_X Control Technologies By May 2003,'' EPA believes that this compliance date is a feasible and reasonable deadline. However, EPA received comments for the NO_X SIP call expressing concern that some sources may encounter unexpected problems installing controls by this deadline that, in turn, could cause unacceptable risk for a source and its associated industry. Commenters explicitly expressed concern related to the electricity industry, stating that the deadline could adversely impact the reliability of the electricity supply.

In the NO_X SIP call, EPA addressed these compliance concerns by providing additional flexibility for sources to comply with the requirements. The EPA is proposing that similar flexibility mechanisms be provided in part 97. First, EPA is proposing that part 97 include banking provisions as discussed in Section III.B.2.h. Second, EPA is proposing that part 97 include a compliance supplement pool that may be used by sources to cover excess emissions during the 2003 and 2004 ozone seasons that are unable to meet the compliance deadline. The proposed part 97 includes a separate compliance supplement pool that would be available to the sources in each State identified in this proposal.

i. Size of the Compliance Supplement Pool. The EPA proposes to use the same compliance supplement pools on a State-by-State basis as were included in the final NO_X SIP call. The justification for the size of the State pools is included in the final NO_X SIP call. Table III–2 shows the compliance supplement pool that would be

available to sources in each State identified in this proposal.

TABLE III–2. COMPLIANCE SUPPLEMENT POOLS (TONS OF NO_X)

State	Compliance supplement pool
Alabama	10,361
Connecticut	559
Delaware	417
District of Columbia	0
Illinois	17,455
Indiana	19,738
Kentucky	13,018
Maryland	3,662
Massachusetts	285
Michigan	15,359
Missouri	10,469
New Jersey	1,722
New York	1,831
North Carolina	10,624
Ohio	22,947
Pennsylvania	13,716
Rhode Island	0
Tennessee	12,093
Virginia	6,108
West Virginia	16,937

ii. Distribution of the Compliance Supplement Pool to Sources. In the final NO_X SIP call, EPA provides States with two options for distributing the pool to sources. One option is for a State to distribute some or all of the pool to sources that generate early reductions during ozone seasons prior to May 1, 2003. The second option is for a State to run a public process to provide tons to sources that demonstrate a need for a compliance extension. Tons that are not distributed by a State prior to May 1, 2003 will be retired by EPA. A State wishing to use the compliance supplement pool under the NO_X SIP call may divide the pool and make some of it available to sources through both options, or may use only one of the options for distributing the pool to sources prior to May 1, 2003. Based on these options, EPA is soliciting comment on a number of approaches for distributing the pool to sources under part 97.

First, EPA solicits comment as to whether the compliance supplement pool should be distributed by EPA to sources or distributed by EPA to the States that have sources included in this proposal. If the pools were distributed to States, the States would then be able to distribute the pool to sources. Part 97 is primarily designed to be implemented and administered directly by EPA. For this reason, it may be most efficient for EPA to retain the responsibility of distributing the pool to sources. However, it may be possible to provide more flexibility in the use of the pool for different sources if States were provided the distribution responsibility.

Second, provided that EPA decides to retain the responsibility of distributing the pool to sources, EPA solicits comment on two options for distribution. First, EPA solicits comment on distributing the compliance supplement pool only for early reductions. Under this option, the Agency would distribute allowances from the compliance supplement pool based upon the optional methodology the Agency laid out in the final NO_X SIP call. Using that methodology, the Agency could issue early reduction credits for the 2001 and 2002 ozone season to units that have installed part 75 monitoring by the 2000 control season, have reduced their emission rate in 2001 or 2002 relative to their rate in 2000 by at least 20 percent, and are operating in the year(s) in which they are applying for early reduction credits at an emission rate below 0.25 lb/mmBtu. Provided it meets all of these criteria, a unit could request early reduction credits equal to the difference between 0.25 lb/mmBtu and the unit's actual emissions rate multiplied by the unit's actual heat input for the applicable control period. The Agency laid out the reasons for adopting each of these criteria for early reduction credits in the final NO_X SIP call. Part 97 currently describes this option.

Under this option, if the tons of NO_X in the State's compliance supplement pool exceeds the number of valid early reduction credit requests in that State, the Agency would issue one allowance for each ton of early reduction credit requested. Any allowances remaining in the compliance supplement pool after all valid requests have been granted would be retired by the Agency. If, however, the amount of valid requests are more than the size of the State's pool, the Agency would reduce the amount in the credit requests on a pro-rata basis so that the requests equal the size of the State's pool. After the requests have been reduced, the Agency would then issue allowances based on the remaining size of each credit request.

With this option, sources in States in the Ozone Transport Commission (OTC) that are subject to this section 126 action would be allowed to bring their banked allowances into the Federal NO_X Budget Trading Program as early reduction credits provided the sum of the banked allowances in any State does not exceed the size of the State's compliance supplement pool. As is the case under this option for States outside of the OTC, any remaining credits in the compliance supplement pool would be retired. If the NO_X Budget units in an OTC State hold banked allowances from the OTC program in excess of the amount of credits in the State's pool, the Agency would reduce the amount of allowances eligible for early reduction credit on a pro rata basis.

The Agency solicits comment on the methodology for issuing early reduction credits in this option as well as the approach that limits the use of the compliance supplement pool to early reduction credits. Specifically, the Agency solicits comment on alternative methods for calculating early reduction credits. In addition, EPA solicits comment on the approach specified for integration with the OTC Program.

The Agency also solicits comment on a second option for distribution of the compliance supplement pool. Under this second option, the Agency proposes that a portion of the compliance supplement pool be given out as early reduction credits and the remaining portion be reserved for sources that demonstrate a need for the compliance supplement. As described in the preamble to the final NO_X SIP call, sources would be responsible for demonstrating to the Agency and the public achieving compliance by May 1, 2003 would create undue risk either to its own operation or associated industry. The administrator of the compliance supplement pool would provide the public an opportunity to comment on the validity of the need for this ''direct distribution'' of the compliance supplement.

Under this option, the Agency would grant early reduction credits using the method described in the first option (or some variation of that approach) before allowing sources access to the direct distribution credits from the compliance supplement pool. The Agency proposes to address OTC banked allowances held by sources subject to a section 126 action as suggested in the first option. To ensure that the compliance supplement is only provided to sources that truly need a compliance extension, the remaining credits in the compliance supplement pool would be given out to an owner or operator of a source that demonstrates the following:

- The process of achieving compliance by May 1, 2003 would create undue risk for the source or its associated industry. For electric generating units, the demonstration should show that installing controls would create unacceptable risks for the reliability of the electricity supply during the time of installation. This demonstration would include a showing that it was not feasible to import electricity from other systems during the

time of installation. Non-electricity generating sources may also be eligible for the compliance supplement based on a demonstration of risk comparable to that described for the electricity industry.

- It was not possible to compensate for delayed compliance by generating early reduction credits at the source or by acquiring credits generated by other sources.
- It was not possible to acquire allowances or credits for the 2003 ozone season from sources that will make reductions beyond required levels during the 2003 ozone season.

The Agency solicits comment on this option that distributes the compliance supplement pool both through early reduction credits as well as direct distribution. Specifically, the Agency requests comment on the number of credits to reserve for direct distribution, the methodology used for direct distribution, and options for public review of the direct distribution. The Agency also solicits comment on the appropriate administrator of the direct distribution.

Under any of the options described above, the Agency proposes that NO_X allowances issued from the compliance supplement pool would only be available for sources to use for compliance in the 2003 or 2004 control periods. Any NO_X allowance issued from the compliance supplement pool that is not used for compliance in 2003, would be considered to be ''banked'' for the 2004 control period. The Agency proposes to retire any NO_X allowance issued from the compliance supplement pool that is not used in either the 2003 or 2004 control period at the end of the 2004 true-up period for the reasons cited in the preamble to the final NO_X SIP call.

e. Emissions Monitoring and Reporting. Subpart H of today's proposed rule addresses monitoring and reporting requirements including, among other things, general requirements, initial certification and recertification procedures, out of control periods, notifications, recordkeeping and reporting, and petitions. These provisions are essentially the same as the monitoring-related provisions of part 96, with cross references to the appropriate sections of part 97. The differences between the provisions reflect the fact that administration of the monitoring requirements is overseen by EPA, rather than by EPA and the permitting authority as is the case in the State NO_X Budget Trading Program. As a result, for example, monitoring certification applications are submitted to the Administrator and the appropriate EPA Regional Office in addition to the permitting authority, and the Administrator, not the permitting authority, will act on the applications. Further, the Administrator handles all audit decertifications and all petitions for alternatives to the monitoring requirements. Another difference is that in the State NO_X Budget Trading Program, EPA included heat input monitoring requirements that States might choose to adopt if they were basing their allocation methodologies on heat input. The proposed Federal NO_X Budget Trading Program bases its allocation approach on heat input. Therefore, EPA has included the heat input monitoring and reporting requirements in proposed part 97. Note that as explained in Section III.3.c.5 of the preamble, EPA is taking comment on three different allocation methodologies. Depending on the methodology chosen, monitoring and reporting requirements would vary.

The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25938–40) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

In particular, for the reasons set forth in the NO_X SIP call, EPA proposes that NO_X Budget units be required to meet the monitoring and reporting requirements in a new subpart H of 40 CFR part 75, the Acid Rain Program regulations (63 FR 25938–40). The EPA has promulgated these revisions part 75 to establish NO_X mass monitoring requirements and provide greater flexibility to regulated sources in conjunction with the final NO_X SIP call rule.

f. Opt-ins. Subpart I of today's proposed rule addresses the opt-in process and procedures applicable to operating units that are not NO_X Budget units under § 97.4, but are located in a State that is included in the Federal NO_X Budget Trading Program and wish to voluntarily enter (i.e., opt into) the trading program. The opt-in provisions can further reduce the cost of achieving NO_X reductions by allowing these units to join the NO_X Budget Trading Program and make incremental, lower cost reductions, freeing NO_X allowances for use by other NO_X Budget units. There are potentially individual sources not included in the trading program that may emit significant amounts of NO_X and are able to achieve cost-effective reductions; allowing these sources to join the program would reduce the overall cost of compliance for the program. The EPA proposes in subpart I to allow individual combustion sources that are located in a State for which a section 126 remedy in promulgated, vent to a stack, and can monitor NO_X mass emissions, the opportunity to opt-in to the Federal program for purposes of the section 126 remedy. The EPA solicits comment on the appropriateness of these opt-in provisions.

Subpart I addresses, among other things, the applicability requirements, allocations, procedures for applying for a NO_X Budget opt-in permit, the process of reviewing and approving or denying the permit, contents of the permit, procedures for withdrawing as a NO_X Budget opt-in source, and changes in regulatory status. The provisions of this subpart are similar to the opt-in provisions in part 96, with cross references to the appropriate sections in part 97, though the Administrator plays a greater role than in part 96 with regard to actions on opt-in permits, allocations, and other related opt-in submissions. For example, under the Federal trading program, NO_X budget opt-in permit applications are submitted to both the Administrator and the permitting authority, but only the Administrator may determine whether the unit qualifies as a NO_X Budget opt-in source. Furthermore the Administrator, rather than the permitting authority, allocates allowances to sources in the Federal NO_X Budget Trading Program. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25940–42) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

g. Program administration. As discussed above, the Federal NO_X Budget Trading Program would be run by EPA. The EPA would identify the units covered by the program, determine and record the NO_X allowance allocations, receive and review monitoring plans and monitoring certification applications, and take the lead in enforcement. As discussed above, States would still be responsible for permitting.

C. New Source Review

As discussed in the proposed and final NO_X SIP call, the EPA believes that nonattainment New Source Review (NSR) offset requirements of the CAA can be met using the mechanism of the State NO_X Budget Trading Program under part 96. However, because the Agency is continuing to evaluate a number of complex issues involved with integrating NSR and the trading program, it will not be providing guidance at this time. The EPA intends

to provide such guidance as soon as possible. At that time, the EPA will also address integrating NSR with the trading program under part 97.

IV. Non-Ozone Benefits to NO_X Reductions

In addition to contributing to attainment of the ozone NAAQS, decreases of NO_X emissions will also likely help improve the environment in several important ways. On a national scale, decreases in NO_X emissions will also decrease acid deposition, nitrates in drinking water, excessive nitrogen loadings to aquatic and terrestrial ecosystems, and ambient concentrations of nitrogen dioxide, particulate matter, and toxics. On a global scale, decreases in NO_X emissions will, to some degree, reduce greenhouse gases and stratospheric ozone depletion. Thus, management of NO_X emissions is important to both air quality and watershed protection on national and global scales. In its July 8, 1997 final recommendations, OTAG stated that it ''recognizes that NO_X controls for ozone reductions purposes have collateral public health and environmental benefits, including reductions in acid deposition, eutrophication, nitrification, fine particle pollution, and regional haze.'' These and other public health and environmental benefits associated with decreases in NO_X emissions are summarized below.[16]

Acid Deposition: Sulfur dioxide and NO_X are the two key air pollutants that cause acid deposition (wet and dry particles and gases) and result in the adverse effects on aquatic and terrestrial ecosystems, materials, visibility, and public health. Nitric acid deposition plays a dominant role in the acid pulses associated with the fish kills observed during the springtime melt of the snowpack in sensitive watersheds and recently has also been identified as a major contributor to chronic acidification of certain sensitive surface waters.

Drinking Water Nitrate: High levels of nitrate in drinking water is a health hazard, especially for infants. Atmospheric nitrogen deposition in sensitive watersheds can increase stream water nitrate concentrations; the added nitrate can remain in the water and be transported long distances downstream.

Eutrophication: NO_X emissions contribute directly to the widespread accelerated eutrophication of United States coastal waters and estuaries. Atmospheric nitrogen deposition onto surface waters and deposition to watershed and subsequent transport into the tidal waters has been documented to contribute from 12 to 44 percent of the total nitrogen loadings to United States coastal water bodies. Nitrogen is the nutrient limiting growth of algae in most coastal waters and estuaries. Thus, addition of nitrogen results in accelerated algae and aquatic plant growth causing adverse ecological effects and economic impacts that range from nuisance algal blooms to oxygen depletion and fish kills.

Global Warming: Nitrous oxide (N_2O) is a greenhouse gas. Anthropogenic N_2O emissions in the United States contribute about 2 percent of the greenhouse effect, relative to total United States anthropogenic emissions of greenhouse gases. In addition, emissions of NO_X lead to the formation of tropospheric ozone, which is another greenhouse gas.

Nitrogen Dioxide (NO_2): Exposure to NO_2 is associated with a variety of acute and chronic health effects. The health effects of most concern at ambient or near-ambient concentrations of NO_2 include mild changes in airway responsiveness and pulmonary function in individuals with pre-existing respiratory illnesses and increases in respiratory illnesses in children. Currently, all areas of the United States monitoring NO_2 are below EPA's threshold for health effects.

Nitrogen Saturation of Terrestrial Ecosystems: Nitrogen accumulates in watersheds with high atmospheric nitrogen deposition. Because most North American terrestrial ecosystems are nitrogen limited, nitrogen deposition often has a fertilizing effect, accelerating plant growth. Although this effect is often considered beneficial, nitrogen deposition is causing important adverse changes in some terrestrial ecosystems, including shifts in plant species composition and decreases in species diversity or undesirable nitrate leaching to surface and ground water and decreased plant growth.

Particulate Matter (PM): NO_X compounds react with other compounds in the atmosphere to form nitrate particles and acid aerosols. Because of their small size nitrate particles have a relatively long atmospheric lifetime; these small particles can also penetrate deeply into the lungs. The PM has a wide range of adverse health effects.

Stratospheric Ozone Depletion: A layer of ozone located in the upper atmosphere (stratosphere) protects people, plants, and animals on the surface of the earth (troposphere) from excessive ultraviolet radiation. The N_2O, which is very stable in the troposphere, slowly migrates to the stratosphere. In the stratosphere, solar radiation breaks it into nitric oxide (NO) and nitrogen (N). The NO reacts with ozone to form NO_2 and molecular oxygen. Thus, decreasing N_2O emissions would result in some decrease in the depletion of stratospheric ozone.

Toxic Products: Airborne particles derived from NO_X emissions react in the atmosphere to form various nitrogen containing compounds, some of which may be mutagenic. Examples of transformation products thought to contribute to increased mutagenicity include the nitrate radical, peroxyacetyl nitrates, nitroarenes, and nitrosamines.

Visibility and Regional Haze: The NO_X emissions lead to the formation of compounds that can interfere with the transmission of light, limiting visual range and color discrimination. Most visibility and regional haze problems can be traced to airborne particles in the atmosphere that include carbon compounds, nitrate and sulfate aerosols, and soil dust. The major cause of visibility impairment in the eastern United States is sulfates, while in the West the other particle types play a greater role.

Justification for Rulemaking: While EPA believes the information is important for the public to understand and, thus, needs to be described as part of the rulemaking and RIA, there should be no misunderstanding as to the legal basis for the rulemaking, which is described in Section I, Background, of this notice and does not depend on the non-ozone benefits. The non-ozone benefits did not affect the method in which EPA determined significant contribution nor the proposed control requirements.

V. Administrative Requirements

A. Executive Order 12866: Regulatory Impact Analysis

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

[16] U.S. Environmental Protection Agency, ''Nitrogen Oxides: Impacts on Public Health and the Environment,'' EPA–452/R–97–002, August 1997.

(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.

The EPA believes that this action is a ''significant regulatory action'' because it raises novel legal and policy issues arising from the Agency's obligation to respond to the section 126 petitions, and because the action could have an annual effect on the economy of more than $100 million. As a result, the proposed rulemaking was submitted to OMB for review, and EPA has prepared a RIA titled ''Regulatory Impact Analysis of Proposed CAA Section 126 Petitions for NO_X, September 1998.'' This RIA assesses the costs, benefits, and economic impacts associated with Federally-imposed requirements to mitigate NO_X emissions from sources contributing to downwind nonattainment of the ozone NAAQS. Any written comments from OMB to EPA and any written EPA response to those comments are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble. The RIA is available in hard copy by contacting the EPA Library at the address under ''Availability of Related Information'' and in electronic form as discussed above in that same section.

The RIA for the section 126 petitions addresses the costs and benefits associated with reducing emissions at sources affected under the petitions in the broader context of those sources potentially affected by the final NO_X SIP call and its associated FIP. There is a high likelihood that sources named in the section 126 petitions will also be controlled under SIPs that will be revised to meet final NO_X budgets. In the event that States fail to submit approvable SIPs, FIPs will be enacted. Therefore, from the perspective of a regulatory analysis that is focused on the year 2007, the sources named in section 126 petitions will be complying with either State or Federal regulations of generally equivalent stringency.

The RIA for the NO_X SIP call concludes that the national annual cost of possible State actions to comply with the NO_X SIP call are approximately $1.7 billion (1990 dollars). The sources named in the section 126 petitions will bear some portion of that total cost. The associated benefits, in terms of improvements in health, visibility, and ecosystem protection, that EPA has quantified and monetized range from $1.1 billion to $4.2 billion, with EPA's best estimate being $3.4 billion. Due to practical analytical limitations, the EPA is not able to quantify and/or monetize all potential benefits of the NO_X SIP call action.

B. Impact on Small Entities

1. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), provides that whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available an initial regulatory flexibility analysis, unless it certifies that the proposed rule, if promulgated, will not have ''a significant economic impact on a substantial number of small entities.''

In the process of developing this rulemaking, EPA worked with SBA and OMB and obtained input from small businesses, small governmental jurisdictions, and small organizations. On June 23, 1998, EPA's Small Business Advocacy Chairperson convened a Small Business Advocacy Review Panel under section 609(b) of the RFA as amended by SBREFA. In addition to its chairperson, the Panel consists of EPA's Director of the Office of Air Quality Planning and Standards within the Office of Air and Radiation, the Administrator of the Office of Information and Regulatory Affairs within the OMB, and the Chief Counsel for Advocacy of the SBA.

As described below, this Panel conducted an outreach effort and completed a report on the section 126 proposal. The report provides background information on the proposed rule being developed and the types of small entities that would be subject to the proposed rule, describes efforts to obtain the advice and recommendations of representatives of those small entities, summarizes the comments that have been received to date from those representatives, and presents the findings and recommendations of the Panel; the completed report, comments of the small entity representatives, and other information are contained in the docket for this rulemaking.

It is important to note that the Panel's findings and discussion are based on the information available at the time this report was drafted. The EPA is continuing to conduct analyses relevant to the proposed rule, and additional information may be developed or obtained during the remainder of the rule development process. The Panel makes its report at a preliminary stage of rule development and its report should be considered in that light. At the same time, the report provides the Panel and the Agency with an opportunity to identify and explore potential ways of shaping the proposed rule to minimize the burden of the rule on small entities while achieving the rule's statutory purposes. Any options the Panel identifies for reducing the rule's regulatory impact on small entities may require further analysis and/or data collection to ensure that the options are practicable, enforceable, environmentally sound and consistent with the statute authorizing the proposed rule.

2. Outreach to Small Entity Representatives

In consultation with the SBA, EPA invited small entity representatives to participate in its outreach efforts on this proposal. The EPA, OMB, and SBA held an initial outreach meeting with a group of small-entity representatives in Washington, DC, on April 14, 1998. The purpose of this meeting was to familiarize the small-entity representatives with the substance of the rulemaking and the kinds of sources being considered for regulation, and to solicit comment on these topics. Subsequent to the meeting, the representatives submitted follow-up comments in writing. The primary outreach was accomplished by a meeting with the small-entity representatives in Washington, D.C. on August 4, 1998. The purpose of this meeting was to present the results of EPA's analysis on small-entity impacts, and to solicit comment on this analysis and on suggestions for impact mitigation. Subsequent to the meeting, the representatives submitted follow-up comments in writing.

To define small entities, EPA used the SBA industry-specific criteria published in 13 CFR part 121. The SBA size standards have been established for each type of economic activity under the Standard Industrial Classification (SIC) System. Due to their NO_X-emitting properties, the following industries have the potential to be affected by the section 126 rulemaking:

SIC Codes in Division D: Manufacturing

2611—Pulp mills
2819—Industrial Inorganic Materials
2821—Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers
2869—Industrial Organic Chemicals
3312—Steel Works, Blast Furnaces, and Rolling Mills
3511—Steam, Gas, and Hydraulic Turbines

3519—Stationary Internal Combustion Engines
3585—Air-Conditioning and Warm-Air Heating Equipment and Commercial and Industrial Refrigeration Equipment

SIC Codes in Division E: Transportation, Communications, Electric, Gas, and Sanitary Services

SIC Major Group 49: Electric, Gas, and Sanitary Services, including:

4911—Electric Utilities
4922—Natural Gas Transmission
4931—Electric and other Gas Services
4961—Steam and Air Conditioning Supply

3. Potentially Affected Small Entities

The primary topic of Panel discussion was the applicability of the section 126 rule to the various categories of NO_X-emitting sources, the costs the rule would impose, and the possibility of further reducing rule applicability. Secondary topics included emissions monitoring and other potentially duplicative Federal rules. These discussions are summarized below.

The section 126 rulemaking is potentially applicable to all NO_X-emitting entities named in one or more of the section 126 petitions. Since this is a subset of the entities covered by the FIP proposal, any impacts from the section 126 rule will be a subset of the FIP impacts, and the FIP proposal represents the worst case that could result if all eight section 126 petitions were granted. Therefore, EPA has applied its limited time and resources to developing estimates of impact based on the FIP proposal, with the knowledge that it represents the worst case in terms of impact on small entities.

The EPA estimates that the total number of such entities named in the section 126 petitions is approximately 5200, of which about 1200 are small entities. The EPA is considering reducing this applicability based on several factors including input from this Panel, considerations of overall cost effectiveness, and administrative efficiency. Specifically, EPA is proposing to exempt a number of sources from being subject to this regulation based on factors such as low relative emissions and lack of specific source information. These factors are discussed in detail elsewhere in this notice. Additional sources are being considered for exemption because they may not be highly cost effective to control, with EPA considering an average cost effectiveness of $2000 per ton of NO_X removed as the upper limit for highly cost-effective reductions.

If EPA takes final action as proposed today with this reduced-applicability approach, the section 126 rulemaking will apply only to the following types of sources: Large electric generating units (EGUs), industrial boilers, and combustion turbines. The stringency levels of control EPA currently intends to propose for these types of sources is as follows: For EGUs, an emission rate of 0.15 pounds of NO_X per million BTU and for industrial boilers and combustion turbines, an emission reduction of 60 percent. At these stringency levels, the estimated number of small entities that would be affected is as follows:

Electric Generating Units—114 small entities
Industrial Boilers and/or Combustion Turbines—31 small entities

The EPA has further estimated that, of these affected small entities, the following would experience compliance costs equal or greater to 1 percent of their estimated revenues:

Electric Generating Units—32 small entities
Industrial Boilers and Combustion Turbines—7 small entities

Of these, EPA estimates that about 18 small entities with electric generating units and 4 small entities with industrial boilers or turbines would experience costs greater than 3 percent of their estimated revenues.

Focusing the rule on this limited group of sources would constitute a reduction of over 85 percent in the number of small entities potentially affected by the rule: out of 1200 potentially-affected small entities, over 1000 would be exempted, with only 145 small entities remaining. The Panel received written comments from three small-entity representatives strongly endorsing these exemptions.

4. Panel Findings and EPA Actions

a. Exemptions. The Panel agreed with the general approach EPA is proposing to define the scope of the rule. The Panel recommended that the exemptions noted above be included in the proposal, and further recommended that the applicability of EPA's proposed rule be limited to the sources shown in that section. As discussed earlier in this notice, EPA is proposing to limit applicability as recommended by the Panel. Furthermore, as described below, the Panel considered it appropriate to explore additional options for reducing the impact of the rule.

Several of the small entity representatives suggested that EPA exempt all small entities from this rulemaking. Although EPA does not feel that a blanket, across-the-board exemption could be supported, EPA is receptive to proposals for further exemptions, up to and including exempting all small entities if that could be shown to be appropriate. As recommended by the Panel, EPA solicits comment on additional types of small-entity exemptions and the rational bases on which such exemptions could be made, such as disproportionate ability to bear costs and administrative burden.

b. Continuous Emissions Monitoring Systems (CEMS). The Panel received both written and oral comments to the effect that CEMS would be prohibitively costly for many industrial boilers, representing a significant part of the cost of the rule. The OMB and SBA share the commenters' concern for the potentially high cost of CEMS requirements. The EPA believes that it is necessary for all sources in the trading program to be subject to accurate and consistent monitoring requirements designed to demonstrate compliance with a mass emission limitation, and therefore intends to require all large units to monitor NO_X mass emissions using CEMS (including units opting-in to the trading program). In the proposed section 126 rule, all affected sources are included in the trading program. However, EPA does believe that it is appropriate to provide lower cost monitoring options for units with low NO_X mass emissions, and therefore intends to allow non-CEMS alternatives for units that have emissions of less than 50 tons per year of NO_X. This cutoff will provide relief for boilers large enough to be covered by the rule, but that run for a smaller number of hours each year, including any such boilers owned by small entities.

c. Electric Generating Units. The next area considered by the Panel was electric generating units (EGUs). The EPA's analysis shows that slightly more than 30 EGUs may experience costs above 1 percent of revenues, and that 18 of these might exceed 3 percent. From comments made by small utilities, the Panel suspects that many of these high-cost-to-revenue situations may involve peaking units, which run only a small percentage of the time and thus may be inefficient to control. To address this problem, the Panel recommended that EPA solicit comment on whether to allow electric generating units to obtain a Federally-enforceable NO_X emission tonnage limit (e.g., 25 tons during the ozone season) and thereby obtain an exemption. The EPA solicits comment on the necessity for and appropriateness of such an option.

d. Industrial Boilers. Individual Panel members conceived of other potential ways to mitigate impact on small entities, such as raising the size cutoff for small entities and/or lessening the required percentage reduction in NO_X emissions required from small entities. The SBA encouraged the Agency to

conduct analyses to determine the impact of 40 percent reduction being applied solely to small entities and 60 percent solely to large entities, and the resulting effect on control levels for sources regulated in the proposal. The EPA solicits comment on whether requirements should be reduced on small-entity-owned industrial boilers by some combination of raising the size cutoff and/or lessening the required reduction; which, if any, of these options is preferable; the necessity and appropriateness of any such option; the appropriate level (e.g., 40 percent reduction instead of 60 percent); and information to support any comments submitted.

e. EPA Guidance to States on Small Entities. Finally, the Panel noted that several small entity representatives expressed concern that regardless of the sensitivity to small-entity concerns EPA shows in the (FIP or) section 126 rulemaking, the States may nevertheless see fit to target small entities in their SIPs. To help address this problem, the Panel recommended that, subsequent to the FIP and section 126 proposals, EPA issue guidance that conveys to the States the kinds of options and alternatives EPA has considered in addressing small-entity concerns, explain the rationale behind these kinds of options, and recommended that the States consider adopting similar alternatives in their SIPs. The EPA intends to address this issue as it develops implementation guidance for the States to use in developing SIPs.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule that ''includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more ... in any one year.'' A ''Federal mandate'' is defined under section 421(6), 2 U.S.C. 658(6), to include a ''Federal intergovernmental mandate'' and a ''Federal private sector mandate.'' A ''Federal intergovernmental mandate,'' in turn, is defined to include a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' section 421(5)(A)(i), 2 U.S.C. 658(5)(A)(i), except for, among other things, a duty that is ''a condition of Federal assistance,'' section 421(5)(A)(i)(I). A ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector,'' with certain exceptions, section 421(7)(A), 2 U.S.C. 658(7)(A).

The EPA is taking the position that the requirements of UMRA apply because this action could result in the establishment of enforceable mandates directly applicable to sources (including sources owned by State and local governments) that would result in costs greater than $100 million in any one year. 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 EPA's UMRA analysis, ''Unfunded Mandates Reform Act Analysis For the Proposed Section 126 Petitions Under the Clean Air Act Amendments Title I,'' is contained in the docket for this action and is summarized below.

This UMRA analysis examines the impacts of the proposed section 126 rulemaking on both EGUs and non-EGUs that are owned by State, local, and tribal governments, as well as sources owned by private entities. This proposal potentially affects 65 EGUs that are owned by one State and 24 municipalities (Massachusetts owns 6 units, and the municipalities own the remaining 59 units). In addition, 7 non-EGUs owned by 2 States and 5 municipalities are potentially affected. The EPA has not identified any units on Tribal lands that would be subject to the proposed requirements. The overall costs are dominated by the 65 EGUs and are about $30 million per year. Their cost impacts are only slightly higher than their production share, in comparison to all units in the region.

Under section 203 of UMRA, 2 U.S.C. 1533, before EPA establishes any regulatory requirements ''that might significantly or uniquely affect small governments,'' EPA must have developed a small government agency plan. The plan must provide for notifying potentially affected small governments; enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates; and informing, educating, and advising small governments on compliance with the regulatory requirements. The proposed requirements do not distinguish EGUs based on ownership, either for those units that are included within the scope of the proposed rule or for those units that are exempted by the generating capacity cut-off. Consequently, the proposed rule has no requirements that uniquely affect small governments that own or operate EGUs within the affected region. With respect to the significance of the rule's provisions, EPA's UMRA analysis (cited above) demonstrates that the economic impact of the rule will not significantly affect State or municipal EGUs or non-EGUs, either in terms of total cost incurred and the impact of the costs on revenue, or increased cost of electricity to consumers. Therefore, development of a small government plan under section 203 of the Act is not required.

Under section 204 of UMRA, 2 U.S.C. 1534, if an agency proposes a rule that contains a ''significant Federal intergovernmental mandate'', the agency must develop a process to permit elected officials of State, local, and tribal governments to provide input into the development of the proposal.'' In order to fulfill UMRA requirements that publicly-elected officials be given meaningful and timely input in the process of regulatory development, EPA has sent letters to five national associations whose members include elected officials. The letters provide background information, request the associations to notify their membership of the proposed rulemaking, and encourage interested parties to comment on the proposed actions by sending comments during the public comment period and presenting testimony at the public hearing on the proposal. Any comments will be taken into consideration as the action moves toward final rulemaking.

In addition, during the NO_X SIP call, EPA provided direct notification to potentially affected State and municipally-owned utilities as part of the public comment and hearing process attendant to proposal of the NO_X SIP call and supplemental notice of proposed rulemaking. These procedures helped ensure that small governments had an opportunity to give timely input and obtain information on compliance. The EPA provided the 26 State and municipality-owned utilities and appropriate elected officials with a brief summary of the proposal and the estimated impacts. The public rulemaking also elicited numerous comments from State and municipal utilities and groups representing utility interests.

Furthermore, for the section 126 rulemaking, EPA published an ANPR that served to provide notice of the Agency's intention to propose emissions limits and to solicit early input on the proposal. This process helped to ensure

that small governments had an opportunity to give timely input and obtain information on compliance.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1889.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, US Environmental Protection Agency (2137), 401 M St., SW, Washington, DC 20460 or by calling (202) 260–2740.

The EPA believes that it is essential that sources for whom findings are made under section 126 of the CAA demonstrate that they are achieving their required reductions. This is achieved through the monitoring and reporting of emissions. Accurate and consistent monitoring of emissions also facilitates the trading program which helps ensure that emission reductions are achieved in the most cost affective way possible.

Respondents/Affected Entities: Large fossil fuel boilers, turbines and combined cycle units which are included in the section 126 proposal.

Number of Respondents: 2011.

Frequency of Response:

—Emissions reports quarterly for some units, twice during ozone season for others

—Test notifications and allowance transfers on an infrequent basis

—Compliance certifications on an annual basis

Estimated Annual Hour Burden per Respondent: 107.

Estitmated Annual Cost per Respondent: $7,943.

Estimated Total Annual Hour Burden: 216,671.

Estimated Total Annualized Cost: $13,859,599.

Note that these are an average estimate for the first three years of the program. The EPA estimates lower costs in the first two years of the program because less units will be participating at that time. The units that will be participating at that time are units that are applying for early reduction credits. The EPA also estimates that the highest compliance costs will occur in 2002, when the majority of the units that have to install and certify new monitors to comply with the program will do so. The EPA believes that the year 2003 will be more representative of the actual ongoing costs of the program. At that time EPA estimates a burden of 179 hours per source and a cost of $27,670 per source.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR ch. 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Office of Policy, Regulatory Information Division, US Environmental Protection Agency (2137), 401 M St., SW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Comments are requested by December 7, 1998. Please include the ICR number in any correspondence.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

1. Applicability of Executive Order 13045

The Executive Order 13045 applies to any rule that EPA determines (1) ''economically significant'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

2. Children's Health Protection

In accordance with section 5(501), the Agency has evaluated the environmental health or safety effects of the rule on children, and found that the rule does not separately address any age groups. However, in conjunction with the final NO_X SIP call rulemaking, the Agency has conducted a general analysis of the potential changes in ozone and PM levels experienced by children as a result of the NO_X SIP call; these findings are presented in the RIA. The findings include population-weighted exposure characterizations for projected 2007 ozone and PM concentrations. The population data includes a census-derived subdivision for the under 18 group.

F. Executive Order 12898: Environmental Justice

Executive Order 12848 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. In conjunction with the final NO_X SIP call rulemaking, the Agency has conducted a general analysis of the potential changes in ozone and PM levels that may be experienced by minority and low-income populations as a result of the NO_X SIP call; these findings are presented in the RIA. The findings include population-weighted exposure characterizations for projected ozone concentrations and PM concentrations. The population data includes census-derived subdivisions for whites and non-whites, and for low-income groups.

G. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with

representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

The EPA has concluded that this rule may create a mandate on State and local governments and that the Federal government will not provide the funds necessary to pay the direct costs incurred by the State and local governments in complying with the mandate. In order to provide meaningful and timely input in the development of this regulatory action, EPA has sent letters to five national associations whose members include elected officials. The letters provide background information, request the associations to notify their membership of the proposed rulemaking, and encourage interested parties to comment on the proposed actions by sending comments during the public comment period and presenting testimony at the public hearing on the proposal. Any comments will be taken into consideration as the action moves toward final rulemaking.

Furthermore, for the section 126 rulemaking, EPA published an ANPR that served to provide notice of the Agency's intention to propose emissions limits and to solicit early input on the proposal. This process helped to ensure that small governments had an opportunity to give timely input and obtain information on compliance.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments and, in any event, will not impose substantial direct compliance costs on such communities. The EPA is not aware of sources located on tribal lands that could be subject to the requirements EPA is proposing in this notice. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking would require all sources that participate in the trading program under proposed part 97 to meet the applicable monitoring requirements of part 75. Part 75 already incorporates a number of voluntary consensus standards. In addition, EPA's proposed revisions to part 75 proposed to add two more voluntary consensus standards to the rule (see 63 FR at 28116–17, discussing ASTM D5373–93 ''Standard Methods for Instrumental Determination of Carbon, Hydrogen and Nitrogen in laboratory samples of Coal and Coke,'' and API Section 2 ''Conventional Pipe Provers'' from Chapter 4 of the Manual of Petroleum Measurement Standards, October 1988 edition). The EPA's proposed part 75 revisions also requested comments on the inclusion of additional voluntary consensus standards. The EPA has recently finalized revisions to part 75 addressing some of the topics raised in EPA's proposed revisions to part 75. As part of this rule finalization, EPA incorporated two new voluntary consensus standards:

(1) American Petroleum Institute (API) Petroleum Measurement Standards, Chapter 3, Tank Gauging: Section 1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, December 1994; Section 1B, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging, April 1992 (reaffirmed January 1997); Section 2, Standard Practice for Gauging Petroleum and Petroleum Products in Tank Cars, September 1995; Section 3, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Pressurized Storage Tanks by Automatic Tank Gauging, June 1996; Section 4, Standard Practice for Level Measurement of Liquid Hydrocarbons on Marine Vessels by Automatic Tank Gauging, April 1995; and Section 5, Standard Practice for Level Measurement of Light Hydrocarbon Liquids Onboard Marine Vessels by Automatic Tank Gauging, March 1997; and

(2) Shop Testing of Automatic Liquid Level Gages, Bulletin 2509 B, December 1961 (Reaffirmed October 1992), for § 75.19.

The EPA intends to finalize other revisions to part 75 and address comments related to additional voluntary consensus standards at that time.

This proposed rulemaking involves environmental monitoring or measurement. Sources that participate in the trading program would be required to meet the monitoring requirements under part 75. Consistent with the Agency's Performance Based Measurement System (PBMS), part 75 sets forth performance criteria that allow the use of alternative methods to the ones set forth in part 75. The PBMS approach is intended to be more flexible and cost effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. The EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified, however, any alternative methods must be approved in advance before they may be used under part 75.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 97

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

Dated: September 24, 1998.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, parts 52 and 97 of chapter I of title 40 of the Code of Federal Regulations are proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart A—General Provisions

2. Subpart A is amended to add § 52.34 to read as follows:

§ 52.34 Action on petitions submitted under section 126 relating to emissions of nitrogen oxides.

(a) *Purpose and applicability.* Paragraphs (b) through (i) of this section set forth EPA's affirmative and negative technical determinations regarding whether, with respect to the national ambient air quality standards (NAAQS) for ozone, certain new and existing sources of emissions of nitrogen oxides (''NO_X'') in certain States emit NO_X in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, one or more States that submitted petitions in 1997 addressing such NO_X emissions under section 126 of the Clean Air Act. (As used in this section, the term new source includes modified sources, as well.) The States that submitted such petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont (each of which, hereinafter in this section, may be referred to also as a ''petitioning State''). Paragraph (j) of this section sets forth EPA's decisions about whether to grant or deny each of those petitions, and paragraph (k) of this section sets forth the emissions-reduction requirements that will apply to the affected NO_X sources to the extent any of the petitions is granted. Appendix A of part 97 of this chapter contains a list of the existing NO_X sources that as of date of signature are covered by the affirmative technical determinations described herein, and that would be required to meet such pollution-control requirements to the extent a petition covering such sources is granted.

(b) *Technical determinations relating to impacts on ozone levels in Connecticut.*—(1) *Affirmative technical determinations with respect to the 1-hour ozone standard in Connecticut.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in the State of Connecticut with respect to the 1-hour NAAQS for ozone if it is or will be:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (b)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Connecticut.

(2) *States or portions of states that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Connecticut.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) Delaware.

(ii) District of Columbia.

(iii) Portion of Indiana located in OTAG Subregions 2 and 6, as shown in appendix F, Figure F–2 of this part.

(iv) Portion of Kentucky located in OTAG Subregion 6, as shown in appendix F, Figure F–2 of this part.

(v) Maryland.

(vi) Portion of Michigan located in OTAG Subregion 2, as shown in appendix F, Figure F–2 of this part.

(vii) Portion of North Carolina located in OTAG Subregion 7, as shown in appendix F, Figure F–2 of this part.

(viii) New Jersey.

(ix) Portion of New York extending west and south of Connecticut, as shown in appendix F, Figure F–2 of this part.

(x) Ohio.

(xi) Pennsylvania.

(xii) Virginia.

(xiii) West Virginia.

(3) *Negative technical determinations with respect to the 1-hour ozone standard in Connecticut.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (b)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of Connecticut, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (b)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Connecticut; but

(iii) Is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Connecticut.* The States or portions thereof described in paragraph (b)(3) of this section are:

(i) Portion of Tennessee located in OTAG Subregion 6, as shown in appendix F, Figure F–2.

(c) *Technical determinations relating to impacts on ozone levels in Maine.*—(1) *Affirmative technical determinations with respect to the 1-hour ozone standard in Maine.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in the State of Maine, with respect to the 1-hour NAAQS for ozone if it is or will be:

(I) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (c)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Maine.

(2) *States or portions of States that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Maine.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) Connecticut.

(ii) Delaware.

(iii) District of Columbia.

(iv) Maryland.

(v) Massachusetts.
(vi) New Jersey.
(vii) New York.
(viii) Pennsylvania.
(ix) Rhode Island.

(3) *Negative technical determinations with respect to the 1-hour ozone standard in Maine.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (c)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of Maine, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources that does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (c)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Maine; but

(iii) Is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Maine.* The States or portions thereof described in paragraph (c)(3) of this section are:

(i) Portion of North Carolina within a 600 mile radius of Maine's ozone nonattainment areas, as shown in appendix F, Figure F–3 of this part.

(ii) New Hampshire.

(iii) Portion of Ohio within a 600 mile radius of Maine's ozone nonattainment areas, as shown in appendix F, Figure F–3 of this part.

(iv) Vermont.

(v) Portion of Virginia within a 600 mile radius of Maine's ozone nonattainment areas, as shown in appendix F, Figure F–3 of this part.

(vi) Portion of West Virginia within a 600 mile radius of Maine's ozone nonattainment areas, as shown in appendix F, Figure F–3 of this part.

(d) *Technical determinations relating to impacts on ozone levels in Massachusetts.*—(1) *Affirmative technical determinations with respect to the 1-hour ozone standard in Massachusetts.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NOx in amounts that contribute significantly to nonattainment in the State of Massachusetts, with respect to the 1-hour NAAQS for ozone if it is or will be:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (d)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Massachusetts.

(2) *States or portions of states that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Massachusetts.* The States or portions of States that contain sources for which EPA is making an affirmative technical determination are:

(i) All counties in Ohio located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(ii) All counties in West Virginia located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(3) *Negative technical determinations with respect to the 1-hour ozone standard in Massachusetts.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (d)(4) of this section does not or would not emit NOx in amounts that contribute significantly to nonattainment in the State of Massachusetts, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NOx in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (d)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Massachusetts; but

(iii) is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Massachusetts.* The States or portions thereof described in paragraph (d)(3) of this section are:

(i) All counties in Kentucky located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(ii) All counties in Indiana located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(5) *Affirmative technical determinations with respect to the 8-hour ozone standard in Massachusetts.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NOx in amounts that contribute significantly to nonattainment in, or interfere with maintenance by, the State of Massachusetts, with respect to the 8-hour NAAQS for ozone if it is or will be:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (d)(6) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Massachusetts.

(6) *States or portions of states that contain sources for which EPA is making an affirmative technical determination with respect to the 8-hour ozone standard in Massachusetts.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) All counties in Ohio located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(ii) All counties in West Virginia located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(7) *Negative technical determinations with respect to the 8-hour ozone standard in Massachusetts.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (d)(8) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in, or interfere with maintenance by, the State of Massachusetts, with respect to the 8-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it is or will be:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (d)(6) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Massachusetts; but

(iii) is not in a category of sources described in 40 CFR 97.4.

(8) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 8-hour ozone standard in Massachusetts.* The States or portions thereof described in paragraph (d)(7) of this section are:

(i) All counties in Indiana located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(ii) All counties in Kentucky located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–4 of this part.

(e) *Technical determinations relating to impacts on ozone levels in New Hampshire.*—(1) *Affirmative technical determinations with respect to the 1-hour ozone standard in New Hampshire.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in the State of New Hampshire, with respect to the 1-hour NAAQS for ozone if it is or will be:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (e)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of New Hampshire.

(2) *States or portions of States that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in New Hampshire.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) Connecticut.

(ii) Delaware.

(iii) District of Columbia.

(iv) Maryland.

(v) Massachusetts.

(vi) New Jersey.

(vii) New York.

(viii) Pennsylvania.

(ix) Rhode Island.

(x) Virginia.

(3) *Negative technical determinations with respect to the 1-hour ozone standard in New Hampshire.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (e)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of New Hampshire, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (e)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of New Hampshire; but

(iii) is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in New Hampshire.* The States or portions thereof described in paragraph (e)(3) of this section are:

(i) Illinois.

(ii) Indiana.

(iii) Portion of Iowa within OTAG Subregion 1, as shown in appendix F, Figure F–5 of this part.

(iv) Kentucky.

(v) Maine.

(vi) Portion of Michigan within OTAG Subregions 1 and 2, as shown in appendix F, Figure F–5 of this part.

(vii) Portion of Missouri within OTAG Subregion 5, as shown in appendix F, Figure F–5 of this part.

(viii) North Carolina.

(ix) Ohio.

(x) Tennessee.

(xi) West Virginia.

(xii) Portion of Wisconsin within OTAG Subregion 1, as shown in appendix F, Figure F–5 of this part.

(xiii) Vermont.

(f) *Technical determinations relating to impacts on ozone levels in the State of New York.*—(1) *Affirmative technical determinations with respect to the 1-hour ozone standard in the State of New York.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in the State of New York, with respect to the 1-hour NAAQS for ozone:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (f)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of New York.

(2) *States or portions of States that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in the State of New York.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) Delaware.

(ii) District of Columbia.

(iii) Portion of Indiana located in OTAG Subregions 2 and 6, as shown in appendix F, Figure F–6 of this part.

(iv) Portion of Kentucky located in OTAG Subregion 6, as shown in appendix F, Figure F–6 of this part.

(v) Maryland.

(vi) Portion of Michigan located in OTAG Subregion 2, as shown in appendix F, Figure F–6 of this part.

(vii) Portion of North Carolina located in OTAG Subregions 6 and 7, as shown in appendix F, Figure F–6 of this part.

(viii) New Jersey.

(ix) Ohio.

(x) Pennsylvania.

(xi) Virginia.

(xii) West Virginia.

(3) *Negative technical determinations with respect to the 1-hour ozone standard in the State of New York.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (f)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of New York, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (f)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of New York; but

(iii) Is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in the State of New York.* The States or portions thereof described in paragraph (f)(3) of this section are:

(i) Portion of Tennessee located in OTAG Subregion 6, as shown in appendix F, Figure F–6 of this part.

(g) *Technical determinations relating to impacts on ozone levels in Pennsylvania.*—(1) *Affirmative*

technical determinations with respect to the 1-hour ozone standard in Pennsylvania. The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in the State of Pennsylvania, with respect to the 1-hour NAAQS for ozone if it is or will be:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (g)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Pennsylvania.

(2) *States or portions of States that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Pennsylvania.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) North Carolina.

(ii) Ohio.

(iii) Virginia.

(iv) West Virginia.

(3) *Negative technical determinations with respect to the 1-hour ozone standard in Pennsylvania.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (g)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of Pennsylvania, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (g)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Pennsylvania; but

(iii) Is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Pennsylvania.* The States or portions thereof described in paragraph (g)(3) of this section are:

(i) Alabama.

(ii) Arkansas.

(iii) Georgia.

(iv) Illinois.

(v) Indiana

(vi) Iowa.

(vii) Kentucky.

(viii) Louisiana.

(ix) Michigan.

(x) Minnesota.

(xi) Mississippi.

(xii) Missouri.

(xiii) South Carolina.

(xiv) Tennessee.

(xv) Wisconsin.

(5) *Affirmative technical determinations with respect to the 8-hour ozone standard in Pennsylvania.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in, or interfere with maintenance by, the State of Pennsylvania, with respect to the 8-hour NAAQS for ozone:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (g)(6) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Pennsylvania.

(6) *States or portions of States that contain sources for which EPA is making an affirmative technical determination with respect to the 8-hour ozone standard in Pennsylvania.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) Alabama.

(ii) Illinois.

(iii) Indiana.

(iv) Kentucky.

(v) Michigan.

(vi) Missouri.

(vii) North Carolina.

(viii) Ohio.

(ix) Tennessee.

(x) Virginia.

(xi) West Virginia.

(7) *Negative technical determinations with respect to the 8-hour ozone standard in Pennsylvania.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (g)(8) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in, or interfere with maintenance by, the State of Pennsylvania, with respect to the 8-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (g)(6) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Pennsylvania; but

(iii) Is not in a category of sources described in 40 CFR 97.4.

(8) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 8-hour ozone standard in Pennsylvania.* The States or portions thereof described in paragraph (g)(7) of this section are:

(i) Arkansas.

(ii) Georgia.

(iii) Iowa.

(iv) Louisiana.

(v) Minnesota.

(vi) Mississippi.

(vii) South Carolina.

(viii) Wisconsin.

(h) *Technical determinations relating to impacts on ozone levels in Rhode Island.*—(1) *Affirmative technical determinations with respect to the 1-hour ozone standard in Rhode Island.* The Administrator of EPA finds that any existing or new major source or group of stationary sources emits or would emit NO_X in amounts that contribute significantly to nonattainment in the State of Rhode Island, with respect to the 1-hour NAAQS for ozone if it is or will be:

(i) In a category of sources described in 40 CFR 97.4;

(ii) Located in one of the States (or portions thereof) listed in paragraph (h)(2) of this section; and

(iii) Within one of the ''Named Source Categories'' listed in the portion of Table F–1 in appendix F of this part describing the sources covered by the petition of the State of Rhode Island.

(2) *States or portions of States that contain sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Rhode Island.* The States, or portions of States, that contain sources for which EPA is making an affirmative technical determination are:

(i) All counties in Ohio located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–8 of this part.

(ii) All counties in West Virginia located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–8 of this part.

(3) *Negative technical determinations with respect to the 1-hour ozone*

standard in Rhode Island. The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (h)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of Rhode Island, with respect to the 1-hour NAAQS for ozone. The Administrator also finds that any existing or new major source or group of stationary sources does not or would not emit NO_X in such amounts if it:

(i) Is or will be located in one of the States (or portions thereof) listed in paragraph (h)(2) of this section; and

(ii) Is or will be within one of the ''Named Source Categories'' listed in the portion of Table F–1 in Appendix F of this part describing the sources covered by the petition of the State of Rhode Island; but

(iii) Is not in a category of sources described in 40 CFR 97.4.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Rhode Island.* The States or portions thereof described in paragraph (h)(3) of this section are:

(i) All counties in Kentucky located within a 3-county-wide band of the Ohio River, as shown in appendix F, Figure F–8 of this part.

(ii) All counties in Indiana located within a 3-county wide-band of the Ohio River, as shown in appendix F, Figure F–8 of this part.

(i) *Technical determinations relating to impacts on ozone levels in Vermont.*—(1) *Negative technical determinations with respect to the 1-hour ozone standard in Vermont.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (i)(2) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in the State of Vermont, with respect to the 1-hour NAAQS for ozone.

(2) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 1-hour ozone standard in Vermont.* The States or portions thereof described in paragraph (i)(1) of this section are:

(i) Portion of Alabama within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(ii) Portion of Connecticut within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(iii) Delaware.

(iv) District of Columbia.

(v) Portion of Georgia within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(vi) Illinois.

(vii) Indiana.

(viii) Portion of Iowa within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(ix) Kentucky.

(x) Maryland.

(xi) Portion of Massachusetts within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xii) Portion of Michigan within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xiii) Portion of Missouri within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xiv) New Jersey.

(xv) Portion of New York within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xvi) North Carolina.

(xvii) Ohio.

(xviii) Pennsylvania.

(xix) South Carolina.

(xx) Portion of Tennessee within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xxi) Virginia.

(xxii) West Virginia.

(xxiii) Portion of Wisconsin within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(3) *Negative technical determinations with respect to the 8-hour ozone standard in Vermont.* The Administrator of EPA finds that any existing or new major source or group of stationary sources that is or will be located in one of the States (or portions thereof) listed in paragraph (i)(4) of this section does not or would not emit NO_X in amounts that contribute significantly to nonattainment in, or interfere with maintenance by, the State of Vermont, with respect to the 8-hour NAAQS for ozone.

(4) *States or portions of States that contain no sources for which EPA is making an affirmative technical determination with respect to the 8-hour ozone standard in Vermont.* The States or portions thereof described in paragraph (i)(3) of this section are:

(i) Portion of Alabama within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(ii) Portion of Connecticut within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(iii) Delaware.

(iv) District of Columbia.

(v) Portion of Georgia within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(vi) Illinois.

(vii) Indiana.

(viii) Portion of Iowa within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(ix) Kentucky.

(x) Maryland.

(xi) Portion of Massachusetts within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xii) Portion of Michigan within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xiii) Portion of Missouri within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xiv) New Jersey.

(xv) Portion of New York within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xvi) North Carolina.

(xvii) Ohio.

(xviii) Pennsylvania.

(xix) South Carolina.

(xx) Portion of Tennessee within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(xxi) Virginia.

(xxii) West Virginia.

(xxiii) Portion of Wisconsin within 1000 miles southwest from Bennington, VT, as shown in appendix F, Figure F–9 of this part.

(j) *Action on petitions for section 126(b) findings.* (1) For each existing or new major source or group of stationary sources for which the Administrator has made an affirmative technical determination as described in paragraphs (b) through (i) of this section as to impacts on nonattainment or maintenance of a particular NAAQS for ozone in a particular petitioning State, a finding of the Administrator that each such major source or group of stationary sources emits or would emit NO_X in violation of the prohibition of Clean Air Act section 110(a)(2)(D)(i)(I) with the respect to nonattainment or maintenance of such standard in such petitioning State will be deemed to be made:

(i) As of November 30, 1999, if by such date EPA does not issue either:

(A) A proposed approval, under section 110(k) of the Clean Air Act, of a State implementation plan revision submitted by such State to comply with the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act; or

(B) A final Federal implementation plan meeting such requirements for such State.

(ii) As of May 1, 2000, if by November 30, 1999, EPA takes the action described in paragraph (j)(1)(i) of this section for such State, but, by May 1, 2000, EPA does not approve or promulgate implementation plan provisions meeting such requirements for such State.

(2) The making of any such finding as to any such major source or group of stationary sources shall be considered to be the making of a finding under subsection (b) of section 126 of the Clean Air Act as to such major source or group of stationary sources. Each aspect of a petition as to which the Administrator has made an affirmative technical determination (as described in paragraphs (b) through (i) of this section) shall be deemed denied as of May 1, 2000, if a section 126(b) finding has not been deemed to have been made by that date. Notwithstanding any other provision of this paragraph or section, after such a finding has been deemed to be made under this paragraph as to a particular major source or group of stationary sources in a particular State, such finding will be deemed to be withdrawn, and the corresponding part of the relevant petition(s) denied, if the Administrator issues a final action putting in place implementation plan provisions that comply with the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act for such State.

(3) For each new or existing major source or group of stationary sources for which the Administrator has made a negative technical determination in any of paragraphs (b) through (i) of this section as to impacts on a particular petitioning State with respect to a particular NAAQS for ozone, the Administrator hereby denies the petition of such petitioning State and determines that such new or existing major source or group of stationary sources does not emit or would not emit in violation of the prohibition in Clean Air Act section 110(a)(2)(D)(i)(I) with respect to impacts on nonattainment or maintenance of such standard in such petitioning State.

(k) The provisions of part 97 of this chapter apply to the owner or operator of any new or existing major source, or other source within any group of stationary sources, as to which the Administrator makes a finding under section 126(b) of the Clean Air Act pursuant to the provisions of paragraph (j) of this section.

3. Appendix F is added to part 52 to read as follows:

Appendix F to This Part—Clean Air Act Section 126 Petitions From Eight Northeastern States: Named Source Categories and Geographic Coverage

The table and figures in this appendix are cross-referenced in § 52.34.

TABLE F–1.—NAMED SOURCE CATEGORIES IN SECTION 126 PETITIONS

Petitioning State	Named source categories
Connecticut	Fossil fuel-fired boilers or other indirect heat exchangers with a maximum gross heat input rate of 250 mmBtu/hr or greater and electric utility generating facilities with a rated output of 15 MW or greater.
Maine	Electric utilities and steam-generating units with a heat input capacity of 250 mmBtu/hr or greater.
Massachusetts	Electricity generating plants.
New Hampshire	Fossil fuel-fired indirect heat exchange combustion units and fossil fuel-fired electric generating facilities which emit ten tons of NO_X or more per day.
New York	Fossil fuel-fired boilers or indirect heat exchangers with a maximum heat input rate of 250 mmBtu/hr or greater and electric utility generating facilities with a rated output of 15 MW or greater.
Pennsylvania	Fossil fuel-fired indirect heat exchange combustion units with a maximum rated heat input capacity of 250 mmBtu/hr or greater, and fossil fuel-fired electric generating facilities rated at 15 MW or greater.
Rhode Island	Electricity generating plants.
Vermont	Fossil fuel-fired electric utility generating facilities with a maximum gross heat input rate of 250 mmBtu/hr or greater and potentially other unidentified major sources.

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Figure F-1. Location of Ozone Transport Assessment Group (OTAG) Subregions

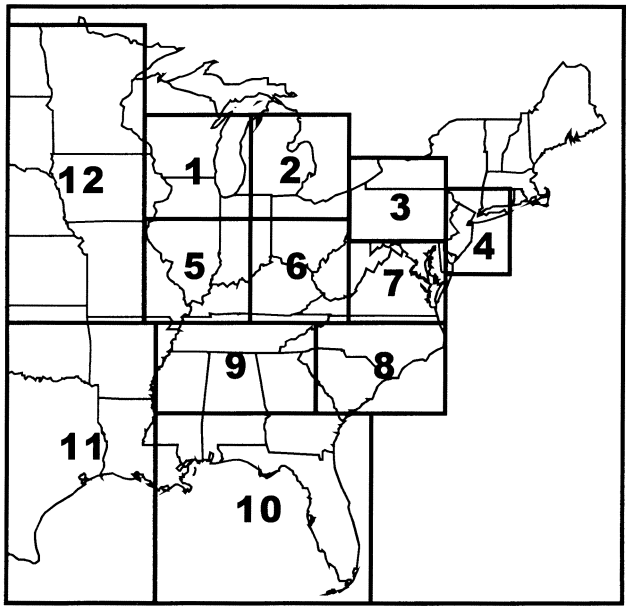


Figure F-2. Areas covered by the Section 126 petition from Connecticut

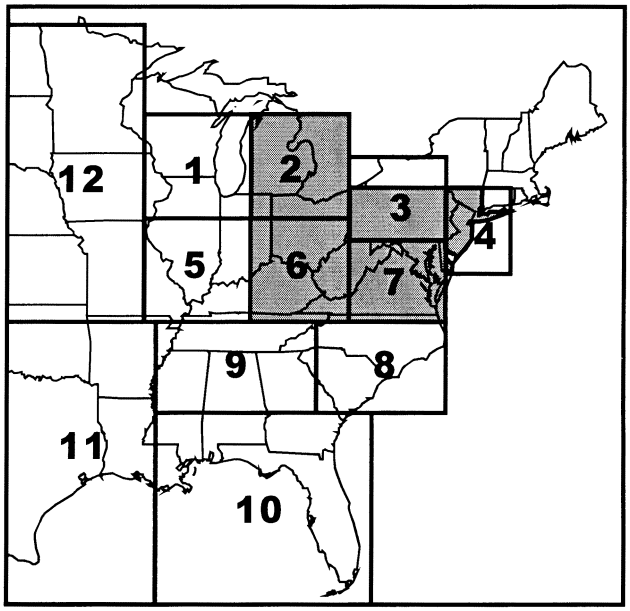


Figure F-3. Areas covered by the Section 126 petition from Maine

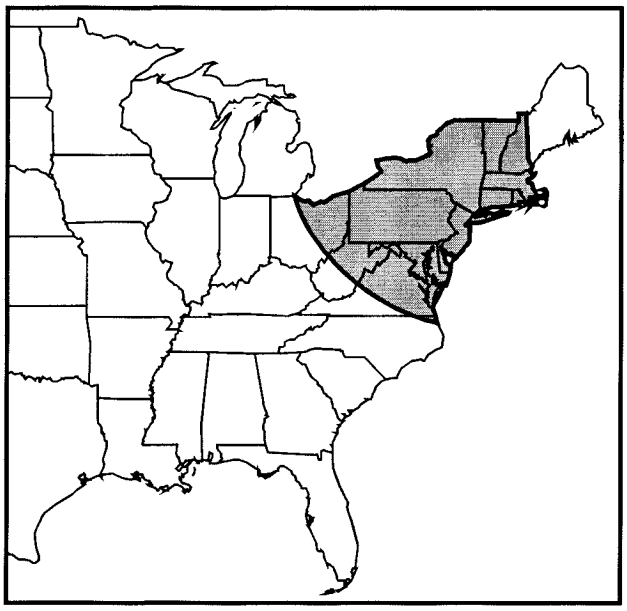


Figure F-4. Areas covered by the Section 126 petition from Massachusetts

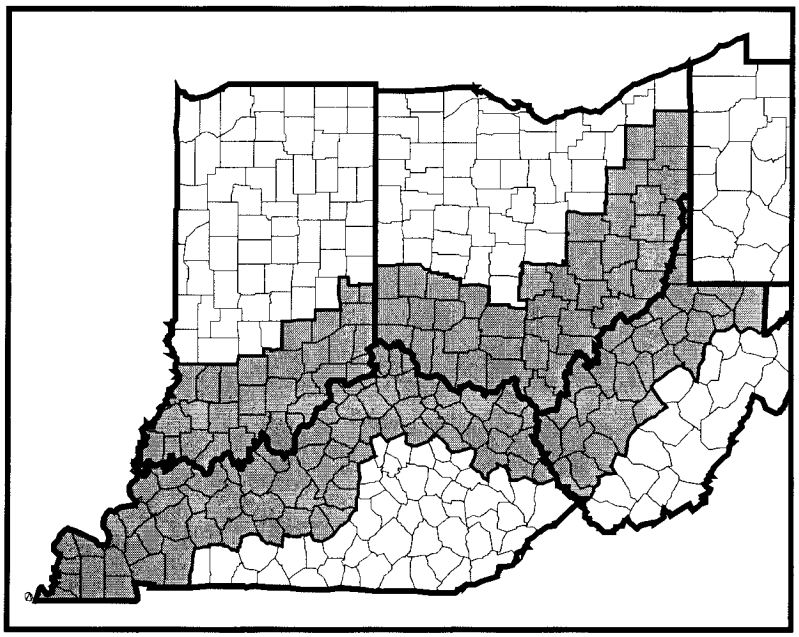


Figure F-5. Areas covered by the Section 126 petition from New Hampshire

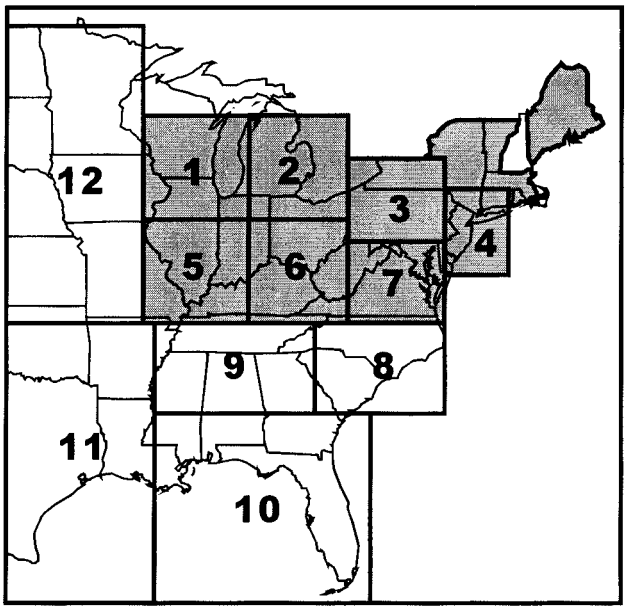


Figure F-6. Areas covered by the Section 126 petition from New York

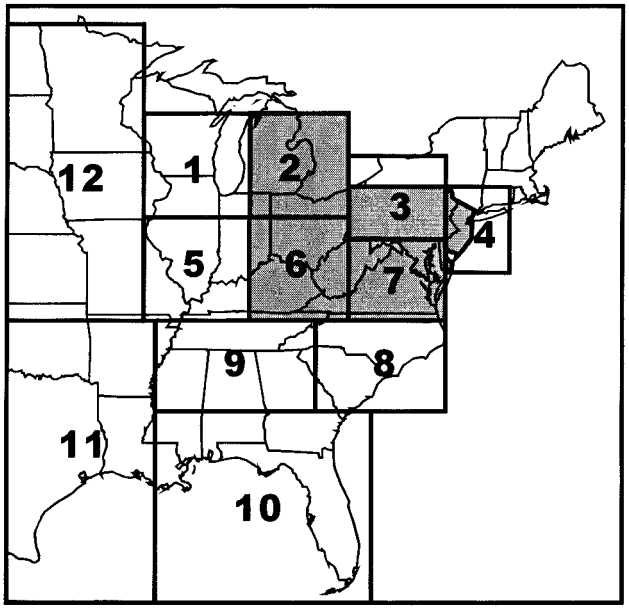


Figure F-7. Areas covered by the Section 126 petition from Pennsylvania

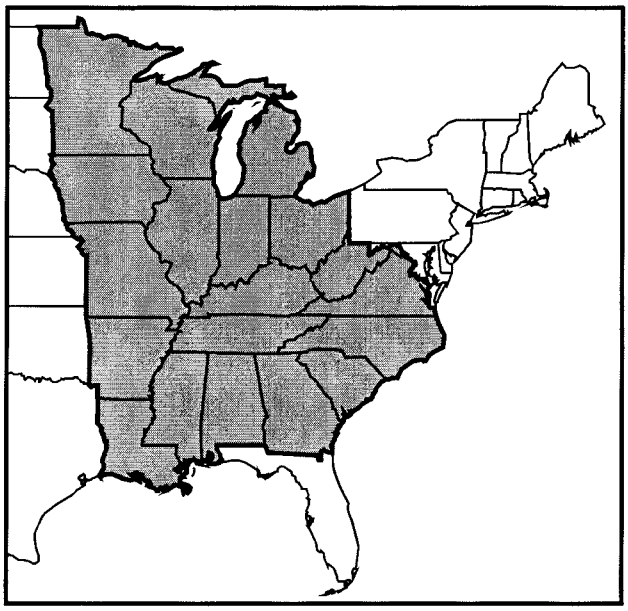


Figure F-8. Areas covered by the Section 126 petition from Rhode Island

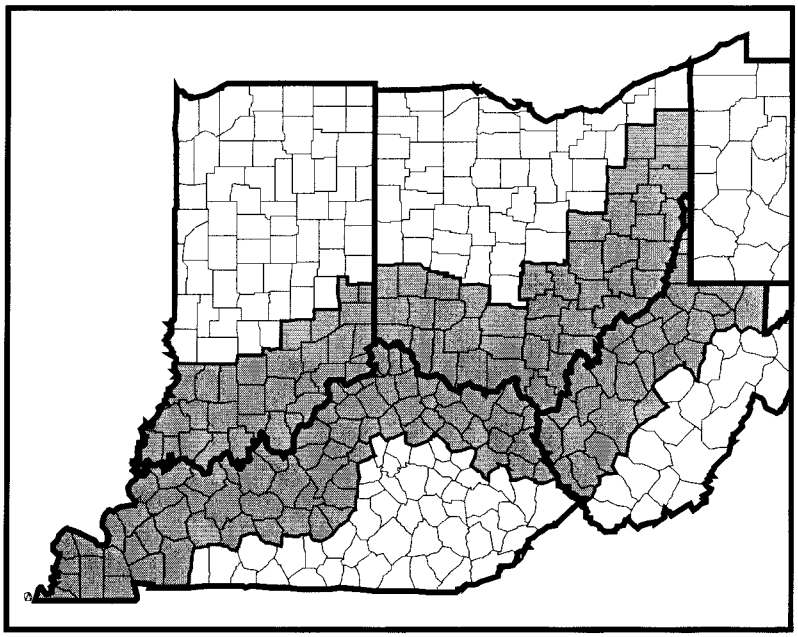
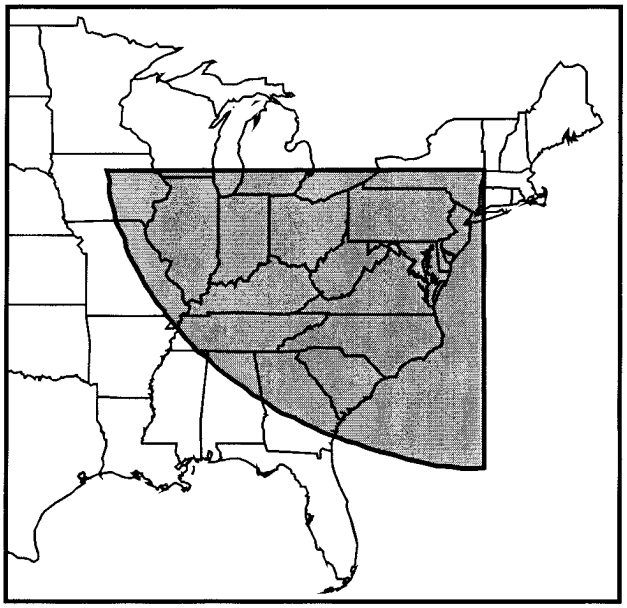


Figure F-9. Areas covered by the Section 126 petition from Vermont



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PART 97—FEDERAL NO_X BUDGET TRADING PROGRAM

4. Part 97 is added to read as follows:

Subpart A—Federal NO_X Budget Trading Program General Provisions

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97.2 Definitions.
97.3 Measurements, abbreviations, and acronyms.
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97.5 Retired unit exemption.
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Appendix A to Part 97—NO_X Allowance Allocation Tables for Affected Sources Under Section 126 of the Act
Appendix B to Part 97—NO_X Allowance Allocation Tables for Affected Sources Under Section 110 of the Act in Georgia, South Carolina, and Wisconsin
Appendix C to Part 97—State-By-State Maximum Summer NO_X Emission Levels and Allocation Aggregates

Authority: 42 U.S.C. 7401, 7403, 7410, and 7601.

Subpart A—Federal NO_X Budget Trading Program General Provisions

§ 97.1 Purpose.

This part establishes general provisions and the applicability, permitting, allowance, excess emissions, monitoring, and opt-in provisions for the federal NO_X Budget Trading Program, under section 110(c) or section 126 of the Act, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor. The owner or operator of a unit, or any other person, shall comply with

requirements of this part as a matter of federal law only if such compliance is required by § 52.34 or § 52.35 of this chapter.

§ 97.2 Definitions.

The terms used in this part shall have the meanings set forth in this section as follows:

Account certificate of representation means the completed and signed submission required by subpart B of this part for certifying the designation of a NO_X authorized account representative for a NO_X Budget source or a group of identified NO_X Budget sources who is authorized to represent the owners and operators of such source or sources and of the NO_X Budget units at such source or sources with regard to matters under the NO_X Budget Trading Program.

Account number means the identification number given by the Administrator to each NO_X Allowance Tracking System account.

Acid Rain emissions limitation means, as defined in § 72.2 of this chapter, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under title IV of the Clean Air Act.

Administrator means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

Allocate or *allocation* means the determination by the permitting authority or the Administrator of the number of NO_X allowances to be initially credited to a NO_X Budget unit or an allocation set-aside.

Automated data acquisition and handling system or *DAHS* means that component of the CEMS, or other emissions monitoring system approved for use under subpart H of this part, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by subpart H of this part.

Boiler means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

Clean Air Act means the Clean Air Act, 42 U.S.C. 7401, *et seq.*, as amended by Pub. L. No. 101–549 (November 15, 1990).

Combined cycle system means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

Combustion turbine means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

Commence commercial operation means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in § 97.5, for a unit that is a NO_X Budget unit under § 97.4 on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in § 97.5 or subpart I of this part, for a unit that is not a NO_X Budget unit under § 97.4 on the date the unit commences commercial operation, the date the unit becomes a NO_X Budget unit under § 97.4 shall be the unit's date of commencement of commercial operation.

Commence operation means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in § 97.5, for a unit that is a NO_X Budget unit under § 97.4 on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in § 97.5 or subpart I of this part, for a unit that is not a NO_X Budget unit under § 97.4 on the date of commencement of operation, the date the unit becomes a NO_X Budget unit under § 97.4 shall be the unit's date of commencement of operation.

Common stack means a single flue through which emissions from two or more units are exhausted.

Compliance certification means a submission to the permitting authority or the Administrator, as appropriate, that is required under subpart D of this part to report a NO_X Budget source's or a NO_X Budget unit's compliance or noncompliance with this part and that is signed by the NO_X authorized account representative in accordance with subpart B of this part.

Compliance account means a NO_X Allowance Tracking System account, established by the Administrator for a NO_X Budget unit under subpart F of this part, in which the NO_X allowance allocations for the unit are initially recorded and in which are held NO_X allowances available for use by the unit for a control period for the purpose of meeting the unit's NO_X Budget emissions limitation.

Continuous emission monitoring system or *CEMS* means the equipment required under subpart H of this part to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for nitrogen oxides. The following systems are component parts included, consistent with part 75 of this chapter, in a continuous emission monitoring system:

(1) Flow monitor;

(2) Nitrogen oxides pollutant concentration monitors;

(3) Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required by subpart H of this part;

(4) A continuous moisture monitor when such monitoring is required by subpart H of this part; and

(5) An automated data acquisition and handling system.

Control period means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

Emissions means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Administrator by the NO_X authorized account representative and as determined by the Administrator in accordance with subpart H of this part.

Energy Information Administration means the Energy Information Administration of the United States Department of Energy.

Excess emissions means any tonnage of nitrogen oxides emitted by a NO_X Budget unit during a control period that exceeds the NO_X Budget emissions limitation for the unit.

Fossil fuel means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

Fossil fuel-fired means, with regard to a unit:

(1)The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year starting in 1995 or, if a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995; or

(2)The combustion of fossil fuel, alone or in combination with any other fuel,

where fossil fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year; provided that the unit shall be ''fossil fuel-fired'' as of the date, during such year, on which the unit begins combusting fossil fuel.

General account means a NO_X Allowance Tracking System account, established under subpart F of this part, that is not a compliance account or an overdraft account.

Generator means a device that produces electricity.

Heat input means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time), as measured, recorded, and reported to the Administrator by the NO_X authorized account representative and as determined by the Administrator in accordance with subpart H of this part, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

Life-of-the-unit, firm power contractual arrangement means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(1) For the life of the unit;

(2) For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

(3) For a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

Maximum design heat input means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

Maximum potential hourly heat input means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use appendix D of part 75 of this chapter to report heat input, this value should be calculated, in accordance with part 75 of this chapter, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with part 75 of this chapter, using the maximum potential flowrate and either the maximum carbon dioxide concentration (in percent CO_2) or the minimum oxygen concentration (in percent O_2).

Maximum potential NO_X emission rate means the emission rate of nitrogen oxides (in lb/mmBtu) calculated in accordance with section 3 of appendix F of part 75 of this chapter, using the maximum potential nitrogen oxides concentration as defined in section 2 of appendix A of part 75 of this chapter, and either the maximum oxygen concentration (in percent O_2) or the minimum carbon dioxide concentration (in percent CO_2), under all operating conditions of the unit except for unit start up, shutdown, and upsets.

Maximum rated hourly heat input means a unit specific maximum hourly heat input (mmBtu) which is the higher of the manufacturers maximum rated hourly heat input or the highest observed hourly heat input.

Monitoring system means any monitoring system that meets the requirements of subpart H of this part, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

Most stringent State or Federal NO_X emissions limitation means, with regard to a NO_X Budget opt-in source, the lowest NO_X emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under State or Federal law, regardless of the averaging period to which the emissions limitation applies.

Nameplate capacity means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

Non-title V permit means a federally enforceable permit administered by the permitting authority pursuant to the Clean Air Act and regulatory authority under the Clean Air Act, other than title V of the Clean Air Act and part 70 or 71 of this chapter.

NO_X allowance means an authorization by the permitting authority or the Administrator under the NO_X Budget Trading Program to emit up to one ton of nitrogen oxides during the control period of the specified year or of any year thereafter.

NO_X allowance deduction or *deduct NO_X* allowances means the permanent withdrawal of NO_X *allowances* by the Administrator from a NO_X Allowance Tracking System compliance account or overdraft account to account for the number of tons of NO_X emissions from a NO_X Budget unit for a control period, determined in accordance with subparts H and F of this part, or for any other allowance surrender obligation under this part.

NO_X allowances held or *hold NO_X* allowances means the NO_X allowances recorded by the Administrator, or submitted to the Administrator for recordation, in accordance with subparts F and G of this part, in a NO_X Allowance Tracking System account.

NO_X Allowance Tracking System means the system by which the Administrator records allocations, deductions, and transfers of NO_X allowances under the NO_X Budget Trading Program.

NO_X Allowance Tracking System account means an account in the NO_X Allowance Tracking System established by the Administrator for purposes of recording the allocation, holding, transferring, or deducting of NO_X allowances.

NO_X allowance transfer deadline means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO_X allowances may be submitted for recordation in a NO_X Budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NO_X Budget emissions limitation for the control period immediately preceding such deadline.

NO_X authorized account representative means, for a NO_X Budget source or NO_X Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_X Budget units at the source, in accordance with subpart B of this part, to represent and legally bind each owner and operator in matters pertaining to the NO_X Budget Trading Program or, for a general account, the natural person who is authorized, in accordance with subpart F of this part, to transfer or otherwise dispose of NO_X allowances held in the general account.

NO_X Budget emissions limitation means, for a NO_X budget unit, the tonnage equivalent of the NO_X allowances available for compliance deduction for the unit under § 97.54 (a) and (b) in a control period adjusted by deductions of such NO_X allowances to account for actual utilization under § 97.42(e) for the control period, or to account for excess emissions for a prior control period under § 97.54(d) or to account for withdrawal from the NO_X budget trading program or for a change

in regulatory states, of a NO_X budget opt-in source under § 97.86 or § 97.88.

NO_X Budget opt-in permit means a NO_X Budget permit covering a NO_X Budget opt-in source.

NO_X Budget opt-in source means a unit that has been elected to become a NO_X Budget unit under the NO_X Budget Trading Program and whose NO_X budget opt-in permit has been issued and is in effect under subpart I of this part.

NO_X Budget permit means the legally binding and federally enforceable written document, or portion of such document, issued by the permitting authority under this part, including any permit revisions, specifying the NO_X Budget Trading Program requirements applicable to a NO_X Budget source, to each NO_X Budget unit at the NO_X Budget source, and to the owners and operators and the NO_X authorized account representative of the NO_X Budget source and each NO_X Budget unit.

NO_X Budget source means a source that includes one or more NO_X Budget units.

NO_X Budget Trading Program means a multi-state nitrogen oxides air pollution control and emission reduction program established in accordance with this part and pursuant to § 52.34 or § 52.35 of this chapter, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

NO_X Budget unit means a unit that is subject to the NO_X Budget Trading Program emissions limitation under § 97.4 or § 97.80.

Operating means, with regard to a unit under §§ 97.22(d)(2) and 97.80, having documented heat input for more than 876 hours in the 6 months immediately preceding the submission of an application for an initial NO_X Budget permit under § 97.83(a).

Operator means any person who operates, controls, or supervises a NO_X Budget unit, a NO_X Budget source, or unit for which an application for a NO_X Budget opt-in permit under § 97.83 is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

Opt-in means to be elected to become a NO_X Budget unit under the NO_X Budget Trading Program through a final, effective NO_X Budget opt-in permit under subpart I of this part.

Overdraft account means the NO_X Allowance Tracking System account, established by the Administrator under subpart F of this part, for each NO_X Budget source where there are two or more NO_X Budget units.

Owner means any of the following persons:

(1) Any holder of any portion of the legal or equitable title in a NO_X Budget unit or in a unit for which an application for a NO_X Budget opt-in permit under § 97.83 submitted and not denied or withdrawn; or

(2) Any holder of a leasehold interest in a NO_X Budget unit or in a unit for which an application for a NO_X Budget opt-in permit under § 97.83 is submitted and not denied or withdrawn; or

(3) Any purchaser of power from a NO_X Budget unit or from a unit for which an application for a NO_X Budget opt-in permit under § 97.83 is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_X Budget unit or the unit for which an application for a NO_X Budget opt-in permit under § 97.83 is submitted and not denied or withdrawn; or

(4) With respect to any general account, any person who has an ownership interest with respect to the NO_X allowances held in the general account and who is subject to the binding agreement for the NO_X authorized account representative to represent that person's ownership interest with respect to NO_X allowances.

Permitting authority means the State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to issue or revise permits to meet the requirements of the NO_X Budget Trading Program in accordance with subpart C of this part.

Receive or receipt of means, when referring to the permitting authority or the Administrator, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the permitting authority or the Administrator in the regular course of business.

Recordation, record, or recorded means, with regard to NO_X allowances, the movement of NO_X allowances by the Administrator from one NO_X Allowance Tracking System account to another, for purposes of allocation, transfer, or deduction.

Reference method means any direct test method of sampling and analyzing for an air pollutant as specified in appendix A of part 60 of this chapter.

Serial number means, when referring to NO_X allowances, the unique identification number assigned to each NO_X allowance by the Administrator, under § 97.53(c).

Source means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the Clean Air Act. For purposes of section 502(c) of the Clean Air Act, a ''source,'' including a ''source'' with multiple units, shall be considered a single ''facility.''

State means one of the 48 contiguous States and the District of Columbia specified in § 52.34 or § 52.35 of this chapter, or any non-federal authority in or including such States or the District of Columbia (including local agencies, and Statewide agencies) or any eligible Indian tribe in an area of such State or the District of Columbia, for which the NO_X Budget Trading Program is promulgated pursuant to § 52.34 or § 52.35 of this chapter.

Submit or serve means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(1) In person;

(2) By United States Postal Service; or

(3) By other means of dispatch or transmission and delivery. Compliance with any ''submission,'' ''service,'' or ''mailing'' deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

Title V operating permit means a permit issued under title V of the Clean Air Act and part 70 or part 71 of this chapter.

Title V operating permit regulations means the regulations that the Administrator has approved or issued as meeting the requirements of title V of the Clean Air Act and part 70 or 71 of this chapter.

Ton or tonnage means any ''short ton'' (i.e., 2,000 pounds). For the purpose of determining compliance with the NO_X Budget emissions limitation, total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with subpart H of this part, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

Trading program budget means the total number of NO_X tons apportioned to all NO_X Budget units in a State in

accordance with the NO_X Budget Trading Program, under section 110(c) or section 126 of the Act, for use in a given control period. For purposes of the NO_X Budget Trading Program under section 110(c), the trading program budget is the sum of the aggregate emission levels for large EGUs and large non-EGUs in a State set forth for each State in appendix C of this part. For purposes of the NO_X Budget Trading Program under section 126, the trading program budget is the ''126 trading program budget for the State'', and is determined in the same manner and is also set forth in appendix C of this part.

Unit means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

Unit load means the total (i.e., gross) output of a unit in any control period (or other specified time period) produced by combusting a given heat input of fuel, expressed in terms of:

(1) The total electrical generation (MWe) produced by the unit, including generation for use within the plant; or

(2) In the case of a unit that uses heat input for purposes other than electrical generation, the total steam in pounds of steam per hour produced by the unit, including steam for use by the unit.

Unit operating day means a calendar day in which a unit combusts any fuel.

Unit operating hour or *hour of unit operation* means any hour (or fraction of an hour) during which a unit combusts any fuel.

Utilization means the heat input (expressed in mmBtu/time) for a unit. The unit's total heat input for the control period in each year will be determined in accordance with part 75 of this chapter if the NO_X Budget unit was otherwise subject to the requirements of part 75 of this chapter for the year, or will be based on the best available data reported to the Administrator for the unit if the unit was not otherwise subject to the requirements of part 75 of this chapter for the year.

§ 97.3 Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this part are defined as follows:

Btu—British thermal unit.
hr—hour.
Kwh—kilowatt hour.
lb—pounds.
mmBtu—million Btu.
MWe—megawatt electrical.
ton—2000 pounds
CO_2—carbon dioxide.
NO_X—nitrogen oxides.
O_2—oxygen.

§ 97.4 Applicability.

(a) The following units in a State shall be NO_X Budget units, and any source that includes one or more such units shall be a NO_X Budget source, subject to the requirements of this part:

(1) Any unit that, any time on or after January 1, 1995, serves a generator with a nameplate capacity greater than 25 MWe and sells any amount of electricity; or

(2) Any unit that is not a unit under paragraph (a) of this section and that has a maximum design heat input greater than 250 mmBtu/hr.

(b) Notwithstanding paragraph (a) of this section, a unit under paragraph (a)(1) or (a)(2) of this section that has a federally enforceable permit that includes a NO_X emission limitation restricting NO_X emissions during a control period to 25 tons or less shall not be subject to the requirements of this part for any year in which the control period is covered by such emission limitation in the unit's federally enforceable permit. However, if such emission limitation is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable to any control period starting in 2003 or if the unit does not comply with such emission limitation during any control period starting in 2003, the unit shall be subject to the requirements of this part and shall be treated as commencing operation and, if the unit is covered by paragraph (a)(1) of this section, commencing commercial operation on September 30 of the control period for which the emission limitation is no longer applicable or during which the unit does not comply with the emission limitation. The permitting authority that issues the federally enforceable permit with such emission limitation will provide the Administrator written notification of each unit under paragraph (a)(1) or (a)(2) of this section for which the permitting authority issued such a permit. A unit subject to a federally enforceable permit with such emission limitation shall be subject to the following requirements:

(1) The unit shall keep on site records demonstrating that conditions of the permit were met, including restrictions on operating time.

(2) The unit shall report hours of operation during the control period to the permitting authority by November 1 of each year in which the unit is subject to a federally enforceable permit with such emission limitation.

(3) The unit shall determine the appropriate restrictions on its operating time by dividing 25 tons by the unit's maximum potential hourly NO_X mass emissions where the unit's maximum potential hourly NO_X mass emissions would be determined by multiplying the highest default emission rates otherwise applicable under § 75.19 of this chapter by the maximum rated hourly heat input of the unit.

§ 97.5 Retired unit exemption.

(a) This section applies to any NO_X Budget unit, other than a NO_X Budget opt-in source, that is permanently retired.

(b)(1) Any NO_X Budget unit, other than a NO_X Budget opt-in source, that is permanently retired shall be exempt from the NO_X Budget Trading Program, except for the provisions of this section, §§ 97.2, 97.3, 97.4, 97.7 and subparts E, F, and G of this part.

(2) The exemption under paragraph (b)(1) of this section shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NO_X authorized account representative (authorized in accordance with subpart B of this part) shall submit a statement to the permitting authority otherwise responsible for administering any NO_X Budget permit for the unit. A copy of the statement shall be submitted to the Administrator. The statement shall state (in a format prescribed by the permitting authority) that the unit is permanently retired and will comply with the requirements of paragraph (c) of this section.

(3) After receipt of the notice under paragraph (b)(2) of this section, the permitting authority will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (b)(1) and (c) of this section.

(c) Special provisions.

(1) A unit exempt under this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect. The owners and operators of the unit will be allocated allowances in accordance with subpart E of this part.

(2)(i) A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a title V operating permit shall not resume operation unless the NO_X authorized account representative of the source submits a complete NO_X Budget permit application under § 97.22 for the unit not less than 18 months (or such lesser time provided under the permitting authority for final action on a permit application) prior to the later of May 1, 2003 or the date on which the unit is to first resume operation.

(ii) A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a non-title V permit shall not resume operation unless the NO_X authorized account representative of the source submits a complete NO_X Budget permit application under § 97.22 for the unit not less than 18 months (or such lesser time provided under the permitting authority for final action on a permit application) prior to the later of May 1, 2003 or the date on which the unit is to first resume operation.

(3) The owners and operators and, to the extent applicable, the NO_X authorized account representative of a unit exempt under this section shall comply with the requirements of the NO_X Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) A unit that is exempt under this section is not eligible to be a NO_X Budget opt-in source under subpart I of this part.

(5) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the permitting authority or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(6) Loss of exemption.

(i) On the earlier of the following dates, a unit exempt under paragraph (b) of this section shall lose its exemption:

(A) The date on which the NO_X authorized account representative submits a NO_X Budget permit application under paragraph (c)(2) of this section; or

(B) The date on which the NO_X authorized account representative is required under paragraph (c)(2) of this section to submit a NO_X Budget permit application.

(ii) For the purpose of applying monitoring requirements under subpart H of this part, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

§ 97.6 Standard requirements.

(a) *Permit requirements.* (1) The NO_X authorized account representative of each NO_X Budget source required to have a federally enforceable permit and each NO_X Budget unit required to have a federally enforceable permit at the source shall:

(i) Submit to the permitting authority a complete NO_X Budget permit application under § 97.22 in accordance with the deadlines specified in § 97.21(b) and (c);

(ii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a NO_X Budget permit application and issue or deny a NO_X Budget permit.

(2) The owners and operators of each NO_X Budget source required to have a federally enforceable permit and each NO_X Budget unit required to have a federally enforceable permit at the source shall have a NO_X Budget permit issued by the permitting authority and operate the unit in compliance with such NO_X Budget permit.

(3) The owners and operators of a NO_X Budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_X Budget permit application, and to have a NO_X Budget permit, under subpart C of this part for such NO_X Budget source.

(b) *Monitoring requirements.* (1) The owners and operators and, to the extent applicable, the NO_X authorized account representative of each NO_X Budget source and each NO_X Budget unit at the source shall comply with the monitoring requirements of subpart H of this part.

(2) The emissions measurements recorded and reported in accordance with subpart H of this part shall be used to determine compliance by the unit with the NO_X Budget emissions limitation under paragraph (c) of this section.

(c) *Nitrogen oxides requirements.* (1) The owners and operators of each NO_X Budget source and each NO_X Budget unit at the source shall hold NO_X allowances available for compliance deductions under § 97.54, as of the NO_X allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount not less than the total NO_X emissions for the control period from the unit, as determined in accordance with subpart H of this part, plus any amount necessary to account for actual utilization under § 97.42(e) for the control period.

(2) Each ton of nitrogen oxides emitted in excess of the NO_X Budget emissions limitation shall constitute a separate violation of this part, the Clean Air Act, and applicable State law.

(3) A NO_X Budget unit shall be subject to the requirements under paragraph (c)(1) of this section starting on the later of May 1, 2003 or the date on which the unit commences operation.

(4) NO_X allowances shall be held in, deducted from, or transferred among NO_X Allowance Tracking System accounts in accordance with subparts E, F, G, and I of this part.

(5) A NO_X allowance shall not be deducted, in order to comply with the requirements under paragraph (c)(1) of this section, for a control period in a year prior to the year for which the NO_X allowance was allocated.

(6) A NO_X allowance allocated by the permitting authority or the Administrator under the NO_X Budget Trading Program is a limited authorization to emit one ton of nitrogen oxides in accordance with the NO_X Budget Trading Program. No provision of the NO_X Budget Trading Program, the NO_X Budget permit application, the NO_X Budget permit, or an exemption under § 97.5 and no provision of law shall be construed to limit the authority of the United States or the State to terminate or limit such authorization.

(7) A NO_X allowance allocated by the Administrator under the NO_X Budget Trading Program does not constitute a property right.

(8) Upon recordation by the Administrator under subpart F, G, or I of this part, every allocation, transfer, or deduction of a NO_X allowance to or from a NO_X Budget unit's compliance account or the overdraft account of the source where the unit is located is deemed to amend automatically, and become a part of, any NO_X Budget permit of the NO_X Budget unit by operation of law without any further review.

(d) Excess emissions requirements.

(1) The owners and operators of a NO_X Budget unit that has excess emissions in any control period shall:

(i) Surrender the NO_X allowances required for deduction under § 97.54(d)(1); and

(ii) Pay any fine, penalty, or assessment or comply with any other remedy imposed under § 97.54(d)(3).

(e) *Recordkeeping and reporting requirements.* (1) Unless otherwise provided, the owners and operators of the NO_X Budget source and each NO_X Budget unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the permitting authority or the Administrator.

(i) The account certificate of representation for the NO_X authorized account representative for the source

and each NO_X Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with § 97.13; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NO_X authorized account representative.

(ii) All emissions monitoring information, in accordance with subpart H of this part; provided that to the extent that subpart H of this part provides for a 3-year period for recordkeeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_X Budget Trading Program.

(iv) Copies of all documents used to complete a NO_X Budget permit application and any other submission under the NO_X Budget Trading Program or to demonstrate compliance with the requirements of the NO_X Budget Trading Program.

(2) The NO_X authorized account representative of a NO_X Budget source and each NO_X Budget unit at the source shall submit the reports and compliance certifications required under the NO_X Budget Trading Program, including those under subparts D, H, or I of this part.

(f) *Liability.* (1) Any person who knowingly violates any requirement or prohibition of the NO_X Budget Trading Program, a NO_X Budget permit, or an exemption under § 97.5 shall be subject to enforcement pursuant to applicable State or Federal law.

(2) Any person who knowingly makes a false material statement in any record, submission, or report under the NO_X Budget Trading Program shall be subject to criminal enforcement pursuant to the applicable State or Federal law.

(3) No permit revision shall excuse any violation of the requirements of the NO_X Budget Trading Program that occurs prior to the date that the revision takes effect.

(4) Each NO_X Budget source and each NO_X Budget unit shall meet the requirements of the NO_X Budget Trading Program.

(5) Any provision of the NO_X Budget Trading Program that applies to a NO_X Budget source (including a provision applicable to the NO_X authorized account representative of a NO_X Budget source) shall also apply to the owners and operators of such source and of the NO_X Budget units at the source.

(6) Any provision of the NO_X Budget Trading Program that applies to a NO_X Budget unit (including a provision applicable to the NO_X authorized account representative of a NO_X budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack under subpart H of this part, the owners and operators and the NO_X authorized account representative of one NO_X Budget unit shall not be liable for any violation by any other NO_X Budget unit of which they are not owners or operators or the NO_X authorized account representative and that is located at a source of which they are not owners or operators or the NO_X authorized account representative.

(g) *Effect on other authorities.* No provision of the NO_X Budget Trading Program, a NO_X Budget permit application, a NO_X Budget permit, or an exemption under § 97.5 shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_X authorized account representative of a NO_X Budget source or NO_X Budget unit from compliance with any other provision of the applicable, approved State implementation plan, a federally enforceable permit, or the Clean Air Act.

§ 97.7 Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the NO_X Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NO_X Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the NO_X Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

Subpart B—NO_X Authorized Account Representative for NO_X Budget Sources

§ 97.10 Authorization and responsibilities of the NO_X authorized account representative.

(a) Except as provided under § 97.11, each NO_X Budget source, including all NO_X Budget units at the source, shall have one and only one NO_X authorized account representative, with regard to all matters under the NO_X Budget Trading Program concerning the source or any NO_X Budget unit at the source.

(b) The NO_X authorized account representative of the NO_X Budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_X Budget units at the source.

(c) Upon receipt by the Administrator of a complete account certificate of representation under § 97.13, the NO_X authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_X Budget source represented and each NO_X Budget unit at the source in all matters pertaining to the NO_X Budget Trading Program, not withstanding any agreement between the NO_X authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NO_X authorized account representative by the permitting authority, the Administrator, or a court regarding the source or unit.

(d) No NO_X Budget permit shall be issued, and no NO_X Allowance Tracking System account shall be established for a NO_X Budget unit at a source, until the Administrator has received a complete account certificate of representation under § 97.13 for a NO_X authorized account representative of the source and the NO_X Budget units at the source.

(e)(1) Each submission under the NO_X Budget Trading Program shall be submitted, signed, and certified by the NO_X authorized account representative for each NO_X Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NO_X authorized account representative: ''I am authorized to make this submission on behalf of the owners and operators of the NO_X Budget sources or NO_X Budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.''

(2) The permitting authority and the Administrator will accept or act on a submission made on behalf of owner or operators of a NO_X Budget source or a

NO_X Budget unit only if the submission has been made, signed, and certified in accordance with paragraph (e)(1) of this section.

§ 97.11 Alternate NO_X authorized account representative.

(a) An account certificate of representation may designate one and only one alternate NO_X authorized account representative who may act on behalf of the NO_X authorized account representative. The agreement by which the alternate NO_X authorized account representative is selected shall include a procedure for authorizing the alternate NO_X authorized account representative to act in lieu of the NO_X authorized account representative.

(b) Upon receipt by the Administrator of a complete account certificate of representation under § 97.13, any representation, action, inaction, or submission by the alternate NO_X authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_X authorized account representative.

(c) Except in this section and §§ 97.10(a), 97.12, 97.13, and 97.51, whenever the term ''NO_X authorized account representative'' is used in this part, the term shall be construed to include the alternate NO_X authorized account representative.

§ 97.12 Changing the NO_X authorized account representative and the alternate NO_X authorized account representative; changes in the owners and operators.

(a) *Changing the NO_X* authorized account representative. The NO_X authorized account representative may be changed at any time upon receipt by the Administrator of a superseding complete account certificate of representation under § 97.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_X authorized account representative prior to the time and date when the Administrator receives the superseding account certificate of representation shall be binding on the new NO_X authorized account representative and the owners and operators of the NO_X Budget source and the NO_X Budget units at the source.

(b) *Changing the alternate NO_X authorized account representative.* The alternate NO_X authorized account representative may be changed at any time upon receipt by the Administrator of a superseding complete account certificate of representation under § 97.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_X authorized account representative prior to the time and date when the Administrator receives the superseding account certificate of representation shall be binding on the new alternate NO_X authorized account representative and the owners and operators of the NO_X Budget source and the NO_X Budget units at the source.

(c) *Changes in the owners and operators.* (1) In the event a new owner or operator of a NO_X Budget source or a NO_X Budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_X authorized account representative and any alternate NO_X authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the permitting authority or the Administrator, as if the new owner or operator were included in such list.

(2) Within 30 days following any change in the owners and operators of a NO_X Budget source or a NO_X Budget unit, including the addition of a new owner or operator, the NO_X authorized account representative or alternate NO_X authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

§ 97.13 Account certificate of representation.

(a) A complete account certificate of representation for a NO_X authorized account representative or an alternate NO_X authorized account representative shall include the following elements in a format prescribed by the Administrator:

(1) Identification of the NO_X Budget source and each NO_X Budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_X authorized account representative and any alternate NO_X authorized account representative.

(3) A list of the owners and operators of the NO_X Budget source and of each NO_X Budget unit at the source.

(4) The following certification statement by the NO_X authorized account representative and any alternate NO_X authorized account representative: ''I certify that I was selected as the NO_X authorized account representative or alternate NO_X authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO_X Budget source and each NO_X Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_X Budget Trading Program on behalf of the owners and operators of the NO_X Budget source and of each NO_X Budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the permitting authority, the Administrator, or a court regarding the source or unit.''

(5) The signature of the NO_X authorized account representative and any alternate NO_X authorized account representative and the dates signed.

(b) Unless otherwise required by the permitting authority or the Administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the permitting authority or the Administrator. Neither the permitting authority nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

§ 97.14 Objections concerning the NO_X authorized account representative.

(a) Once a complete account certificate of representation under § 97.13 has been submitted and received, the permitting authority and the Administrator will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under § 97.13 is received by the Administrator.

(b) Except as provided in § 97.12(a) or (b), no objection or other communication submitted to the permitting authority or the Administrator concerning the authorization, or any representation, action, inaction, or submission of the NO_X authorized account representative shall affect any representation, action, inaction, or submission of the NO_X authorized account representative or the finality of any decision or order by the permitting authority or the Administrator under the NO_X Budget Trading Program.

(c) Neither the permitting authority nor the Administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_X authorized account representative, including private legal disputes

concerning the proceeds of NO_X allowance transfers.

Subpart C—Permits

§ 97.20 General NO_X budget trading program permit requirements.

(a) For each NO_X Budget source required to have a federally enforceable permit, such permit shall include a NO_X Budget permit administered by the permitting authority.

(1) For NO_X Budget sources required to have a title V operating permit, the NO_X Budget portion of the title V permit shall be administered in accordance with the permitting authority's title V operating permits regulations promulgated under part 70 or 71 of this chapter, except as provided otherwise by this subpart or subpart I of this part. The applicable provisions of such title V operating permits regulations shall include, but are not limited to, those provisions addressing operating permit applications, operating permit application shield, operating permit duration, operating permit shield, operating permit issuance, operating permit revision and reopening, public participation, State review, and review by the Administrator.

(2) For NO_X Budget sources required to have a non-title V permit, the NO_X Budget portion of the non-title V permit shall be administered in accordance with the permitting authority's regulations promulgated to administer non-title V permits, except as provided otherwise by this subpart or subpart I of this part. The applicable provisions of such non-title V permits regulations may include, but are not limited to, provisions addressing permit applications, permit application shield, permit duration, permit shield, permit issuance, permit revision and reopening, public participation, State review, and review by the Administrator.

(b) Each NO_X Budget permit (including a draft or proposed NO_X Budget permit, if applicable) shall contain all applicable NO_X Budget Trading Program requirements and shall be a complete and segregable portion of the permit under paragraph (a) of this section.

§ 97.21 NO_X Budget permit applications.

(a) Duty to apply. The NO_X authorized account representative of any NO_X Budget source required to have a federally enforceable permit shall submit to the permitting authority a complete NO_X Budget permit application under § 97.22 by the applicable deadline in paragraph (b) of this section.

(b)(1) For NO_X Budget sources required to have a title V operating permit:

(i) For any source, with one or more NO_X Budget units under § 97.4 that commence operation before January 1, 2000, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under § 97.22 covering such NO_X Budget units to the permitting authority at least 18 months (or such lesser time provided under the permitting authority's title V operating permits regulations for final action on a permit application) before May 1, 2003.

(ii) For any source, with any NO_X Budget unit under § 97.4 that commences operation on or after January 1, 2000, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under § 97.22 covering such NO_X Budget unit to the permitting authority at least 18 months (or such lesser time provided under the permitting authority's title V operating permits regulations for final action on a permit application) before the later of May 1, 2003 or the date on which the NO_X Budget unit commences operation.

(2) For NO_X Budget sources required to have a non-title V permit:

(i) For any source, with one or more NO_X Budget units under § 97.4 that commence operation before January 1, 2000, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under § 97.22 covering such NO_X Budget units to the permitting authority at least 18 months (or such lesser time provided under the permitting authority's non-title V permits regulations for final action on a permit application) before May 1, 2003.

(ii) For any source, with any NO_X Budget unit under § 97.4 that commences operation on or after January 1, 2000, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under § 97.22 covering such NO_X Budget unit to the permitting authority at least 18 months (or such lesser time provided under the permitting authority's non-title V permits regulations for final action on a permit application) before the later of May 1, 2003 or the date on which the NO_X Budget unit commences operation.

(c) Duty to Reapply.

(1) For a NO_X Budget source required to have a title V operating permit, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under § 97.22 for the NO_X Budget source covering the NO_X Budget units at the source in accordance with the permitting authority's title V operating permits regulations addressing operating permit renewal.

(2) For a NO_X Budget source required to have a non-title V permit, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under § 97.22 for the NO_X Budget source covering the NO_X Budget units at the source in accordance with the permitting authority's non-title V permits regulations addressing permit renewal.

§ 97.22 Information requirements for NO_X Budget permit applications.

A complete NO_X Budget permit application shall include the following elements concerning the NO_X Budget source for which the application is submitted, in a format prescribed by the permitting authority:

(a) Identification of the NO_X Budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration, if applicable;

(b) Identification of each NO_X Budget unit at the NO_X Budget source and whether it is a NO_X Budget unit under § 97.4 or under subpart I of this part;

(c) The standard requirements under § 97.6; and

(d) For each NO_X Budget opt-in unit at the NO_X Budget source, the following certification statements by the NO_X authorized account representative:

(1) ''I certify that each unit for which this permit application is submitted under subpart I of this part is not a NO_X Budget unit under 40 CFR 97.4 and is not covered by a retired unit exemption under 40 CFR 97.5 that is in effect.''

(2) If the application is for an initial NO_X Budget opt-in permit, ''I certify that each unit for which this permit application is submitted under subpart I is currently operating, as that term is defined under 40 CFR 97.2.''

§ 97.23 NO_X Budget permit contents.

(a) Each NO_X Budget permit (including any draft or proposed NO_X Budget permit, if applicable) will contain, in a format prescribed by the permitting authority, all elements required for a complete NO_X Budget permit application under § 97.22 as approved or adjusted by the permitting authority.

(b) Each NO_X Budget permit is deemed to incorporate automatically the definitions of terms under § 97.2 and, upon recordation by the Administrator under subparts F, G, or I of this part, every allocation, transfer, or deduction of a NO_X allowance to or from the compliance accounts of the NO_X Budget

units covered by the permit or the overdraft account of the NO_X Budget source covered by the permit.

§ 97.24 Effective date of initial NO_X Budget permit.

The initial NO_X Budget permit covering a NO_X Budget unit for which a complete NO_X Budget permit application is timely submitted under § 97.21(b) shall become effective by the later of:

(a) May 1, 2003;

(b) May 1 of the year in which the NO_X Budget unit commences operation, if the unit commences operation on or before May 1 of that year;

(c) The date on which the NO_X Budget unit commences operation, if the unit commences operation during a control period; or

(d) May 1 of the year following the year in which the NO_X Budget unit commences operation, if the unit commences operation on or after October 1 of the year.

§ 97.25 NO_X Budget permit revisions.

(a) For a NO_X Budget source with a title V operating permit, except as provided in § 97.23(b), the permitting authority will revise the NO_X Budget permit, as necessary, in accordance with the permitting authority's title V operating permits regulations addressing permit revisions.

(b) For a NO_X Budget source with a non-title V permit, except as provided in § 97.23(b), the permitting authority will revise the NO_X Budget permit, as necessary, in accordance with the permitting authority's non-title V permits regulations addressing permit revisions.

Subpart D—Compliance Certification

§ 97.30 Compliance certification report.

(a) *Applicability and deadline.* For each control period in which one or more NO_X Budget units at a source are subject to the NO_X Budget emissions limitation, the NO_X authorized account representative of the source shall submit to the permitting authority and the Administrator by November 30 of that year, a compliance certification report for each source covering all such units.

(b) *Contents of report.* The NO_X authorized account representative shall include in the compliance certification report under paragraph (a) of this section the following elements, in a format prescribed by the Administrator, concerning each unit at the source and subject to the NO_X Budget emissions limitation for the control period covered by the report:

(1) Identification of each NO_X Budget unit;

(2) At the NO_X authorized account representative's option, the serial numbers of the NO_X allowances that are to be deducted from each unit's compliance account under § 97.54 for the control period;

(3) At the NO_X authorized account representative's option, for units sharing a common stack and having NO_X emissions that are not monitored separately or apportioned in accordance with subpart H of this part, the percentage of allowances that is to be deducted from each unit's compliance account under § 97.54(e);

and (4) The compliance certification under paragraph (c) of this section.

(c) *Compliance certification.* In the compliance certification report under paragraph (a) of this section, the NO_X authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO_X Budget units at the source in compliance with the NO_X Budget Trading Program, whether each NO_X Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO_X Budget Trading Program applicable to the unit, including:

(1) Whether the unit was operated in compliance with the NO_X Budget emissions limitation;

(2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NO_X emissions to the unit, in accordance with subpart H of this part;

(3) Whether all the NO_X emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subpart H of this part. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions has been made;

(4) Whether the facts that form the basis for certification under subpart H of this part of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under subpart H of this part, if any, has changed; and

(5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

§ 97.31 Administrator's action on compliance certifications.

(a) The Administrator may review and conduct independent audits concerning any compliance certification or any other submission under the NO_X Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(b) The Administrator may deduct NO_X allowances from or transfer NO_X allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under paragraph (a) of this section.

Subpart E—NO_X Allowance Allocations

§ 97.40 Trading program budget.

The trading program budget allocated by the Administrator for a State under § 97.42 for a control period will equal the sum of the aggregate emission levels for large electric generating units in the State and large non-electric generating units in the State as defined under Appendix C of this part.

§ 97.41 Timing requirements for NO_X allowance allocations.

(a) By the following dates, the Administrator will determine the NO_X allowance allocations in accordance with § 97.42 for the control period in the year that is three years after the year of the applicable deadline under this paragraph (a):

(i) For the purposes of the NO_X Budget Trading Program under section 110(c) of the Act, by April 1, 2000 and April 1 of the following two years

(ii) For the purposes of the NO_X Budget Trading Program under 126 of the Act, by April 1, 2000 and April 1 of the following two years for those sources for which a finding, under § 52.34(j) of this chapter, of NO_X emissions in violation of section 110(a)(2)(D)(I)(I) of the Act is made by April 1, 2000; or as soon as practicable in the year 2000 and April 1 of the following two years for those sources for which such a finding is not made by April 1, 2000, but is made at a later date.

(b) By April 1, 2003 and April 1 of each year thereafter, the Administrator

will determine the NO_X allowance allocations, in accordance with § 97.42, for the control period in the year that is three years after the year of the applicable deadline under this paragraph (b).

(c) By April 1, 2004 and April 1 of each year thereafter, the Administrator will determine the NO_X allowance allocations, in accordance with § 97.42, for any NO_X allowances remaining in the allocation set-aside for the prior control period.

§ 97.42 NO_X allowance allocations.

(a)(1) The heat input (in mmBtu) used for calculating NO_X allowance allocations for each NO_X Budget unit under § 97.4 will be:

(i) For a NO_X allowance allocation under § 97.41(a), the average of the two highest amounts of the unit's heat input for the control periods in 1995, 1996, and 1997 if the unit is under § 97.4(a)(1) or the control period in 1995 if the unit is under § 97.4(a)(2); and

(ii) For a NO_X allowance allocation under § 97.41(b), the unit's heat input for the control period in the year that is four years before the year for which the NO_X allocation is being calculated.

(2) The unit's total heat input for the control period in each year specified under paragraph (a)(1) of this section will be determined in accordance with part 75 of this chapter if the NO_X Budget unit was otherwise subject to the requirements of part 75 of this chapter for the year, or will be based on the best available data reported to the Administrator for the unit if the unit was not otherwise subject to the requirements of part 75 of this chapter for the year.

(b) For each control period under § 97.41, the Administrator will allocate to all NO_X Budget units under § 97.4(a)(1) in the State that commenced operation before May 1 of the period used to calculate heat input under paragraph (a)(1) of this section, a total number of NO_X allowances equal to 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of the aggregate emission levels for large electric generating units in the State as defined under appendix C of this part in accordance with the following procedures:

(1) The Administrator will allocate NO_X allowances to each NO_X Budget unit under § 97.4(a)(1) in an amount equaling 0.15 lb/mmBtu multiplied by the heat input determined under paragraph (a) of this section, rounded to the nearest whole NO_X allowance as appropriate.

(2) If the initial total number of NO_X allowances allocated to all NO_X Budget units under § 97.4(a)(1) in the State for a control period under paragraph (b)(1) of this section does not equal 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of the aggregate emission level for large electric generating units in the State as defined under Appendix C of this part, the Administrator will adjust the total number of NO_X allowances allocated to all such NO_X Budget units for the control period under paragraph (b)(1) of this section so that the total number of NO_X allowances allocated equals 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of such aggregate emission level. This adjustment will be made by: multiplying each unit's allocation by 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of the aggregate emission level for large electric generating units in the State as defined under Appendix C of this part divided by the total number of NO_X allowances allocated under paragraph (b)(1) of this section, and rounding to the nearest whole NO_X allowance as appropriate.

(c) For each control period under § 97.41, the Administrator will allocate to all NO_X Budget units under § 97.4(a)(2) in the State that commenced operation before May 1 of the period used to calculate heat input under paragraph (a)(1) of this section, a total number of NO_X allowances equal to 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of the aggregate emission level for large non-electric generating units in the State as defined under Appendix C of this part in accordance with the following procedures:

(1) The Administrator will allocate NO_X allowances to each NO_X Budget unit under § 97.4(a)(2) in an amount equaling 0.17 lb/mmBtu multiplied by the heat input determined under paragraph (a) of this section, rounded to the nearest whole NO_X allowance as appropriate.

(2) If the initial total number of NO_X allowances allocated to all NO_X Budget units under § 97.4(a)(2) in the State for a control period under paragraph (c)(1) of this section does not equal 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of the aggregate emission levels for large non-electric generating units in the State as defined under appendix C of this part, the Administrator will adjust the total number of NO_X allowances allocated to all such NO_X Budget units for the control period under paragraph (a)(1) of this section so that the total number of NO_X allowances allocated equals 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of such aggregate emission level for large non-electric generating units in the State. This adjustment will be made by: multiplying each unit's allocation by 95 percent in 2003, 2004, and 2005, or 98 percent thereafter, of the aggregate emission levels for large non-electric generating units in the State as defined under Appendix C of this part divided by the total number of NO_X allowances allocated under paragraph (c)(1) of this section, and rounding to the nearest whole NO_X allowance as appropriate.

(d) For each control period under § 97.41, the Administrator will allocate NO_X allowances to NO_X Budget units under § 97.4 in the State that commenced operation, or are projected to commerce operation, on or after May 1 of the period used to calculate heat input under paragraph (a)(1) of this section, in accordance with the following procedures:

(1) The Administrator will establish one allocation set-aside for each control period. Each allocation set-aside will be allocated NO_X allowances equal to 5 percent in 2003, 2004, and 2005, or 2 percent thereafter, of the tons of NO_X emissions in the trading program budget in the State under § 97.40, rounded to the nearest whole NO_X allowance as appropriate.

(2) The NO_X authorized account representative of a NO_X Budget unit under paragraph (d) of this section may submit to the Administrator a request, in writing or in a format specified by the Administrator, to be allocated NO_X allowances for no more than five consecutive control periods under § 97.41, starting with the control period during which the NO_X Budget unit commenced, or is projected to commence, operation and ending with the control season preceding the control period for which it will receive an allocation under paragraph (b) or (c) of this section. The NO_X allowance allocation request must be submitted prior to May 1 of the first control period for which the NO_X allowance allocation is requested and after the date on which the State permitting authority issues a permit to construct the NO_X Budget unit.

(3) In a NO_X allowance allocation request under paragraph (d)(2) of this section, the NO_X authorized account representative for units under § 97.4(a)(1) may request for a control period NO_X allowances in an amount that does not exceed 0.15 lb/mmBtu multiplied by the NO_X Budget unit's maximum design heat input (in mmBtu/hr) multiplied by the number of hours remaining in the control period starting with the first day in the control period on which the unit operated or is projected to operate.

(4) In a NO_X allowance allocation request under paragraph (d)(2) of this section, the NO_X authorized account representative for units under § 97.4(a)(2) may request for a control period NO_X allowances in an amount that does not exceed 0.17 lb/mmBtu multiplied by the NO_X Budget unit's maximum design heat input (in mmBtu/hr) multiplied by the number of hours remaining in the control period starting with the first day in the control period on which the unit operated or is projected to operate.

(5) The Administrator will review, and allocate NO_X allowances pursuant to, each NO_X allowance allocation request under paragraph (d)(2) of this section in the order that the request is received by the Administrator.

(i) Upon receipt of the NO_X allowance allocation request, the Administrator will determine whether, and will make any necessary adjustments to the request to ensure that, for units under § 97.4(a)(1), the control period and the number of allowances specified are consistent with the requirements of paragraphs (d)(2) and (3) of this section and, for units under § 97.4(a)(2), the control period and the number of allowances specified are consistent with the requirements of paragraphs(d)(2) and (4) of this section.

(ii) If the allocation set-aside for the control period for which NO_X allowances are requested has an amount of NO_X allowances not less than the number requested (as adjusted under paragraph (d)(5)(i) of this section), the permitting authority or the Administrator will allocate the amount of the NO_X allowances requested (as adjusted under paragraph (d)(5)(i) of this section) to the NO_X Budget unit.

(iii) If the allocation set-aside for the control period for which NO_X allowances are requested has a smaller amount of NO_X allowances than the number requested (as adjusted under paragraph (d)(4)(i) of this section), the Administrator will deny in part the request and allocate only the remaining number of NO_X allowances in the allocation set-aside to the NO_X Budget unit.

(iv) Once an allocation set-aside for a control period has been depleted of all NO_X allowances, the Administrator will deny, and will not allocate any NO_X allowances pursuant to, any NO_X allowance allocation request under which NO_X allowances have not already been allocated for the control period.

(6) Within 60 days of receipt of a NO_X allowance allocation request, the Administrator will take appropriate action under paragraph (d)(5) of this section and notify the NO_X authorized account representative that submitted the request of the number of NO_X allowances (if any) allocated for the control period to the NO_X Budget unit.

(e) For a NO_X Budget unit that is allocated NO_X allowances under paragraph (d) of this section for a control period, the Administrator will deduct NO_X allowances under § 97.54(b) or (e) to account for the actual utilization of the unit during the control period. The Administrator will calculate the number of NO_X allowances to be deducted to account for the unit's actual utilization using the following formulas and rounding to the nearest whole NO_X allowance as appropriate, provided that the number of NO_X allowances to be deducted shall be zero if the number calculated is less than zero:

NO_X allowances deducted for actual utilization for units under § 97.4(a)(1) = (Unit's NO_X allowances allocated for control period) − (Unit's actual control period utilization × 0.15 lb/mmBtu); and

NO_X allowances deducted for actual utilization for units under § 97.4(a)(2)= (Unit's NO_X allowances allocated for control period) − (Unit's actual control period utilization × 0.17 lb/mmBtu),

Where:

''Unit's NO_X allowances allocated for control period'' is the number of NO_X allowances allocated to the unit for the control period under paragraph (d) of this section; and,

''Unit's actual control period utilization'' is the utilization (in mmBtu), as defined in § 97.2, of the unit during the control period.

(f) After making the deductions for compliance under § 97.54(b) or (e) for a control period, the Administrator will determine whether any NO_X allowances remain in the allocation set-aside for the control period. The Administrator will allocate any such NO_X allowances to the NO_X Budget units in the State using the following formula and rounding to the nearest whole NO_X allowance as appropriate:

Unit's share of NO_X allowances remaining in allocation set-aside = Total NO_X allowances remaining in allocation set-aside × (Unit's NO_X allowance allocation (trading program budget excluding allocation set-aside)

Where:

Total NO_X allowances remaining in allocation set-aside'' is the total number of NO_X allowances remaining in the allocation set-aside for the control period to which the allocation set-aside applies;

''Unit's NO_X allowance allocation'' is the number of NO_X allowances allocated under paragraph (b) or (c) of this section to the unit for the control period to which the allocation set-aside applies; and

''Trading program budget excluding allocation set-aside'' is the trading program budget under § 97.40 for the control period to which the allocation set-aside applies multiplied by 95 percent if the control period is in 2003, 2004, or 2005 or 98 percent if the control period is in any year thereafter, rounded to the nearest whole allowance as appropriate.

Subpart F—NO_X Allowance Tracking System

§ 97.50 NO_X Allowance Tracking System accounts.

(a) Nature and function of compliance accounts and overdraft accounts. Consistent with § 97.51(a), the Administrator will establish one compliance account for each NO_X Budget unit and one overdraft account for each source with one or more NO_X Budget units. Allocations of NO_X allowances pursuant to subpart E of this part or § 97.88, and deductions or transfers of NO_X allowances pursuant to § 97.31, § 96.54, § 96.56, subpart G of this part, or subpart I of this part will be recorded in the compliance accounts or overdraft accounts in accordance with this subpart.

(b) Nature and function of general accounts. Consistent with § 97.51(b), the Administrator will establish, upon request, a general account for any person. Transfers of allowances pursuant to subpart G of this part will be recorded in the general account in accordance with this subpart.

§ 97.51 Establishment of accounts.

(a) *Compliance accounts and overdraft accounts.* Upon receipt of a complete account certificate of representation under § 97.13, the Administrator will establish:

(1) A compliance account for each NO_X Budget unit for which the account certificate of representation was submitted; and

(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two or more NO_X Budget units.

(b) *General accounts.*

(1) Any person may apply to open a general account for the purpose of holding and transferring allowances. A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(i) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_X authorized account representative and any alternate NO_X authorized account representative;

(ii) At the option of the NO_X authorized account representative, organization name and type of organization;

(iii) A list of all persons subject to a binding agreement for the NO_X authorized account representative and any alternate NO_X authorized account representative to represent their ownership interest with respect to the allowances held in the general account;

(iv) The following certification statement by the NO_X authorized account representative and any alternate NO_X authorized account representative: ''I certify that I was selected as the NO_X authorized account representative or the NO_X alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_X Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account.''

(v) The signature of the NO_X authorized account representative and any alternate NO_X authorized account representative and the dates signed.

(vi) Unless otherwise required by the permitting authority or the Administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the permitting authority or the Administrator. Neither the permitting authority nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Upon receipt by the Administrator of a complete application for a general account under paragraph (b)(1) of this section:

(i) The Administrator will establish a general account for the person or persons for whom the application is submitted.

(ii) The NO_X authorized account representative and any alternate NO_X authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_X allowances held in the general account in all matters pertaining to the NO_X Budget Trading Program, not withstanding any agreement between the NO_X authorized account representative or any alternate NO_X authorized account representative and such person. Any such person shall be bound by any order or decision issued to the NO_X authorized account representative or any alternate NO_X authorized account representative by the Administrator or a court regarding the general account.

(iii) Each submission concerning the general account shall be submitted, signed, and certified by the NO_X authorized account representative or any alternate NO_X authorized account representative for the persons having an ownership interest with respect to NO_X allowances held in the general account. Each such submission shall include the following certification statement by the NO_X authorized account representative or any alternate NO_X authorizing account representative: ''I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO_X allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.''

(iv) The Administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with paragraph (b)(2)(iii) of this section.

(3)(i) An application for a general account may designate one and only one NO_X authorized account representative and one and only one alternate NO_X authorized account representative who may act on behalf of the NO_X authorized account representative. The agreement by which the alternate NO_X authorized account representative is selected shall include a procedure for authorizing the alternate NO_X authorized account representative to act in lieu of the NO_X authorized account representative.

(ii) Upon receipt by the Administrator of a complete application for a general account under paragraph (b)(1) of this section, any representation, action, inaction, or submission by any alternate NO_X authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_X authorized account representative.

(4)(i) The NO_X authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under paragraph (b)(1) of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_X authorized account representative prior to the time and date when the Administrator receives the superseding application for a general account shall be binding on the new NO_X authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(ii) The alternate NO_X authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under paragraph (b)(1) of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_X authorized account representative prior to the time and date when the Administrator receives the superseding application for a general account shall be binding on the new alternate NO_X authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(iii)(A) In the event a new person having an ownership interest with respect to NO_X allowances in the general account is not included in the list of such persons in the account certificate of representation, such new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the NO_X authorized account representative and any alternate NO_X authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Administrator, as if the new person were included in such list.

(B) Within 30 days following any change in the persons having an ownership interest with respect to NO_X allowances in the general account, including the addition of persons, the NO_X authorized account representative or any alternate NO_X authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NO_X allowances in the general account to include the change.

(5)(i) Once a complete application for a general account under paragraph (b)(1)

of this section has been submitted and received, the Administrator will rely on the application unless and until a superseding complete application for a general account under paragraph (b)(1) of this section is received by the Administrator.

(ii) Except as provided in paragraph (b)(4) of this section, no objection or other communication submitted to the Administrator concerning the authorization, or any representation, action, inaction, or submission of the NO_X authorized account representative or any alternative NO_X authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NO_X authorized account representative or any alternative NO_X authorized account representative or the finality of any decision or order by the Administrator under the NO_X Budget Trading Program.

(iii) The Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO_X authorized account representative or any alternative NO_X authorized account representative for a general account, including private legal disputes concerning the proceeds of NO_X allowance transfers.

(c) *Account identification.* The Administrator will assign a unique identifying number to each account established under paragraph (a) or (b) of this section.

§ 97.52 NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.

(a) Following the establishment of a NO_X Allowance Tracking System account, all submissions to the Administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO_X allowances in the account, shall be made only by the NO_X authorized account representative for the account.

(b) Authorized account representative identification. The Administrator will assign a unique identifying number to each NO_X authorized account representative.

§ 97.53 Recordation of NO_X allowance allocations.

(a) The Administrator will record the NO_X allowances for 2003 in the NO_X Budget units' compliance accounts and the allocation set-asides, as allocated under subpart E of this part. The Administrator will also record the NO_X allowances allocated under § 97.88(a)(1) for each NO_X Budget opt-in source in its compliance account.

(b) Each year, after the Administrator has made all deductions from a NO_X Budget unit's compliance account and the overdraft account pursuant to § 97.54, the Administrator will record NO_X allowances, as allocated to the unit under subpart E of this part or under § 97.88(a)(2), in the compliance account for the year after the last year for which allowances were previously allocated to the compliance account. Each year, the Administrator will also record NO_X allowances, as allocated under subpart E of this part, in the allocation set-aside for the year after the last year for which allowances were previously allocated to an allocation set-aside.

(c) Serial numbers for allocated NO_X allowances. When allocating NO_X allowances to and recording them in an account, the Administrator will assign each NO_X allowance a unique identification number that will include digits identifying the year for which the NO_X allowance is allocated.

§ 97.54 Compliance.

(a) NO_X allowance transfer deadline. The NO_X allowances are available to be deducted for compliance with a unit's NO_X Budget emissions limitation for a control period in a given year only if the NO_X allowances:

(1) Were allocated for a control period in a prior year or the same year; and

(2) Are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO_X allowance transfer deadline for that control period or are transferred into the compliance account or overdraft account by a NO_X allowance transfer correctly submitted for recordation under § 97.60 by the NO_X allowance transfer deadline for that control period.

(b) Deductions for compliance.

(1) Following the recordation, in accordance with § 97.61, of NO_X allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO_X allowance transfer deadline for a control period, the Administrator will deduct NO_X allowances available under paragraph (a) of this section to cover the unit's NO_X emissions (as determined in accordance with subpart H of this part), or to account for actual utilization under § 97.42 (e), for the control period:

(i) From the compliance account; and

(ii) Only if no more NO_X allowances available under paragraph (a) of this section remain in the compliance account, from the overdraft account. In deducting allowances for units at the source from the overdraft account, the Administrator will begin with the unit having the compliance account with the lowest NO_X Allowance Tracking System account number and end with the unit having the compliance account with the highest NO_X Allowance Tracking System account number (with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters).

(2) The Administrator will deduct NO_X allowances first under paragraph (b)(1)(i) of this section and then under paragraph (b)(1)(ii) of this section:

(i) Until the number of NO_X allowances deducted for the control period equals the number of tons of NO_X emissions, determined in accordance with subpart H of this part, from the unit for the control period for which compliance is being determined, plus the number of NO_X allowances required for deduction to account for actual utilization under § 97.42(e) for the control period; or

(ii) Until no more NO_X allowances available under paragraph (a) of this section remain in the respective account.

(c)(1) Identification of NO_X allowances by serial number. The NO_X authorized account representative for each compliance account may identify by serial number the NO_X allowances to be deducted from the unit's compliance account under paragraph (b), (d), or (e) of this section. Such identification shall be made in the compliance certification report submitted in accordance with § 97.30.

(2) First-in, first-out. The Administrator will deduct NO_X allowances for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_X allowances by serial number under paragraph (c)(1) of this section, or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Those NO_X allowances that were allocated for the control period to the unit under subpart E or I of this part;

(ii) Those NO_X allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to subpart G of this part, in order of their date of recordation;

(iii) Those NO_X allowances that were allocated for a prior control period to the unit under subpart E or I of this part; and

(iv) Those NO_X allowances that were allocated for a prior control period to

any unit and transferred and recorded in the account pursuant to subpart G of this part, in order of their date of recordation.

(d) *Deductions for excess emissions.* (1) After making the deductions for compliance under paragraph (b) of this section, the Administrator will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO_X allowances, allocated for a control period after the control period in which the unit has excess emissions, equal to three times the number of the unit's excess emissions.

(2) If the compliance account or overdraft account does not contain sufficient NO_X allowances, the Administrator will deduct the required number of NO_X allowances, regardless of the control period for which they were allocated, whenever NO_X allowances are recorded in either account.

(3) Any allowance deduction required under paragraph (d) of this section shall not affect the liability of the owners and operators of the NO_X Budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the Clean Air Act or applicable State law. The following guidelines will be followed in assessing fines, penalties or other obligations:

(i) For purposes of determining the number of days of violation, if a NO_X Budget unit has excess emissions for a control period, each day in the control period (153 days) constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(ii) Each ton of excess emissions is a separate violation.

(e) Deductions for units sharing a common stack. In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with subpart H of this part:

(1) The NO_X authorized account representative of the units may identify the percentage of NO_X allowances to be deducted from each such unit's compliance account to cover the unit's share of NO_X emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with § 97.30.

(2) Notwithstanding paragraph (b)(2)(i) of this section, the Administrator will deduct NO_X allowances for each such unit until the number of NO_X allowances deducted equals the units identified percentage (under paragraph (e)(1) of this section) of the number of tons of NO_X emissions, as determined in accordance with subpart H of this part, from the common stack for the control period for which compliance is being determined, use the number of allowances required to account for actual utilization under § 97.42(e) for the control period or, if no percentage is identified, an equal percentage for each such unit.

(f) The Administrator will record in the appropriate compliance account or overdraft account all deductions from such an account pursuant to paragraphs (b), (d), or (e) of this section.

§ 97.55 Banking.

(a) NO_X allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account, as follows:

(1) Any NO_X allowance that is held in a compliance account, an overdraft account, or a general account will remain in such account unless and until the NO_X allowance is deducted or transferred under § 97.31, § 97.54, or § 97.56, subpart G of this part, or subpart I of this part.

(2) The Administrator will designate, as a ''banked'' NO_X allowance, any NO_X allowance that remains in a compliance account, an overdraft account, or a general account after the Administrator has made all deductions for a given control period from the compliance account or overdraft account pursuant to § 97.54.

(b) Each year starting in 2004, after the Administrator has completed the designation of banked NO_X allowances under paragraph (a)(2) of this section and before May 1 of the year, the Administrator will determine the extent to which banked NO_X allowances may be used for compliance in the control period for the current year, as follows:

(1) The Administrator will determine the total number of banked NO_X allowances held in compliance accounts, overdraft accounts, or general accounts.

(2) If the total number of banked NO_X allowances determined, under paragraph (b)(1) of this section, to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to 10% of the sum of the State trading program budgets for the control period for the States in which NO_X Budget units are located, any banked NO_X allowance may be deducted for compliance in accordance with § 97.54.

(3) If the total number of banked NO_X allowances determined, under paragraph (b)(1) of this section, to be held in compliance accounts, overdraft accounts, or general accounts exceeds 10% of the sum of the State trading program budgets for the control period for the States in which NO_X Budget units are located, any banked allowance may be deducted for compliance in accordance with § 97.54, except as follows:

(i) The Administrator will determine the following ratio: 0.10 multiplied by the sum of the State trading program budgets for the control period for the States in which NO_X Budget units are located and divided by the total number of banked NO_X allowances determined, under paragraph (b)(1) of this section, to be held in compliance accounts, overdraft accounts, or general accounts.

(ii) The Administrator will multiply the number of banked NO_X allowances in each compliance account or overdraft account. The resulting product is the number of banked NO_X allowances in the account that may be deducted for compliance in accordance with § 97.54. Any banked NO_X allowances in excess of the resulting product may be deducted for compliance in accordance with § 97.54, except that, if such NO_X allowances are used to make a deduction, two such NO_X allowances must be deducted for each deduction of one NO_X allowance required under § 97.54.

(c) Any NO_X Budget unit may reduce its NO_X emission rate in the 2001 or 2002 control period, the owner or operator of the unit may request early reduction credits, and the permitting authority may allocate NO_X allowances in 2003 to the unit in accordance with the following requirements.

(1) Each NO_X Budget unit for which the owner or operator requests any early reduction credits under paragraph (c)(4) of this section shall monitor NO_X emissions in accordance with subpart H of this part starting in the 2000 control period and for each control period for which such early reduction credits are requested. The unit's monitoring system availability shall be not less than 90 percent during the 2000 control period, and the unit must be in full compliance with any applicable State or Federal emissions or emissions related requirements.

(2) NO_X emission rate and heat input under paragraphs (c)(3) through (5) of this section shall be determined in accordance with subpart H of this part.

(3) Each NO_X Budget unit for which the owner or operator requests any early reduction credits under paragraph (c)(4) of this section shall reduce its NO_X emission rate, for each control period for which early reduction credits are requested, to less than both 0.25 lb/

mmBtu and 80 percent of the unit's NO_X emission rate in the 2000 control period.

(4) The NO_X authorized account representative of a NO_X Budget unit that meets the requirements of paragraphs (c)(1)and (3) of this section may submit to the permitting authority a request for early reduction credits for the unit based on NO_X emission rate reductions made by the unit in the control period for 2001 or 2002 in accordance with paragraph (3) of this section.

(i) In the early reduction credit request, the NO_X authorized account may request early reduction credits for such control period in an amount equal to the unit's heat input for such control period multiplied by the difference between 0.25 lb/mmBtu and the unit's NO_X emission rate for such control period, divided by 2000 lb/ton, and rounded to the nearest ton.

(ii) The early reduction credit request must be submitted, in a format specified by the permitting authority, by October 31 of the year in which the NO_X emission rate reductions on which the request is based are made or such later date approved by the permitting authority.

(5) The permitting authority will allocate NO_X allowances, to NO_X Budget units meeting the requirements of paragraphs (c)(1) and (3) of this section and covered by early reduction requests meeting the requirements of paragraph (c)(4)(ii) of this section, in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the permitting authority will accept the request only if the requirements of paragraphs (c)(1), (3), and (4)(ii) of this section are met and, if the request is accepted, will make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirement of paragraphs (c)(2) and (4) of this section.

(ii) If the State's compliance supplement pool has an amount of NO_X allowances not less than the number of early reduction credits in all accepted early reduction credit requests for 2001 and 2002 (as adjusted under paragraph (c)(5)(i) of this section), the permitting authority will allocate to each NO_X Budget unit covered by such accepted requests one allowance for each early reduction credit requested (as adjusted under paragraph (c)(5)(i) of this section).

(iii) If the State's compliance supplement pool has a smaller amount of NO_X allowances than the number of early reduction credits in all accepted early reduction credit requests for 2001 and 2002 (as adjusted under paragraph (c)(5)(i) of this section), the permitting authority will allocate NO_X allowances to each NO_X Budget unit covered by such accepted requests according to the following formula:

Unit's allocated early reduction credits = [(Unit's adjusted early reduction credits)/(Total adjusted early reduction credits requested by all units)] × (Available NO_X allowances from the State's compliance supplement pool)

Where:

''Unit's adjusted early reduction credits'' is the number of early reduction credits for the unit for 2001 and 2002 in accepted early reduction credit requests, as adjusted under paragraph (c)(5)(i) of this section.

''Total adjusted early reduction credits requested by all units'' is the number of early reduction credits for all units for 2001 and 2002 in accepted early reduction credit requests, as adjusted under paragraph (c)(5)(i) of this section.

''Available NO_X allowances from the State's compliance supplement pool'' is the number of NO_X allowances in the State's compliance supplement pool and available for early reduction credits for 2001 and 2002.

(6) By May 1, 2003, the permitting authority will submit to the Administrator the allocations of NO_X allowances determined under paragraph (c)(5) of this section. The Administrator will record such allocations to the extent that they are consistent with the requirements of paragraphs (c)(1) through (5) of this section.

(7) NO_X allowances recorded under paragraph (c)(6) of this section may be deducted for compliance under § 97.54 for the control periods in 2003 or 2004. Notwithstanding paragraph (a) of this section, the Administrator will deduct as retired any NO_X allowance that is recorded under paragraph (c)(6) of this section and is not deducted for compliance in accordance with § 97.54 for the control period in 2003 or 2004.

(8) NO_X allowances recorded under paragraph (c)(6) of this section are treated as banked allowances in 2004 for the purposes of paragraphs (a) and (b) of this section.

§ 97.56 Account error.

The Administrator may, at his or her sole discretion and on his or her own motion, correct any error in any NO_X Allowance Tracking System account. Within 10 business days of making such correction, the Administrator will notify the NO_X authorized account representative for the account.

§ 97.57 Closing of general accounts.

(a) The NO_X authorized account representative of a general account may instruct the Administrator to close the account by submitting a statement requesting deletion of the account from the NO_X Allowance Tracking System and by correctly submitting for recordation under § 97.60 an allowance transfer of all NO_X allowances in the account to one or more other NO_X Allowance Tracking System accounts.

(b) If a general account shows no activity for a period of a year or more and does not contain any NO_X allowances, the Administrator may notify the NO_X authorized account representative for the account that the account will be closed and deleted from the NO_X Allowance Tracking System following 20 business days after the notice is sent. The account will be closed after the 20-day period unless before the end of the 20-day period the Administrator receives a correctly submitted transfer of NO_X allowances into the account under § 97.60 or a statement submitted by the NO_X authorized account representative demonstrating to the satisfaction of the Administrator good cause as to why the account should not be closed.

Subpart G—NO_X Allowance Transfers

§ 97.60 Submission of NO_X allowance transfers.

The NO_X authorized account representatives seeking recordation of a NO_X allowance transfer shall submit the transfer to the Administrator. To be considered correctly submitted, the NO_X allowance transfer shall include the following elements in a format specified by the Administrator:

(a) The numbers identifying both the transferror and transferee accounts;

(b) A specification by serial number of each NO_X allowance to be transferred; and

(c) The printed name and signature of the NO_X authorized account representative of the transferror account and the date signed.

§ 97.61 EPA recordation.

(a) Within 5 business days of receiving a NO_X allowance transfer, except as provided in paragraph (b) of this section, the Administrator will record a NO_X allowance transfer by moving each NO_X allowance from the transferror account to the transferee account as specified by the request, provided that:

(1) The transfer is correctly submitted under § 97.60;

(2) The transferror account includes each NO_X allowance identified by serial number in the transfer; and

(3) The transfer meets all other requirements of this part.

(b) A NO_X allowance transfer that is submitted for recordation following the NO_X allowance transfer deadline and

that includes any NO_X allowances allocated for a control period prior to or the same as the control period to which the NO_X allowance transfer deadline applies will not be recorded until after completion of the process of recordation of NO_X allowance allocations in § 97.53(b).

(c) Where a NO_X allowance transfer submitted for recordation fails to meet the requirements of paragraph (a) of this section, the Administrator will not record such transfer.

§ 97.62 Notification.

(a) *Notification of recordation.* Within 5 business days of recordation of a NO_X allowance transfer under § 97.61, the Administrator will notify each party to the transfer. Notice will be given to the NO_X authorized account representatives of both the transferror and transferee accounts.

(b) *Notification of non-recordation.* Within 10 business days of receipt of a NO_X allowance transfer that fails to meet the requirements of § 97.61(a) the NO_X authorized account representatives of both accounts subject to the transfer of:

(1) A decision not to record the transfer, and

(2) The reasons for such non-recordation.

(c) Nothing in this section shall preclude the submission of a NO_X allowance transfer for recordation following notification of non-recordation.

Subpart H—Monitoring and Reporting

§ 97.70 General Requirements.

The owners and operators, and to the extent applicable, the NO_X authorized account representative of a NO_X Budget unit, shall comply with the monitoring and reporting requirements as provided in this subpart and in subpart H of part 75 of this chapter. For purposes of complying with such requirements, the definitions in § 97.2 and in § 72.2 of this chapter shall apply, and the terms ''affected unit,'' ''designated representative,'' and ''continuous emission monitoring system'' (or ''CEMS'') in part 75 of this chapter shall be replaced by the terms ''NO_X Budget unit,'' ''NO_X authorized account representative,'' and ''continuous emission monitoring system'' (or ''CEMS''), respectively, as defined in § 97.2.

(a) *Requirements for installation, certification, and data accounting.* The owner or operator of each NO_X Budget unit must meet the following requirements. These provisions also apply to a unit for which an application for a NO_X Budget opt-in permit is submitted and not denied or withdrawn, as provided in subpart I of this part:

(1) Install all monitoring systems required under this subpart for monitoring NO_X mass. This includes all systems required to monitor NO_X emission rate, NO_X concentration, heat input, and flow, in accordance with §§ 75.72 and 75.76.

(2) Install all monitoring systems for monitoring heat input, if required under § 97.76 for developing NO_X allowance allocations.

(3) Successfully complete all certification tests required under § 97.71 and meet all other provisions of this subpart and part 75 of this chapter applicable to the monitoring systems under paragraphs (a) (1) and (2) of this section.

(4) Record, and report data from the monitoring systems under paragraphs (a) (1) and (2) of this section.

(b) *Compliance dates.* The owner or operator must meet the requirements of paragraphs (a)(1) through (a)(3) of this section on or before the following dates and must record and report data on and after the following dates:

(1) NO_X Budget units for which the owner or operator intends to apply for early reduction credits under § 97.55(d) must comply with the requirements of this subpart by May 1, 2000.

(2) Except for NO_X Budget units under paragraph (b)(1) of this section, NO_X Budget units under § 97.4 that commence operation before January 1, 2002, must comply with the requirements of this subpart by May 1, 2002.

(3) NO_X Budget units under § 97.4 that commence operation on or after January 1, 2002 and that report on an annual basis under § 97.74(d) must comply with the requirements of this subpart by the later of the following dates:

(i) May 1, 2002; or

(ii) the earlier of:

(A) 180 days after the date on which the unit commences operation or,

(B) For units under § 97.4(a)(1), 90 days after the date on which the unit commences commercial operation.

(4) NO_X Budget units under § 97.4 that commence operation on or after January 1, 2002 and that report on a control season basis under § 97.74(d) must comply with the requirements of this subpart by the later of the following dates:

(i) the earlier of:

(A) 180 days after the date on which the unit commences operation or,

(B) for units under § 97.4(a)(1), 90 days after the date on which the unit commences commercial operation.

(ii) However, if the applicable deadline under paragraph (b)(4)(i) of this section does not occur during a control period, May 1; immediately following the date determined in accordance with paragraph (b)(4)(i) of this section.

(5) For a NO_X Budget unit with a new stack or flue for which construction is completed after the applicable deadline under paragraph (b)(1), (b)(2) or (b)(3) of this section or subpart I of this part:

(i) 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue

(ii) However, if the unit reports on a control season basis under § 97.74(d) and the applicable deadline under paragraph (b)(5)(i) of this section does not occur during the control period, May 1 immediately following the applicable deadline in paragraph (b)(5)(i) of this section.

(6) For a unit for which an application for a NO_X Budget opt-in permit is submitted and not denied or withdrawn, the compliance dates specified under subpart I of this part.

(c) *Reporting data prior to initial certification.* (1) The owner or operator of a NO_X Budget unit that misses the certification deadline under paragraph (b)(1) of this section is not eligible to apply for early reduction credits. The owner or operator of the unit becomes subject to the certification deadline under paragraph (b)(2) of this section.

(2) The owner or operator of a NO_X Budget under paragraphs (b)(3) or (b)(4) of this section must determine, record and report NO_X mass, heat input (if required for purposes of allocations) and any other values required to determine NO_X Mass (e.g. NO_X emission rate and heat input or NO_X concentration and stack flow) using the provisions of § 75.70(g) of this chapter, from the date and hour that the unit starts operating until all required certification tests are successfully completed.

(d) *Prohibitions.* (1) No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under § 75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with § 97.75.

(2) No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under § 75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged, NO_X emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this subpart and part 75 of this chapter

except as provided for in § 75.74 of this chapter.

(3) No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under § 75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_X mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this subpart and part 75 of this chapter except as provided for in § 75.74 of this chapter.

(4) No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under § 75.72(b)(2)(ii) shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subpart, except under any one of the following circumstances:

(i) During the period that the unit is covered by a retired unit exemption under § 97.5 that is in effect;

(ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this subpart and part 75 of this chapter, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) The NO_X authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with § 97.71(b)(2).

§ 97.71 Initial certification and recertification procedures.

(a) The owner or operator of a NO_X Budget unit that is subject to an Acid Rain emissions limitation shall comply with the initial certification and recertification procedures of part 75 of this chapter, except that:

(1) If, prior to January 1, 1998, the Administrator approved a petition under § 75.17 (a) or (b) of this chapter for apportioning the NO_X emission rate measured in a common stack or a petition under § 75.66 of this chapter for an alternative to a requirement in § 75.17 of this chapter, the NO_X authorized account representative shall resubmit the petition to the Administrator under § 97.75(a) to determine if the approval applies under the NO_X Budget Trading Program.

(2) For any additional CEMS required under the common stack provisions in § 75.72 of this chapter, or for any NO_X concentration CEMS used under the provisions of § 75.71(a)(2) of this chapter, the owner or operator shall meet the requirements of paragraph (b) of this section.

(b) The owner or operator of a NO_X Budget unit that is not subject to an Acid Rain emissions limitation shall comply with the following initial certification and recertification procedures, except that the owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under § 75.19 shall also meet the requirements of paragraph (c) of this section and the owner or operator of a unit that qualifies to use an alternative monitoring system under subpart E of part 75 of this chapter shall also meet the requirements of paragraph (d) of this section. The owner or operator of a NO_X Budget unit that is subject to an Acid Rain emissions limitation, but requires additional CEMS under the common stack provisions in § 75.72 of this chapter, or that uses a NO_X concentration CEMS under § 75.71(a)(2) of this chapter also shall comply with the following initial certification and recertification procedures.

(1) Requirements for initial certification. The owner or operator shall ensure that each monitoring system required by subpart H of part 75 of this chapter (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under § 75.20 of this chapter. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in § 97.70(b). In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this part in a location where no such monitoring system was previously installed, initial certification according to § 75.20 is required.

(2) Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that the Administrator determines significantly affects the ability of the system to accurately measure or record NO_X mass emissions or heat input or to meet the requirements of § 75.21 of this chapter or appendix B to part 75 of this chapter, the owner or operator shall recertify the monitoring system according to § 75.20(b) of this chapter. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that the Administrator determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to § 75.20(b) of this chapter. Examples of changes which require recertification include: Replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.

(3) Certification approval process for initial certifications and recertification.

(i) Notification of certification. The NO_X authorized account representative shall submit to the Administrator, the appropriate EPA Regional Office and the permitting authority a written notice of the dates of certification in accordance with § 97.73.

(ii) Certification application. The NO_X authorized account representative shall submit to the Administrator, the appropriate EPA Regional Office and the permitting authority a certification application for each monitoring system required under subpart H of part 75 of this chapter. A complete certification application shall include the information specified in subpart H of part 75 of this chapter.

(iii) Except for units using the low mass emission excepted methodology under § 75.19 of this chapter, the provisional certification date for a monitor shall be determined using the procedures set forth in § 75.20(a)(3) of this chapter. A provisionally certified monitor may be used under the NO_X Budget Trading Program for a period not to exceed 120 days after receipt by the Administrator of the complete certification application for the monitoring system or component thereof under paragraph (b)(3)(ii) of this section. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of part 75 of this chapter, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Administrator does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Administrator.

(iv) Certification application formal approval process. The Administrator will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under paragraph (b)(3)(ii) of this section. In the event the Administrator does not issue

such a notice within such 120-day period, each monitoring system which meets the applicable performance requirements of part 75 of this chapter and is included in the certification application will be deemed certified for use under the NO_X Budget Trading Program.

(A) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of part 75 of this chapter, then the Administrator will issue a written notice of approval of the certification application within 120 days of receipt.

(B) Incomplete application notice. A certification application will be considered complete when all of the applicable information required to be submitted under paragraph (b)(3)(ii) of this section has been received by the Administrator. If the certification application is not complete, then the Administrator will issue a written notice of incompleteness that sets a reasonable date by which the NO_X authorized account representative must submit the additional information required to complete the certification application. If the NO_X authorized account representative does not comply with the notice of incompleteness by the specified date, then the Administrator may issue a notice of disapproval under paragraph (b)(3)(iv)(C) of this section.

(C) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this part, or if the certification application is incomplete and the requirement for disapproval under paragraph (b)(3)(iv)(B) of this section has been met, the Administrator will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Administrator and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in paragraph (b)(3)(v) of this section for each monitoring system or component thereof which is disapproved for initial certification.

(D) Audit decertification. The Administrator may issue a notice of disapproval of the certification status of a monitor in accordance with § 97.72(b).

(v) Procedures for loss of certification. If the Administrator issues a notice of disapproval of a certification application under paragraph (b)(3)(iv)(C) of this section or a notice of disapproval of certification status under paragraph (b)(3)(iv)(D) of this section, then:

(A) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under § 75.20(a)(5)(i) of this chapter:

(1) For units using or intending to monitor for NO_X emission rate and heat input or for units using the low mass emission excepted methodology under § 75.19 of this chapter, the maximum potential NO_X emission rate and the maximum potential hourly heat input of the unit.

(2) For units intending to monitor for NO_X mass emissions using a NO_X pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_X and the maximum potential flow rate of the unit under section 2.1 of appendix A of part 75 of this chapter;

(B) The NO_X authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with paragraphs (b)(3)(i) and (ii) of this section; and (C) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(c) Initial certification and recertification procedures for low mass emission units using the excepted methodologies under § 75.19 of this chapter. The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under § 75.19 of this chapter shall meet the applicable general operating requirements of § 75.10 of this chapter, the applicable requirements of § 75.19 of this chapter, and the applicable certification requirements of § 97.71 of this chapter, except that the excepted methodology shall be deemed provisionally certified for use under the NO_X Budget Trading Program, as of the following dates:

(i) For units that are reporting on an annual basis under § 97.74(d)

(A) For a unit that has commences operation before its compliance deadline under § 97.71(b), from January 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under § 75.19 of this chapter until the completion of the period for the Administrator's review; or

(B) For a unit that commences operation after its compliance deadline under § 97.71(b), the date of submission of the certificaation application for approval to use the low mass emissions excepted methodology under § 75.19 of this chapter until the completion of the period for the Administrator's review, or

(ii) For units that are reporting on a control period basis under § 97.74(b)(3)(ii) of this part:

(A) For a unit that commenced operation before its compliance deadline under § 97.71(b), where the certification application is submitted before May 1, from May 1 of the year of the submission of the certification application for approval to use the low mass emissions excepted methodology under § 75.19 of this chapter until the completion of the period for the Administrator's review; or

(B) For a unit that commenced operation before its compliance deadline under § 97.71(b), where the certification application is submitted after May 1, from May 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under § 75.19 of this chapter until the completion of the period for the Administrator's review; or

(C) For a unit that commences operation after its compliance deadline under § 97.71(b), where the unit commences operation before May 1, from May 1 of the year that the unit commenced operation, until the completion of the period for the Administrator's review.

(D) For a unit that has not operated after its compliance deadline under § 97.71(b), where the certification application is submitted after May 1, but before October 1st, from the date of submission of a certification application for approval to use the low mass emissions excepted methodology under § 75.19 of this chapter until the completion of the period for the Administrator's review.

(d) Certification/recertification procedures for alternative monitoring systems. The NO_X authorized account representative representing the owner or operator of each unit applying to monitor using an alternative monitoring system approved by the Administrator under subpart E of part 75 of this chapter shall apply for certification to the administrator prior to use of the system under the NO_X Trading Program. The NO_X authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in paragraph (b) of this

section. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in paragraph (b)(3) of this section and § 75.20(f) of this chapter.

§ 97.72 Out of control periods.

(a) Whenever any monitoring system fails to meet the quality assurance requirements of appendix B of part 75 of this chapter, data shall be substituted using the applicable procedures in subpart D, appendix D, or appendix E of part 75 of this chapter.

(b) Audit decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under § 97.71 or the applicable provisions of part 75 of this chapter, both at the time of the initial certification or recertification application submission and at the time of the audit, the Administrator will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the Administrator. By issuing the notice of disapproval, the Administrator revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in § 97.71 for each disapproved system.

§ 97.73 Notifications.

(a) The NO_X authorized account representative for a NO_X Budget unit shall submit written notice to the permitting authority, the appropriate EPA Regional Office and the Administrator in accordance with § 75.61 of this chapter.

(b) For any unit that does not have an acid rain emissions limitation, the permitting authority may waive the requirements to notify the permitting authority in paragraph (a) of this section and the notification requirements in § 97.71(b)(2)(i).

§ 97.74 Recordkeeping and reporting.

(a) *General provisions.* (1) The NO_X authorized account representative shall comply with all recordkeeping and reporting requirements in this section and with the requirements of § 97.10(e).

(2) If the NO_X authorized account representative for a NO_X Budget unit subject to an Acid Rain Emission limitation who signed and certified any submission that is made under subpart F or G of part 75 of this chapter and which includes data and information required under this subpart or subpart H of part 75 of this chapter is not the same person as the designated representative or the alternative designated representative for the unit under part 72 of this chapter, the submission must also be signed by the designated representative or the alternative designated representative.

(b) *Monitoring plans.* (1) The owner or operator of a unit subject to an Acid Rain emissions limitation shall comply with requirements of § 75.62 of this chapter, except that the monitoring plan shall also include all of the information required by subpart H of part 75 of this chapter.

(2) The owner or operator of a unit that is not subject to an Acid Rain emissions limitation shall comply with requirements of § 75.62 of this chapter, except that the monitoring plan is only required to include the information required by subpart H of part 75 of this chapter.

(c) *Certification applications.* The NO_X authorized account representative shall submit an application to the permitting authority, the appropriate EPA Regional Office and the Administrator within 45 days after completing all initial certification or recertification tests required under § 97.71 including the information required under subpart H of part 75 of this chapter.

(d) *Quarterly reports.* The NO_X authorized account representative shall submit quarterly reports, as follows:

(1) If a unit is subject to an Acid Rain emission limitation or if the owner or operator of the NO_X budget unit chooses to meet the annual reporting requirements of this subpart H, the NO_X authorized account representative shall submit a quarterly report for each calendar quarter beginning with:

(i) For units that elect to comply with the early reduction credit provisions under § 97.55, the calender quarter that includes the date of initial provisional certification under § 97.71(b)(3)(iii). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification ; or

(ii) For units commencing operation prior to May 1, 2002 that are not required to certify monitors by May 1, 2000 under § 97.70(b)(1), the earlier of the calender quarter that includes the date of initial provisional certification under § 97.71(b)(3)(iii) or, if the certification tests are not completed by May 1, 2002, the partial calender quarter from May 1, 2002 through June 30, 2002. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2002; or

(iii) For a unit that commences operation after May 1, 2002, the calendar quarter in which the unit commences operation, Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(2) If a NO_X budget unit is not subject to an Acid Rain emission limitation, then the NO_X authorized account representative shall either:

(i) Meet all of the requirements of part 75 of this chapter related to monitoring and reporting NO_X mass emissions during the entire year and meet the reporting deadlines specified in paragraph (d)(1) of this section; or

(ii) submit quarterly reports only for the periods from the earlier of May 1 or the date and hour that the owner or operator successfully completes all of the recertification tests required under § 75.74(d)(3) through September 30 of each year in accordance with the provisions of § 75.74(b) of this chapter. The NO_X authorized account representative shall submit a quarterly report for each calendar quarter, beginning with:

(A) For units that elect to comply with the early reduction credit provisions under § 97.55, the calender quarter that includes the date of initial provisional certification under § 97.71(b)(3)(iii). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification; or

(B) For units commencing operation prior to May 1, 2002 that are not required to certify monitors by May 1, 2000 under § 97.70(b)(1), the earlier of the calender quarter that includes the date of initial provisional certification under § 97.71(b)(3)(iii), or if the certification tests are not completed by May 1, 2002, the partial calender quarter from May 1, 2002 through June 30, 2002. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, 2002; or

(C) For units that commence operation after May 1, 2002 during the

control period, the calender quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation; or

(D) For units that commence operation after May 1, 2002 and before May 1 of the year in which the unit commences operation, the earlier of the calender quarter that includes the date of initial provisional certification under § 97.71(b)(3)(iii) or, if the certification tests are not completed by May 1 of the year in which the unit commences operation, May 1 of the year in which the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(E) For units that commence operation after May 1, 2002 and after September 30 of the year in which the unit commences operation, the earlier of the calender quarter that includes the date of initial provisional certification under § 97.71(b)(3)(iii) or, if the certification tests are not completed by May 1 of the year after the unit commences operation, May 1 of the year after the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(3) The NO_X authorized account representative shall submit each quarterly report to the Administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in subpart H of part 75 of this chapter and § 75.64 of this chapter.

(i) For units subject to an Acid Rain Emissions limitation, quarterly reports shall include all of the data and information required in subpart H of part 75 of this chapter for each NO_X Budget unit (or group of units using a common stack) as well as information required in subpart G of part 75 of this chapter.

(ii) For units not subject to an Acid Rain Emissions limitation, quarterly reports are only required to include all of the data and information required in subpart H of part 75 of this chapter for each NO_X Budget unit (or group of units using a common stack).

(4) Compliance certification. The NO_X authorized account representative shall submit to the Administrator a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this subpart and part 75 of this chapter, including the quality assurance procedures and specifications; and

(ii) For a unit with add-on NO_X emission controls and for all hours where data are substituted in accordance with § 75.34(a)(1) of this chapter, the add-on emission controls were operating within the range of parameters listed in the monitoring plan and the substitute values do not systematically underestimate NO_X emissions; and

(iii) For a unit that is reporting on a control period basis under § 97.74(d) the NO_X emission rate and NO_X concentration values substituted for missing data under subpart D of part 75 of this chapter are calculated using only values from a control period and do not systematically underestimate NO_X emissions.

§ 97.75 Petitions

(a) The NO_X authorized account representative of a NO_X Budget unit may submit a petition under § 75.66 of this chapter to the Administrator requesting approval to apply an alternative to any requirement of this subpart.

(b) Application of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent that the petition is approved by the Administrator.

§ 97.76 Additional requirements to provide heat input data.

(a) The owner or operator of a unit that elects to monitor and report NO_X Mass emissions using a NO_X concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in part 75 of this chapter.

(b) The owner or operator of a unit that monitor and report NO_X Mass emissions using a NO_X concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in part 75 of this chapter for any source that is applying for early reduction credits under § 97.55.

Subpart I—Individual Opt-Ins

§ 97.80 Applicability.

A unit that is in the State, is not a NO_X Budget unit under § 97.4, vents all of its emissions to a stack, and is operating, may qualify, under this subpart, to become a NO_X Budget opt-in source. A unit that is a NO_X Budget unit, is covered by a retired unit exemption under § 97.5 that is in effect, or is not operating is not eligible to become a NO_X Budget opt-in source.

§ 97.81 General.

Except otherwise as provided in this part, a NO_X Budget opt-in source shall be treated as a NO_X Budget unit for purposes of applying subparts A through H of this part.

§ 97.82 NO_X authorized account representative.

A unit for which an application for a NO_X Budget opt-in permit is submitted, or a NO_X Budget opt-in source, located at the same source as one or more NO_X Budget units, shall have the same NO_X authorized account representative as such NO_X Budget units.

§ 97.83 Applying for NO_X Budget opt-in permit.

(a) *Applying for initial NO_X* Budget opt-in permit. In order to apply for an initial NO_X Budget opt-in permit, the NO_X authorized account representative of a unit qualified under § 97.80 may submit to the Administrator and the permitting authority at any time, except as provided under § 97.86(g):

(1) A complete NO_X Budget permit application under § 97.22;

(2) A monitoring plan submitted in accordance with subpart H of this part; and

(3) A complete account certificate of representation under § 97.13, if no NO_X authorized account representative has been previously designated for the unit.

(b) *Duty to reapply.* The NO_X authorized account representative of a NO_X Budget opt-in source shall submit to the Administrator and permitting authority a complete NO_X Budget permit application under § 97.22 to renew the NO_X Budget opt-in permit in accordance with § 97.21(c) and, if applicable, an updated monitoring plan in accordance with subpart H of this part.

§ 97.84 Opt-in process.

The permitting authority will issue or deny a NO_X Budget opt-in permit for a unit for which an initial application for a NO_X Budget opt-in permit under § 97.83 is submitted, in accordance with § 97.20 and the following:

(a) Interim review of monitoring plan. The Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_X Budget opt-in permit under § 97.83. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that

the NO_X emissions rate and heat input of the unit are monitored and reported in accordance with subpart H of this part. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(b) If the Administrator determines that the unit's monitoring plan is sufficient under paragraph (a) of this section and after completion of monitoring system certification under subpart H of this part, the NO_X emissions rate and the heat input of the unit shall be monitored and reported in accordance with subpart H of this part for one full control period during which monitoring system availability is not less than 90 percent and during which the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a ''NO_X Budget unit'' prior to issuance of a NO_X Budget opt-in permit covering the unit.

(c) Based on the information monitored and reported under paragraph (b) of this section, the unit's baseline heat rate shall be calculated as the unit's total heat input (in mmBtu) for the control period and the unit's baseline NO_X emissions rate shall be calculated as the unit's total NO_X mass emissions (in lb) for the control period divided by the unit's baseline heat rate.

(d) After calculating the baseline heat input and the baseline NO_X emissions rate for the unit under paragraph (c) of this section, the Administrator will provide this information to the permitting authority so the permitting authority can serve a draft NO_X Budget opt-in permit on the NO_X authorized account representative of the unit.

(e) Confirmation of intention to opt-in. Within 20 days after the issuance of the draft NO_X Budget opt-in permit, the NO_X authorized account representative of the unit must submit to the Administrator and the permitting authority a confirmation of the intention to opt in the unit or a withdrawal of the application for a NO_X Budget opt-in permit under § 97.83. The permitting authority will treat the failure to make a timely submission as a withdrawal of the NO_X Budget opt-in permit application.

(f) Issuance of draft NO_X Budget opt-in permit. If the NO_X authorized account representative confirms the intention to opt in the unit under paragraph (e) of this section, the permitting authority will issue the draft NO_X Budget opt-in permit in accordance with § 97.20.

(g) Not withstanding paragraphs (a) through (f) of this section, if at any time before issuance of a draft NO_X Budget opt-in permit for the unit, the Administrator or the permitting authority determines that the unit does not qualify as a NO_X Budget opt-in source under § 97.80, the permitting authority will issue a draft denial of a NO_X Budget opt-in permit for the unit in accordance with § 97.20.

(h) Withdrawal of application for NO_X Budget opt-in permit. A NO_X authorized account representative of a unit may withdraw its application for a NO_X Budget opt-in permit under § 97.83 at any time prior to the issuance of the final NO_X Budget opt-in permit. Once the application for a NO_X Budget opt-in permit is withdrawn, a NO_X authorized account representative wanting to reapply must submit a new application for a NO_X Budget permit under § 97.83.

(i) Effective date. The effective date of the initial NO_X Budget opt-in permit shall be May 1 of the first control period starting after the issuance of the initial NO_X Budget opt-in permit by the permitting authority. The unit shall be a NO_X Budget opt-in source and a NO_X Budget unit as of the effective date of the initial NO_X Budget opt-in permit.

§ 97.85 NO_X Budget opt-in permit contents.

(a) Each NO_X Budget opt-in permit (including any draft or proposed NO_X Budget opt-in permit, if applicable) will contain all elements required for a complete NO_X Budget opt-in permit application under § 97.22 as approved or adjusted by the Administrator or the permitting authority.

(b) Each NO_X Budget opt-in permit is deemed to incorporate automatically the definitions of terms under § 97.2 and, upon recordation by the Administrator under subpart F, G, or I of this part, every allocation, transfer, or deduction of NO_X allowances to or from the compliance accounts of each NO_X Budget opt-in source covered by the NO_X Budget opt-in permit or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located.

§ 97.86 Withdrawal from NO_X Budget Trading Program.

(a) Requesting withdrawal. To withdraw from the NO_X Budget Trading Program, the NO_X authorized account representative of a NO_X Budget opt-in source shall submit to the Administrator and the permitting authority a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.

(b) Conditions for withdrawal. Before a NO_X Budget opt-in source covered by a request under paragraph (a) of this section may withdraw from the NO_X Budget Trading Program and the NO_X Budget opt-in permit may be terminated under paragraph (e) of this section, the following conditions must be met:

(1) For the control period immediately before the withdrawal is to be effective, the NO_X authorized account representative must submit or must have submitted to the Administrator and the permitting authority an annual compliance certification report in accordance with § 97.30.

(2) If the NO_X Budget opt-in source has excess emissions for the control period immediately before the withdrawal is to be effective, the Administrator will deduct or has deducted from the NO_X Budget opt-in source's compliance account, or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located, the full amount required under § 97.54(d) for the control period.

(3) After the requirements for withdrawal under paragraphs (b)(1) and (2) of this section are met, the Administrator will deduct from the NO_X Budget opt-in source's compliance account, or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located, NO_X allowances equal in number to and allocated for the same or a prior control period as any NO_X allowances allocated to that source under § 97.88 for any control period for which the withdrawal is to be effective. The Administrator will close the NO_X Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_X Budget opt-in source. The NO_X authorized account representative for the NO_X Budget opt-in source shall become the NO_X authorized account representative for the general account.

(c) A NO_X Budget opt-in source that withdraws from the NO_X Budget Trading Program shall comply with all requirements under the NO_X Budget Trading Program concerning all years for which such NO_X Budget opt-in source was a NO_X Budget opt-in source, even if such requirements arise or must be complied with after the withdrawal takes effect.

(d) Notification.

(1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of NO_X allowances required), the Administrator will issue a notification to the

permitting authority and the NO_X authorized account representative of the NO_X Budget opt-in source of the acceptance of the withdrawal of the NO_X Budget opt-in source as of a specified effective date that is after such requirements have been met and that is prior to May 1 or after September 30.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the Administrator will issue a notification to the permitting authority and the NO_X authorized account representative of the NO_X Budget opt-in source that the NO_X Budget opt-in source's request to withdraw is denied. If the NO_X Budget opt-in source's request to withdraw is denied, the NO_X Budget opt-in source shall remain subject to the requirements for a NO_X Budget opt-in source.

(e) Permit amendment. After the Administrator issues a notification under paragraph (d)(1) of this section that the requirements for withdrawal have been met, the permitting authority will revise the NO_X Budget permit covering the NO_X Budget opt-in source to terminate the NO_X Budget opt-in permit as of the effective date specified under paragraph (d)(1) of this section. A NO_X Budget opt-in source shall continue to be a NO_X Budget opt-in source until the effective date of the termination.

(f) Reapplication upon failure to meet conditions of withdrawal. If the Administrator denies the NO_X Budget opt-in source's request to withdraw, the NO_X authorized account representative may submit another request to withdraw in accordance with paragraphs (a) and (b) of this section.

(g) Ability to return to the NO_X Budget Trading Program. Once a NO_X Budget opt-in source withdraws from the NO_X Budget Trading Program and its NO_X Budget opt-in permit is terminated under this section, the NO_X authority account representative may not submit another application for a NO_X Budget opt-in permit under § 97.83 for the unit prior to the date that is 4 years after the date on which the terminated NO_X Budget opt-in permit became effective.

§ 97.87 Change in regulatory status.

(a) Notification. When a NO_X Budget opt-in source becomes a NO_X Budget unit under § 97.4, the NO_X authorized account representative shall notify in writing the permitting authority and the Administrator of such change in the NO_X Budget opt-in source's regulatory status, within 30 days of such change.

(b) Permitting authority's and Administrator's action.

(1)(i) When the NO_X Budget opt-in source becomes a NO_X Budget unit under § 97.4, the permitting authority will revise the NO_X Budget opt-in source's NO_X Budget opt-in permit to meet the requirements of a NO_X Budget permit under § 97.23 as of an effective date that is the date on which such NO_X Budget opt-in source becomes a NO_X Budget unit under § 97.4.

(ii)(A) The Administrator will deduct from the compliance account for the NO_X Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_X Budget source where the unit is located, NO_X allowances equal in number to and allocated for the same or a prior control period as:

(*1*) Any NO_X allowances allocated to the NO_X Budget unit (as a NO_X Budget opt-in source) under § 97.88 for any control period after the last control period during which the unit's NO_X Budget opt-in permit was effective; and

(*2*) If the effective date of the NO_X Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the NO_X allowances allocated to the NO_X Budget unit (as a NO_X Budget opt-in source) under § 97.88 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(B) The NO_X authorized account representative shall ensure that the compliance account of the NO_X Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_X Budget source where the unit is located, includes the NO_X allowances necessary for completion of the deduction under paragraph (b)(1)(ii)(A) of this section. If the compliance account or overdraft account does not contain sufficient NO_X allowances, the Administrator will deduct the required number of NO_X allowances, regardless of the control period for which they were allocated, whenever NO_X allowances are recorded in either account.

(iii) (A) For every control period during which the NO_X Budget permit revised under paragraph (b)(1)(i) of this section is effective, the NO_X Budget unit under paragraph (b)(1)(i) of this section will be treated, solely for purposes of NO_X allowance allocations under § 97.42, as a unit that commenced operation on the effective date of the NO_X Budget permit revision under paragraph (b)(1)(i) of this section and will be allocated NO_X allowances under § 97.42.

(B) Notwithstanding paragraph (b)(1)(iii)(A) of this section, if the effective date of the NO_X Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the following number of NO_X allowances will be allocated to the NO_X Budget unit under paragraph (b)(1)(i) of this section under § 97.42 for the control period: the number of NO_X allowances otherwise allocated to the NO_X Budget unit under § 97.42 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(2)(i) When the NO_X authorized account representative of a NO_X Budget opt-in source does not renew its NO_X Budget opt-in permit under § 97.83(b), the Administrator will deduct from the NO_X Budget opt-in unit's compliance account, or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located, NO_X allowances equal in number to and allocated for the same or a prior control period as any NO_X allowances allocated to the NO_X Budget opt-in source under § 97.88 for any control period after the last control period for which the NO_X Budget opt-in permit is effective. The NO_X authorized account representative shall ensure that the NO_X Budget opt-in source's compliance account or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located includes the NO_X allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO_X allowances, the Administrator will deduct the required number of NO_X allowances, regardless of the control period for which they were allocated, whenever NO_X allowances are recorded in either account.

(ii) After the deduction under paragraph (b)(2)(i) of this section is completed, the Administrator will close the NO_X Budget opt-in source's compliance account. If any NO_X allowances remain in the compliance account after completion of such deduction and any deduction under § 97.54, the Administrator will close the NO_X Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_X Budget opt-in source. The NO_X authorized account representative for the NO_X Budget opt-in source shall become the NO_X authorized account representative for the general account.

§ 97.88 NO_X allowance allocations to opt-in units.

(a) NO_X allowance allocation. (1) By December 31 immediately before the first control period for which the NO_X Budget opt-in permit is effective, the Administrator will allocate NO_X allowances to the NO_X Budget opt-in source for the control period in accordance with paragraph (b) of this section.

(2) By no later than December 31, after the first control period for which the NO_X Budget opt-in permit is in effect, and December 31 of each year thereafter, the Administrator will allocate NO_X allowances to the NO_X Budget opt-in source for the next control period, in accordance with paragraph (b) of this section.

(b) For each control period for which the NO_X Budget opt-in source has an approved NO_X Budget opt-in permit, the NO_X Budget opt-in source will be allocated NO_X allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO_X allowance allocations will be the lesser of:

(i) The NO_X Budget opt-in source's baseline heat input determined pursuant to § 97.84(c); or

(ii) The NO_X Budget opt-in source's heat input, as determined in accordance with subpart H of this part, for the control period in the year prior to the year of the control period for which the NO_X allocations are being calculated.

(2) The Administrator will allocate NO_X allowances to the NO_X Budget opt-in source in an amount equaling the heat input (in mmBtu) determined under paragraph (b)(1) of this section multiplied by the lesser of:

(i) The NO_X Budget opt-in source's baseline NO_X emissions rate (in lb/mmBtu) determined pursuant to § 97.84(c); or

(ii) The most stringent State or Federal NO_X emissions limitation applicable to the NO_X Budget opt-in source during the control period.

Appendix A to Part 97—NO_X Allowance Allocation Tables for Affected Sources Under Section 126 of the Act

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
AL	3	1	BARRY	4,444,705	452,203	336	333
AL	3	2	BARRY	4,457,926	453,456	337	334
AL	3	3	BARRY	7,758,632	798,049	587	587
AL	3	4	BARRY	12,886,737	1,375,025	975	1,012
AL	3	5	BARRY	25,069,820	2,649,527	1,897	1,950
AL	56	**4	CHARLES R LOWMAN	903,512	68,448	68	50
AL	56	1	CHARLES R LOWMAN	2,337,265	205,745	177	151
AL	56	2	CHARLES R LOWMAN	8,251,949	786,199	625	578
AL	56	3	CHARLES R LOWMAN	7,476,176	712,220	566	524
AL	5	110	CHICKASAW	293,278	27,668	22	20
AL	47	1	COLBERT	5,401,036	528,115	409	389
AL	47	2	COLBERT	5,586,222	546,223	423	402
AL	47	3	COLBERT	5,294,661	517,714	401	381
AL	47	4	COLBERT	5,512,314	538,996	417	397
AL	47	5	COLBERT	13,750,384	1,387,106	1,041	1,021
AL	26	1	E C GASTON	7,187,848	760,699	544	560
AL	26	2	E C GASTON	7,037,596	752,765	533	554
AL	26	3	E C GASTON	7,568,867	809,591	573	596
AL	26	4	E C GASTON	7,279,128	767,031	551	564
AL	26	5	E C GASTON	24,100,992	2,589,277	1,824	1,905
AL	7	1	GADSDEN	1,915,860	162,803	145	120
AL	7	2	GADSDEN	1,777,783	151,069	135	111
AL	8	10	GORGAS	24,048,187	2,517,344	1,820	1,852
AL	8	6	GORGAS	3,271,407	292,953	248	216
AL	8	7	GORGAS	3,320,557	302,034	251	222
AL	8	8	GORGAS	6,100,623	624,488	462	460
AL	8	9	GORGAS	6,382,810	673,576	483	496
AL	10	1	GREENE COUNTY	8,730,961	907,867	661	668
AL	10	2	GREENE COUNTY	7,752,706	806,146	587	593
AL	6002	1	JAMES H MILLER JR	20,389,071	2,160,317	1,543	1,590
AL	6002	2	JAMES H MILLER JR	20,467,280	2,168,604	1,549	1,596
AL	6002	3	JAMES H MILLER JR	22,363,879	2,369,557	1,693	1,744
AL	6002	4	JAMES H MILLER JR	24,810,536	2,628,792	1,878	1,934
AL	7063	**1	MCINTOSH-CAES	113,793	24,911	9	18
AL	533	**4	MCWILLIAMS	1,130,929	133,050	86	98
AL	52140	1	UNION CAMP CORPORATION—	43,647	3,307	3	2
AL	50	1	WIDOWS CREEK	3,220,389	295,992	244	218
AL	50	2	WIDOWS CREEK	3,004,746	276,171	227	203
AL	50	3	WIDOWS CREEK	2,954,318	271,537	224	200
AL	50	4	WIDOWS CREEK	3,135,926	288,228	237	212
AL	50	5	WIDOWS CREEK	2,946,352	278,352	223	205
AL	50	6	WIDOWS CREEK	3,048,563	288,008	231	212
AL	50	7	WIDOWS CREEK	14,708,106	1,494,422	1,113	1,100
AL	50	8	WIDOWS CREEK	14,313,089	1,445,913	1,083	1,064
CT	10675	AB__mes	AES THAMES	4,630,651	436,854	172	160
CT	568	BHB1	BRIDGEPORT HARBOR	614,787	60,445	23	22
CT	568	BHB2	BRIDGEPORT HARBOR	1,964,426	198,187	73	73
CT	568	BHB3	BRIDGEPORT HARBOR	11,910,460	1,235,525	442	454
CT	50498	CW__na)	CAPITOL DISTRICT (AETNA)	626,274	56,421	23	21
CT	544	7	DEVON	3,341,227	340,420	124	125

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
CT	544	8	DEVON	3,257,953	331,059	121	122
CT	10567	CW__CH	DEXTER CORP. CH	474,019	42,704	18	16
CT	569	EB 13	ENGLISH	56,957	3,997	2	1
CT	569	EB 14	ENGLISH	86,982	6,104	3	2
CT	50736	ST__rd)	EXETER ENERGY (OXFORD)	412,978	38,960	15	14
CT	562	1	MIDDLETOWN	452,331	43,059	17	16
CT	562	2	MIDDLETOWN	2,247,666	231,766	83	85
CT	562	3	MIDDLETOWN	4,056,337	450,955	150	166
CT	562	4	MIDDLETOWN	5,882,211	543,090	218	199
CT	546	5	MONTVILLE	1,584,160	158,131	59	58
CT	546	6	MONTVILLE	5,312,085	485,344	197	178
CT	6156	NHB1	NEW HAVEN HARBOR	10,881,332	1,160,923	404	426
CT	548	1	NORWALK HARBOR	3,099,297	322,005	115	118
CT	548	2	NORWALK HARBOR	3,631,682	379,407	135	139
CT	n46	CW__rd)	O'BRIEN (HARTFORD)	673,659	60,690	25	22
DC	603	15	BENNING	605,207	53,487	89	90
DC	603	16	BENNING	730,757	63,296	107	106
DE	592	B4	DELAWARE CITY	546,523	51,559	50	46
DE	52193	ST__1	DELAWARE CITY	293,747	27,712	27	25
DE	52193	ST__2	DELAWARE CITY	293,747	27,712	27	25
DE	52193	ST__3	DELAWARE CITY	494,793	46,679	45	42
DE	593	3	EDGE MOOR	2,775,531	268,375	252	241
DE	593	4	EDGE MOOR	4,421,018	453,252	401	407
DE	593	5	EDGE MOOR	6,515,159	712,351	591	640
DE	7153	**3	HAY ROAD	2,014,002	171,609	183	154
DE	7153	--1	HAY ROAD	156,053	11,822	14	11
DE	7153	--2	HAY ROAD	156,053	11,822	14	11
DE	7153	--4	HAY ROAD	1,056,415	124,284	96	112
DE	594	1	INDIAN RIVER	2,118,931	214,271	192	193
DE	594	2	INDIAN RIVER	2,201,388	218,804	200	197
DE	594	3	INDIAN RIVER	4,022,311	435,315	365	391
DE	594	4	INDIAN RIVER	8,277,718	804,521	751	723
DE	599	3	MCKEE RUN	1,156,067	103,627	105	93
DE	7318	--1	VAN SANT STATION	53,745	3,772	5	3
IL	54780	ST__TS)	ABBOTT (7 UNITS)	109,017	10,285	8	7
IL			BABCOCK & WILCOX CO COGENERATION FA	45,900	3,221	3	2
IL	889	1	BALDWIN	15,218,756	1,493,792	1,074	1,056
IL	889	2	BALDWIN	15,201,447	1,513,184	1,072	1,070
IL	889	3	BALDWIN	16,459,376	1,782,282	1,161	1,260
IL			BALDWIN POWER PLANT	3,366	236	0	0
IL			BREESE MUNICIPAL POWER PLANT	6,579	462	0	0
IL			BUSHNELL MUNICIPAL ELECTRIC LIGHT &	306	21	0	0
IL			BUSHNELL MUNICIPAL ELECTRIC LIGHT &	306	21	0	0
IL			CALUMET PEAKING UNITS	306	21	0	0
IL			CARLYLE MUNICIPAL ELECTRIC PLANT	306	21	0	0
IL			CARLYLE MUNICIPAL ELECTRIC PLANT	918	64	0	0
IL			CENTRAL ILLINOIS LIGHT CO—STERLIN	3,366	236	0	0
IL			CITY OF CARMI	765	54	0	0
IL			CITY OF CARMI	1,224	86	0	0
IL			CITY OF CARMI	1,530	107	0	0
IL			CITY OF CARMI	1,836	129	0	0
IL			CITY OF CARMI	1,989	140	0	0
IL			CITY OF PERU GENERATING STATION	1,836	129	0	0
IL			CITY OF PERU GENERATING STATION	2,907	204	0	0
IL			CITY OF RED BUD	612	43	0	0
IL			CITY OF RED BUD	1,989	140	0	0
IL			CITY OF RED BUD	8,109	569	1	0
IL			CITY WATER LIGHT & POWER DEPT	63,189	4,434	4	3
IL			CLINTON POWER STATION	1,377	97	0	0
IL			CLINTON POWER STATION	2,601	183	0	0
IL	861	01	COFFEEN	6,072,017	604,783	428	427
IL	861	02	COFFEEN	11,934,607	1,220,682	842	863
IL	6025	1	COLLINS	4,795,651	482,023	338	341
IL	6025	2	COLLINS	5,305,418	542,809	374	384
IL	6025	3	COLLINS	5,854,107	581,688	413	411
IL	6025	4	COLLINS	3,746,709	362,491	264	256
IL	6025	5	COLLINS	2,488,656	235,356	176	166
IL			COM ED—ELECTRIC JUNCTION PEAKING	765	54	0	0
IL			COMMONWEALTH EDISON-WESTERN DIV HQ	306	21	0	0
IL	867	7	CRAWFORD	4,358,553	445,979	307	315
IL	867	8	CRAWFORD	5,792,952	607,037	409	429
IL			CRAWFORD	16,983	1,192	1	1
IL	963	31	DALLMAN	2,002,848	179,146	141	127
IL	963	32	DALLMAN	2,398,394	214,910	169	152
IL	963	33	DALLMAN	6,864,473	650,291	484	460
IL	6016	1	DUCK CREEK	12,712,162	1,268,932	897	897

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
IL	856	1	E D EDWARDS	2,856,940	277,831	202	196
IL	856	2	E D EDWARDS	6,511,474	652,845	459	461
IL	856	3	E D EDWARDS	8,431,346	874,077	595	618
IL			FAIRFIELD MUNICIPAL LIGHT	459	32	0	0
IL			FAIRFIELD MUNICIPAL LIGHT	918	64	0	0
IL	886	19	FISK	6,895,507	739,068	486	522
IL			FISK	306	21	0	0
IL			GENESEO MUNICIPAL UTILITIES	23,103	1,621	2	1
IL			GENESEO MUNICIPAL UTILITIES	25,704	1,804	2	1
IL			GENESEO MUNICIPAL UTILITIES	51,408	3,608	4	3
IL			GENESEO MUNICIPAL UTILITIES	74,511	5,229	5	4
IL			GENESEO MUNICIPAL UTILITIES	87,363	6,131	6	4
IL			GENESEO MUNICIPAL UTILITIES	87,363	6,131	6	4
IL			GENESEO MUNICIPAL UTILITIES	141,372	9,921	10	7
IL	862	07	GRAND TOWER	651,170	62,612	46	44
IL	862	08	GRAND TOWER	654,114	62,896	46	44
IL	862	09	GRAND TOWER	2,630,056	270,276	186	191
IL	891	9	HAVANA	8,683,730	823,571	613	582
IL	892	1	HENNEPIN	2,009,046	189,586	142	134
IL	892	2	HENNEPIN	6,675,377	751,901	471	531
IL	863	05	HUTSONVILLE	2,052,071	201,638	145	143
IL	863	06	HUTSONVILLE	1,495,464	148,227	105	105
IL	384	71	JOLIET 29	5,594,695	565,406	395	400
IL	384	72	JOLIET 29	7,988,169	807,293	564	571
IL	384	81	JOLIET 29	5,979,042	606,271	422	429
IL	384	82	JOLIET 29	8,727,941	885,007	616	626
IL	874	5	JOLIET 9	7,279,634	745,482	514	527
IL	887	1	JOPPA STEAM	6,415,901	612,380	453	433
IL	887	2	JOPPA STEAM	6,371,397	627,662	449	444
IL	887	3	JOPPA STEAM	6,162,171	610,721	435	432
IL	887	4	JOPPA STEAM	6,409,101	622,666	452	440
IL	887	5	JOPPA STEAM	6,707,659	630,241	473	445
IL	887	6	JOPPA STEAM	6,766,124	648,034	477	458
IL	876	1	KINCAID	9,749,992	914,719	688	647
IL	876	2	KINCAID	11,246,140	1,098,470	793	776
IL	964	7	LAKESIDE	700,482	56,039	49	40
IL	964	8	LAKESIDE	696,352	55,708	49	39
IL			LASALLE COUNTY STATION	1,530	107	0	0
IL	976	1	MARION	95,573	7,079	7	5
IL	976	2	MARION	175,085	12,969	12	9
IL	976	3	MARION	584,871	43,324	41	31
IL	976	4	MARION	5,264,312	501,363	371	354
IL			MARISON CO	306	21	0	0
IL			MASCOUTAH POWER PLANT	459	32	0	0
IL			MASCOUTAH POWER PLANT	765	54	0	0
IL	864	01	MEREDOSIA	470,181	45,210	33	32
IL	864	02	MEREDOSIA	431,943	41,533	30	29
IL	864	03	MEREDOSIA	320,639	30,831	23	22
IL	864	04	MEREDOSIA	382,526	36,781	27	26
IL	864	05	MEREDOSIA	5,620,207	577,557	396	408
IL	864	06	MEREDOSIA	425,393	42,887	30	30
IL	6017	1	NEWTON	15,508,748	1,619,543	1,094	1,145
IL	6017	2	NEWTON	14,958,053	1,596,036	1,055	1,128
IL			OGLESBY GAS TURBINE	15,759	1,106	1	1
IL			PHOENIX CHEMICAL COMPANY	17,901	1,256	1	1
IL			PHOENIX CHEMICAL COMPANY	17,901	1,256	1	1
IL			PHOENIX CHEMICAL COMPANY	17,901	1,256	1	1
IL	879	51	POWERTON	9,827,191	899,926	693	636
IL	879	52	POWERTON	10,189,834	933,135	719	660
IL	879	61	POWERTON	9,120,197	876,100	643	619
IL	879	62	POWERTON	9,670,327	928,946	682	657
IL			PRINCETON MUNCIPAL ELECTRIC UTILITY	153	11	0	0
IL			PRINCETON MUNCIPAL ELECTRIC UTILITY	153	11	0	0
IL			PRINCETON MUNCIPAL ELECTRIC UTILITY	153	11	0	0
IL			PRINCETON MUNCIPAL ELECTRIC UTILITY	153	11	0	0
IL			QUAD CITIES STATION—CORDOVA	8,415	591	1	0
IL			RANTOUL ELECT GENERATING PLANT	38,250	2,684	3	2
IL			RANTOUL ELECT GENERATING PLANT	41,310	2,899	3	2
IL			RANTOUL ELECT GENERATING PLANT	90,270	6,335	6	4
IL			RANTOUL ELECT GENERATING PLANT	160,344	11,252	11	8
IL			ROCHELLE MUNICIPAL DIESEL PLANT	306	21	0	0
IL			ROCHELLE MUNICIPAL DIESEL PLANT	459	32	0	0
IL			ROCHELLE MUNICIPAL DIESEL PLANT	7,038	494	0	0
IL			ROCHELLE MUNICIPAL DIESEL PLANT	11,169	784	1	1
IL			ROCHELLE/SOUTH MAIN STREET	459	32	0	0
IL			ROCHELLE/SOUTH MAIN STREET	765	54	0	0

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
IL			ROCK RIVER DIV HEADQUARTERS	6,732	472	0	0
IL			ST LOUIS AUTO SHREDDING INC	11,934	837	1	1
IL			STALLIINGS	153	11	0	0
IL			STALLIINGS	153	11	0	0
IL			STALLIINGS	153	11	0	0
IL			STALLIINGS	153	11	0	0
IL			SULLIVAN ELECTRIC UTILITY	612	43	0	0
IL			SULLIVAN ELECTRIC UTILITY	1,071	75	0	0
IL			SULLIVAN ELECTRIC UTILITY	1,377	97	0	0
IL			SULLIVAN ELECTRIC UTILITY	2,142	150	0	0
IL			U.O.P. CO.	16,218	1,138	1	1
IL	897	1	VERMILION	623,436	56,779	44	40
IL	897	2	VERMILION	1,112,049	98,568	78	70
IL			WASTE MANAGEMENT OF IL—MIDWAY LAN	1,530	107	0	0
IL			WATERLOO CITY LIGHT PLANT	153	11	0	0
IL	883	17	WAUKEGAN	2,836,176	246,624	200	174
IL	883	7	WAUKEGAN	7,481,751	769,490	528	544
IL	883	8	WAUKEGAN	8,846,311	906,291	624	641
IL			WHITE COUNTY COAL CORP—MINE #1	306	21	0	0
IL	884	1	WILL COUNTY	4,419,934	448,588	312	317
IL	884	2	WILL COUNTY	4,350,027	456,025	307	322
IL	884	3	WILL COUNTY	5,839,114	615,875	412	435
IL	884	4	WILL COUNTY	9,697,974	1,029,181	684	727
IL	898	4	WOOD RIVER	2,014,967	187,998	142	133
IL	898	5	WOOD RIVER	7,180,169	719,312	507	508
IN	6137	1	A B BROWN	6,035,177	573,141	468	440
IN	6137	2	A B BROWN	6,871,738	668,782	533	514
IN	6137	—4	A B BROWN	151,668	11,831	12	9
IN	7336	—ACT1	ANDERSON	67,856	4,762	5	4
IN	7336	—ACT2	ANDERSON	67,856	4,762	5	4
IN	995	7	BAILLY	5,354,149	546,509	415	420
IN	995	8	BAILLY	9,260,589	976,032	719	749
IN	1011	—2	BROADWAY	123,242	9,337	10	7
IN	1001	1	CAYUGA	15,657,595	1,562,790	1,215	1,200
IN	1001	2	CAYUGA	14,571,660	1,475,761	1,131	1,133
IN	1001	—4	CAYUGA	345,558	28,110	27	22
IN	1001	5	CAYUGA	149,834	11,351	12	9
IN	983	1	CLIFTY CREEK	7,379,559	784,475	573	602
IN	983	2	CLIFTY CREEK	7,176,300	784,209	557	602
IN	983	3	CLIFTY CREEK	7,063,406	756,334	548	581
IN	983	4	CLIFTY CREEK	6,798,235	732,253	527	562
IN	983	5	CLIFTY CREEK	7,400,261	783,096	574	601
IN	983	6	CLIFTY CREEK	6,727,925	706,863	522	543
IN		1	CONNERSVILLE	16,083	1,129	1	1
IN		2	CONNERSVILLE	16,083	1,129	1	1
IN	996	11	DEAN H MITCHELL	2,287,384	227,941	177	175
IN	996	4	DEAN H MITCHELL	1,842,510	182,734	143	140
IN	996	5	DEAN H MITCHELL	3,177,761	322,092	247	247
IN	996	6	DEAN H MITCHELL	2,600,547	268,430	202	206
IN	990	10	ELMER W STOUT	13,560	1,279	1	1
IN	990	50	ELMER W STOUT	2,415,760	232,374	187	178
IN	990	60	ELMER W STOUT	2,335,827	224,685	181	173
IN	990	70	ELMER W STOUT	9,783,680	941,100	759	723
IN	990	9	ELMER W STOUT	15,792	1,490	1	1
IN	990	—GT4	ELMER W STOUT	78,478	5,945	6	5
IN	990	—GT5	ELMER W STOUT	88,946	6,738	7	5
IN	1012	1	F B CULLEY	669,903	64,414	52	49
IN	1012	2	F B CULLEY	2,593,129	221,257	201	170
IN	1012	3	F B CULLEY	9,584,920	941,544	744	723
IN	1043	1SG1	FRANK E RATTS	3,258,718	337,971	253	260
IN	1043	2SG1	FRANK E RATTS	3,187,585	328,482	247	252
IN	1008	1	GALLAGHER	3,831,362	370,968	297	285
IN	1008	2	GALLAGHER	3,401,395	335,476	264	258
IN	1008	3	GALLAGHER	4,528,750	444,605	351	341
IN	1008	4	GALLAGHER	4,244,584	410,978	329	316
IN	6113	1	GIBSON	19,606,094	2,037,632	1,521	1,565
IN	6113	2	GIBSON	18,199,182	1,859,906	1,412	1,428
IN	6113	3	GIBSON	16,865,898	1,708,977	1,309	1,312
IN	6113	4	GIBSON	16,654,069	1,680,532	1,292	1,290
IN	6113	5	GIBSON	20,380,811	2,015,308	1,581	1,547
IN	991	1	H T PRITCHARD	17,262	1,628	1	1
IN	991	2	H T PRITCHARD	20,009	1,888	2	1
IN	991	3	H T PRITCHARD	658,621	63,329	51	49
IN	991	4	H T PRITCHARD	896,604	77,817	70	60
IN	991	5	H T PRITCHARD	870,970	75,592	68	58
IN	991	6	H T PRITCHARD	2,568,694	222,938	199	171

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
IN	6213	1SG1	MEROM	16,068,534	1,640,316	1,247	1,260
IN	6213	2SG1	MEROM	19,329,452	1,986,175	1,500	1,525
IN	997	12	MICHIGAN CITY	11,955,128	1,210,523	928	930
IN	997	4	MICHIGAN CITY	202,787	19,131	16	15
IN	997	5	MICHIGAN CITY	125,850	11,873	10	9
IN	997	6	MICHIGAN CITY	193,869	18,289	15	14
IN	1007	1	NOBLESVILLE	348,522	33,512	27	26
IN	1007	2	NOBLESVILLE	363,142	34,917	28	27
IN	1007	3	NOBLESVILLE	385,596	37,077	30	28
IN	994	1	PETERSBURG	7,083,983	684,575	550	526
IN	994	2	PETERSBURG	14,305,783	1,382,468	1,110	1,062
IN	994	3	PETERSBURG	16,278,783	1,573,133	1,263	1,208
IN	994	4	PETERSBURG	16,288,351	1,574,058	1,264	1,209
IN	7335	—RCT1	RICHMOND	67,490	4,736	5	4
IN	7335	—RCT2	RICHMOND	67,490	4,736	5	4
IN	6166	MB1	ROCKPORT	43,122,887	4,412,903	3,346	3,389
IN	6166	MB2	ROCKPORT	45,949,908	4,683,032	3,565	3,596
IN	6085	14	SCHAHFER	12,148,297	1,235,336	943	949
IN	6085	15	SCHAHFER	14,443,963	1,443,963	1,121	1,109
IN	6085	—16A	SCHAHFER	147,909	11,205	11	9
IN	6085	—16B	SCHAHFER	145,983	11,059	11	8
IN	6085	17	SCHAHFER	10,147,542	1,031,150	787	792
IN	6085	18	SCHAHFER	9,033,005	925,987	701	711
IN	981	3	STATE LINE	4,973,309	527,225	386	405
IN	981	4	STATE LINE	5,883,063	631,027	456	485
IN	988	U1	TANNERS CREEK	3,131,631	325,770	243	250
IN	988	U2	TANNERS CREEK	3,098,674	328,493	240	252
IN	988	U3	TANNERS CREEK	4,041,085	434,899	314	334
IN	988	U4	TANNERS CREEK	11,950,298	1,394,271	927	1,071
IN	1010	1	WABASH RIVER	851,343	94,804	66	73
IN	1010	2	WABASH RIVER	1,727,253	167,046	134	128
IN	1010	3	WABASH RIVER	1,705,031	163,067	132	125
IN	1010	4	WABASH RIVER	2,662,911	254,678	207	196
IN	1010	5	WABASH RIVER	1,897,229	176,536	147	136
IN	1010	6	WABASH RIVER	7,024,392	683,706	545	525
IN	6705	1	WARRICK	3,774,805	362,962	293	279
IN	6705	2	WARRICK	3,986,462	383,314	309	294
IN	6705	3	WARRICK	4,055,995	390,000	315	299
IN	6705	4	WARRICK	11,135,585	1,098,184	864	843
IN	1040	1	WHITEWATER VALLEY	971,576	93,421	75	72
IN	1040	2	WHITEWATER VALLEY	1,877,419	168,122	146	129
KY	1353	BSU1	BIG SANDY	7,613,037	812,057	609	655
KY	1353	BSU2	BIG SANDY	22,241,768	2,407,118	1,781	1,942
KY	1363	4	CANE RUN	4,925,774	444,084	394	358
KY	1363	5	CANE RUN	4,304,294	417,487	345	337
KY	1363	6	CANE RUN	5,587,828	543,616	447	439
KY	1384	1	COOPER	2,306,853	231,658	185	187
KY	1384	2	COOPER	4,882,718	478,651	391	386
KY	6823	W1	D B WILSON	14,381,701	1,449,768	1,151	1,170
KY	1385	3	DALE	1,906,453	159,723	153	129
KY	1385	4	DALE	1,935,939	164,202	155	132
KY	1355	1	E W BROWN	2,464,832	222,357	197	179
KY	1355	2	E W BROWN	4,028,960	405,859	323	327
KY	1355	3	E W BROWN	10,080,565	954,870	807	770
KY	1355	5	E W BROWN	188,516	14,282	15	12
KY	1355	6	E W BROWN	188,516	14,282	15	12
KY	1355	7	E W BROWN	188,516	14,282	15	12
KY	6018	2	EAST BEND	19,048,549	1,915,390	1,525	1,545
KY	1374	1	ELMER SMITH	5,140,226	513,099	412	414
KY	1374	2	ELMER SMITH	9,068,247	1,021,659	726	824
KY	1356	2	GHENT	13,610,812	1,345,607	1,090	1,086
KY	1356	3	GHENT	13,909,380	1,328,372	1,114	1,072
KY	1356	4	GHENT	14,120,228	1,415,846	1,130	1,142
KY	1357	1	GREEN RIVER	312,489	30,047	25	24
KY	1357	2	GREEN RIVER	313,882	30,181	25	24
KY	1357	3	GREEN RIVER	300,246	28,870	24	23
KY	1357	4	GREEN RIVER	2,445,115	199,422	196	161
KY	1357	5	GREEN RIVER	2,133,890	190,356	171	154
KY	6041	1	H L SPURLOCK	9,369,673	933,792	750	753
KY	6041	2	H L SPURLOCK	19,888,084	2,012,964	1,592	1,624
KY	1372	6	HENDERSON I	424,577	40,825	34	33
KY	1382	H1	HMP&L STATION 2	4,765,405	466,282	382	376
KY	1382	H2	HMP&L STATION 2	5,002,527	490,925	400	396
KY	1381	C1	K C COLEMAN	4,738,308	471,005	379	380
KY	1381	C2	K C COLEMAN	5,366,408	527,411	430	426
KY	1381	C3	K C COLEMAN	4,937,546	480,306	395	388

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
KY	1364	1	MILL CREEK	7,116,202	701,035	570	566
KY	1364	2	MILL CREEK	7,466,807	706,749	598	570
KY	1364	3	MILL CREEK	12,691,840	1,234,015	1,016	996
KY	1364	4	MILL CREEK	14,102,495	1,387,495	1,129	1,119
KY	1378	1	PARADISE	21,860,472	2,197,916	1,750	1,773
KY	1378	2	PARADISE	24,632,519	2,476,626	1,972	1,998
KY	1378	3	PARADISE	27,629,156	2,743,437	2,212	2,213
KY	1360	3	PINEVILLE	588,364	56,573	47	46
KY	1383	R1	R A REID	462,060	41,072	37	33
KY	6639	G1	R D GREEN	8,342,047	809,122	668	653
KY	6639	G2	R D GREEN	7,435,113	714,228	595	576
KY	1379	1	SHAWNEE	4,299,562	426,671	344	344
KY	1379	10	SHAWNEE	10,578,503	993,473	847	802
KY	1379	2	SHAWNEE	4,324,438	429,139	346	346
KY	1379	3	SHAWNEE	4,428,585	439,475	355	355
KY	1379	4	SHAWNEE	4,240,262	420,786	339	339
KY	1379	5	SHAWNEE	4,409,569	437,587	353	353
KY	1379	6	SHAWNEE	7,296,781	724,102	584	584
KY	1379	7	SHAWNEE	8,781,086	871,399	703	703
KY	1379	8	SHAWNEE	5,000,057	496,185	400	400
KY	1379	9	SHAWNEE	5,884,725	583,976	471	471
KY	6071	1	TRIMBLE COUNTY	16,103,567	1,599,321	1,289	1,290
KY	1361	1	TYRONE	35,370	3,337	3	3
KY	1361	3	TYRONE	35,800	3,377	3	3
KY	1361	4	TYRONE	36,606	3,453	3	3
KY	1361	5	TYRONE	1,019,264	82,685	82	67
MA	50002	CC__(*)	ALTRESCO (PITTSFIELD) (*)	1,121,457	131,936	114	130
MA	50002	CS__(*)	ALTRESCO (PITTSFIELD) (*)	587,755	69,148	60	68
MA	1619	1	BRAYTON POINT	7,692,885	785,068	783	773
MA	1619	2	BRAYTON POINT	7,497,386	790,530	763	778
MA	1619	3	BRAYTON POINT	18,238,259	2,030,082	1,857	1,999
MA	1619	4	BRAYTON POINT	5,455,025	511,969	555	504
MA	1599	1	CANAL	11,606,453	1,290,897	1,182	1,271
MA	1599	2	CANAL	10,108,445	1,024,989	1,029	1,009
MA	1682	8	CLEARY FLOOD	80,600	6,037	8	6
MA	1682	9	CLEARY FLOOD	902,365	102,170	92	101
MA	52026	CA__(*)	DARTMOUTH POWER ASSOC (*)	741,248	66,779	75	66
MA	10029	1	GE COMPANY AIRCRAFT ENGIN	61,457	4,656	6	5
MA	54586	CC__gia	L'ENERGIA	876,770	78,988	89	78
MA	10802	1	LOWELL COGENERATION PLANT	155,520	10,914	16	11
MA	10726	CC__to)	MASS POWER (MONSANTO)	1,586,869	186,690	162	184
MA	10726	CW__to)	MASS POWER (MONSANTO)	549,347	64,629	56	64
MA	n89	CC__r 1	MASS POWER 1	304,660	27,447	31	27
MA	n90	CC__r 2	MASS POWER 2	304,660	27,447	31	27
MA	1606	1	MOUNT TOM	4,711,387	490,616	480	483
MA	1588	4	MYSTIC	1,376,669	139,452	140	137
MA	1588	5	MYSTIC	648,038	60,132	66	59
MA	1588	6	MYSTIC	2,194,462	222,539	223	219
MA	1588	7	MYSTIC	11,802,193	1,229,779	1,202	1,211
MA	1589	1	NEW BOSTON	8,789,339	902,674	895	889
MA	1589	2	NEW BOSTON	9,365,437	952,643	954	938
MA	n91	CC__& 2	NORTHEAST ENERGY ASSO 1 &	3,296,081	387,774	336	382
MA	10522	CC__(*)	PEPPERELL (*)	376,614	33,929	38	33
MA	1660	—CC2	POTTER STATION 2	548,078	49,376	56	49
MA	1626	1	SALEM HARBOR	2,754,313	264,711	280	261
MA	1626	2	SALEM HARBOR	3,089,594	291,471	315	287
MA	1626	3	SALEM HARBOR	5,059,490	490,641	515	483
MA	1626	4	SALEM HARBOR	6,294,731	594,123	641	585
MA	1613	8	SOMERSET	3,209,854	294,293	327	290
MA	6081	—1	STONY BROOK	90,418	6,850	9	7
MA	6081	—2	STONY BROOK	90,418	6,850	9	7
MA	6081	—CT1	STONY BROOK	614,254	55,338	63	54
MA	6081	—CT2	STONY BROOK	614,254	55,338	63	54
MA	6081	—CT3	STONY BROOK	614,254	55,338	63	54
MA	6081	—CW1	STONY BROOK	944,989	111,175	96	109
MA	1678	—2	WATERS RIVER	42,566	3,733	4	4
MA	1642	3	WEST SPRINGFIELD	2,006,248	196,210	204	193
MD	10483	ST NUG	BETHLEHEM STEEL NUG	3,625,254	342,005	342	313
MD	602	1	BRANDON SHORES	21,502,167	2,151,938	2,029	1,971
MD	602	2	BRANDON SHORES	21,147,845	2,102,171	1,995	1,925
MD	1552	1	C P CRANE	5,355,147	524,244	505	480
MD	1552	2	C P CRANE	5,060,998	496,371	477	455
MD	1571	1	CHALK POINT	9,223,252	993,029	870	909
MD	1571	2	CHALK POINT	9,516,601	1,033,739	898	947
MD	1571	3	CHALK POINT	3,368,279	316,836	318	290
MD	1571	4	CHALK POINT	4,729,925	448,632	446	411

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
MD	1571	—GT2	CHALK POINT	12,553	881	1	1
MD	1571	—GT3	CHALK POINT	95,860	8,206	9	8
MD	1571	—GT4	CHALK POINT	98,058	8,394	9	8
MD	1571	—GT5	CHALK POINT	167,177	15,561	16	14
MD	1571	—SGT1	CHALK POINT	293,306	22,220	28	20
MD	1572	1	DICKERSON	5,087,240	538,048	480	493
MD	1572	2	DICKERSON	5,102,377	540,392	481	495
MD	1572	3	DICKERSON	5,232,608	564,772	494	517
MD	1572	—GT2	DICKERSON	134,534	12,841	13	12
MD	1572	—GT3	DICKERSON	338,557	32,314	32	30
MD	1580	1	EASTON	66,212	7,790	6	7
MD	1553	3	GOULD STREET	584,029	51,766	55	47
MD	1554	1	HERBERT A WAGNER	782,492	68,382	74	63
MD	1554	2	HERBERT A WAGNER	4,261,160	425,350	402	390
MD	1554	3	HERBERT A WAGNER	7,769,439	849,583	733	778
MD	1554	4	HERBERT A WAGNER	1,818,482	165,512	172	152
MD	1573	1	MORGANTOWN	14,211,706	1,571,049	1,341	1,439
MD	1573	2	MORGANTOWN	15,148,826	1,673,164	1,429	1,532
MD	1573	—GT3	MORGANTOWN	106,208	7,453	10	7
MD	1573	—GT4	MORGANTOWN	107,406	7,537	10	7
MD	1573	—GT5	MORGANTOWN	108,314	7,601	10	7
MD	1573	—GT6	MORGANTOWN	96,013	6,738	9	6
MD	1556	—GT1	PERRYMAN	51,532	3,616	5	3
MD	1556	—GT2	PERRYMAN	58,312	4,092	6	4
MD	1556	—GT3	PERRYMAN	36,459	2,558	3	2
MD	1556	—GT4	PERRYMAN	56,510	3,966	5	4
MD	1570	11	R P SMITH	1,374,337	138,836	130	127
MD	1570	9	R P SMITH	87,168	8,381	8	8
MD	1559	4	RIVERSIDE	302,110	26,943	29	25
MD	1559	—GT6	RIVERSIDE	74,446	5,224	7	5
MD	1564	8	VIENNA	1,495,451	137,601	141	126
MD	1560	—GT5	WESTPORT	214,627	15,062	20	14
MI	7268	—7	491 E. 48TH STREET	7,914	660	1	0
MI	7268	—8	491 E. 48TH STREET	13,441	1,120	1	1
MI	10819	CA_Ltd	ADA COGEN LTD	318,649	28,707	24	21
MI	1695	4	B C COBB	4,719,074	480,313	349	344
MI	1695	5	B C COBB	4,419,640	448,694	327	321
MI	6034	1	BELLE RIVER	21,840,775	2,211,948	1,615	1,584
MI	6034	2	BELLE RIVER	23,002,097	2,343,566	1,701	1,678
MI	1702	1	DAN E KARN	6,515,728	696,944	482	499
MI	1702	2	DAN E KARN	7,211,347	773,584	533	554
MI	1702	3	DAN E KARN	2,601,938	239,193	192	171
MI	1702	4	DAN E KARN	2,725,268	227,732	202	163
MI	1831	1	ECKERT STATION	495,985	47,691	37	34
MI	1831	2	ECKERT STATION	335,803	30,561	25	22
MI	1831	3	ECKERT STATION	587,998	53,866	43	39
MI	1831	4	ECKERT STATION	988,838	92,718	73	66
MI	1831	5	ECKERT STATION	1,121,036	103,027	83	74
MI	1831	6	ECKERT STATION	1,340,375	124,732	99	89
MI	1832	1	ERICKSON	5,079,491	526,863	376	377
MI	6035	1	GREENWOOD	1,565,824	164,685	116	118
MI	1731	1	HARBOR BEACH	768,833	74,818	57	54
MI	1825	3	J B SIMS	1,749,713	158,863	129	114
MI	1720	7	J C WEADOCK	4,214,462	426,565	312	305
MI	1720	8	J C WEADOCK	4,265,849	432,028	315	309
MI	1710	1	J H CAMPBELL	6,547,409	700,108	484	501
MI	1710	2	J H CAMPBELL	8,517,252	903,879	630	647
MI	1710	3	J H CAMPBELL	21,544,630	2,314,387	1,593	1,657
MI	1723	1	J R WHITING	2,881,534	285,413	213	204
MI	1723	2	J R WHITING	2,627,628	262,947	194	188
MI	1723	3	J R WHITING	3,273,683	325,869	242	233
MI	1830	5	JAMES DE YOUNG	915,620	73,250	68	52
MI	n100	CA_act	MCV CONTRACT	10,055,262	1,182,972	744	847
MI	10745	1	MIDLAND COGENERATION VENT	5,869,080	444,627	434	318
MI	1822	5	MISTERSKY	460,030	43,399	34	31
MI	1822	6	MISTERSKY	1,473,716	127,429	109	91
MI	1822	7	MISTERSKY	1,315,382	111,237	97	80
MI	1733	1	MONROE	23,198,275	2,547,022	1,716	1,824
MI	1733	2	MONROE	21,371,974	2,310,733	1,581	1,654
MI	1733	3	MONROE	17,719,325	1,928,949	1,310	1,381
MI	1733	4	MONROE	17,764,880	1,924,481	1,314	1,378
MI	1769	2	PRESQUE ISLE	282,822	27,194	21	19
MI	1769	3	PRESQUE ISLE	1,283,250	120,504	95	86
MI	1769	4	PRESQUE ISLE	1,217,723	114,351	90	82
MI	1769	5	PRESQUE ISLE	2,646,645	250,392	196	179
MI	1769	6	PRESQUE ISLE	2,753,661	260,517	204	187

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
MI	1769	7	PRESQUE ISLE	2,993,352	260,314	221	186
MI	1769	8	PRESQUE ISLE	3,044,818	264,790	225	190
MI	1769	9	PRESQUE ISLE	2,837,888	246,794	210	177
MI	1740	1	RIVER ROUGE	1,200,116	130,235	89	93
MI	1740	2	RIVER ROUGE	8,017,458	871,747	593	624
MI	1740	3	RIVER ROUGE	8,515,077	937,268	630	671
MI	10272	1	ROUGE POWERHOUSE #1	3,189,437	300,890	236	215
MI	1843	3	SHIRAS	1,360,969	113,084	101	81
MI	1743	1	ST CLAIR	4,264,532	437,119	315	313
MI	1743	2	ST CLAIR	4,042,244	401,375	299	287
MI	1743	3	ST CLAIR	4,704,277	470,287	348	337
MI	1743	4	ST CLAIR	4,400,916	453,796	325	325
MI	1743	5	ST CLAIR	1,519,120	154,523	112	111
MI	1743	6	ST CLAIR	8,503,976	886,200	629	634
MI	1743	7	ST CLAIR	9,260,458	964,029	685	690
MI	50835	ST__ity	T.E.S. FILER CITY	1,306,965	123,299	97	88
MI	1745	16	TRENTON CHANNEL	1,431,549	130,545	106	93
MI	1745	17	TRENTON CHANNEL	1,420,802	136,616	105	98
MI	1745	18	TRENTON CHANNEL	1,322,166	120,570	98	86
MI	1745	19	TRENTON CHANNEL	1,365,139	131,263	101	94
MI	1745	9A	TRENTON CHANNEL	12,981,225	1,372,948	960	983
MI	1866	7	WYANDOTTE	1,115,053	100,176	82	72
MO	2076	1	ASBURY	6,415,029	567,702	465	426
MO	2132	3	BLUE VALLEY	430,039	41,350	31	31
MO	2169	2	CHAMOIS	1,523,956	139,263	110	104
MO	2122	—GT1	CHILLICOTHE	71,595	5,024	5	4
MO	2122	—GT2	CHILLICOTHE	71,595	5,024	5	4
MO	2123	7	COLUMBIA	394,045	39,229	29	29
MO	6223	—1	EMPIRE ENERGY CENTER	179,036	13,563	13	10
MO	6223	—2	EMPIRE ENERGY CENTER	179,036	13,563	13	10
MO	6074	—4	GREENWOOD ENERGY CTR	111,179	8,423	8	6
MO	2079	5	HAWTHORN	10,761,377	1,042,971	779	782
MO	6065	1	IATAN	22,356,034	2,298,585	1,619	1,723
MO	2161	**GT2	JAMES RIVER	289,660	21,944	21	16
MO	2161	3	JAMES RIVER	1,188,818	114,309	86	86
MO	2161	4	JAMES RIVER	1,709,250	164,351	124	123
MO	2161	5	JAMES RIVER	2,951,438	283,792	214	213
MO	2161	—GT1	JAMES RIVER	1,393,758	125,564	101	94
MO	2103	1	LABADIE	14,988,473	1,455,474	1,085	1,091
MO	2103	2	LABADIE	15,775,674	1,531,916	1,142	1,148
MO	2103	3	LABADIE	18,159,252	1,763,377	1,315	1,322
MO	2103	4	LABADIE	16,185,316	1,571,695	1,172	1,178
MO	2098	5	LAKE ROAD	1,557,840	141,409	113	106
MO	2098	—5	LAKE ROAD	1,335,767	126,016	97	94
MO	2098	6	LAKE ROAD	1,996,600	179,228	145	134
MO	2104	1	MERAMEC	1,667,729	131,909	121	99
MO	2104	2	MERAMEC	1,737,211	137,405	126	103
MO	2104	3	MERAMEC	2,079,846	164,506	151	123
MO	2104	4	MERAMEC	3,782,385	299,168	274	224
MO	6650	—1	MEXICO	112,520	8,524	8	6
MO	6651	—1	MOBERLY	112,520	8,524	8	6
MO	2080	1	MONTROSE	4,826,186	421,317	349	316
MO	2080	2	MONTROSE	4,658,606	424,939	337	319
MO	2080	3	MONTROSE	4,940,056	462,076	358	346
MO	6652	—1	MOREAU	112,520	8,524	8	6
MO	2167	1	NEW MADRID	17,470,625	1,738,371	1,265	1,303
MO	2167	2	NEW MADRID	18,334,306	1,824,309	1,328	1,368
MO	2092	—GT1	RALPH GREEN	129,485	9,809	9	7
MO	6155	1	RUSH ISLAND	17,761,120	1,742,653	1,286	1,306
MO	6155	2	RUSH ISLAND	17,280,487	1,695,495	1,251	1,271
MO	2094	1	SIBLEY	1,456,245	125,538	105	94
MO	2094	2	SIBLEY	1,473,607	139,020	107	104
MO	2094	3	SIBLEY	10,522,347	1,084,778	762	813
MO	6768	1	SIKESTON	9,450,790	895,810	684	672
MO	2107	1	SIOUX	10,860,579	1,004,493	786	753
MO	2107	2	SIOUX	10,688,852	988,610	774	741
MO	6195	1	SOUTHWEST	6,345,132	610,109	459	457
MO	6195	—2	SOUTHWEST	87,505	6,629	6	5
MO	6195	—GT1	SOUTHWEST	87,505	6,629	6	5
MO	7296	—1	STATELINE	200,888	15,219	15	11
MO	2168	MB1	THOMAS HILL	6,124,730	603,422	443	452
MO	2168	MB2	THOMAS HILL	8,842,764	879,877	640	660
MO	2168	MB3	THOMAS HILL	22,827,071	2,271,350	1,653	1,703
MO	50969	1	UNIVERSITY OF MISSOURI—CO	411	39	0	0
NC	2706	1	ASHEVILLE	6,457,822	681,420	524	528
NC	2706	2	ASHEVILLE	6,300,506	661,818	511	513

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
NC	8042	1	BELEWS CREEK	27,520,035	3,056,084	2,233	2,367
NC	8042	2	BELEWS CREEK	34,358,912	3,802,447	2,788	2,945
NC	2720	5	BUCK	673,727	64,781	55	50
NC	2720	6	BUCK	579,519	55,723	47	43
NC	2720	7	BUCK	703,911	67,684	57	52
NC	2720	8	BUCK	3,428,909	328,786	278	255
NC	2720	9	BUCK	3,583,849	343,544	291	266
NC	1016	—1	BUTLER WARNER GEN PL	524,574	47,259	43	37
NC	1016	—2	BUTLER WARNER GEN PL	526,516	47,434	43	37
NC	1016	—3	BUTLER WARNER GEN PL	522,524	47,074	42	36
NC	1016	—6	BUTLER WARNER GEN PL	556,187	50,107	45	39
NC	1016	—7	BUTLER WARNER GEN PL	528,459	47,609	43	37
NC	1016	—8	BUTLER WARNER GEN PL	528,459	47,609	43	37
NC	1016	—9	BUTLER WARNER GEN PL	1,351,896	121,792	110	94
NC	2708	5	CAPE FEAR	3,248,898	338,568	264	262
NC	2708	6	CAPE FEAR	4,656,544	503,791	378	390
NC	2721	1	CLIFFSIDE	537,878	51,719	44	40
NC	2721	2	CLIFFSIDE	688,755	66,226	56	51
NC	2721	3	CLIFFSIDE	773,399	59,233	63	46
NC	2721	4	CLIFFSIDE	929,143	70,071	75	54
NC	2721	5	CLIFFSIDE	12,329,411	1,241,883	1,000	962
NC	10380	ST__OWN	COGENTRIX ELIZABETHTOWN	901,695	85,066	73	66
NC	10381	ST__LLE	COGENTRIX KENANSVILLE	901,695	85,066	73	66
NC	10382	ST__TON	COGENTRIX LUMBERTON	901,695	85,066	73	66
NC	10379	ST__ORO	COGENTRIX ROXBORO	1,388,705	131,010	113	101
NC	10378	ST__ORT	COGENTRIX SOUTHPORT	2,748,984	259,338	223	201
NC	10525	ST__RGY	CRAVEN COUNTY WOOD ENERGY	3,035,837	286,400	246	222
NC	2723	1	DAN RIVER	1,279,030	96,874	104	75
NC	2723	2	DAN RIVER	1,276,869	106,441	104	82
NC	2723	3	DAN RIVER	2,946,742	274,601	239	213
NC	2718	1	G G ALLEN	3,428,222	329,099	278	255
NC	2718	2	G G ALLEN	4,045,742	380,060	328	294
NC	2718	3	G G ALLEN	6,731,538	674,909	546	523
NC	2718	4	G G ALLEN	6,178,650	628,614	501	487
NC	2718	5	G G ALLEN	5,611,834	579,555	455	449
NC	2713	1	L V SUTTON	1,890,914	167,604	153	130
NC	2713	2	L V SUTTON	2,204,273	212,953	179	165
NC	2713	3	L V SUTTON	8,616,341	897,255	699	695
NC	2709	1	LEE	1,613,150	151,555	131	117
NC	2709	2	LEE	1,528,041	141,958	124	110
NC	2709	3	LEE	4,977,693	527,354	404	408
NC	7277	1	LINCOLN	194,033	15,796	16	12
NC	7277	10	LINCOLN	136,184	10,813	11	8
NC	7277	11	LINCOLN	152,253	12,525	12	10
NC	7277	12	LINCOLN	125,731	10,186	10	8
NC	7277	13	LINCOLN	109,354	8,284	9	6
NC	7277	14	LINCOLN	105,132	7,965	9	6
NC	7277	15	LINCOLN	104,102	7,887	8	6
NC	7277	16	LINCOLN	95,106	7,205	8	6
NC	7277	2	LINCOLN	171,449	13,856	14	11
NC	7277	3	LINCOLN	162,933	13,209	13	10
NC	7277	4	LINCOLN	158,799	12,859	13	10
NC	7277	5	LINCOLN	146,360	11,812	12	9
NC	7277	6	LINCOLN	152,529	12,241	12	9
NC	7277	7	LINCOLN	164,582	13,136	13	10
NC	7277	8	LINCOLN	148,870	11,828	12	9
NC	7277	9	LINCOLN	129,158	10,353	10	8
NC	2727	1	MARSHALL	11,833,890	1,281,695	960	993
NC	2727	2	MARSHALL	12,362,967	1,334,373	1,003	1,033
NC	2727	3	MARSHALL	20,893,735	2,350,516	1,695	1,821
NC	2727	4	MARSHALL	20,093,891	2,224,006	1,630	1,723
NC	6250	1A	MAYO	16,130,087	1,687,954	1,309	1,307
NC	6250	1B	MAYO	9,275,573	970,654	753	752
NC	50555	CT__ary	PANDA—ROSEMARY	1,775,698	208,906	144	162
NC	50555	CW__ary	PANDA—ROSEMARY	875,010	102,942	71	80
NC	2732	10	RIVERBEND	2,853,031	279,134	232	216
NC	2732	7	RIVERBEND	2,152,165	193,836	175	150
NC	2732	8	RIVERBEND	2,040,229	182,228	166	141
NC	2732	9	RIVERBEND	2,739,141	264,243	222	205
NC	2712	1	ROXBORO	9,164,977	989,311	744	766
NC	2712	2	ROXBORO	18,766,344	2,004,737	1,523	1,553
NC	2712	3A	ROXBORO	10,378,439	1,094,195	842	847
NC	2712	3B	ROXBORO	10,143,786	1,069,456	823	828
NC	2712	4A	ROXBORO	9,067,144	957,460	736	742
NC	2712	4B	ROXBORO	9,124,169	963,481	740	746
NC	50509	CW__INC	TEXASGULF INC	674,329	60,750	55	47

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
NC	50221	ST__lle	TOBACCOVILLE	1,159,307	109,369	94	85
NC	54276	ST__ill	UNC—CHAPEL HILL	180,339	17,013	15	13
NC	2716	1	W H WEATHERSPOON	708,133	68,090	57	53
NC	2716	2	W H WEATHERSPOON	839,668	80,737	68	63
NC	2716	3	W H WEATHERSPOON	1,840,705	177,674	149	138
NJ	2378	1	B L ENGLAND	4,173,971	421,613	391	382
NJ	2378	2	B L ENGLAND	4,925,509	497,526	461	451
NJ	2378	3	B L ENGLAND	897,904	87,175	84	79
NJ	2397	1	BAYONNE	70,640	4,957	7	4
NJ	2397	2	BAYONNE	70,640	4,957	7	4
NJ	2399	105	BURLINGTON	828,394	74,630	78	68
NJ	2399	7	BURLINGTON	205,362	20,243	19	18
NJ	10566	ST__NUG	CCLP NUG	5,949,938	561,315	557	509
NJ	50006	CT__DEN	COGEN TECH—LINDEN	6,506,951	765,524	609	694
NJ	50006	CW__DEN	COGEN TECH—LINDEN	4,254,517	500,531	398	454
NJ	5083	—GT1	CUMBERLAND	160,902	12,190	15	11
NJ	2384	1	DEEPWATER	494,926	46,691	46	42
NJ	2384	4	DEEPWATER	4,528	427	0	0
NJ	2384	6	DEEPWATER	487,149	45,957	46	42
NJ	2384	8	DEEPWATER	2,233,052	216,801	209	196
NJ	2400	1–4A	EDISON	70,640	4,957	7	4
NJ	2400	1–4B	EDISON	70,640	5,352	7	5
NJ	2400	2–1A	EDISON	70,640	5,352	7	5
NJ	2400	2–1B	EDISON	70,640	5,352	7	5
NJ	2400	2–2A	EDISON	70,640	5,352	7	5
NJ	2400	2–2B	EDISON	70,640	5,352	7	5
NJ	2400	2–3A	EDISON	70,640	5,352	7	5
NJ	2400	2–3B	EDISON	70,640	5,352	7	5
NJ	2400	2–4A	EDISON	70,640	5,352	7	5
NJ	2400	2–4B	EDISON	70,640	5,352	7	5
NJ	2400	3–1A	EDISON	70,640	5,352	7	5
NJ	7138	—1	FORKED RIVER	65,107	4,569	6	4
NJ	7138	—2	FORKED RIVER	65,107	4,569	6	4
NJ	2393	03	GILBERT	549,971	51,884	51	47
NJ	2393	04	GILBERT	725,741	71,827	68	65
NJ	2393	05	GILBERT	718,266	71,087	67	64
NJ	2393	06	GILBERT	712,321	70,499	67	64
NJ	2393	07	GILBERT	693,803	68,666	65	62
NJ	2393	—4	GILBERT	624,436	56,256	58	51
NJ	2393	—5	GILBERT	624,436	56,256	58	51
NJ	2393	—6	GILBERT	649,956	58,555	61	53
NJ	2393	—7	GILBERT	624,436	56,256	58	51
NJ	2393	CT	GILBERT	149,451	11,322	14	10
NJ	2393	CT	GILBERT	149,451	11,322	14	10
NJ	2403	1	HUDSON	2,064,525	196,921	193	178
NJ	2403	2	HUDSON	10,284,116	1,082,994	963	981
NJ	n111	ST__NUG	KCS NUG	5,251,399	495,415	492	449
NJ	2404	7	KEARNY	254,120	25,185	24	23
NJ	2404	8	KEARNY	137,711	13,734	13	12
NJ	2406	11	LINDEN	191,246	18,326	18	17
NJ	2406	12	LINDEN	129,348	12,394	12	11
NJ	2406	13	LINDEN	241,488	23,140	23	21
NJ	2406	2	LINDEN	413,906	40,977	39	37
NJ	2408	1	MERCER	4,742,300	501,406	444	454
NJ	2408	2	MERCER	5,329,094	588,850	499	534
NJ	n114	CT__NUG	MOBIL NUG	472,302	42,550	44	39
NJ	7140	CC	NA 2—7140	2,803,715	329,849	262	299
NJ	n115	GT__NUG	PCLP NUG	191,525	14,509	18	13
NJ	2390	07	SAYREVILLE	475,112	40,990	44	37
NJ	2390	08	SAYREVILLE	566,046	47,257	53	43
NJ	2411	1	SEWAREN	356,963	32,179	33	29
NJ	2411	2	SEWAREN	346,637	29,119	32	26
NJ	2411	3	SEWAREN	663,913	61,857	62	56
NJ	2411	4	SEWAREN	972,633	94,165	91	85
NJ	n116	GT__1	SMECO	138,720	10,509	13	10
NJ	54807	GT__NUG	VINELAND VCLP NUG	76,754	5,815	7	5
NJ	2385	04	WERNER	165,304	15,595	15	14
NJ		1		5,479,965	644,702	513	584
NY	2503	114	59TH STREET	753,380	60,415	57	45
NY	2503	115	59TH STREET	611,825	49,064	46	37
NY	2503	GT1	59TH STREET	9,250	649	1	0
NY	2504	120	74TH STREET	649,914	63,344	49	48
NY	2504	121	74TH STREET	1,092,255	106,458	82	80
NY	2504	122	74TH STREET	1,094,077	106,635	82	80
NY	2504	GT1	74TH STREET	50	4	0	0
NY	2504	GT2	74TH STREET	50	4	0	0

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
NY	2539	1	ALBANY	873,788	84,018	66	63
NY	2539	2	ALBANY	1,226,877	117,969	92	89
NY	2539	3	ALBANY	1,440,506	138,510	109	104
NY	2539	4	ALBANY	733,021	70,483	55	53
NY	n120	1	AMERICAN BRASS	1,400,238	126,148	105	95
NY	n121	1	ANITEC	752,975	52,840	57	40
NY	2490	20	ARTHUR KILL	7,458,261	803,952	562	604
NY	2490	30	ARTHUR KILL	5,212,390	582,325	393	438
NY	2490	GT1	ARTHUR KILL	12,450	874	1	1
NY	8906	40	ASTORIA	8,441,166	887,050	636	667
NY	8906	50	ASTORIA	8,377,051	830,809	631	624
NY	8906	GT1	ASTORIA	29,250	2,053	2	2
NY	8906	GT10	ASTORIA	20,800	1,460	2	1
NY	8906	GT11	ASTORIA	20,800	1,460	2	1
NY	8906	GT12	ASTORIA	20,750	1,456	2	1
NY	8906	GT13	ASTORIA	20,750	1,456	2	1
NY	8906	GT2–1	ASTORIA	138,200	9,698	10	7
NY	8906	GT2–2	ASTORIA	138,200	9,698	10	7
NY	8906	GT2–3	ASTORIA	138,200	9,698	10	7
NY	8906	GT2–4	ASTORIA	138,150	9,695	10	7
NY	8906	GT3–1	ASTORIA	138,150	9,695	10	7
NY	8906	GT3–2	ASTORIA	138,150	9,695	10	7
NY	8906	GT3–3	ASTORIA	138,150	9,695	10	7
NY	8906	GT3–4	ASTORIA	138,150	9,695	10	7
NY	8906	GT4–1	ASTORIA	138,150	9,695	10	7
NY	8906	GT4–2	ASTORIA	138,150	9,695	10	7
NY	8906	GT4–3	ASTORIA	138,150	9,695	10	7
NY	8906	GT4–4	ASTORIA	138,150	9,695	10	7
NY	8906	GT5	ASTORIA	20,850	1,463	2	1
NY	8906	GT7	ASTORIA	20,850	1,463	2	1
NY	8906	GT8	ASTORIA	20,850	1,463	2	1
NY	8906	GT9	ASTORIA	20,850	1,463	2	1
NY	2625	1	BOWLINE POINT	11,471,865	1,188,179	864	893
NY	2625	2	BOWLINE POINT	5,071,722	502,101	382	377
NY	25496	3	C R HUNTLEY	1,720,724	165,454	130	124
NY	25496	4	C R HUNTLEY	1,980,448	190,428	149	143
NY	25496	5	C R HUNTLEY	2,127,327	204,551	160	154
NY	25496	6	C R HUNTLEY	2,109,123	202,800	159	152
NY	25496	7	C R HUNTLEY	6,327,954	608,457	477	457
NY	25496	8	C R HUNTLEY	6,424,113	617,703	484	464
NY	10190	1	CETI FORT ORANGE	1,359,587	122,485	102	92
NY	2491	001	CHARLES POLETTI	13,671,196	1,393,882	1,030	1,047
NY	2480	1	DANSKAMMER	386,587	36,471	29	27
NY	2480	2	DANSKAMMER	662,648	62,514	50	47
NY	2480	3	DANSKAMMER	3,748,001	360,385	282	271
NY	2480	4	DANSKAMMER	5,975,388	574,557	450	432
NY	2554	1	DUNKIRK	3,158,348	303,687	238	228
NY	2554	2	DUNKIRK	2,827,332	271,859	213	204
NY	2554	3	DUNKIRK	4,429,898	425,952	334	320
NY	2554	4	DUNKIRK	5,327,881	512,296	401	385
NY	2511	10	E F BARRETT	4,766,731	458,340	359	344
NY	2511	20	E F BARRETT	4,804,972	462,017	362	347
NY	2493	50	EAST RIVER	2,946,262	277,949	222	209
NY	2493	60	EAST RIVER	3,398,132	295,130	256	222
NY	2493	70	EAST RIVER	1,571,481	157,970	118	119
NY	n130	1	ENRGY INIT-ONDGA	1,293,731	116,552	97	88
NY	2513	40	FAR ROCKAWAY	2,213,857	208,854	167	157
NY	10464	1	FORT DRUM	1,333,783	125,829	100	95
NY	n132	1	GAS ALTERNATIVES	1,160,279	104,530	87	79
NY	2514	40	GLENWOOD	2,406,229	227,003	181	171
NY	2514	50	GLENWOOD	1,862,067	175,667	140	132
NY	2526	13	GOUDEY	2,958,418	304,615	223	229
NY		GT1–1	GOWANUS	35,825	2,514	3	2
NY		GT1–2	GOWANUS	35,825	2,514	3	2
NY		GT1–3	GOWANUS	35,825	2,514	3	2
NY		GT1–4	GOWANUS	35,825	2,514	3	2
NY		GT1–5	GOWANUS	35,825	2,514	3	2
NY		GT1–6	GOWANUS	35,825	2,514	3	2
NY		GT1–7	GOWANUS	35,825	2,514	3	2
NY		GT1–8	GOWANUS	35,825	2,514	3	2
NY		GT2–1	GOWANUS	35,875	2,518	3	2
NY		GT2–2	GOWANUS	35,875	2,518	3	2
NY		GT2–3	GOWANUS	35,825	2,514	3	2
NY		GT2–4	GOWANUS	35,875	2,518	3	2
NY		GT2–5	GOWANUS	35,875	2,518	3	2
NY		GT2–6	GOWANUS	35,875	2,518	3	2

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
NY		GT2–7	GOWANUS	35,875	2,518	3	2
NY		GT2–8	GOWANUS	35,875	2,518	3	2
NY		GT3–1	GOWANUS	35,825	2,514	3	2
NY		GT3–2	GOWANUS	35,825	2,514	3	2
NY		GT3–3	GOWANUS	35,825	2,514	3	2
NY		GT3–4	GOWANUS	35,825	2,514	3	2
NY		GT3–5	GOWANUS	35,825	2,514	3	2
NY		GT3–6	GOWANUS	35,825	2,514	3	2
NY		GT3–7	GOWANUS	35,825	2,514	3	2
NY		GT3–8	GOWANUS	35,825	2,514	3	2
NY		GT4–1	GOWANUS	35,825	2,514	3	2
NY		GT4–2	GOWANUS	35,825	2,514	3	2
NY		GT4–3	GOWANUS	35,825	2,514	3	2
NY		GT4–4	GOWANUS	35,825	2,514	3	2
NY		GT4–5	GOWANUS	35,825	2,514	3	2
NY		GT4–6	GOWANUS	35,825	2,514	3	2
NY		GT4–7	GOWANUS	35,825	2,514	3	2
NY		GT4–8	GOWANUS	35,825	2,514	3	2
NY	2527	4	GREENIDGE	97,546	9,379	7	7
NY	2527	5	GREENIDGE	91,780	8,825	7	7
NY	2527	6	GREENIDGE	2,929,270	305,450	221	230
NY	2529	3	HICKLING	41,894	71,336	56	54
NY	2529	4	HICKLING	706,180	67,902	53	51
NY	2496	100	HUDSON AVENUE	2,443,411	230,511	184	173
NY	2496	71	HUDSON AVENUE	375,025	26,318	28	20
NY	2496	72	HUDSON AVENUE	375,025	26,318	28	20
NY	2496	81	HUDSON AVENUE	375,025	26,318	28	20
NY	2496	82	HUDSON AVENUE	375,025	26,318	28	20
NY	2496	GT1	HUDSON AVENUE	12,700	891	1	1
NY	2496	GT2	HUDSON AVENUE	12,800	898	1	1
NY	2496	GT3	HUDSON AVENUE	12,700	891	1	1
NY	54076	1	INDECK—OLEAN	885,587	79,783	67	60
NY	50450	1	INDECK—OSWEGO	1,122,189	101,098	85	76
NY	50451	6	INDECK/YERKES	749,551	67,527	56	51
NY	50459	1	INDECK-ILION	546,152	49,203	41	37
NY	50449	CT__SPR	INDECK-SILVER SPR	1,096,720	98,804	83	74
NY	50449	CW__SPR	INDECK-SILVER SPR	200,548	18,067	15	14
NY		GT1	INDIAN POINT	21,100	1,481	2	1
NY		GT2	INDIAN POINT	21,100	1,481	2	1
NY		GT3	INDIAN POINT	27,150	1,905	2	1
NY	2531	1	JENNISON	243,674	23,430	18	18
NY	2531	2	JENNISON	250,674	24,103	19	18
NY	2531	3	JENNISON	346,396	33,307	26	25
NY	2531	4	JENNISON	363,717	34,973	27	26
NY	n14	3CC__IRK	JMC-SELKIRK	1,224,755	110,338	92	83
NY	10620	1	KAMINE-CARTHAGE	928,270	83,628	70	63
NY	n145	1	KAMINE-GOUVNR	307,042	27,661	23	21
NY	10618	1	KAMINE-S GLENS FL	920,156	82,897	69	62
NY	6082	1	KINTIGH	19,171,661	2,086,598	1,444	1,568
NY	n147	1	L.C.P. CHEMICAL	554,080	49,917	42	38
NY	54041	CT__PR	LOCKPORT COGEN PR	1,595,458	187,701	120	141
NY	54041	CW__PR	LOCKPORT COGEN PR	1,228,525	144,532	93	109
NY	2629	3	LOVETT	1,042,213	108,169	79	81
NY	2629	4	LOVETT	5,081,891	521,808	383	392
NY	2629	5	LOVETT	5,821,325	536,725	439	403
NY	54592	1	MASSENA ENRG FAC	1,820,093	214,129	137	161
NY	2535	1	MILLIKEN	4,379,423	458,290	330	344
NY	2535	2	MILLIKEN	4,980,801	526,734	375	396
NY	n155	1	MRA CANTON	965,559	86,987	73	65
NY		GT1–1	NARROWS	104,875	7,360	8	6
NY		GT1–2	NARROWS	104,875	7,360	8	6
NY		GT1–3	NARROWS	104,875	7,360	8	6
NY		GT1–4	NARROWS	104,925	7,363	8	6
NY		GT1–5	NARROWS	104,925	7,363	8	6
NY		GT1–6	NARROWS	104,925	7,363	8	6
NY		GT1–7	NARROWS	104,925	7,363	8	6
NY		GT1–8	NARROWS	104,925	7,363	8	6
NY		GT2–1	NARROWS	104,925	7,363	8	6
NY		GT2–2	NARROWS	104,925	7,363	8	6
NY		GT2–3	NARROWS	104,925	7,363	8	6
NY		GT2–4	NARROWS	104,925	7,363	8	6
NY		GT2–5	NARROWS	104,925	7,363	8	6
NY		GT2–6	NARROWS	104,925	7,363	8	6
NY		GT2–7	NARROWS	104,925	7,363	8	6
NY		GT2–8	NARROWS	104,925	7,363	8	6
NY	n156	1	NESTLES	1,061,226	95,606	80	72

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
NY	2516	1	NORTHPORT	4,203,823	396,587	317	298
NY	2516	2	NORTHPORT	8,438,205	796,057	636	598
NY	2516	3	NORTHPORT	4,214,290	397,575	317	299
NY	2516	4	NORTHPORT	9,740,685	918,933	734	691
NY	2594	3	OSWEGO	14,034,179	1,403,418	1,057	1,055
NY	2594	6	OSWEGO	2,119,991	211,999	160	159
NY	54131	1	OXBOW/OCCIDENTAL	975,327	87,867	73	66
NY	2517	3	PORT JEFFERSON	3,801,379	365,517	286	275
NY	2517	4	PORT JEFFERSON	3,522,971	338,747	265	255
NY	2500	10	RAVENSWOOD	4,996,240	507,696	376	382
NY	2500	20	RAVENSWOOD	6,076,960	642,521	458	483
NY	2500	30	RAVENSWOOD	18,214,290	1,965,076	1,372	1,477
NY	2500	A1	RAVENSWOOD	184,113	12,920	14	10
NY	2500	A2	RAVENSWOOD	184,113	12,920	14	10
NY	2500	A3	RAVENSWOOD	184,113	12,920	14	10
NY	2500	A4	RAVENSWOOD	184,113	12,920	14	10
NY	2500	GT1	RAVENSWOOD	50	4	0	0
NY	2500	GT10	RAVENSWOOD	24,450	1,716	2	1
NY	2500	GT11	RAVENSWOOD	24,450	1,716	2	1
NY	2500	GT2–1	RAVENSWOOD	49,450	3,470	4	3
NY	2500	GT2–2	RAVENSWOOD	49,450	3,470	4	3
NY	2500	GT2–3	RAVENSWOOD	49,450	3,470	4	3
NY	2500	GT2–4	RAVENSWOOD	49,450	3,470	4	3
NY	2500	GT3–1	RAVENSWOOD	49,425	3,468	4	3
NY	2500	GT3–2	RAVENSWOOD	49,425	3,468	4	3
NY	2500	GT3–3	RAVENSWOOD	49,425	3,468	4	3
NY	2500	GT3–4	RAVENSWOOD	49,425	3,468	4	3
NY	2500	GT4	RAVENSWOOD	10,400	730	1	1
NY	2500	GT5	RAVENSWOOD	10,400	730	1	1
NY	2500	GT6	RAVENSWOOD	12,650	888	1	1
NY	2500	GT7	RAVENSWOOD	12,650	888	1	1
NY	2500	GT8	RAVENSWOOD	24,500	1,719	2	1
NY	2500	GT9	RAVENSWOOD	24,450	1,716	2	1
NY	n163	CC__PRO	RENNSLR COGEN PRO	768,893	69,270	58	52
NY	7314	NA1	RICHARD M FLYNN	3,984,856	468,807	300	352
NY	7314	NA2	RICHARD M FLYNN	416,190	37,495	31	28
NY	2640	12	ROCHESTER 3	1,829,750	194,571	138	146
NY	2642	1	ROCHESTER 7	1,068,791	102,768	81	77
NY	2642	2	ROCHESTER 7	1,565,479	150,166	118	113
NY	2642	3	ROCHESTER 7	1,706,369	165,186	129	124
NY	2642	4	ROCHESTER 7	2,105,925	224,728	159	169
NY	8006	2	ROSETON	8,971,513	897,151	676	674
NY	50651	1	SALT CITY ENERGY	2,992,250	282,288	225	212
NY	54574	1	SARANAC ENERGY CO	2,702,186	317,904	204	239
NY	54574	2	SARANAC ENERGY CO	2,200,892	258,928	166	195
NY	10725	2	SELKIRK	2,527,299	297,329	190	223
NY	10725	3	SELKIRK	2,350,443	276,523	177	208
NY	54593	1	SENECA PWR (OATKA)	1,238,728	111,597	93	84
NY	n170	1	SITHE GT 1	4,163,470	489,820	314	368
NY	n171	2	SITHE GT 2	4,163,470	489,820	314	368
NY	n172	1	SITHE STM 1	4,351,465	511,937	328	385
NY	n173	2	SITHE STM 2	4,351,465	511,937	328	385
NY	50744	1	STERLING POWR LTD	876,658	66,413	66	50
NY	50292	1A	TBG-GRUMMAN	638,783	57,548	48	43
NY	52056	4	TRIGEN-NDEC	1,038,844	98,004	78	74
NY	50202	1	UDG/NIAGARA	1,432,269	135,120	108	102
NY	n182	CT__V.)	US GEN (OLD RIV.)	1,572,572	141,673	118	106
NY	7146	1	WADING RIVER	148,605	11,258	11	8
NY	7146	2	WADING RIVER	148,605	11,258	11	8
NY	7146	3	WADING RIVER	148,605	11,258	11	8
NY	2502	51	WATERSIDE	47,565	4,487	4	3
NY	2502	52	WATERSIDE	48,589	4,584	4	3
NY	2502	61	WATERSIDE	1,173,263	110,685	88	83
NY	2502	62	WATERSIDE	1,248,953	117,826	94	89
NY	2502	80	WATERSIDE	3,482,508	328,538	262	247
NY	2502	90	WATERSIDE	3,482,508	328,538	262	247
NY	2502	GT1	WATERSIDE	0	0	0	0
NY	50405	CT__SSE	YORK WARBASSE	213,063	19,195	16	14
NY	50405	CW__SSE	YORK-WARBASSE	37,622	3,389	3	3
OH	2835	10	ASHTABULA	1,098,131	85,718	79	59
OH	2835	11	ASHTABULA	1,176,319	91,821	85	64
OH	2835	7	ASHTABULA	4,550,476	470,236	329	325
OH	2835	8	ASHTABULA	1,018,961	79,538	74	55
OH	2835	9	ASHTABULA	960,698	74,990	70	52
OH	2836	10	AVON LAKE	2,038,597	177,563	148	123
OH	2836	12	AVON LAKE	15,236,399	1,676,540	1,103	1,160

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
OH	2836	9	AVON LAKE	594,325	50,508	43	35
OH	2878	1	BAY SHORE	3,043,524	328,887	220	228
OH	2878	2	BAY SHORE	3,293,657	348,240	238	241
OH	2878	3	BAY SHORE	3,102,716	335,465	225	232
OH	2878	4	BAY SHORE	4,399,348	483,339	318	334
OH	2828	1	CARDINAL	14,226,732	1,607,540	1,030	1,112
OH	2828	2	CARDINAL	15,856,794	1,785,072	1,147	1,235
OH	2828	3	CARDINAL	15,180,469	1,564,191	1,099	1,082
OH	2840	1	CONESVILLE	2,771,211	263,473	201	182
OH	2840	2	CONESVILLE	2,969,788	290,671	215	201
OH	2840	3	CONESVILLE	2,549,626	247,081	185	171
OH	2840	4	CONESVILLE	14,758,742	1,565,250	1,068	1,083
OH	2840	5	CONESVILLE	8,165,942	810,676	591	561
OH	2840	6	CONESVILLE	10,207,769	987,307	739	683
OH		1	DICKS CREEK	103,267	7,247	7	5
OH	2837	1	EASTLAKE	2,765,418	276,791	200	191
OH	2837	2	EASTLAKE	3,040,161	314,651	220	218
OH	2837	3	EASTLAKE	3,168,531	333,109	229	230
OH	2837	4	EASTLAKE	5,169,221	547,355	374	379
OH	2837	5	EASTLAKE	12,045,077	1,346,119	872	931
OH	2857	13	EDGEWATER	489,049	46,589	35	32
OH	2847	GT3	FRANK M TAIT	161,909	12,266	12	8
OH	8102	1	GEN J M GAVIN	40,188,042	4,171,047	2,908	2,885
OH	8102	2	GEN J M GAVIN	41,834,670	4,421,802	3,027	3,059
OH	2917	9	HAMILTON	1,207,309	97,797	87	68
OH	2850	1	J M STUART	14,907,495	1,589,116	1,079	1,099
OH	2850	2	J M STUART	17,977,541	1,962,185	1,301	1,357
OH	2850	3	J M STUART	15,142,093	1,616,018	1,096	1,118
OH	2850	4	J M STUART	15,822,987	1,703,411	1,145	1,178
OH	6031	2	KILLEN STATION	23,914,733	2,561,287	1,731	1,772
OH	2876	1	KYGER CREEK	6,892,031	755,374	499	523
OH	2876	2	KYGER CREEK	6,891,443	745,101	499	515
OH	2876	3	KYGER CREEK	7,001,472	750,104	507	519
OH	2876	4	KYGER CREEK	6,391,704	681,782	463	472
OH	2876	5	KYGER CREEK	6,661,287	717,811	482	497
OH	2838	18	LAKE SHORE	2,044,475	216,989	148	150
OH	10244	1	MEAD-FINE PAPER DIVISION	3,264,035	247,275	236	171
OH	2832	5–1	MIAMI FORT	238,988	22,980	17	16
OH	2832	5–2	MIAMI FORT	238,988	22,980	17	16
OH	2832	6	MIAMI FORT	4,348,442	461,863	315	320
OH	2832	7	MIAMI FORT	15,289,678	1,545,349	1,106	1,069
OH	2832	8	MIAMI FORT	14,621,880	1,508,810	1,058	1,044
OH	2832	CT2	MIAMI FORT	19,021	1,441	1	1
OH	2872	1	MUSKINGUM RIVER	3,945,004	417,549	285	289
OH	2872	2	MUSKINGUM RIVER	4,618,739	491,198	334	340
OH	2872	3	MUSKINGUM RIVER	4,491,616	466,225	325	323
OH	2872	4	MUSKINGUM RIVER	4,911,646	537,379	355	372
OH	2872	5	MUSKINGUM RIVER	16,181,850	1,783,517	1,171	1,234
OH	2861	1	NILES	3,039,955	293,772	220	203
OH	2861	2	NILES	1,890,626	184,631	137	128
OH	2848	H–1	O H HUTCHINGS	274,817	22,229	20	15
OH	2848	H–2	O H HUTCHINGS	349,295	28,472	25	20
OH	2848	H–3	O H HUTCHINGS	794,644	77,731	58	54
OH	2848	H–4	O H HUTCHINGS	782,165	76,160	57	53
OH	2848	H–5	O H HUTCHINGS	810,661	80,735	59	56
OH	2848	H–6	O H HUTCHINGS	833,389	80,653	60	56
OH	2935	13	ORRVILLE	864,346	62,103	63	43
OH	2843	9	PICWAY	2,044,023	184,495	148	128
OH	2864	1	R E BURGER	167,575	16,113	12	11
OH	2864	2	R E BURGER	142,969	13,747	10	10
OH	2864	3	R E BURGER	122,673	11,795	9	8
OH	2864	4	R E BURGER	50,113	4,819	4	3
OH	2864	5	R E BURGER	202,074	19,430	15	13
OH	2864	6	R E BURGER	193,661	18,621	14	13
OH	2864	7	R E BURGER	4,456,156	418,890	322	290
OH	2864	8	R E BURGER	4,017,193	381,102	291	264
OH	7286	1	RICHARD GORSUCH	2,135,351	192,652	155	133
OH	7286	2	RICHARD GORSUCH	1,854,152	178,284	134	123
OH	7286	3	RICHARD GORSUCH	2,050,742	185,235	148	128
OH	7286	4	RICHARD GORSUCH	2,045,416	196,675	148	136
OH	2866	1	W H SAMMIS	5,405,594	563,611	391	390
OH	2866	2	W H SAMMIS	5,662,986	567,206	410	392
OH	2866	3	W H SAMMIS	5,855,268	619,343	424	428
OH	2866	4	W H SAMMIS	5,314,213	537,386	385	372
OH	2866	5	W H SAMMIS	9,236,018	962,286	668	666
OH	2866	6	W H SAMMIS	17,880,061	1,901,325	1,294	1,315

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
OH	2866	7	W H SAMMIS	16,613,419	1,749,333	1,202	1,210
OH	6019	1	W H ZIMMER	42,732,125	4,487,726	3,092	3,105
OH	2830	1	WALTER C BECKJORD	1,981,394	193,118	143	134
OH	2830	2	WALTER C BECKJORD	2,504,459	255,401	181	177
OH	2830	4	WALTER C BECKJORD	4,487,860	483,085	325	334
OH	2830	5	WALTER C BECKJORD	6,320,856	656,099	457	454
OH	2830	6	WALTER C BECKJORD	12,195,684	1,259,885	883	872
OH	2830	CT1	WALTER C BECKJORD	48,631	3,413	4	2
OH	2830	CT2	WALTER C BECKJORD	48,892	3,431	4	2
OH	2830	CT3	WALTER C BECKJORD	52,763	3,703	4	3
OH	2830	CT4	WALTER C BECKJORD	34,330	2,409	2	2
OH	7158	—GT1	WOODSDALE	356,991	28,457	26	20
OH	7158	—GT2	WOODSDALE	350,509	27,940	25	19
OH	7158	—GT3	WOODSDALE	388,436	30,963	28	21
OH	7158	—GT4	WOODSDALE	367,016	29,256	27	20
OH	7158	—GT5	WOODSDALE	404,361	32,233	29	22
OH	7158	—GT6	WOODSDALE	395,892	31,558	29	22
PA	10676	ST__ley	AES BEAVER VALLEY	3,421,790	322,810	274	253
PA	50279	1	ARCHBALD POWER	1,408,480	98,841	113	78
PA	3178	1	ARMSTRONG	4,811,406	473,937	386	372
PA	3178	2	ARMSTRONG	5,037,239	536,276	404	421
PA	6094	1	BRUCE MANSFIELD	21,390,698	2,166,585	1,716	1,700
PA	6094	2	BRUCE MANSFIELD	21,064,812	2,148,813	1,690	1,686
PA	6094	3	BRUCE MANSFIELD	21,549,874	2,305,292	1,728	1,808
PA	3140	1	BRUNNER ISLAND	7,419,682	794,994	595	624
PA	3140	2	BRUNNER ISLAND	9,670,357	1,068,784	776	838
PA	3140	3	BRUNNER ISLAND	20,738,335	2,283,455	1,663	1,791
PA	10641	1	CAMBRIA COGEN	1,841,698	173,745	148	136
PA	10641	2	CAMBRIA COGEN	1,883,698	177,707	151	139
PA	8226	1	CHESWICK	15,086,514	1,533,962	1,210	1,203
PA	3118	1	CONEMAUGH	29,200,485	3,177,419	2,342	2,492
PA	3118	2	CONEMAUGH	24,102,490	2,622,687	1,933	2,057
PA	10870	CW__NUG	CONTINENTAL COGEN NUG	882,161	103,784	71	81
PA	3159	1	CROMBY	4,546,839	439,223	365	345
PA	3159	2	CROMBY	2,065,179	209,302	166	164
PA	3160	71	DELAWARE	711,493	70,313	57	55
PA	3160	81	DELAWARE	753,207	64,598	60	51
PA	10603	1	EBENSBURG POWER	2,195,697	211,125	176	166
PA	3161	1	EDDYSTONE	7,618,327	758,798	611	595
PA	3161	2	EDDYSTONE	8,533,347	859,783	684	674
PA	3161	3	EDDYSTONE	1,611,083	148,173	129	116
PA	3161	4	EDDYSTONE	2,093,154	189,804	168	149
PA	3098	1	ELRAMA	2,821,678	233,776	226	183
PA	3098	2	ELRAMA	2,355,589	191,247	189	150
PA	3098	3	ELRAMA	2,802,309	257,992	225	202
PA	3098	4	ELRAMA	5,460,730	520,764	438	408
PA	10343	AB__NUG	FOSTER WHEELER MT. CARMEL	984,307	92,859	79	73
PA	01011	AB__NUG	GILBERTON POWER NUG	2,938,728	277,238	236	217
PA	3110	1—3	GPT GENCO HUNTERSTOWN	0	0	0	0
PA	3199	1—2	GPU GENCO BENTON	0	0	0	0
PA	3109	1	GPU GENCO HAMILTON	0	0	0	0
PA	3111	1—2	GPU GENCO MOUNTAIN	0	0	0	0
PA	3112	1	GPU GENCO ORTANNA	0	0	0	0
PA	3114	1	GPU GENCO SHAWNEE	0	0	0	0
PA	3120	1	GPU GENCO TIOGA	0	0	0	0
PA	3116	1—2	GPU GENCO TOLNA	0	0	0	0
PA	3134	1	GPU GENCO WAYNE	0	0	0	0
PA	54785	1—3	GRAYS FERRY PROJECT	0	0	0	0
PA	3179	1	HATFIELD'S FERRY	15,310,890	1,600,888	1,228	1,256
PA	3179	2	HATFIELD'S FERRY	19,368,646	2,104,144	1,553	1,651
PA	3179	3	HATFIELD'S FERRY	14,202,486	1,547,617	1,139	1,214
PA	3145	17	HOLTWOOD	3,106,258	246,665	249	193
PA	3122	1	HOMER CITY	19,827,390	2,093,927	1,590	1,643
PA	3122	2	HOMER CITY	20,699,247	2,187,156	1,660	1,716
PA	3122	3	HOMER CITY	18,602,194	1,901,482	1,492	1,492
PA	3176	6	HUNLOCK PWR STATION	1,764,784	133,980	142	105
PA	3136	1	KEYSTONE	28,703,322	3,021,402	2,302	2,370
PA	3136	2	KEYSTONE	28,430,610	2,992,696	2,280	2,348
PA	3157	10	KIMBERLY-CLARK	0	0	0	0
PA	3148	1	MARTINS CREEK	4,229,014	384,211	339	301
PA	3148	2	MARTINS CREEK	3,949,723	360,804	317	283
PA	3148	3	MARTINS CREEK	3,869,537	408,740	310	321
PA	3148	4	MARTINS CREEK	4,010,953	425,475	322	334
PA	52149	1	MERCK SHARP & DOHME	0	0	0	0
PA	3181	1	MITCHELL	75,203	7,095	6	6
PA	3181	3	MITCHELL	45,707	4,312	4	3

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
PA	3181	33	MITCHELL	5,833,720	592,436	468	465
PA	3149	1	MONTOUR	18,421,287	2,017,666	1,477	1,583
PA	3149	2	MONTOUR	21,572,636	2,426,345	1,730	1,903
PA	3138	3	NEW CASTLE	2,045,707	197,177	164	155
PA	3138	4	NEW CASTLE	2,265,637	211,485	182	166
PA	3138	5	NEW CASTLE	3,307,970	318,105	265	250
PA	54571	CC__AB)	NORCON(FALC SEAB)	1,087,345	97,959	87	77
PA	50888	1	NORTHAMPTION GENERATING	2,906,127	274,163	233	215
PA	50039		NORTHEASTERN POWER	2,530,021	238,681	203	187
PA	50776	1	PANTHER CREEK	1,158,239	109,268	93	86
PA	50776	2	PANTHER CREEK	1,163,341	109,749	93	86
PA	880008	1—2	PECO ENERGY	0	0	0	0
PA	8012	11	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	12	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	21	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	22	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	31	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	32	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	41	PECO ENERGY CROYDEN	0	0	0	0
PA	8012	42	PECO ENERGY CROYDEN	0	0	0	0
PA	50731	3	PECO ENERGY FAIRLESS HILLS	0	0	0	0
PA	3168	91	PECO ENERGY RICHMOND	0	0	0	0
PA	3168	92	PECO ENERGY RICHMOND	0	0	0	0
PA	3170	3—6	PECO ENERGY SOUTHWARK	0	0	0	0
PA	n218	CC__PER	PENNTECH PAPER	617,031	55,588	49	44
PA	54144	1	PINEY CREEK	0	0	0	0
PA	3113	1	PORTLAND	3,585,481	337,870	288	265
PA	3113	2	PORTLAND	4,573,152	441,254	367	346
PA	3113	4	PORTLAND	1,570,979	184,821	126	145
PA	3113	—5	PORTLAND	150,505	11,402	12	9
PA	3139	1—4	PP&L ALLENTOWN	0	0	0	0
PA	3142	1—2	PP&L FISHBACK	0	0	0	0
PA	3143	1—4	PP&L HARRISBURG	0	0	0	0
PA	3144	1—2	PP&L HARWOOD	0	0	0	0
PA	3146	1—2	PP&L JENKINS	0	0	0	0
PA	3154	1—2	PP&L WEST SHORE	0	0	0	0
PA	3155	1—2	PP&L WILLIAMSPORT	0	0	0	0
PA	3169	1	SCHUYLKILL	1,025,090	97,721	82	77
PA	880010	1	SCHUYLKILL ENERGY RESOURCES	3,891,284	367,102	312	288
PA	50607	AB__NUG	SCHUYLKILL STATION (TURBI	9,441,744	890,731	757	699
PA	50974	1	SCRUBGRASS GENERATING PLANT	2,730,403	257,585	219	202
PA	50974	2	SCRUBGRASS GENERATING PLANT	1,630,792	156,807	131	123
PA	3130	12	SEWARD	859,296	82,625	69	65
PA	3130	14	SEWARD	976,355	93,880	78	74
PA	3130	15	SEWARD	4,658,271	467,416	374	367
PA	3131	1	SHAWVILLE	3,979,027	379,896	319	298
PA	3131	2	SHAWVILLE	3,819,973	364,432	306	286
PA	3131	3	SHAWVILLE	4,979,445	499,042	399	391
PA	3131	4	SHAWVILLE	5,056,822	506,797	406	398
PA	880013	1—6	SOLAR TURBINES	0	0	0	0
PA	3152	3	SUNBURY	3,548,941	303,692	285	238
PA	3152	4	SUNBURY	3,884,437	372,394	312	292
PA	3115	1	TITUS	1,942,834	189,176	156	148
PA	3115	2	TITUS	2,007,778	193,018	161	151
PA	3115	3	TITUS	1,918,450	182,866	154	143
PA	88000 6	1—4	TRIGEN ENERGY SANSOM	0	0	0	0
PA		1	VIKING ENERGY NORTHUMBERLAND	0	0	0	0
PA	3132	1	WARREN	576,001	55,385	46	43
PA	3132	2	WARREN	385,366	37,054	31	29
PA	3132	3	WARREN	543,134	44,208	44	35
PA	3132	4	WARREN	564,080	54,238	45	43
PA	50867	1—2	WASHINGTON POWER COMPANY	0	0	0	0
PA	50611	AB__NUG	WESTWOOD ENERGY PROPERTIE	12,527,355	879,113	1,005	690
PA	50879	AB__NUG	WHEELABRATOR FRACKVILLE E	2,058,812	144,478	165	113
RI		1	JEPSON	1,282	90	0	0
RI		2	JEPSON	1,249	88	0	0
RI		3	JEPSON	1,042	73	0	0
RI		4	JEPSON	1,281	90	0	0
RI	3236	10	MANCHESTER STREET	4,223,753	398,467	136	120
RI	3236	11	MANCHESTER STREET	4,020,769	379,318	130	114
RI	3236	9	MANCHESTER STREET	3,739,441	352,777	121	106
RI	51030	CC__(*)	OCEAN STATE 1 (*)	9,189,307	1,081,095	297	326
RI	54324	CC__(*)	OCEAN STATE 2 (*)	9,189,307	1,081,095	297	326
RI	54056	CC__(*)	PAWTUCKET POWER (*)	2,433,886	219,269	79	66
TN	3393	1	ALLEN	6,894,770	713,301	578	584
TN	3393	2	ALLEN	7,326,410	757,957	614	621

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
TN	3393	3	ALLEN	7,556,678	781,779	633	641
TN	3396	1	BULL RUN	21,275,985	2,389,755	1,783	1,958
TN	3399	1	CUMBERLAND	51,385,046	5,284,353	4,307	4,330
TN	3399	2	CUMBERLAND	55,332,549	5,690,307	4,637	4,662
TN	3403	1	GALLATIN	6,970,897	734,707	584	602
TN	3403	2	GALLATIN	6,860,771	723,100	575	592
TN	3403	3	GALLATIN	6,984,817	728,192	585	597
TN	3403	4	GALLATIN	7,834,299	816,753	657	669
TN	3405	1	JOHN SEVIER	5,853,636	615,266	491	504
TN	3405	2	JOHN SEVIER	5,858,042	615,729	491	504
TN	3405	3	JOHN SEVIER	6,184,144	650,005	518	533
TN	3405	4	JOHN SEVIER	6,114,293	642,663	512	527
TN	3406	1	JOHNSONVILLE	3,724,159	323,840	312	265
TN	3406	10	JOHNSONVILLE	3,681,387	351,412	309	288
TN	3406	2	JOHNSONVILLE	3,749,100	326,009	314	267
TN	3406	3	JOHNSONVILLE	3,666,648	318,839	307	261
TN	3406	4	JOHNSONVILLE	3,679,462	319,953	308	262
TN	3406	5	JOHNSONVILLE	3,640,648	322,753	305	264
TN	3406	6	JOHNSONVILLE	3,719,286	329,724	312	270
TN	3406	7	JOHNSONVILLE	4,680,922	446,823	392	366
TN	3406	8	JOHNSONVILLE	4,133,749	394,592	346	323
TN	3406	9	JOHNSONVILLE	4,006,336	382,430	336	313
TN	3407	1	KINGSTON	4,432,856	448,715	372	368
TN	3407	2	KINGSTON	4,515,371	457,068	378	374
TN	3407	3	KINGSTON	4,047,180	409,675	339	336
TN	3407	4	KINGSTON	4,494,642	454,969	377	373
TN	3407	5	KINGSTON	6,137,914	632,449	514	518
TN	3407	6	KINGSTON	5,842,656	602,025	490	493
TN	3407	7	KINGSTON	5,678,568	585,118	476	479
TN	3407	8	KINGSTON	5,801,972	597,833	486	490
TN	3407	9	KINGSTON	5,689,108	586,204	477	480
VA	3796	3	BREMO BLUFF	1,756,163	158,241	163	143
VA	3796	4	BREMO BLUFF	4,959,806	506,568	459	457
VA	3803	1	CHESAPEAK	3,461,324	334,137	320	302
VA	3803	2	CHESAPEAK	3,444,719	343,407	319	310
VA	3803	3	CHESAPEAK	4,744,776	499,555	439	451
VA	3803	4	CHESAPEAK	7,270,201	775,488	673	700
VA	10017	ST—rp.	CHESAPEAK CORP.	751,025	70,851	70	64
VA	3797	3	CHESTERFIELD	2,394,580	216,000	222	195
VA	3797	4	CHESTERFIELD	4,636,999	497,799	429	449
VA	3797	5	CHESTERFIELD	9,875,438	1,104,759	914	997
VA	3797	6	CHESTERFIELD	17,283,476	1,781,985	1,600	1,608
VA	3797	—8	CHESTERFIELD	1,701,065	153,249	157	138
VA	3775	1	CLINCH RIVER	6,480,271	723,406	600	653
VA	3775	2	CLINCH RIVER	6,272,239	678,300	581	612
VA	3775	3	CLINCH RIVER	7,143,953	798,564	661	721
VA	7213	1	CLOVER	9,235,814	888,059	855	801
VA	10377	ST__ell	COGENTRIX—HOPEWELL	2,275,948	214,712	211	194
VA	10071	ST__uth	COGENTRIX—PORTSMOUTH	2,617,290	246,914	242	223
VA	54081	ST__d 1	COGENTRIX RICHMOND 1	2,628,680	247,989	243	224
VA	54081	ST__d 2	COGENTRIX RICHMOND 2	2,127,966	200,752	197	181
VA	52087	GT__LP	COMMONWEALTH ATLANTIC LP	450,631	34,139	42	31
VA	7212	—1	DARBYTOWN	115,229	8,729	11	8
VA	7212	—2	DARBYTOWN	115,229	8,729	11	8
VA	7212	—3	DARBYTOWN	115,229	8,729	11	8
VA	7212	—4	DARBYTOWN	115,229	8,729	11	8
VA	52019	CA__#1	DOSEWELL #1	594,931	69,992	55	63
VA	52019	CT__#1	DOSEWELL #1	1,207,760	142,089	112	128
VA	52019	CA__#2	DOSEWELL #2	594,931	69,992	55	63
VA	52019	CT__#2	DOSEWELL #2	1,207,760	142,089	112	128
VA	3776	51	GLEN LYN	1,298,222	124,829	120	113
VA	3776	52	GLEN LYN	1,188,728	114,301	110	103
VA	3776	6	GLEN LYN	5,646,574	626,075	523	565
VA	54844	CA__e 1	GORDONSVILLE 1	211,614	24,896	20	22
VA	54844	CT__e 1	GORDONSVILLE 1	429,231	50,498	40	46
VA	54844	CA__e 2	GORDONSVILLE 2	214,004	25,177	20	23
VA	54844	CT__e 2	GORDONSVILLE 2	434,011	51,060	40	46
VA	7032	—3	GRAVEL NECK	116,841	8,852	11	8
VA	7032	4	GRAVEL NECK	116,841	8,852	11	8
VA	7032	5	GRAVEL NECK	116,841	8,852	11	8
VA	7032	6	GRAVEL NECK1	116,841	8,852	11	8
VA	10633	CT__nc.	HOPEWELL COGEN, INC.	1,310,927	154,227	121	139
VA	10633	CW__nc.	HOPEWELL COGEN, INC.	675,419	79,461	63	72
VA	10773	ST__sta	LG&E–WESTMLD ALTAVISTA	1,427,003	134,623	132	121
VA	10771	ST__ell	LG&E–WESTMLD HOPEWELL	1,427,003	134,623	132	121
VA	10774	ST__ton	LG&E–WESTMLD SOUTHAMPTON	1,427,003	134,623	132	121

TABLE A.1—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997, summer HI	Unit average of two highest of 1995, 1996, or 1997, summer MWh	Unit allocations by HI	Unit allocations by MWh
VA	52007	STurg	MECKLENBURG	3,004,193	283,414	278	256
VA	3804	3	POSSUM POINT	2,489,785	231,242	231	209
VA	3804	4	POSSUM POINT	6,778,888	735,716	628	664
VA	3788	1	POTOMAC RIVER	1,780,998	149,450	165	135
VA	3788	2	POTOMAC RIVER	1,608,529	136,247	149	123
VA	3788	3	POTOMAC RIVER	2,711,245	278,619	251	251
VA	3788	4	POTOMAC RIVER	10,902,795	1,135,590	1,009	1,025
VA	3788	5	POTOMAC RIVER	10,567,982	1,095,468	978	989
VA	50813	ST__ner	STONE CONTAINER	873,930	82,446	81	74
VA	3809	1	YORKTOWN	7,206,933	734,577	667	663
VA	3809	2	YORKTOWN	7,241,953	702,966	670	634
VA	3809	3	YORKTOWN	3,676,409	370,905	340	335
VA		1		4,214,872	397,629	390	359
WV	3942	1	ALBRIGHT	705,441	58,973	46	36
WV	3942	2	ALBRIGHT	703,469	59,090	46	36
WV	3942	3	ALBRIGHT	3,366,883	325,240	221	200
WV	3943	1	FORT MARTIN	13,735,054	1,559,384	901	960
WV	3943	2	FORT MARTIN	13,544,284	1,466,466	889	903
WV	10151	ST__own	GRANT TOWN	2,430,507	229,293	159	141
WV	3944	1	HARRISON	21,606,702	2,294,436	1,418	1,413
WV	3944	2	HARRISON	21,825,171	2,294,971	1,432	1,413
WV	3944	3	HARRISON	22,529,228	2,377,002	1,478	1,463
WV	3935	1	JOHN E AMOS	18,733,385	2,087,285	1,229	1,285
WV	3935	2	JOHN E AMOS	18,693,941	2,089,409	1,227	1,286
WV	3935	3	JOHN E AMOS	24,715,234	2,677,997	1,622	1,649
WV	3947	1	KAMMER	5,775,301	632,702	379	390
WV	3947	2	KAMMER	6,520,529	709,833	428	437
WV	3947	3	KAMMER	6,977,907	759,376	458	468
WV	3936	1	KANAWHA RIVER	4,385,010	479,131	288	295
WV	3936	2	KANAWHA RIVER	3,915,227	419,414	257	258
WV	3948	1	MITCHELL	20,089,496	2,155,757	1,318	1,327
WV	3948	2	MITCHELL	17,971,393	1,950,233	1,179	1,201
WV	6264	1	MOUNTAINEER (1301)	29,445,137	3,169,552	1,932	1,951
WV	3954	1	MT STORM	19,946,826	2,157,580	1,309	1,328
WV	3954	2	MT STORM	17,300,820	1,859,503	1,135	1,145
WV	3954	3	MT STORM	17,911,570	1,827,152	1,175	1,125
WV	7537	1A	NORTH BRANCH	1,606,967	112,770	105	69
WV	7357	1B	NORTH BRANCH	1,653,848	116,060	109	71
WV	3938	11	PHIL SPORN	3,332,224	356,045	219	219
WV	3938	21	PHIL SPORN	3,312,719	350,849	217	216
WV	3938	31	PHIL SPORN	3,501,732	367,597	230	226
WV	3938	41	PHIL SPORN	3,491,270	370,741	229	228
WV	3938	51	PHIL SPORN	10,028,012	1,123,713	658	692
WV	6004	1	PLEASANTS	20,225,588	2,064,889	1,327	1,271
WV	6004	2	PLEASANTS	17,354,353	1,780,299	1,139	1,096
WV	3945	7	RIVESVILLE	288,741	27,764	19	17
WV	3945	8	RIVESVILLE	741,331	63,743	49	39
WV	3946	1	WILLOW ISLAND	905,250	82,161	59	51
WV	3946	2	WILLOW ISLAND	3,490,911	340,245	229	209

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
AL	MEAD COATED BOARD INC	004	1,118,921	138
AL	GULF STATES PAPER CORPORATION	003	154,732	19
AL	TRANSCONTINENTAL GAS PIPELINE CORPORATION	018	48,682	6
AL	INTERNATIONAL PAPER SIEBERT STATION	011	1,143,170	141
AL	MOBILE ENERGY SERVICES COMPANY	001	326,785	40
AL	COURTAULDS FIBERS INC	011	60,045	7
AL	COURTAULDS FIBERS INC	013	382,789	47
AL	AMOCO CHEMICALS	024	396,068	49
AL	AMOCO CHEMICALS	026	106,811	13
AL	SOLUTIA, INC.—DECATUR PLANT	013	795,511	98
AL	SOLUTIA, INC.—DECATUR PLANT	014	786,934	97
AL	SOLUTIA, INC.—DECATUR PLANT	015	747,265	92
AL	GENERAL ELECTRIC CO	005	186,487	23
AL	CERESTAR USA DECATUR INC	020	683,593	84
AL	GULF STATES PAPER CORPORATION	006	764,955	94
AL	U. S. ALLIANCE COOSA PINES CORPORATION	007	649,512	80
AL	U. S. ALLIANCE COOSA PINES CORPORATION	008	649,512	80
AL	U. S. ALLIANCE COOSA PINES CORPORATION	009	649,512	80
AL	U. S. ALLIANCE COOSA PINES CORPORATION	010	649,512	80
AL	EMPIRE COKE CO	001	108,543	13

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
AL	CIBA SPECIALTY CHEMICALS CORPORATION	010	153,000	19
AL	CIBA SPECIALTY CHEMICALS CORPORATION	011	36,951	5
AL	OLIN CHEMICAL CORPORATION	003	606,282	75
AL	MACMILLAN BLOEDEL PACKAGING INC	002	1,779,840	219
AL	MACMILLAN BLOEDEL PACKAGING INC	005	404,136	50
AL	CELANESE CORPORATION	006	379,902	47
AL	SOLUTIA, INC.—DECATUR PLANT	016	471,731	58
AL	GULF STATES STEEL INC	047	184,755	23
AL	DEGUSSA CORPORATION	004	410,502	51
AL	AMOCO CHEMICALS	010	535,211	66
AL	AMOCO CHEMICALS	015	389,140	48
AL	AMOCO CHEMICALS	019	339,487	42
AL	AMOCO CHEMICALS	022	312,351	38
AL	AMOCO CHEMICALS	023	254,615	31
AL	TVA COLBERT	008	195,178	24
AL	TVA COLBERT	009	195,178	24
AL	LAROCHE INDUSTRIES INC	002	220,551	27
AL	INTERNATIONAL PAPER CO. RIVERDALE MILL	010	525,974	65
AL	INTERNATIONAL PAPER SIEBERT STATION	010	1,143,170	141
AL	GULF STATES STEEL INC	046	184,755	23
AL	CHAMPION INTERNATIONAL COURTLAND RD29	016	498,838	61
AL	TVA COLBERT	007	195,178	24
AL	CHAMPION INTERNATIONAL COURTLAND RD29	015	2,140,980	263
AL	CHAMPION INTERNATIONAL COURTLAND RD29	007	663,276	82
AL	JEFFERSON SMURFIT	008	424,359	52
AL	AMERICAN CAST IRON PIPE COMPANY	041	97,574	12
AL	GULF STATES STEEL INC	049	368,932	45
AL	TVA COLBERT	006	195,178	24
AL	TVA COLBERT	005	195,178	24
AL	TVA COLBERT	003	195,178	24
AL	TVA COLBERT	002	195,178	24
AL	FORT JAMES-PENNINGTON, INC.	029	316,970	39
AL	FORT JAMES-PENNINGTON, INC.	027	783,476	96
AL	MEAD CONTAINERBOARD	001	435,843	54
CT	PFIZER INC—CHEMICALS	010	480,420	24
CT	FEDERAL PAPER BOARD CO	003	721,140	36
CT	PFIZER INC—CHEMICALS	012	604,860	30
CT	PFIZER INC—CHEMICALS	009	332,520	17
CT	SIMKINS INDUSTRIES INC	673	193,917	10
CT	DEXTER NONWOVENS DIV	P29	1,788,060	89
CT	PRATT & WHITNEY AIRC	168	18,360	1
CT	PRATT & WHITNEY AIRC	167	25,500	1
CT	PRATT & WHITNEY AIRC	166	47,940	2
CT	PFIZER INC—CHEMICALS	P01	478,380	24
CT	PRATT & WHITNEY AIRC	164	85,680	4
CT	CAPITOL DISTRICT ENERGY CENTER	P64	264,111	13
CT	PRATT & WHITNEY AIRC	163	5,100	0
CT	PRATT & WHITNEY	039	353,274	18
DC	GSA WEST HEATING PLANT	001	18,360	1
DC	GSA—CENTRAL HEATING	003	4,348	0
DC	GSA—WEST HEATING	005	182,517	9
DC	GSA—WEST HEATING	003	162,886	8
DC	GSA WEST HEATING PLANT	002	3,060	0
DE	DUPONT SEAFORD	002	931,055	61
DE	DUPONT SEAFORD	001	826,012	54
DE	CHRYSLER MOTORS	003	257,164	17
DE	STANDARD CHLORINE OF DELAWARE	001	372,919	24
DE	KRAFT GENERAL FOODS	001	695,930	45
DE	DUPONT SEAFORD	003	393,082	26
IL	INDIAN REFINING LIMITED PARTNERSHIP	7211029701 7	587,751	69
IL	ZEXEL ILINOIS, INC.—DECATUR FACTORY	7512015500 2	382,086	45
IL	GRANITE CITY STEEL COMPANY	7303111904 1	381,057	45
IL	AMOCO PETROLEUM ADDITIVES CO	7302008303 6	122,977	14
IL	JEFFERSON SMURFIT CORPORATION	7212042600 1	170,544	20
IL	A E STALEY MANUFACTURING CO	7302008412 9	918,510	107
IL	GRANITE CITY STEEL COMPANY	7303111904 2	163,392	19
IL	ZEXEL ILINOIS, INC.—DECATUR FACTORY	7512015500 1	127,596	15
IL	ARCHER DANIELS MIDLAND CO EAST PLANT	8506003008 1	1,202,940	141
IL	CENTRAL ILLINOIS PUBLIC SERVICE	7911000101 4	123,227	14
IL	ARCHER DANIELS MIDLAND CO EAST PLANT	7612004807 1	862,589	101

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
IL	CATERPILLAR—EAST PEORIA PLANT	73050531019	452,649	53
IL	INDIAN REFINING LIMITED PARTNERSHIP	72110297016	587,751	69
IL	INDIAN REFINING LIMITED PARTNERSHIP	72110297015	587,751	69
IL	GREAT LAKES NAVAL STATION	78080071011	331,981	39
IL	GATES RUBBER CO.—GALESBURG HOSE PLANT	72111011002	119,513	14
IL	ARCHER DANIELS MIDLAND CO EAST PLANT	76120048072	862,589	101
IL	NORTHWESTERN STEEL & WIRE CO.	73020821021	172,053	20
IL	GATES RUBBER CO.—GALESBURG HOSE PLANT	72111011001	119,513	14
IL	CLIFFORD—JACOBS FORGING CO.	73021565001	228,634	27
IL	PEOPLES GAS LIGHT & COKE CO	75050019006	346,415	41
IL	MOBIL JOLIET REFINING CORP	86010009043	269,836	32
IL	MOBIL JOLIET REFINING CORP	72110577025	207,849	24
IL	MOBIL JOLIET REFINING CORP	72110576021	141,453	17
IL	IOWA—ILL. GAS & ELECTRIC CO.—MOLINE GEN. STA	73010269001	1,096,036	128
IL	UNO–VEN COMPANY	72110240007	430,709	50
IL	KRAFT FOOD INGREDIENTS CORP	72100921003	62,027	7
IL	NORTHWESTERN STEEL & WIRE CO	73020819014	958,524	112
IL	NORTHWESTERN STEEL & WIRE CO	73020819013	215,027	25
IL	LAUHOFF GRAIN COMPANY	72121262091	165,702	19
IL	PEKIN ENERGY COMPANY	73020087019	769,080	90
IL	IOWA—ILL. GAS & ELECTRIC CO.—MOLINE GEN. STA	73010269002	1,096,036	128
IL	SHEREX CHEMICAL COMPANY	73032131001	312,522	37
IL	ARCHER DANIELS MIDLAND CORN SWEETENERS	86010056024	125,864	15
IL	UNO–VEN COMPANY	72110253037	391,449	46
IL	GENERAL ELECTRIC/HOT POINT—RANGE DIVISIO	73031100003	417,430	49
IL	CHICAGO WATER DEPT—SPRINGFIELD STATION	75110066002	193,415	23
IL	MENTAL HEALTH DEPT—CHICAGO–READ CENTER	75080018001	117,781	14
IL	COM ED—FISK STATION	73030818013	72,327	8
IL	COM ED—FISK STATION	73030818012	52,855	6
IL	U S STEEL—SOUTH WORKS	82010044014	849,872	99
IL	U S STEEL—SOUTH WORKS	82010044013	872,389	102
IL	GENERAL MILLS INC	73030988070	149,536	17
IL	GENERAL ELECTRIC/HOT POINT—RANGE DIVISIO	73031100006	128,751	15
IL	CPC INTERNATIONAL INC	73020146043	760,959	89
IL	CPC INTERNATIONAL INC	88050066118	139,143	16
IL	CPC INTERNATIONAL INC	73020147046	760,959	89
IL	CPC INTERNATIONAL INC	73020147045	819,060	96
IL	CATERPILLAR TRACTOR CO AURORA PLANT	73021182009	245,955	29
IL	CPC INTERNATIONAL INC	73020146042	819,060	96
IL	CPC INTERNATIONAL INC	73020146041	819,060	96

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
IL	CLIFFORD–JACOBS FORGING CO	7302156500 3	256,378	30
IL	METROPOLITAN W.R.D. OF GREATER CHICAGO	8501007300 7	375,283	44
IL	QUANTUM—USI DIVISION	7210001601 7	169,166	20
IL	WM WRIGLEY JR CO—CHICAGO PLANT	7211074600 4	119,513	14
IL	AUSTIN WESTERN DIVISION	7405009800 2	363,736	43
IL	QUANTUM—USI DIVISION	7210001601 6	149,536	17
IL	QUANTUM—USI DIVISION	7210001601 4	199,189	23
IL	QUANTUM—USI DIVISION	7210001601 3	397,223	46
IL	NALCO CHEMICAL COMPANY—CORP RES CENTER	8501003300 4	171,777	20
IL	QUANTUM—USI DIVISION	7212120711 2	654,458	77
IL	AMOCO CHEMICALS CORP—WILLOW SPRINGS PL	7210022200 2	188,219	22
IL	QUANTUM—USI DIVISION	7212120711 0	654,458	77
IL	QUANTUM—USI DIVISION	7212120710 9	654,458	77
IL	QUANTUM—USI DIVISION	7212120710 8	615,960	72
IL	MARATHON OIL CO ILLINOIS REFINING DIV	7211129105 6	271,265	32
IL	MARATHON OIL CO ILLINOIS REFINING DIV	7211129105 5	271,265	32
IL	K-FIVE SOUTH PLANT	8610004500 2	62,027	7
IL	NATURAL GAS PIPELINE CO OF AMERICA	7302022100 4	703,800	82
IL	QUANTUM—USI DIVISION	7212120711 1	654,458	77
IN	LTV STEEL COMPANY	023	577,936	104
IN	LTV STEEL COMPANY	024	1,178,381	213
IN	LTV STEEL COMPANY	022	611,423	110
IN	IPALCO—PERRY K	001	949,685	171
IN	INLAND STEEL COMPANY	320	2,437,729	440
IN	IPALCO—PERRY K	002	959,398	173
IN	GMC-DELPHI INTERIOR AND LIGHTING SYSTEMS	002	16,166	3
IN	LTV STEEL COMPANY	021	531,747	96
IN	INLAND STEEL COMPANY	330	2,245,925	405
IN	INLAND STEEL COMPANY	321	3,811,376	688
IN	INLAND STEEL COMPANY	285	311,774	56
IN	IPALCO—PERRY K	003	506,874	91
IN	A.E. STALEY MAN. CO. SOUTH PLANT	040	1,412,496	255
IN	INLAND STEEL COMPANY	322	9,116,363	1,645
IN	IPALCO—PERRY K	004	629,974	114
IN	INDIANA GIRLS SCHOOL	003	2,031,840	367
IN	GENERAL ELECTRIC CO	001	7,506	1
IN	PANHANDLE EASTERN PIPELINE CO	016	6,282,041	1,133
IN	NATIONAL STEEL CORP	001	719,591	130
IN	NATIONAL STEEL CORP	003	124,132	22
IN	NATIONAL STEEL CORP	004	370,664	67
IN	INLAND STEEL COMPANY	284	315,815	57
IN	NEW ENERGY COMPANY OF INDIANA	003	8,648,738	1,560
IN	PFIZER INC	004	503,457	91
IN	WESTON PAPER & MFG	002	325,584	59
IN	APPLIED EXTRUSION TECHNOLOGIES, INC.	005	23,672	4
IN	JEFFERSON SMURFIT CORPORATION	001	643,824	116
IN	PRAXAIR, INC.	002	44,457	8
IN	E.W.I. INC.	001	18,475	3
IN	U S STEEL CO GARY WORKS	108	360,272	65
IN	ALLISON TRANSMISSION DIV PLANT 3	008	2,623	0
IN	FRITO-LAY, INC.	001	12,702	2
IN	JOSEPH SEAGRAM & SONS	009	700,650	126
IN	SUPERIOR LAMINATING, INC.	002	163,392	29
IN	KIEFFER PAPER MILLS INC.	001	38,683	7
IN	AMOCO OIL COMPANY, WHITING REFINERY	001	5,430,169	980
IN	AMOCO OIL COMPANY, WHITING REFINERY	002	153,577	28
IN	U S STEEL CO GARY WORKS	014	6,928	1
IN	U S STEEL CO GARY WORKS	028	122,400	22
IN	U S STEEL CO GARY WORKS	105	133,947	24

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
IN	U S STEEL CO GARY WORKS	301	393,181	71
IN	U S STEEL CO GARY WORKS	405	103,925	19
IN	U S STEEL CO GARY WORKS	701	950,909	172
IN	U S STEEL CO GARY WORKS	714	405,306	73
IN	INLAND STEEL COMPANY	254	217,664	39
IN	INLAND STEEL COMPANY	282	297,917	54
IN	INLAND STEEL COMPANY	281	289,834	52
IN	U S STEEL CO GARY WORKS	104	138,566	25
IN	INLAND STEEL COMPANY	256	217,664	39
IN	U S STEEL CO GARY WORKS	718	101,038	18
IN	INLAND STEEL COMPANY	252	217,664	39
IN	INLAND STEEL COMPANY	217	1,013,264	183
IN	U S STEEL CO GARY WORKS	720	660,762	119
IN	AMERICAN MAIZE PRODUCTS COMPANY	007	944,559	170
IN	COLGATE-PALMOLIVE	003	101,636	18
IN	U S STEEL CO GARY WORKS	726	301,958	54
IN	INLAND STEEL COMPANY	283	297,917	54
IN	INLAND STEEL COMPANY	206	203,808	37
IN	INLAND STEEL COMPANY	280	289,834	52
KY	GENERAL TIRE INC	001	395,491	35
KY	WILLAMETTE INDUSTRIES INC	009	320,706	28
KY	ROHM & HAAS KENTUCKY INC	001	3,253,549	286
KY	G E APPLIANCES BOILER PLANT	001	1,072,019	94
KY	B F GOODRICH CO	007	898,370	79
KY	B F GOODRICH CO	018	344,106	30
KY	AIR PRODUCTS & CHEMICALS	0AB	976,162	86
KY	E I DUPONT INC	001	3,177,045	280
KY	AGE INTERNATIONAL, INC	011	196,879	17
KY	AIR PRODUCTS & CHEMICALS	0AA	831,963	73
KY	ARMCO STEEL CORP	0G5	329,901	29
KY	OWENSBORO GRAIN COMPANY	032	797,119	70
KY	PROTEIN TECHNOLOGIES INT	001	559,368	49
KY	ARMCO STEEL CORP	0G4	329,901	29
KY	ARMCO STEEL CORP	0G6	329,901	29
KY	ARMCO INC	020	200,390	18
KY	ARMCO INC	021	200,390	18
KY	ASHLAND OIL INC	067	801,951	71
KY	ARMCO INC	022	200,390	18
KY	TEXAS GAS TRANSMISSION	003	618,954	54
KY	DOW CORNING CORP	059	2,292,113	202
KY	ARMCO STEEL CORP	0G3	329,901	29
MA	BAY STATE STERLING	002	1,542,240	64
MA	TRIGEN-BOSTON ENERGY	001	678,388	28
MA	NATICK PAPERBOARD	002	279,072	12
MA	MEDICAL AREATOTALENG	005	155,448	6
MA	MEDICAL AREATOTALENG	004	168,912	7
MA	TRIGEN-BOSTON ENERGY	002	558,873	23
MA	WELLESLEY COLLEGE	001	58,416	2
MA	BAKER COMMODITIES	004	117,749	5
MA	G E AIRCRAFT ENGINES	003	412,488	17
MA	TRIGEN-BOSTON ENERGY	004	678,388	28
MA	G E AIRCRAFT ENGINES	007	630,125	26
MD	CHESAPEAKE PAPERBOARD COMPANY	002	402,696	45
MD	NAVAL SURFACE WARFARE CNTR-INDIAN HD	005	603,947	68
MD	NAVAL SURFACE WARFARE CNTR-INDIAN HD	004	603,947	68
MD	BETHLEHEM STEEL	009	904,230	102
MD	BETHLEHEM STEEL	008	904,230	102
MD	WESTVACO	002	1,701,768	192
MD	WESTVACO	001	1,647,393	185
MI	STEELCASE INC	0033	448,750	50
MI	WILLIAM BEAUMONT HOSPITAL	0010	0	0
MI	GENERAL MOTORS CORP	0510	46,245	5
MI	GENERAL MOTORS CORP	0506	265,585	30
MI	S D WARREN CO	0011	403,240	45
MI	S D WARREN CO	0003	142,030	16
MI	WILLIAM BEAUMONT HOSPITAL	0011	0	0
MI	DOW CHEMICAL USA	0084	192,838	21
MI	NATIONAL STEEL CORP	0205	241,913	27
MI	DOW CHEMICAL USA	0401	60,045	7
MI	STONE CONTAINER CORP	0001	1,386,384	154
MI	THE REGENTS OF THE UNIVERSITY OF MICHIGA	0001	402,996	45
MI	THE REGENTS OF THE UNIVERSITY OF MICHIGA	0002	374,706	42
MI	NATIONAL STEEL CORP	0202	165,702	18
MI	DSC LTD	0006	261,543	29
MI	ROUGE STEEL CO	0219	536,366	60
MI	ROUGE STEEL CO	0218	302,536	34
MI	DETROIT EDISON CO	0003	316,392	35
MI	GEORGIA PACIFIC CORP	0005	1,164,554	130
MI	NATIONAL STEEL CORP	0201	213,623	24
MI	CHAMPION INTERNATIONAL CORP	0002	92,198	10

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
MI	GEORGIA PACIFIC CORP	0004	83,717	9
MI	MARATHON OIL COMPANY	0001	320,543	36
MI	MENASHA CORP	0024	754,568	84
MI	MENASHA CORP	0025	729,532	81
MI	ROCK TENN COMPANY	0001	275,413	31
MI	ROCK TENN COMPANY	0002	275,413	31
MI	MEAD PAPER CO	0310	1,927,800	214
MI	MEAD PAPER CO	0340	1,680,893	187
MI	CHAMPION INTERNATIONAL CORP	0015	54,272	6
MI	GENERAL MOTORS CORP	0501	747,102	83
MI	MICHIGAN STATE UNIVERSITY	0054	1,203,801	134
MI	JAMES RIVER PAPER CO INC	0003	957,583	107
MI	GREAT LAKES GAS TRANSMISSION	0005	854,018	95
MI	MEAD PAPER CO	0320	949,177	106
MI	MICHIGAN STATE UNIVERSITY	0055	803,812	89
MI	GENERAL MOTORS CORP	0502	558,883	62
MI	MICHIGAN STATE UNIVERSITY	0053	1,211,151	135
MI	GREAT LAKES GAS TRANSMISSION	0001	1,201,050	134
MI	GREAT LAKES GAS TRANSMISSION LTD	0003	943,732	105
MI	GENERAL MOTORS CORP	0507	231,521	26
MI	MICHIGAN STATE UNIVERSITY	0056	1,508,240	168
MO	THE DOE RUN COMPANY—SMELTING	002	454,182	58
MO	SCHUYLKILL METALS CORPORATION	001	59,317	8
MO	ANHEUSER BUSCH, INC., ST.LOUIS	003	46,189	6
MO	CHRYSLER CORP. NORTH PLANT	015	88,944	11
MO	MONSANTO COMPANY	001	577	0
MO	FORD MOTOR CO.	018	82,562	11
MO	BLUE RIVER TREATMENT PLANT	003	1,732	0
MO	DOE RUN COMPANY	017	0	0
MO	ASARCO	001	28,916	4
MO	CONTINENTAL BAKING COMPANY	007	2,309	0
MO	ASARCO	019	215,453	28
NC	INTERNATIONAL PAPER: REIGELWOOD	004	304,251	40
NC	R.J. REYNOLDS TOBACCO CO.—0745	004	1,230,528	164
NC	R.J. REYNOLDS TOBACCO CO.—0745	003	1,230,528	164
NC	R.J. REYNOLDS TOBACCO CO.—0745	002	1,230,528	164
NC	R.J. REYNOLDS TOBACCO CO.—0745	001	1,230,528	164
NC	R.J. REYNOLDS TOBACCO—0405	004	394,888	53
NC	R.J. REYNOLDS TOBACCO—0405	003	394,888	53
NC	R.J. REYNOLDS TOBACCO—0405	002	394,888	53
NC	WEYERHAUSER COMPANY, NEW BERN MILL	005	1,699,090	226
NC	INTERNATIONAL PAPER: REIGELWOOD	003	334,736	45
NC	FIELDCREST-CANNON PLT 1, KANNAPOLIS	001	745,416	99
NC	CHAMPION INT CORP	003	1,952,688	260
NC	FMC CORP-LITHIUM DIV. HWY 161	030	631,584	84
NC	R.J. REYNOLDS TOBACCO—0405	001	395,544	53
NC	CHAMPION INTERNATIONAL CORP. ROANOKE RAP	001	1,260,555	168
NC	CHAMPION INT CORP	002	860,880	115
NC	CHAMPION INT CORP	001	955,128	127
NC	CHAMPION INT CORP	004	1,713,192	228
NC	WEYERHAEUSER PAPER CO. PLYMOUTH	001	2,458,162	327
NC	WEYERHAEUSER PAPER CO. PLYMOUTH	007	1,888,305	251
NC	P. H. GLATFELTER CO.—ECUSTA	006	1,753,584	233
NC	CONE MILLS CORP-WHITE OAK PLANT	004	342,210	46
NJ	CHEVRON U.S.A., INC.	43	496,897	28
NJ	DUPONT DE NEMOURS, E.I., & CO.	10	750,245	42
NJ	HOFFMAN LAROCHE INC. C/O ENVIR	7	102,729	6
NJ	INTERNATIONAL VEILING CORPORAT	1	199,993	11
NJ	OWENS-BROCKWAY GLASS CONTAINER	1	1,116,375	62
NJ	NESTLE CO., INC., THE	7	120,697	7
NJ	NESTLE CO., INC., THE	6	120,697	7
NJ	DEGUSSA CORPORATION-METZ DIVIS	9	146,443	8
NJ	NEW JERSEY STEEL CORPORATION	1	169,934	9
NJ	DUPONT DE NEMOURS, E.I., & CO.	7	220,757	12
NJ	FORD MOTOR COMPANY	13	1,551,857	86
NJ	MERCK & CO., INC.	2	532,593	30
NJ	CHEVRON U.S.A., INC.	1	149,721	8
NJ	HERCULES INCORPORATED	2	325,380	18
NJ	HERCULES INCORPORATED	1	333,540	19
NJ	STONY BROOK REGIONAL SEWERAGE	2	441,660	25
NJ	BALL-INCON GLASS PACKAGING COR	1	456,814	25
NJ	PSE & G CO. ATTN ENVIRONMETAL	6	3,963,652	220
NJ	STONY BROOK REGIONAL SEWERAGE	1	441,660	25
NJ	GARDEN STATE PAPER CO., INC.	2	304,980	17
NJ	PSE & G CO. ATTN ENVIRONMETAL	1	5,505,816	306
NJ	PSE & G CO. ATTN ENVIRONMETAL	2	5,458,897	303
NJ	PSE & G CO. ATTN ENVIRONMETAL	3	4,606,176	256
NJ	PSE & G CO. ATTN ENVIRONMETAL	4	2,946,636	164
NJ	EXXON CORPORATION	7	199,993	11
NJ	MERCK & CO., INC.	6	902,273	50

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
NJ	EXXON CORPORATION	14	887,400	49
NJ	MERCK & CO., INC.	5	775,912	43
NJ	HOFFMAN LAROCHE INC.	34	396,707	22
NJ	MERCK & CO., INC.	4	651,642	36
NJ	MERCK & CO., INC.	3	487,689	27
NJ	MERCK & CO., INC.	1	576,469	32
NJ	EXXON CORPORATION	15	130,050	7
NJ	PSE & G CO. ATTN ENVIRONMETAL	5	2,946,636	164
NJ	GARDEN STATE PAPER CO., INC.	1	701,369	39
NJ	HOMASCTE COMPANY	2	2,673,335	149
NJ	DUPONT DE NEMOURS, E.I., & CO.	9	2,569,307	143
NJ	GARDEN STATE PAPER CO., INC.	4	766,675	43
NJ	ANHEUSER-BUSCH INCORPORATED	2	324,360	18
NJ	GEORGIA-PACIFIC CORPORATION	1	148,629	8
NJ	COASTAL EAGLE POINT OIL COMPAN	38	102,729	6
NJ	GARDEN STATE PAPER CO., INC.	3	287,640	16
NJ	COASTAL EAGLE POINT OIL COMPAN	123	331,136	18
NJ	SCOTT PAPER COMPANY	4	846,536	47
NJ	SCOTT PAPER COMPANY	3	644,590	36
NJ	SCOTT PAPER COMPANY	2	759,028	42
NJ	MARINA ASSOCIATES	3	1,208,661	67
NJ	MARINA ASSOCIATES	2	2,143,093	119
NJ	MARINA ASSOCIATES	1	2,143,093	119
NJ	MALT PRODUCTS CORPORATION	1	242,614	13
NJ	PETROLEUM RECYCLING, INC.	20	1,536,557	85
NJ	HOMASCTE COMPANY	1	2,486,646	138
NJ	KAMINE MILFORD LIMITED PARTNER	1	775,710	43
NJ	COGEN TECHNOLOGIES—NEW JERSE	2	365,670	20
NJ	COGEN TECHNOLOGIES—NEW JERSE	1	362,610	20
NJ	DUPONT DE NEMOURS, E.I., & CO.	10	2,569,307	143
NJ	BEST FOODS CPC INTERNATIONAL I	3	251,555	14
NJ	COASTAL EAGLE POINT OIL COMPAN	39	102,729	6
NJ	MOBIL OIL CORPORATION	6	953,835	53
NJ	MOBIL OIL CORPORATION	5	143,149	8
NJ	MOBIL OIL CORPORATION	4	445,797	25
NJ	MOBIL OIL CORPORATION	3	492,776	27
NJ	MOBIL OIL CORPORATION	270	127,709	7
NJ	MOBIL OIL CORPORATION	2	492,776	27
NJ	MOBIL OIL CORPORATION	1	492,776	27
NJ	COASTAL EAGLE POINT OIL COMPAN	64	343,157	19
NJ	COASTAL EAGLE POINT OIL COMPAN	40	102,729	6
NY	GEORGIA PACIFIC CORP PLATTS	001	231,568	27
NY	GENERAL ELECTRIC	00C	405,181	47
NY	GENERAL ELECTRIC	02Z	393,942	46
NY	CAMPUS PWR PLANT OGS	006	289,170	33
NY	KODAK PARK DIV ROCHES	001	1,280,644	148
NY	HOLBROOK GENERATING STA	001	64,121	7
NY	HOLBROOK GENERATING STA	008	64,121	7
NY	HOLBROOK GENERATING STA	007	64,121	7
NY	HOLBROOK GENERATING STA	006	64,121	7
NY	HOLBROOK GENERATING STA	005	64,121	7
NY	HOLBROOK GENERATING STA	004	64,121	7
NY	LEDERLE LABORATORIES	04Y	265,593	31
NY	HOLBROOK GENERATING STA	002	64,121	7
NY	HOLBROOK GENERATING STA	00B	29,835	3
NY	AKZO SALT—WATKINS GLEN REFIN.	00F	320,027	37
NY	HUDSON RIVER MILL	007	2,361,664	273
NY	SILICONE PRODUCTS DIVISION	0ZZ	240,744	28
NY	SILICONE PRODUCTS DIVISION	02F	458,291	53
NY	PAPYRUS NEWTON FALLS, INC	001	297,730	34
NY	ALCOA MASSENA OPERATIONS	002	148,958	17
NY	HOLBROOK GENERATING STA	003	64,121	7
NY	HOLBROOK GENERATING STA	00J	29,835	3
NY	INDECK-YERKES ENERGY SERVICES TONAWAND	004	1,622,421	188
NY	IONDECK SILVER SPRINGS ENERGY	004	305,561	35
NY	IONDECK SILVER SPRINGS ENERGY	001	1,092,372	126
NY	MORTON SALT COMPANY	00E	209,984	24
NY	REFINED SUGARS, INC	00K	174,420	20
NY	SCOTT PAPER CO	001	69,283	8
NY	HOLBROOK GENERATING STA	009	64,121	7
NY	HOLBROOK GENERATING STA	00K	29,835	3
NY	HOLBROOK GENERATING STA	00A	64,121	7
NY	HOLBROOK GENERATING STA	00I	29,835	3
NY	HOLBROOK GENERATING STA	00G	29,835	3
NY	HOLBROOK GENERATING STA	00E	29,835	3
NY	HOLBROOK GENERATING STA	00D	29,835	3
NY	HOLBROOK GENERATING STA	00C	29,835	3
NY	HOLBROOK GENERATING STA	00F	29,835	3
NY	FINCH PRUYN & CO	006	462,437	53
NY	TICONDEROGA MILL TICOND	016	1,818,536	210

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
NY	KODAK PARK DIV ROCHES	004	4,956,513	573
NY	KODAK PARK DIV ROCHES	003	3,716,404	430
NY	KODAK PARK DIV ROCHES	002	3,510,348	406
NY		002	104,229	12
NY	BURROWS PAPER CORP LYONSD	001	344,043	40
NY	EAST 60TH STREET	001	644,130	74
NY	CHAMPION INTERNATIONAL CORP DEFERI	008	1,000,960	116
NY		0ZZ	305,235	35
NY	CHEVY MOTOR PLT TONAWA	0ZZ	604,888	70
NY	GENERAL MILLS INC BUFFAL	06V	700,740	81
NY	BSC BAR PRODUCTS DIV. LACKAW	00E	153,000	18
NY	BETHENERGY LACK COKE LA	018	338,130	39
NY	LEDERLE LABORATORIES	032	265,593	31
NY	HOLBROOK GENERATING STA	00H	29,835	3
NY		0ZZ	800,101	93
NY	NESTLE FOODS CORP.	001	65,105	8
NY	BASF–WYANDOTTE CORP	0ZZ	150,691	17
NY	R. P. I.	003	276,021	32
NY	CHAMPION INTERNATIONAL CORP DEFERI	007	1,133,560	131
NY	OCCIDENTAL CHEMICAL CORP (HOOKER CHEM	006	2,448	0
NY	RAVENSWOOD—A—HOUSE	002	417,384	48
NY	RAVENSWOOD—A—HOUSE	001	417,384	48
NY	MILLER EASTERN BREWERY	00L	298,781	35
NY	A–B INC BALDWINSVILLE BREWERY LYSAND	002	175,196	20
NY	HOOKER EFW PLANT NIAGARA	0D1	690,409	80
NY	BRISTOL–MYERS COMPANY DEWITT	022	114,079	13
NY	OCCIDENTAL CHEMICAL CORP (HOOKER CHEM	007	27,061	3
NY	ROME MFG CO DIV ROME	002	299,384	35
NY	A–B INC BALDWINSVILLE BREWERY LYSAND	001	175,196	20
NY	HOOKER EFW PLANT NIAGARA	00C	4,896	1
NY	OSWEGO ENERGY CENTER	001	172,982	20
NY	HOOKER EFW PLANT NIAGARA	00D	965,861	112
OH	JEFFERSON SMURFIT (FRMLY CONTAINER CORP)	B004	788,542	89
OH	PORTSMOUTH GASEOUS DIFFUSION PLANT	B001	591,272	67
OH	PORTSMOUTH GASEOUS DIFFUSION PLANT	B002	591,272	67
OH	PORTSMOUTH GASEOUS DIFFUSION PLANT	B003	591,272	67
OH	GREAT LAKES SUGAR COMPANY	B004	172,630	20
OH	MIAMI PAPER CORPORATION	B001	644,232	73
OH	GIBSONBURG CANNING CO., INC.	B001	4,265,918	484
OH	USS/KOBE STEEL CO.—LORAIN WORKS	B001	957,838	109
OH	MEAD CORPORATION	B002	1,778,323	202
OH	MEAD CORPORATION	B003	2,144,090	243
OH	MEAD CORPORATION	B001	1,579,838	179
OH	APPLETON PAPERS INC.	B003	716,174	81
OH	APPLETON PAPERS INC.	B002	541,955	61
OH	CARGILL,INC.	B004	834,821	95
OH	USS/KOBE STEEL CO.—LORAIN WORKS	B013	771,928	88
OH	USS/KOBE STEEL CO.—LORAIN WORKS	B009	574,472	65
OH	USS/KOBE STEEL CO.—LORAIN WORKS	B005	143,185	16
OH	ARISTECH CHEMICAL CORPORATION	B004	261,312	30
OH	GEORGIA PACIFIC ROOFING FELT PLANT	B004	553,860	63
OH	SOUTH POINT ETHANOL	B007	862,912	98
OH	SOUTH POINT ETHANOL	B004	862,912	98
OH	USS/KOBE STEEL CO.—LORAIN WORKS	B007	379,902	43
OH	TIMKEN COMPANY CANTON PLANT NO 5	B003	402,996	46
OH	ARMCO STEEL COMPANY, L.P.	B005	898,729	102
OH	SOUTH POINT ETHANOL	B003	862,912	98
OH	LOF CO ROSSFORD PLANT 6	B003	273,700	31
OH	SHELL CHEMICAL CO	B007	313,620	36
OH	SHELL CHEMICAL CO	B005	313,620	36
OH	FRANKLIN BOXBOARD CORPORATION	B001	1,138,897	129
OH	W C I STEEL, INC.	B001	1,323,261	150
OH	GOODYEAR TIRE & RUBBER CO THE PLANT 11	B002	751,128	85
OH	W C I STEEL, INC.	B004	260,389	30
OH	TIMKEN COMPANY CANTON PLANT NO 5	X001	640,291	73
OH	ARISTECH CHEMICAL CORPORATION	B005	384,754	44
OH	TIMKEN COMPANY, THE	P014	285,215	32
OH	TIMKEN COMPANY, THE	P013	285,215	32
OH	TIMKEN COMPANY GAMBRINUS PLANT	X002	169,166	19
OH	TIMKEN COMPANY GAMBRINUS PLANT	X001	802,528	91
OH	ASHLAND PETROLEUM COMPANY	B029	167,434	19
OH	CANTON DROP FORGING & MFG CO	X001	649,528	74
OH	ARISTECH CHEMICAL CORPORATION	B010	530,775	60
OH	ARISTECH CHEMICAL CORPORATION	B009	503,485	57
OH	ARISTECH CHEMICAL CORPORATION	B006	385,401	44
OH	GOODYEAR TIRE & RUBBER CO THE PLANT 11	B001	826,200	94
OH	ARMCO STEEL COMPANY L.P.	P010	1,035,705	118
OH	ARMCO STEEL COMPANY, L.P.	B004	838,287	95
OH	ARMCO STEEL COMPANY, L.P.	B003	838,287	95
OH	ARMCO STEEL COMPANY, L.P.01	860,643	98	

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
OH	ARMCO STEEL COMPANY L.P.	P009	1,035,705	118
OH	ARMCO STEEL COMPANY L.P.	B010	511,020	58
OH	ARMCO STEEL COMPANY L.P.	B009	511,020	58
OH	ARMCO STEEL COMPANY L.P.	B008	818,504	93
OH	ARMCO STEEL COMPANY L.P.	B007	818,504	93
OH	BP CHEMICALS, INC.	B003	3,729,736	423
OH	BP CHEMICALS, INC.	B002	532,325	60
OH	BP CHEMICALS, INC.	B001	599,876	68
OH	BP OIL COMPANY—LIMA REFINERY	P010	1,224,000	139
OH	GENERAL ELECTRIC CO	B004	166,309	19
OH	PROCTER & GAMBLE CO	B021	932,754	106
OH	WHEELING PITTSBURGH STEEL STEUBENVILLE S	B004	125,864	14
OH	ARMCO STEEL COMPANY L.P.	P012	1,035,705	118
OH	PROCTER & GAMBLE CO	B022	5,348,925	607
OH	HENKEL CORP.—EMERY GROUP	B027	3,846,420	436
OH	HENKEL CORP.—EMERY GROUP	B015	681,360	77
OH	HENKEL CORP.—EMERY GROUP	B014	317,220	36
OH	ANHEUSER-BUSCH COLUMBUS BREWERY	X001	302,149	34
OH	FAIRFIELD RECYCLED PAPER, INC.	B003	192,697	22
OH	GENERAL ELECTRIC CO	B002	1,240,166	141
OH	LTV STEEL COMPANY, INC.	B905	87,181	10
OH	LTV STEEL COMPANY, INC.	B009	707,842	80
OH	LTV STEEL COMPANY, INC.	B005	473,434	54
OH	LTV STEEL COMPANY, INC.	B007	527,014	60
OH	LTV STEEL COMPANY, INC.	B004	632,208	72
OH	LTV STEEL COMPANY, INC.	B010	192,838	22
OH	LTV STEEL COMPANY, INC.	B001	575,218	65
OH	LTV STEEL COMPANY, INC.	B002	931,161	106
OH	LTV STEEL COMPANY, INC.	B003	437,625	50
OH	LTV STEEL COMPANY, INC.	B004	1,008,422	114
OH	LTV STEEL COMPANY, INC.	B005	259,811	29
OH	LTV STEEL COMPANY, INC.	B006	202,653	23
PA	INTERNATIONAL PAPER CO.	040	662,852	68
PA	ALLIED CHEMICAL CORP	052	844,191	87
PA	TEXAS EASTERN GAS PIPELINE CO	032	753,026	77
PA	GENERAL ELECTRIC CO.	035	627,589	65
PA	MERCK SHARP & DOHME	039	532,174	55
PA	BETHLEHEM STEEL CORP.	041	639,151	66
PA	BETHLEHEM STEEL CORP.	042	835,995	86
PA	BETHLEHEM STEEL CORP.	067	1,333,002	137
PA	BETHLEHEM STEEL CORP.	147	3,110,558	320
PA	GENERAL ELECTRIC CO.	032	1,000,620	103
PA	SUN REFINING AND MARKETING 1 O	006	450,087	46
PA	SUN REFINING AND MARKETING 1 O	007	740,245	76
PA	SUN REFINING AND MARKETING 1 O	038	549,423	57
PA	SUN REFINING AND MARKETING 1 O	039	549,423	57
PA	PROCTER & GAMBLE PAPER PRODUCTS CO.	932	5,618,055	578
PA	ALLIED CHEMICAL CORP	051	175,625	18
PA	JEFFERSON SMURFIT (FRMLY CONTAINER CORP)	001	724,340	75
PA	MONESSEN INC.	031	252,039	26
PA	PROCTER & GAMBLE PAPER PRODUCTS CO.	035	2,522,800	259
PA	INTERNATIONAL PAPER CO.	037	1,029,159	106
PA	ALLIED CHEMICAL CORP	050	100,620	10
PA	LTV STEEL COMPANY—PITTSBURGH WORKS	17	114,361	12
PA	GLATFELTER, P. H. CO.	031	1,030,727	106
PA	LTV STEEL COMPANY—PITTSBURGH WORKS	15	114,361	12
PA	LTV STEEL COMPANY—PITTSBURGH WORKS	19	157,590	16
PA	LTV STEEL COMPANY—PITTSBURGH WORKS	21	95,486	10
PA	SHENANGO IRON & COKE WORKS	06	168,766	17
PA	SHENANGO IRON & COKE WORKS	09	137,678	14
PA	BMG ASPHALT CO.	101	30,943	3
PA	ZINC CORPORATION OF AMERICA	034	1,498,461	154
PA	ZINC CORPORATION OF AMERICA	035	1,759,488	181
PA	UNITED STATES STEEL CORP., THE	043	999,098	103
PA	BP OIL, INC.	033	1,234,200	127
PA	PENNTECH PAPERS, INC.	041	1,063,116	109
PA	UNITED STATES STEEL CORP., THE	045	1,172,194	121
PA	PENNTECH PAPERS, INC.	040	978,703	101
PA	SUN REFINING & MARKETING CO.	090	2,212,658	228
PA	SCOTT PAPER CO.	035	2,173,948	224
PA	SCOTT PAPER CO.	034	858,330	88
PA	INTERNATIONAL PAPER COMPANY	034	1,099,800	113
PA	INTERNATIONAL PAPER COMPANY	033	1,100,520	113
PA	BETHLEHEM STEEL CORP.	132	981,509	101
PA	UNITED STATES STEEL CORP., THE	046	982,367	101
TN	EASTMAN, TENN. CO	002	540,192	64
TN	EASTMAN, TENN. CO	001	540,192	64
TN	KRAFT FOOD INGREDIENTS CORP	003	621,815	74
TN	HUMKO-DIV WITCO CHEM	010	453,804	54
TN	HUMKO-DIV WITCO CHEM	009	468,815	55

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
TN	ARCADIAN CORPORATION	007	1,274,808	151
TN	E.I. DUPONT DE NEMOURS & INTERMEDIATES	011	3,364,846	398
TN	E.I. DUPONT DE NEMOURS & INTERMEDIATES	016	612,000	72
TN	E.I. DUPONT DE NEMOURS & INTERMEDIATES	013	1,453,211	172
TN	EASTMAN, TENN. CO	003	618,528	73
TN	TEXAS EASTERN GAS PIPELINE GLADEVILLE	001	1,373,523	162
TN	E.I. DUPONT DE NEMOURS & INTERMEDIATES	015	1,019,615	121
TN	EASTMAN, TENN. CO	004	618,528	73
TN	EASTMAN, TENN. CO	005	673,200	80
TN	EASTMAN, TENN. CO	006	673,200	80
TN	EASTMAN, TENN. CO	013	881,816	104
TN	EASTMAN, TENN. CO	014	881,816	104
TN	EASTMAN, TENN. CO	015	2,913,528	345
TN	EASTMAN, TENN. CO	016	2,913,528	345
TN	EASTMAN, TENN. CO	017	2,913,528	345
TN	EASTMAN, TENN. CO	019	2,913,528	345
TN	TENN EASTMAN CO PO BOX 511 KINGSPOR	037	3,607,944	427
TN	E.I. DUPONT DE NEMOURS & INTERMEDIATES	010	3,849,249	455
TN	MEAD CORP	009	1,916,449	227
TN	EASTMAN, TENN. CO	018	2,913,528	345
TN	E I DUPONT DE NEMOURS & CO INC	0P3	328,104	39
TN	PROCTER & GAMBLE CELLULOSE COMPANY, THE	003	2,345,808	277
TN	TN EASTMAN INC	059	786,362	93
TN	ARNOLD ENGINEERING DEV CTR	006	10,751	1
TN	E I DUPONT DE NEMOURS & CO INC	0P2	1,000,824	118
TN	BASF FIBERS HWY 160 LOWLAND	008	869,725	103
TN	BASF FIBERS HWY 160 LOWLAND	009	869,725	103
TN	CENTRAL SOYA	042	1,051,978	124
TN	E I DUPONT	001	325,022	38
TN	E I DUPONT	003	463,154	55
TN	VELSICOL CHEMICAL	018	342,389	40
TN	PACKAGING CORPORATION OF AMERICA	017	224,205	27
TN	PACKAGING CORPORATION OF AMERICA	018	3,522,121	416
TN	CARGILL CORNSTARCH	003	1,487,976	176
TN	E I DUPONT DE NEMOURS & CO INC	0P1	403,704	48
TN	TENNECO GAS/ENVIRONMENTAL DEPARTMENT	001	481,255	57
TN	PROCTER & GAMBLE CELLULOSE COMPANY, THE	002	2,462,434	291
TN	PROCTER & GAMBLE CELLULOSE COMPANY, THE	001	617,774	73
TN	CARGILL CORNSTARCH	002	1,280,108	151
TN	BRIDGESTONE (U.S.A.), INC	001	363,659	43
TN	US DEPARTMENT OF ENERGY (ORNL)	003	58,562	7
TN	GOODYEAR TIRE & RUBB	004	1,095,940	130
TN	BOWATERS PAPER CO	012	1,087,729	129
TN	BOWATERS PAPER CO	011	1,086,881	129
TN	A.E. STALEY MANUFACTURING COMPANY	035	1,189,514	141
TN	A.E. STALEY MANUFACTURING COMPANY	034	1,189,514	141
VA	BEAR ISLAND PAPER CO	001	2,206,643	201
VA	JAMES RIVER COGENERATION (COGE	002	3,761,847	342
VA	SMITHFIELD PACKING	001	96,591	9
VA	DUPONT DE NEMOURS E I & CO	004	285,120	26
VA	DUPONT DE NEMOURS E I & CO	005	406,080	37
VA	UNION CAMP CORP/FINE PAPER DIV	003	1,703,400	155
VA	UNION CAMP CORP/FINE PAPER DIV	005	384,182	35
VA	UNION CAMP CORP/FINE PAPER DIV	017	632,549	58
VA	DUPONT DE NEMOURS E I & CO	001	360,720	33
VA	CHESAPEAKE PAPER PDTS CO	003	1,950,681	178
VA	CHESAPEAKE PAPER PDTS CO	004	487,946	44
VA	STONE CONTAINER CORP	004	5,141,951	468
VA	ALLIED–SIGNAL INC	002	5,140,799	468
VA	ALLIED–SIGNAL INC	016	7,509,947	684
VA	JAMES RIVER COGENERATION (COGE	001	3,761,847	342
VA	HOECHST CELANESE CORP	007	911,520	83
VA	UNION CAMP CORP/FINE PAPER DIV	004	2,379,652	217
VA	ALLIED–SIGNAL INC	017	595,170	54
VA	WESTVACO CORP	002	1,076,877	98
VA	UNION CAMP CORP/FINE PAPER DIV	016	380,432	35
VA	HOECHST CELANESE CORP	006	877,200	80
VA	WESTVACO CORP	001	1,413,167	129
VA	WESTVACO CORP	003	1,545,951	141
VA	WESTVACO CORP	004	2,616,233	238
VA	DUPONT, EI DENEMOURS & CO	001	401,760	37
VA	DUPONT, EI DENEMOURS & CO	002	532,691	48
VA	DUPONT, EI DENEMOURS & CO	003	373,553	34
VA	GEORGIA-PACIFIC	002	673,368	61
VA	E I DUPONT DE NEMOURS & CO	004	1,344,182	122
VA	HOECHST CELANESE CORP	003	885,360	81
VA	E I DUPONT DE NEMOURS & CO	006	1,281,074	117
VA	E I DUPONT DE NEMOURS & CO	007	978,350	89
VA	HOECHST CELANESE CORP	005	656,880	60
VA	E I DUPONT DE NEMOURS & CO	008	1,272,956	116

TABLE A.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995, Summer HI	Unit allocations by HI
VA	HOECHST CELANESE CORP	002	612,000	56
VA	E I DUPONT DE NEMOURS & CO	005	1,202,326	109
VA	HOECHST CELANESE CORP	004	226,800	21
WV	ELKEM METALS COMPANY—ALLOY P	016	435,240	58
WV	DU PONT—BELLE	0ZD	844,340	113
WV	BASF CORPORATION HUNTINGTON WO	003	312,814	42
WV	WEIRTON STEEL CORPORATION	030	1,209,426	161
WV	WEIRTON STEEL CORPORATION	088	500,915	67
WV	WEIRTON STEEL CORPORATION	089	305,643	41
WV	WEIRTON STEEL CORPORATION	090	585,781	78
WV	WEIRTON STEEL CORPORATION	091	580,467	77
WV	WEIRTON STEEL CORPORATION	092	721,698	96
WV	WEIRTON STEEL CORPORATION	093	702,068	94
WV	QUAKER STATE REFINING CORP. —	001	693,049	92
WV	QUAKER STATE REFINING CORP. —	002	709,589	95
WV	QUAKER STATE REFINING CORP. —	004	743,213	99
WV	DU PONT—BELLE	0ZA	1,046,722	140
WV	WEIRTON STEEL CORPORATION	087	413,954	55
WV	DU PONT—BELLE	0ZC	380,180	51
WV	DU PONT WASHINGTON WORKS	0P6	803,015	107
WV	DU PONT—BELLE	0ZE	1,079,138	144
WV	FMC CORPORATION—STEAM PLANT	003	4,423,563	590
WV	UNION CARBIDE—SOUTH CHARLEST	0B1	737,843	98
WV	PPG INDUSTRIES, INC	001	1,402,296	187
WV	PPG INDUSTRIES, INC	002	824,976	110
WV	PPG INDUSTRIES, INC	003	2,445,280	326
WV	BAYER CORPORATION	022	206,694	28
WV	COLUMBIAN CHEMICALS CO	032	296,762	40
WV	CYTEC INDUSTRIES	OWA	362,304	48
WV	CYTEC INDUSTRIES	OWB	362,304	48
WV	DU PONT WASHINGTON WORKS	OP4	351,654	47
WV	DU PONT WASHINGTON WORKS	OP5	608,426	81
WV	DU PONT—BELLE	OZB	898,968	120

Appendix B to Part 97—NO_x Allowance Allocation Tables for Affected Sources Under Section 110 of the Act in Georgia, South Carolina, and Wisconsin

TABLE B.1.—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997 summer HI	Unit average of two Highest of 1995, 1996, or 1997 summer MWh	Unit allocations by HI	Unit allocation s by MWh
GA	699	1	ARKWRIGHT	576,855	55,467	45	42
GA	699	2	ARKWRIGHT	586,172	56,363	46	43
GA	699	3	ARKWRIGHT	699,177	67,229	55	51
GA	699	4	ARKWRIGHT	629,120	60,492	49	46
GA	700	A2	ATKINSON	906,420	85,511	71	65
GA	700	A3	ATKINSON	817,568	62,880	64	48
GA	700	A4	ATKINSON	754,261	58,199	59	44
GA	703	1BLR	BOWEN	21,604,980	2,244,673	1,696	1,713
GA	703	2BLR	BOWEN	22,900,012	2,406,980	1,798	1,837
GA	703	3BLR	BOWEN	28,660,178	3,033,144	2,250	2,314
GA	703	4BLR	BOWEN	26,354,043	2,794,110	2,069	2,132
GA	708	1	HAMMOND	2,110,931	210,861	166	161
GA	708	2	HAMMOND	2,040,405	191,336	160	146
GA	708	3	HAMMOND	2,025,655	192,480	159	147
GA	708	4	HAMMOND	10,921,707	1,088,470	858	831
GA	709	1	HARLLEE BRANCH	6,718,809	684,684	528	522
GA	709	2	HARLLEE BRANCH	8,055,215	830,949	632	634
GA	709	3	HARLLEE BRANCH	13,120,649	1,392,407	1,030	1,062
GA	709	4	HARLLEE BRANCH	13,892,588	1,492,864	1,091	1,139
GA	54538	MAG1	HARTWELL ENERGY FACILITY	22,233	2,616	2	2
GA	54538	MAG2	HARTWELL ENERGY FACILITY	26,322	3,097	2	2
GA	710	MB1	JACK MCDONOUGH	6,978,996	702,254	548	536
GA	710	MB2	JACK MCDONOUGH	7,807,471	791,913	613	604
GA	733	1	KRAFT	1,099,803	97,856	86	75
GA	733	2	KRAFT	981,804	89,917	77	69
GA	733	3	KRAFT	1,950,273	184,023	153	140
GA	733	4	KRAFT	664,593	65,769	52	50
GA	6124	1	MCINTOSH	4,024,081	410,746	316	313
GA	6124	—CT3	MCINTOSH	345,688	26,942	27	21
GA	6124	—CT4	MCINTOSH	325,133	25,340	26	19
GA	6124	—CT5	MCINTOSH	341,543	26,619	27	20
GA	6124	—CT6	MCINTOSH	340,759	26,557	27	20
GA	6124	—CT7	MCINTOSH	315,416	32,195	25	25

TABLE B.1.—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997 summer HI	Unit average of two Highest of 1995, 1996, or 1997 summer MWh	Unit allocations by HI	Unit allocation s by MWh
GA	6124	—CT8	MCINTOSH	328,841	33,565	26	26
GA	715	1	MCMANUS	589,903	55,651	46	42
GA	715	2	MCMANUS	954,370	94,027	75	72
GA	727	3	MITCHELL	3,043,908	306,784	239	234
GA	734	12	RIVERSIDE	193,852	17,000	15	13
GA	7348	CT1	ROBINS	268,614	31,602	21	24
GA	7348	CT2	ROBINS	292,814	34,449	23	26
GA	6257	1	SCHERER	23,234,939	2,383,804	1,824	1,819
GA	6257	2	SCHERER	24,621,510	2,553,039	1,933	1,948
GA	6257	3	SCHERER	25,671,808	2,581,378	2,016	1,970
GA	6257	4	SCHERER	29,025,526	2,918,605	2,279	2,227
GA	6052	1	WANSLEY	21,381,911	2,300,367	1,679	1,755
GA	6052	2	WANSLEY	21,242,550	2,283,163	1,668	1,742
GA	6052	—5A	WANSLEY	100,644	7,625	8	6
GA	728	Y1BR	YATES	1,867,410	161,164	147	123
GA	728	Y2BR	YATES	2,067,213	182,165	162	139
GA	728	Y3BR	YATES	1,867,344	156,630	147	120
GA	728	Y4BR	YATES	2,626,026	261,739	206	200
GA	728	Y5BR	YATES	2,296,410	221,000	180	169
GA	728	Y6BR	YATES	6,632,004	659,048	521	503
GA	728	Y7BR	YATES	6,805,284	689,632	534	526
SC	3280	CAN1	CANADYS STEAM	2,869,700	284,129	282	276
SC	3280	CAN2	CANADYS STEAM	3,511,752	347,698	345	338
SC	3280	CAN3	CANADYS STEAM	4,088,313	400,815	401	389
SC	7210	COP1	COPE	10,227,161	983,381	1,004	955
SC	130	1	CROSS	15,587,385	1,640,777	1,530	1,594
SC	130	2	CROSS	14,641,271	1,534,724	1,437	1,491
SC	3317	1	DOLPHUS M GRAINGER	1,668,846	160,899	164	156
SC	3317	2	DOLPHUS M GRAINGER	1,453,280	140,549	143	137
SC	3251	1	H B ROBINSON	4,576,700	469,984	449	457
SC	3285	—4	HAGOOD	195,876	15,853	19	15
SC	3318	—3	HILTON HEAD	96,373	7,301	9	7
SC	3319	1	JEFFERIES	87,283	8,234	9	8
SC	3319	2	JEFFERIES	95,610	9,020	9	9
SC	3319	3	JEFFERIES	3,609,158	356,460	354	346
SC	3319	4	JEFFERIES	3,821,882	385,309	375	374
SC	3287	MCM1	MCMEEKIN	4,125,180	438,849	405	426
SC	3287	MCM2	MCMEEKIN	3,928,408	417,916	386	406
SC	50806	ST__NER	STONE CONTAINER	1,347,859	127,157	132	124
SC	3295	URQ1	URQUHART	2,118,629	207,709	208	202
SC	3295	URQ2	URQUHART	2,190,221	214,728	215	209
SC	3295	URQ3	URQUHART	3,017,055	307,863	296	299
SC	3264	1	W S LEE	1,529,058	130,232	150	127
SC	3264	2	W S LEE	1,653,216	148,138	162	144
SC	3264	3	W S LEE	2,934,022	293,402	288	285
SC	3264	—4	W S LEE	50,719	3,559	5	3
SC	3297	WAT1	WATEREE	8,329,168	849,915	818	826
SC	3297	WAT2	WATEREE	10,033,636	1,023,840	985	995
SC	3298	WIL1	WILLIAMS	20,429,832	2,084,677	2,006	2,025
SC	6249	1	WINYAH	7,076,385	728,773	695	708
SC	6249	2	WINYAH	7,783,646	780,472	764	758
SC	6249	3	WINYAH	6,588,503	620,913	647	603
SC	6249	4	WINYAH	7,930,443	802,758	779	780
WI	4140	B4	ALMA	906,033	82,667	68	64
WI	4140	B5	ALMA	1,322,085	127,590	99	99
WI		2	ARCADIA MUNICIPAL ELECTRIC	359	25	0	0
WI		3	ARCADIA MUNICIPAL ELECTRIC	181	13	0	0
WI		4	ARCADIA MUNICIPAL ELECTRIC	78	5	0	0
WI		5	ARCADIA MUNICIPAL ELECTRIC	4,411	310	0	0
WI		CT1	BEACH	8,810	618	1	0
WI	3992	8	BLOUNT STREET	746,085	61,609	56	48
WI	3992	9	BLOUNT STREET	883,198	72,931	66	56
WI	8023	1	COLUMBIA	17,697,465	1,721,376	1,328	1,333
WI	8023	2	COLUMBIA	19,254,893	1,881,831	1,445	1,458
WI	7159	—1	CONCORD	234,673	19,126	18	15
WI	7159	—2	CONCORD	252,008	20,539	19	16
WI	7159	—3	CONCORD	222,583	16,862	17	13
WI	7159	—4	CONCORD	217,995	16,515	16	13
WI			CUMBERLAND MUNICIPAL UTILITY	193	14	0	0
WI			CUMBERLAND MUNICIPAL UTILITY	280	20	0	0
WI			CUMBERLAND MUNICIPAL UTILITY	374	26	0	0
WI			CUMBERLAND MUNICIPAL UTILITY	584	41	0	0
WI		1	DANBURY	65	5	0	0
WI		2	DANBURY	73	5	0	0
WI		3	DANBURY	158	11	0	0
WI	4050	3	EDGEWATER	1,632,111	139,963	122	108

TABLE B.1.—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997 summer HI	Unit average of two Highest of 1995, 1996, or 1997 summer MWh	Unit allocations by HI	Unit allocation s by MWh
WI	4050	4	EDGEWATER	8,821,558	917,097	662	710
WI	4050	5	EDGEWATER	12,812,254	1,206,427	961	935
WI		1	FITCHBURG	93,659	6,573	7	5
WI		2	FITCHBURG	90,110	6,323	7	5
WI		CT1	FLAMBEAU	78,623	5,517	6	4
WI		2	FREDERIC	20	1	0	0
WI		3	FREDERIC	19	1	0	0
WI		4	FREDERIC	144	10	0	0
WI		5	FREDERIC	103	7	0	0
WI		6	FREDERIC	705	49	0	0
WI		7	FREDERIC	871	61	0	0
WI		CT1	FRENCH ISLAND	56,592	4,287	4	3
WI		CT2	FRENCH ISLAND	20,835	1,578	2	1
WI	4143	1	GENOA	9,095,142	1,001,668	682	776
WI	6253	—1	GERMANTOWN	107,413	8,137	8	6
WI	6253	—2	GERMANTOWN	107,413	8,137	8	6
WI	6253	—3	GERMANTOWN	107,413	8,137	8	6
WI	6253	—4	GERMANTOWN	107,413	8,137	8	6
WI	4271	B1	J P MADGETT	9,339,971	841,818	701	652
WI		CT1	MANITOWOC	21,524	1,510	2	1
WI		31	MARINETTE	76,764	5,387	6	4
WI		32	MARINETTE	22,262	1,562	2	1
WI		33	MARINETTE	383,016	29,016	29	22
WI	54851	GT__MSD	MMSD	22,263	1,562	2	1
WI	4054	1	NELSON DEWEY	2,969,241	276,363	223	214
WI	4054	2	NELSON DEWEY	3,141,352	301,995	236	234
WI		1	NINE SPRINGS	16,452	1,155	1	1
WI			Northwestern Wisconsin Electric Com	37	3	0	0
WI			Northwestern Wisconsin Electric Com	50	4	0	0
WI			Northwestern Wisconsin Electric Com	391	27	0	0
WI			Northwestern Wisconsin Electric Com	1,127	79	0	0
WI	7270	**1	PARIS	382,238	28,957	29	22
WI	7270	**2	PARIS	487,654	36,943	37	29
WI	7270	**3	PARIS	524,161	39,709	39	31
WI	7270	**4	PARIS	386,103	29,250	29	23
WI	6170	1	PLEASANT PRAIRIE	23,012,814	2,129,633	1,727	1,650
WI	6170	2	PLEASANT PRAIRIE	21,265,904	1,967,972	1,596	1,524
WI		AUX1	PLEASANT PRAIRIE	18,405	1,736	1	1
WI		AUX2	PLEASANT PRAIRIE	10,617	1,002	1	1
WI	4040	1	PORT WASHINGTON	1,295,715	124,588	97	97
WI	4040	2	PORT WASHINGTON	1,613,882	155,660	121	121
WI	4040	3	PORT WASHINGTON	1,719,476	167,362	129	130
WI	4040	4	PORT WASHINGTON	1,439,805	140,141	108	109
WI	4072	4	PULLIAM	395,870	38,064	30	29
WI	4072	5	PULLIAM	1,150,234	94,904	86	74
WI	4072	6	PULLIAM	1,994,261	167,726	150	130
WI	4072	7	PULLIAM	2,684,757	258,722	201	200
WI	4072	8	PULLIAM	4,610,833	453,020	346	351
WI		3	RIVER FALLS MUNICIPAL UTILITY	36	3	0	0
WI		5	RIVER FALLS MUNICIPAL UTILITY	2,527	177	0	0
WI		7	RIVER FALLS MUNICIPAL UTILITY	11,357	797	1	1
WI	4057	1	ROCK RIVER	1,999,193	168,666	150	131
WI	4057	2	ROCK RIVER	2,050,594	170,174	154	132
WI		3	ROCK RIVER	29,868	2,096	2	2
WI		4	ROCK RIVER	15,112	1,060	1	1
WI		5	ROCK RIVER	166,306	12,599	12	10
WI		6	ROCK RIVER	70,005	5,303	5	4
WI		30	SHEEPSKIN	124,716	8,752	9	7
WI	7203	**CT1	SOUTH FOND DU LAC	262,538	19,889	20	15
WI	7203	**CT2	SOUTH FOND DU LAC	275,481	18,992	21	15
WI	7203	**CT3	SOUTH FOND DU LAC	260,349	18,555	20	14
WI	4041	5	SOUTH OAK CREEK	5,906,838	667,439	443	517
WI	4041	6	SOUTH OAK CREEK	6,206,014	701,244	466	543
WI	4041	7	SOUTH OAK CREEK	8,697,896	978,611	653	758
WI	4041	8	SOUTH OAK CREEK	8,278,088	921,016	621	713
WI		1	SYCAMORE	33,342	2,340	3	2
WI		2	SYCAMORE	73,840	5,182	6	4
WI	4042	1	VALLEY	1,387,542	119,133	104	92
WI	4042	2	VALLEY	1,420,141	121,932	107	94
WI	4042	3	VALLEY	1,856,188	158,014	139	122
WI	4042	4	VALLEY	1,745,618	148,601	131	115
WI		CT1	WASHINGTON ISLAND ELECTRIC COOPERAT	75	5	0	0
WI		CT2	WASHINGTON ISLAND ELECTRIC COOPERAT	46	3	0	0
WI		CT3	WASHINGTON ISLAND ELECTRIC COOPERAT	3	0	0	0
WI		CT4	WASHINGTON ISLAND ELECTRIC COOPERAT	94	7	0	0
WI		CT5	WASHINGTON ISLAND ELECTRIC COOPERAT	153	11	0	0

TABLE B.1.—ALLOCATIONS TO FOSSIL FUEL-FIRED EGUS BY MMBTU AND MWH—Continued

State	Plant ID	Point ID	Plant	Unit average of two highest of 1995, 1996, or 1997 summer HI	Unit average of two Highest of 1995, 1996, or 1997 summer MWh	Unit allocations by HI	Unit allocation s by MWh
WI		CT6	WASHINGTON ISLAND ELECTRIC COOPERAT	270	19	0	0
WI	4076	—33	WEST MARINETTE	227,932	18,531	17	14
WI	4078	1	WESTON	1,706,613	143,124	128	111
WI	4078	2	WESTON	2,947,494	274,594	221	213
WI	4078	3	WESTON	12,197,388	1,197,819	915	928
WI		1	WHEATON	52,813	4,001	4	3
WI		2	WHEATON	58,350	4,420	4	3
WI		3	WHEATON	48,564	3,679	4	3
WI		4	WHEATON	40,981	3,105	3	2
WI		5	WHEATON	23,635	1,791	2	1
WI		6	WHEATON	17,227	1,305	1	1

TABLE B.2.—ALLOCATIONS TO NON-EGUS BY MMBTU

State	Plant	Point ID	Unit 1995 summer HI	Unit allocations by HI
GA	MERCK & CO INC	004	1,137,138	134
GA	FEDERAL PAPER BOARD CO INC	007	2,551,114	300
GA	DSM CHEMICALS NORTH AMERICA INC	001	1,137,974	134
GA	PACKAGING CORP OF AMERICA	015	1,239,138	146
GA	INTERSTATE PAPER CORP	006	771,395	91
GA	CARGILL	001	461,546	54
GA	BLUE	001	25,892	3
GA	INLAND-ROME	001	986,136	116
GA	GILMAN PAPER CO ST MARYS KRAFT BAG	003	1,715,895	202
GA	AUSTELL	001	1,507,475	177
GA	FEDERAL PAPER BOARD CO INC	008	3,189,139	375
GA	GILMAN PAPER CO ST MARYS KRAFT BAG	016	2,130,015	250
GA	UNION CAMP CORP	018	1,404	0
GA	UNION CAMP CORP	019	1,749,095	206
GA	UNION CAMP CORP	020	3,300,620	388
GA	UNION CAMP CORP	021	4,611,960	542
GA	SAVANNAH SUGAR REFINERY	017	370,056	44
SC	SPRINGS IND:GRACE	004	93,432	13
SC	HOECHST/CEL:ROCKHILL	005	1,284,708	175
SC	GOODYEAR:SPARTANBURG	001	5,196	1
SC	CAROLINA EASTMAN CO	005	823,637	112
SC	CAROLINA EASTMAN CO	006	348,861	48
SC	GASTON COPPER RECYCL	006	151,636	21
SC	WILLAMETTE:BNVL PULP	005	552,532	75
SC	UNION CAMP:EASTOVER	001	2,637,388	360
SC	CAROLINA EASTMAN CO	004	1,224,571	167
SC	TRANDCENTNTL PIPELINE	005	16,691	2
SC	BOWATER CAROLINA CO	001	66,597	9
SC	HOECHST/CEL:ROCKHILL	001	858,080	117
SC	HOECHST/CEL:ROCKHILL	002	858,080	117
SC	HOECHST/CEL:ROCKHILL	004	1,284,708	175
SC	HOECHST/CEL:ROCKHILL	006	1,352,714	185
SC	DUPONT,EI:MAY PLANT	015	1,058,715	145
SC	SPRINGS IND:GRACE	003	962,472	131
SC	HOECHST/CEL:ROCKHILL	003	858,080	117
SC	WESTVACO:KRAFT DIV	007	1,534,180	210
SC	CAROLINA EASTMAN CO	003	1,174,931	160
SC	DUPONT, EI:MAY PLANT	014	1,110,177	152
SC	SAVANNAH R PL:AREA D	001	322,804	44
SC	SAVANNAH R PL:AREA D	002	1,160,658	159
SC	SAVANNAH R PL:AREA D	003	270,000	37
SC	WESTVACO:KRAFT DIV	003	604,557	83
SC	SONOCO:HARTSVILLE	003	992,068	135
SC	SONOCO:HARTSVILLE	004	1,245,367	170
SC	STONE CONT:FLORENCE	002	699,348	96
SC	US AIRFORCE:MRTL BCH	007	1,246	0
SC	STONE CONT:FLORENCE	010	4,460,897	609
SC	US FINISHING	004	12,125	2
SC	US FINISHING	005	6,928	1
SC	US FINISHING	006	1,155	0
SC	CAROTELL PAPER BOARD	004	17,136	2
SC	US AIRFORCE:MRTL BCH	005	2,476	0
SC	STONE CONT:FLORENCE	004	1,736,541	237
SC	SAVANNAH R PL:AREA D	004	501,768	69
WI	LADISH MALTING CO	B28	79,675	12
WI	TENNECO PACKAGING INC	B30	8,660	1
WI	A.A. LAUN FURNITURE CO	B21	0	0
WI	MILLER BREWING COMPANY MILWAUKEE PLANT	B20	465,928	71

TABLE B.2.—ALLOCATIONS TO NON-EGUS BY MMBTU—Continued

State	Plant	Point ID	Unit 1995 summer HI	Unit allocations by HI
WI	PROCTER & GAMBLE PAPER PRODUCTS COMPANY	B06	193,276	30
WI	WIS DOA / UW-MILWAUKEE POWER PLANT	B20	32,909	5
WI	ST. JOSEPH'S HOSPITAL	T07	577	0
WI	WAUSAU PAPER MILLS COMPANY	B25	65,242	10
WI	WIS DOA / UW MADISON—CHARTER ST	B25	256,925	39
WI	WIS DOA / UW MADISON—CHARTER ST	B21	608,077	93
WI	FORT HOWARD CORPORATION	B26	1,448,966	222
WI	PROCTER & GAMBLE PAPER PRODUCTS COMPANY	B05	80,349	12
WI	PROCTER & GAMBLE PAPER PRODUCTS COMPANY	B07	116,626	18
WI	JAMES RIVER CORPORATION—GREEN BAY MILL	B01	419,007	64
WI	ST. JOSEPH'S HOSPITAL	T08	577	0
WI	ANDIS COMPANY	B10	577	0
WI	FORT HOWARD CORPORATION	B29	1,785,381	273
WI	FORT HOWARD CORPORATION	B27	2,670,322	409
WI	GREAT LAKES GAS TRANSMISSION-COMP STATIO	P01	716,318	110
WI	ANDIS COMPANY	B11	0	0
WI	BURNETT MEDICAL CENTER	B22	1,155	0
WI	CONSOLIDATED PAPERS INC-KRAFT DIV	B24	70,438	11
WI	CONSOLIDATED PAPERS INC-KRAFT DIV	B21	1,286,371	197
WI	NEKOOSA PAPERS INC NEKOOSA MILL	B24	848,238	130
WI	CONSOLIDATED PAPERS INC-KRAFT DIV	B20	1,566,432	240
WI	CONSOL PAPERS INC BIRON DIV	B24	1,538,813	236
WI	FLAMBEAU PAPER CORP	I50	9,815	2
WI	DELUXE CHECK PRINTERS	B20	1,732	0
WI	HYDRO-PLATERS, INC	B01	0	0
WI	BLOUNT INC. FORESTY & INDUSTRIAL EQUIP D	B20	1,155	0
WI	APPLETON PAPERS INC LOCKS MILL	B23	1,453,493	223
WI	APPLETON PAPERS INC LOCKS MILL	B05	35,796	5
WI	THILMANY PULP & PAPER COMPANY	B11	1,460,691	224
WI	RHINELANDER PAPER CO	B26	1,370,808	210
WI	QUAD/GRAPHICS, INC	B02	577	0
WI	QUAD/GRAPHICS, INC	B01	577	0
WI	PRINTWORKS INC	P33	577	0
WI	CONSOL PAPERS INC BIRON DIV	B23	1,274,336	195

Appendix C to Part 97-State-by-State Maximum Summer NO^X Emission Levels and Allocation Aggregates

State	EGU maximum summer NO^x Tons	EGU allocations (95% of maximum summer)	Non-EGU maximum summer NO^x tons	Non-EGU allocations (95% of maximum summer)
AL	28,884	27,440	3,347	3,179
CT	2,545	2,418	283	269
DC	207	196	18	17
DE	3,489	3,315	238	226
GA	30,061	28,558	3,328	3,161
IL	30,165	28,657	3,600	3,420
IN	46,627	44,296	11,325	10,758
KY	36,315	34,499	1,709	1,624
MA	14,619	13,888	232	220
MD	14,788	14,048	802	762
MI	26,344	25,027	2,844	2,702
MO	23,171	22,012	132	126
NC	29,967	28,468	3,277	3,113
NJ	7,898	7,503	3,882	3,688
NY	29,391	27,921	4,409	4,189
OH	45,776	43,487	8,693	8,258
PA	48,038	45,636	4,657	4,424
RI	1,115	1,059	0	0
SC	16,286	15,472	4,355	4,137
TN	25,386	24,117	8,085	7,681
VA	18,009	17,109	5,372	5,104
WI	16,751	15,913	3,204	3,043
WV	26,439	25,117	3,509	3,334
Total	522,271	496,157	77,300	73,436

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Wednesday
October 21, 1998

Part III

Environmental Protection Agency

40 CFR Parts 52 and 98

Federal Implementation Plans To Reduce the Regional Transport of Ozone; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 98

[FRL–6170–5]

RIN 2060–AH87

Federal Implementation Plans To Reduce the Regional Transport of Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: In accordance with the Clean Air Act (CAA), EPA is proposing Federal implementation plans (FIPs) that may be needed if any State fails to revise its State implementation plan (SIP) to comply with the nitrogen oxides (NO_X) SIP call just completed by EPA. The NO_X SIP call includes emission budgets which are designed to eliminate specified amounts of emissions of NO_X—one of the precursors to ozone (smog) pollution—for the purpose of reducing NO_X and ozone transport across State boundaries in the eastern half of the United States. This notice supplements the shorter notice of proposed rulemaking for the FIPs appearing separately in the September 29, 1998 **Federal Register** at 63 FR 52213.

DATES: Comments may be submitted until November 30, 1998, as previously announced in a shorter notice of proposed rulemaking published in the **Federal Register** on September 30, 1998.

Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). The public hearings for the section 126 and FIP proposals will be held on October 28 and 29, 1998, as previously announced in a shorter notice of proposed rulemaking published in the **Federal Register** on September 30, 1998.

ADDRESSES: Comments may be submitted to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–97–43 for the section 126 proposal and Docket No. A–98–12 for the FIP proposal, U.S. Environmental Protection Agency, 401 M Street SW, room M–1500, Washington, DC 20460, telephone (202) 260–7548. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

The public hearing will be held at the EPA Auditorium, 401 M St., SW., Washington, DC. Documents relevant to this matter are available for inspection at the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–98–12, U.S. Environmental Protection Agency, 401 M Street SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action should be addressed to Doug Grano, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3292. Please refer to **SUPPLEMENTARY INFORMATION** below for a list of contacts for specific subjects described in today's action.

SUPPLEMENTARY INFORMATION:

Technical Analyses

The Agency will ensure that all comments and technical analyses received on this proposal notice are made publicly available in the docket to this rulemaking.

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under docket number A–98–12 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. A copy of today's FIP proposal notice is available at http://www.epa.gov/ttn/oarpg under ''recent actions'' and ''actions sorted by CAA title'' (under title I).

Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–98–12. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

The EPA has conducted a separate rulemaking action that contains actions and information related to this NPR, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' (see proposals at 62 FR 60318, November 7, 1997; 63 FR 25902, May 11, 1998, and final rule just issued). This rulemaking action is referred to as the NO_X SIP call. Documents related to the NO_X SIP call rulemaking, including the notice of final rulemaking, are available for inspection in Docket No. A–96–56 at the address and times given above. In addition, the NO_X SIP call rulemaking and associated documents are located at http://www.epa.gov/ttn/oarpg/otagsip.html. The rulemaking docket for the NO_X SIP call contains information and analyses that are relied upon in today's proposal on the NO_X FIPs. Therefore, EPA is incorporating by reference the entire NO_X SIP call record for purposes of the NO_X FIPs proposed rulemaking. Although EPA is incorporating by reference the entire NO_X SIP call docket, the only portions that form the basis for the FIP rulemaking are the portions that address feasibility and cost effectiveness of control measures and the projection of emissions reductions that various control measures would achieve.

The EPA is now conducting a separate rulemaking action that contains actions and information related to this NPR, ''Finding of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport,'' (see advanced notice of proposed rulemaking at 63 FR 24058, April 30, 1998, and the proposal notice in a separate **Federal Register**). This rulemaking action is hereafter referred to as the section 126 rulemaking. Documents related to the section 126 rulemaking, including the proposed rulemaking notice, are available for inspection in Docket No. A–97–43 at the address and times given above. A copy of the section 126 proposal notice is available at http://www.epa.gov/ttn/oarpg under ''recent actions'' and ''actions sorted by CAA title'' (under title I).

Additional information relevant to this NPR concerning the Ozone Transport Assessment Group (OTAG) is available on the Agency's Office of Air

Quality Planning and Standards' (OAQPS) Technology Transfer Network (TTN) via the web at http://www.epa.gov/ttn/. If assistance is needed in accessing the system, call the help desk at (919) 541–5384 in Research Triangle Park, NC. Documents related to OTAG can be downloaded directly from OTAG's webpage at http://www.epa.gov/ttn/otag. The OTAG's technical data are located at http://www.iceis.mcnc.org/OTAGDC.

For Additional Information

For legal questions, please contact Amey Marrella, United States Environmental Protection Agency, Office of General Counsel, 401 M Street SW, MC–2344, Washington, DC, 20460, telephone (202) 260–7987. For questions concerning the economic analyses, please contact Scott Mathias, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5310. For questions concerning the trading program, please contact Kevin Culligan, Office of Atmospheric Programs, Acid Rain Division, MC–6201J, 401 M Street SW, Washington, DC 20460, telephone (202) 564–9172. For questions concerning non-electric utility generating units, please contact Doug Grano, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–3292.

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I. Summary

In accordance with the CAA, EPA today proposes FIPs that may be needed if any State fails to revise its SIP to comply with the NO_X SIP call just promulgated by EPA. The NO_X SIP call final rulemaking notice and support material in that docket should be reviewed for background information relevant to this FIP action. The NO_X SIP call includes emission budgets which are designed to eliminate specified amounts of emissions of NO_X—one of the precursors to ozone (smog) pollution—for the purpose of reducing NO_X and ozone transport across State boundaries in the eastern half of the United States.

Today's action is a proposed FIP under section 110(c) intending to meet requirements imposed by the NO_X SIP call final rule under section 110(a)(2)(D) and section 110(k)(5) for the 1-hour ozone NAAQS, coupled with a requirement under section 110(a)(1) for submission of SIP provisions meeting the requirements of section 110(a)(2)(D) for the 8-hour ozone NAAQS. In the NO_X SIP call, EPA has found that emissions from 23 jurisdictions contribute significantly to ozone nonattainment problems downwind and has required those jurisdictions to submit SIP provisions that eliminate those emissions through any combination of control measures. If EPA finds that a State has not submitted the required plan revision, EPA is required to promulgate a FIP in accordance with section 110(c).

Ozone has long been recognized, in both clinical and epidemiological research, to affect public health. There is a wide range of ozone-induced health effects, including decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), increased

hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-existing respiratory disease such as asthma), increased inflammation of the lung, and possible long-term damage to the lungs.

Today's action to propose FIPs includes proposed rule language establishing the emissions requirements for certain stationary source categories and the cost analyses supporting the proposal. The FIP requirements for stationary sources include use of a Federal NO_X Budget Trading Program proposed in a separate **Federal Register** concerning petitions under section 126 of the CAA. The FIP proposal is intended to achieve the NO_X emissions reductions required by the NO_X SIP call rulemaking in the 23 jurisdictions, a portion of whose emissions are found to significantly contribute to nonattainment of the ozone NAAQS, or interfere with maintenance of the NAAQS, in downwind States. The NO_X SIP call final rule explains EPA's basis for determining significant contribution to downwind nonattainment or maintenance problems. Specifically, the 23 jurisdictions with sources whose emissions have been found to make a significant contribution to downwind nonattainment for both the 1-hour and 8-hour NAAQS and interfere with maintenance of the 8-hour NAAQS, and are, therefore, the subject of this FIP proposal, are:

Alabama
Connecticut
Delaware
District of Columbia
Georgia
Illinois
Indiana
Kentucky
Maryland
Massachusetts
Michigan
Missouri
New Jersey
New York
North Carolina
Ohio
Pennsylvania
Rhode Island
South Carolina
Tennessee
Virginia
West Virginia
Wisconsin

For large boilers and turbines, EPA proposes to promulgate a Federal NO_X Budget Trading Program, proposed in a separate **Federal Register** concerning petitions under section 126 of the CAA, to achieve emissions decreases in a very cost-effective manner. The proposed trading program will allow the owners of boilers and turbines the flexibility to develop their own compliance approach in order to achieve the needed ozone season emissions reductions. The FIP proposal also includes regulations to decrease ozone season NO_X emissions from stationary internal combustion engines and cement manufacturing. These emissions reductions requirements are to be achieved by May 1, 2003.

In order to meet the requirements of section 110(c), this notice proposes a FIP for each of the 23 jurisdictions required by the NO_X SIP call to reduce emissions of NO_X. The proposed FIP requirements for each of the 23 jurisdictions are identical. Thus, the term ''FIP'' or ''FIPs'' as used in this notice refers to one set of requirements that is proposed for each of 23 jurisdictions. Final rulemaking on the proposed FIPs may address only one State or may address several of the 23 jurisdictions, depending on how the 23 jurisdictions respond to the NO_X SIP call.

The FIP rulemaking does not invite comments on issues covered in the NO_X SIP call, including sections II, EPA's Analytical Approach; III, Determination of Budgets; IV, Air Quality Assessment; and V, NO_X Control Implementation and Budget Achievement Dates, except for the portions of those sections that address the feasibility and cost effectiveness of control measures and the projections of the emissions reductions that various control measures would achieve. The reader is referred to the NO_X SIP call for explanation of the issues.

If a State adopts and submits to EPA an approvable SIP revision in response to the NO_X SIP call by September 1999, EPA would not promulgate this Federal program for that State at that time. However, if a State fails to respond to the NO_X SIP call by adopting and submitting to EPA a complete revised SIP by September 1999, EPA intends to take final rulemaking action on the FIP immediately thereafter. In addition, if a State submits a SIP that EPA does not find approvable, EPA intends to promulgate a FIP concurrently with finalization of its disapproval of the SIP. For more information on the rationale for and requirements of the NO_X SIP call final rule, see the final remaking notice as well as the proposal notices and support documents contained in the docket for that rule and section II, Background, of this notice.

Today's notice provides background information in section II, covering relevant portions of the CAA and the NO_X SIP call final rule. Section III explains EPA's duty to develop the FIPs, the timing of the FIP process, and how the FIPs interface with sanction provisions in the CAA, as well as with EPA's ''transitional areas'' policy under the new 8-hour ozone standard. In section IV, EPA describes how the rule requirements contained in the FIP proposal are designed to meet the emissions decreases required by the NO_X SIP call. Emissions reporting requirements are described in section V. The Federal NO_X Budget Trading Program is addressed in section VI. Regulations covering stationary sources not in the trading program are outlined in section VII. Section VIII covers several administrative requirements, including the Regulatory Impact Analyses associated with the FIP. Finally, the rule contains proposed regulations which are designed to meet the emissions decreases required by the NO_X SIP call.

II. Background

A. History

For almost 30 years, Congress has focused major efforts on curbing ground-level (tropospheric) ozone. In 1990, Congress amended the CAA to better address, among other things, continued nonattainment of the 1-hour ozone NAAQS, the requirements that would apply if EPA revised the 1-hour standard, and transport of air pollutants across State boundaries.

The 1990 Amendments reflect general awareness by Congress that ozone is a regional, and not merely a local, problem. Ozone and its precursors may be transported long distances across State lines to combine with ozone and precursors downwind, thereby worsening the ozone problems downwind. This transport phenomenon is a major reason for the persistence of the ozone problem, notwithstanding the imposition of numerous controls, both Federal and State, across the country.

Section 110(a)(2)(D) provides one of the most important tools for addressing the problem of transport. This provision, which applies by its terms to all SIPs for each pollutant covered by a NAAQS, and for all areas regardless of their attainment designation, provides that a SIP must contain provisions prohibiting its sources from contributing significantly to nonattainment problems in or interfering with maintenance by downwind States. Section 110(k)(5) authorizes EPA to find that a SIP is substantially inadequate to meet any CAA requirement. It further authorizes EPA to require a State with such a SIP to submit, within a specified period, any SIP revision necessary to correct the inadequacy.

The CAA further addresses interstate transport of pollution in section 126, which Congress clarified in 1990. Subparagraph (b) of that provision authorizes each State (or political subdivision) to petition EPA for a finding that emissions from ''any major source or group of stationary sources'' in an upwind State contribute significantly to nonattainment in, or interfere with maintenance by, the downwind State.

In addition, in 1995, the Environmental Council of States (ECOS) and EPA organized the OTAG. The OTAG was a partnership among EPA, the 37 easternmost States and the District of Columbia, industry representatives and environmental groups. This effort created an opportunity for the development of an Eastern United States ozone strategy to address transport and to assist in attainment of the 1-hour ambient ozone standard. The EPA believes that the OTAG process has been invaluable in demonstrating the types of regional ozone precursor reductions that are needed to enable areas in the Eastern United States to attain and maintain the ambient air quality standards for ozone.

Shortly after OTAG began its work, EPA began to indicate that it intended to issue a NO_X SIP call to require States to implement the reductions necessary to address the ozone transport problem. On January 10, 1997 (62 FR 1420), EPA published a Notice of Intent that articulated this goal and indicated that before taking final action, EPA would carefully consider the technical work and any recommendations of OTAG. The EPA just completed final rulemaking on the NO_X SIP call and established emissions budgets for NO_X that each of the identified States must meet through enforceable SIP measures. The NO_X SIP call is summarized later in section II.E of this notice.

B. Ozone Impacts

Ground-level ozone, the main harmful ingredient in smog, is produced in complex chemical reactions when its precursors, volatile organic compounds (VOC) and NO_X, react in the presence of sunlight. The chemical reactions that create ozone take place while the pollutants are being blown through the air by the wind, which means that ozone can be more severe many miles away from the source of emissions than it is at the source. At ground level, ozone can cause a variety of ill effects to human health, crops and trees. Specifically, ground-level ozone induces the following health effects:

- Decreased lung function, primarily in children active outdoors,
- Increased respiratory symptoms, particularly in highly sensitive individuals,
- Hospital admissions and emergency room visits for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma,
- Inflammation of the lung,
- Possible long-term damage to the lungs or even death.

Detailed information on the benefits and costs of changes in NO_X emissions is contained in the Regulatory Impact Analysis (RIA) contained in the NO_X SIP call docket, which also serves as the RIA for the FIP proposal. In addition to helping attain public health standards for ozone, decreases in emissions of NO_X are helpful in reducing acid deposition, greenhouse gases, nitrates in drinking water, stratospheric ozone depletion, excessive nitrogen loadings to aquatic and terrestrial ecosystems, and ambient concentrations of nitrogen dioxide, particulate matter and toxics (see ''Nitrogen Oxides: Impacts on Public Health and the Environment,'' EPA–452/R–97–002, August 1997.)

C. New Ozone NAAQS

On July 18, 1997 (62 FR 38856), EPA issued its final action to revise the NAAQS for ozone. The EPA's decision to revise the standard was based on the Agency's review of the available scientific evidence linking exposures to ambient ozone to adverse health and welfare effects at levels allowed by the pre-existing 1-hour ozone standards. The 1-hour primary standard was replaced by an 8-hour standard at a level of 0.08 parts per million (ppm), with a form based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor within an area. The new primary standard will provide increased protection to the public, especially children and other at-risk populations, against a wide range of ozone-induced health effects. The EPA retained the applicability of the 1-hour NAAQS for existing nonattainment areas until such time as EPA determines that an area has attained the 1-hour NAAQS (40 CFR 50.9). The new standard results in more areas and larger areas with monitoring data indicating nonattainment. Thus, it will be even more critical to implement regional control strategies which will eliminate specified amounts of emissions of NO_X which would otherwise be transported across State boundaries into areas in violation of the new standard.

D. Section 126 Petitions

On August 14–15, 1997, EPA received eight section 126 petitions submitted individually by eight Northeastern States. The petitioning States are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont. Each petition requests EPA to make a finding that sources in certain categories of stationary sources in upwind States emit or would emit NO_X in violation of the prohibition in section 110(a)(2)(D)(i) on emissions that contribute significantly to nonattainment, or interfere with maintenance, in the petitioning State. All of the petitions seek a finding and relief under the 1-hour standard; Massachusetts, Pennsylvania, and Vermont also seek a finding and relief with respect to the 8-hour standard.

The petitions vary as to the type and geographic location of the source categories identified as significant contributors. All the petitions identified source categories; some petitions also provided lists of sources within the specified categories. The source categories include electric generating plants, fossil fuel-fired boilers and other indirect heat exchangers, and certain other related stationary sources that emit NO_X. All the petitions target sources in the Midwest; some also target sources in the South and Northeast.

In a separate rulemaking, EPA is proposing to make a technical determination that certain major stationary source categories identified in the section 126 petitions are significantly contributing to nonattainment in, or interfering with maintenance by, one or more petitioning State (hereafter referred to as a positive or affirmative technical determination). On the basis of the proposed affirmative technical determination, EPA is proposing that the petitions naming these sources and source categories be granted or denied, at certain later dates, pending certain actions by the States and EPA regarding State submittals and FIPs in response to the final NO_X SIP call. The schedule and conditions under which the applicable final findings on the petitions would be triggered are discussed in that proposal notice. For information on the interaction of the section 126, FIP, and NO_X SIP call actions, see the section 126 proposal notice, section II.A.2.

E. NO_X SIP Call

The EPA proposed the NO_X SIP call on November 7, 1997 (62 FR 60318), issued a supplemental notice on May 11, 1998 (63 FR 25902), and just issued a final rulemaking. In that action, EPA determined that NO_X emissions from sources and emitting activities in 23 jurisdictions significantly contribute to

nonattainment of the 1-hour and 8-hour ozone NAAQS, or interfere with maintenance of the 8-hour NAAQS, in one or more downwind States throughout the Eastern United States. The EPA based these proposals on data generated by OTAG, public comments, and other relevant information.

The NO_X SIP call requires that the 23 jurisdictions adopt and submit by September 24, 1999, remedial SIP revisions. The 23 jurisdictions are: Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. The SIP revisions must contain measures that will assure that sources in the State reduce their NO_X emissions sufficiently to eliminate the amounts of NO_X emissions that contribute significantly to nonattainment, or that interfere with maintenance, downwind. By eliminating these amounts of NO_X emissions, the control measures will assure that the remaining NO_X emissions will not exceed the level that EPA identifies in the NO_X SIP call as the State's NO_X emissions budget. After prohibiting the significant amounts of NO_X, the remaining amounts emitted by sources in the covered States will not ''significantly contribute to nonattainment, or interfere with maintenance by,'' a downwind State, under section 110(a)(2)(D)(i)(I).

For purposes of the FIP rulemaking, the reader is encouraged to review the NO_X SIP call final rulemaking, which is organized as follows: section II.C, Weight-of-Evidence Determination of Covered States, describes how EPA determined which States include sources that emit NO_X in amounts of concern (the ''covered'' States); sections II.D, Cost Effectiveness of Emission Reductions; II.E, Comparison of Upwind and Downwind Costs; and III, Determination of Budgets, describe how EPA determined the significant amounts of emissions and the resulting statewide emissions budgets for the States identified above. Section IV, Air Quality Assessment, discusses air quality analyses conducted by EPA to help confirm the decisions and requirements set forth in this rulemaking. Section V, NO_X Control Implementation and Budget Achievement Dates, primarily discusses the dates by which (1) the States must submit SIP revisions in response to today's action, (2) the sources must implement the required SIP controls, and (3) the States must achieve the required budget levels. Section VI, SIP Criteria and Emissions Reporting Requirements, describes the SIP requirements themselves.

The SIP requirements permit each State to determine what measures to adopt to prohibit the significant amounts and, hence, meet the necessary emissions budget. Consistent with OTAG's recommendations to achieve NO_X emissions decreases primarily from large stationary sources in a trading program, EPA encourages States to consider electric generating and non-electric generating boiler and turbine controls under a cap-and-trade program as a highly cost-effective strategy. The recommended cap-and-trade program is described in more detail in section VII, NO_X Trading program. Section VIII, Interaction with Title IV NO_X Rule, describes the relationship between this rulemaking and the title IV NO_X rule. The remaining parts of the NO_X SIP call include section IX, Nonozone Benefits of NO_X Reductions, and section X, Administrative Requirements.

III. FIP Process

A. Legal Framework

The Administrator is required to promulgate a FIP within 2 years of: (1) Finding that a State has failed to make a required submittal, (2) finding that a submittal received does not satisfy the minimum completeness criteria established under section 110(k)(1)(A), or (3) disapproving a SIP submittal in whole or in part. Section 110(c)(1) mandates EPA promulgation of a FIP unless EPA has approved, within the 2-year time period, a SIP revision that corrects the deficiency identified by EPA in its NO_X SIP call.

The 1990 Amendments make explicit a principle that was implicit in the preceding Act—that a FIP corrects or fills a void in a deficient State plan. The amended CAA defines a FIP as a plan to fill a gap or ''correct all or a portion of an inadequacy in a State implementation plan.'' (42 U.S.C. 7602(y) (Supp. II. l990) (emphasis added).) When forced by a State planning delinquency to promulgate a FIP, EPA has wide-ranging authority under section 110(c) to fill the gaps left by the State failure. The EPA's authority to prescribe FIP measures is of three types. First, EPA may promulgate any measure which it is expressly permitted to issue under any circumstances pursuant to pre-existing independent statutory authority—for example, explicit provisions of title II. That is, EPA may promulgate any measure which it has authority to issue in a non-FIP context, without reliance on section 110(c). Second, EPA may invoke section 110(c)'s general FIP authority and act to cure a planning inadequacy in any way not clearly prohibited by statute. Third, under section 110(c), the courts have held that EPA may exercise all authority that the State may exercise under the Act.

The second type of authority, EPA's general authority under section 110(c), is essentially remedial, and EPA has broad power under that section to cure a defective State plan. Thus, in promulgating a FIP, EPA may exercise its own, independent regulatory authority under the CAA in any way not clearly prohibited by an explicit provision of the Act. When EPA has promulgated a FIP, courts have not required explicit authority for specific measures: ''We are inclined to construe Congress'' broad grant of power to the EPA as including all enforcement devices reasonably necessary to the achievement and maintenance of the goals established by the legislation.'' (*South Terminal Corp.* v. *EPA,* 504 F.2d 646, 669. (1st Cir. 1974)). See also *City of Santa Rosa* v. *EPA*, 534 F.2d 150, 153–154 (9th Cir. 1976) (upholding the Administrator's authority to promulgate a FIP imposing gas-rationing in Los Angeles on a massive scale). ''The authority to regulate pollution carries with it the power to do so in a manner reasonably calculated to reach that end.'' *Id.* at 155.

In addition, when a State's failure to discharge the primary responsibility to protect its air quality compels EPA to assume this task, the powers of the defaulting State accrue to EPA. As the Ninth Circuit recently held, when EPA acts in place of the State pursuant to a FIP under section 110(c), EPA ''stands in the shoes of the defaulting State, and all of the rights and duties that would otherwise fall to the State accrue instead to EPA,'' *Central Arizona Water Conservation District* v. *EPA,* 990 F.2d 1531, at 1541 9th Cir. 1993). The First Circuit, in an early FIP case, agreed:

> the Administrator must promulgate promptly regulations setting forth an implementation plan for a State should the State itself fail to propose a satisfactory one. The statutory scheme would be unworkable were it read as giving to EPA when promulgating an implementation plan for a State, less than those necessary measures allowed by Congress to a State to accomplish Federal clean air goals. We do not adopt any such crippling interpretation.

South Terminal Corporation v. *EPA,* 504 F.2d 668 (1st Cir. 1974).

B. Timing of FIP Action

As described in the NO_X SIP call final rulemaking and summarized in section II.E of this notice, EPA is requiring

specific States to develop, adopt and submit revisions to their SIPs by September 1999. As part of the NO_X SIP call rulemaking, EPA received a few comments supporting the position that EPA should propose FIPs at the same time as taking final action on the NO_X SIP call rulemaking. The Agency also received a few comments suggesting it was more appropriate to delay the FIP proposal until some time after the States have had time to respond to the NO_X SIP call rulemaking. As described in that final notice, EPA agreed with certain commenters that the timing of the FIP proposal should allow for promulgation in time to require NO_X emissions reductions by sources at about the same time, both in States that comply with the NO_X SIP call and States that do not. Under a delayed FIP proposal approach, industry in the non-complying States might experience an unfair competitive advantage over industry in States which elected to reduce their NO_X emissions and reduce interstate transport of ozone and ozone precursors in an earlier timeframe, consistent with the requirements of the NO_X SIP call rulemaking. More importantly, delaying the FIP proposal would delay reductions of ozone pollution and NO_X emissions in the non-complying States which would unnecessarily jeopardize public health. Therefore, proposing a FIP today will ensure that EPA can promulgate a FIP soon after the time the SIPs are due, in the event of any State's failure to comply.

The EPA views seriously its responsibility to address the issue of regional transport of ozone and ozone precursor emissions. Decreases in NO_X emissions are needed in the States named in the NO_X SIP call rulemaking to enable the downwind States to develop and implement plans to achieve the NAAQS in order to achieve clean air for their citizens. Thus, although the CAA allows EPA up to 2 years to promulgate a FIP after a finding of a State's failure to submit a complete, approvable plan, EPA intends to expedite the FIP promulgation to help assure that the downwind States realize the air quality benefits of regional NO_X reductions as soon as practicable. This is consistent with Congress' intent that attainment occur in these downwind nonattainment areas ''as expeditiously as practicable'' (sections 181(a), 172(a)). Therefore, EPA is proposing FIPs today in conjunction with final action on the NO_X SIP call. Furthermore, EPA intends to make a finding and promulgate a FIP immediately after the SIP submittal due date for each upwind State that fails to submit a complete SIP that meets the terms of the NO_X SIP call. The EPA also intends to approve expeditiously SIP revisions that meet the NO_X SIP call rulemaking requirements. For States that fail to make the required submittal or fail to submit a complete SIP revision response, EPA would promulgate a FIP as described in the above section. Where the SIP is complete but EPA disapproves it, EPA would also promulgate a FIP. The EPA intends to move quickly to promulgate a FIP where necessary.

In order to meet the requirements of section 110(c), this notice proposes a FIP for each of the 23 jurisdictions required by the NO_X SIP call to reduce emissions of NO_X. The proposed FIP requirements for each of the 23 jurisdiction are identical. Final rulemaking on the proposed FIPs may address only one State or may address several of the 23 jurisdictions, depending on how the 23 jurisdictions respond to the NO_X SIP call.

C. FIP Control Measures

In contrast to the SIP process—where selection and implementation of control measures is the primary responsibility of the State—in the case of a FIP, it is EPA's responsibility to select the control measures for each source sector and assure compliance with those measures. Thus, while the FIP would be designed by EPA to achieve the same total statewide emissions decrease as that described in the NO_X SIP call, the specific control measures assigned in the FIP could be different from what a State might choose.

In selecting the specific control measures for the FIP, EPA used the same method used in the NO_X SIP call for calculating the required emissions reductions. As in the NO_X SIP call, the FIP rules proposed in this notice require the same amount of emissions reduction from the source categories to which highly cost-effective measures can be applied. See the discussion in section III, Determination of Budgets, of the NO_X SIP call. The EPA is incorporating by reference the technical basis and supporting rationale for EPA's conclusions as to the highly cost-effective strategy developed for the NO_X SIP call budgets.

D. Authority To Order the State To Implement Specific Measures

The EPA's authority to promulgate measures in a FIP which require the State to enact legislation or expend State funds may be somewhat limited under prior case law. In general, EPA may require the State to implement FIP measures, including requirements for legislation and expenditure of funds, if the measures affect the pollution-creating activities of the State. However, in *Brown* v. *EPA*, 521 F.2d 827 (9th Cir. 1975), vacated on other grounds, 431 U.S. 99 (1977) (*Brown*), the court held that section 113 of the CAA did not provide statutory authority for EPA to bring an enforcement action against the State (or other municipal authority) for failing to implement a motor vehicle inspection and maintenance program. The court reasoned that the CAA authorized Federal enforcement if the State did not implement regulations to control its own pollution creating activities, ''but not against a State that chooses not to govern polluters as the Administrator directs.'' *Id.* at 832. In a subsequent decision, the court rejected EPA's argument that ownership of the roads and highways made the State responsible for the pollution created from their use (*Brown* v. *EPA*, 566 F.2d 665 (9th Cir. 1977), vacated on other grounds, 431 U.S. 99 (1977)).

The same court, however, held in *City of Santa Rosa* v. *EPA*, 534 F.2d 150 (9th Cir. 1976), that the EPA may require gas rationing under its FIP authority. The court found that the Administrator of EPA has authority to limit gas delivery to retail outlets and may require the citizens of the State to curtail their gas usage. The FIP measure in *City of Santa Rosa* did not require the State to implement the gas rationing scheme, and the court distinguished *Brown* because the petitioners had challenged the effect of gas rationing, not EPA's authority to order rationing. *Id.* at 155.

The *Brown* holding was similarly distinguished and limited by the Sixth Circuit Court of Appeals in *United States* v. *Ohio Department of Highway Safety*, 635 F.2d 1195 (6th Cir. 1980). The court upheld EPA's enforcement against the State under section 113 of the CAA for registering motor vehicles which did not pass an inspection and maintenance program promulgated by EPA. The court held that the State was interfering with EPA's implementation of a measure that had been promulgated under its Federal authority. See also *Pennsylvania* v. *EPA*, 500 F.2d 246 (3d Cir. 1974).

The court in *Brown* did not reach constitutional issues raised under the commerce clause. It is unclear, but unlikely, that requiring the State to implement FIP measures which mandate legislation and expenditure of funds would be struck down under the commerce clause. See *Garcia* v. *San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985) (holding that the Federal government may require States to pay minimum wages and overtime

pursuant to the Fair Labor Standards Act). However, even assuming that the commerce clause poses no such obstacle, nothing in the enactment of the 1990 Amendments casts doubt on the continued vitality of the *Brown* holdings with respect to the statutory limits on EPA's FIP authority. Thus, the constraints discussed above still apply. In short, EPA may require the State to legislate or expend funds that affect the State's own pollution creating activities. Although EPA may not require the State to legislate or spend money to govern the pollution creating activities of others, EPA may promulgate and implement such measures directly in a FIP, and the State may not interfere with EPA's enforcement of those measures.

While EPA may not have the authority to require States to enact legislation or expend State funds to implement control measures, beyond those required to reduce emissions generated by the State itself, EPA believes that title V of the CAA requires a State to include all applicable requirements, including requirements of a FIP, in the title V permit. The regulations governing State permitting under title V define an ''applicable requirement,'' which must be reflected in a title V operating permit, as including ''[a]ny standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the CAA that implements the relevant requirements of the Act, including any revisions to the plan promulgated in part 52 of this chapter'' (40 CFR 70.2). Since today's proposed rule is being promulgated under title I (i.e., under section 110), both the requirements of the Federal trading program (part 97) and the rules governing stationary internal combustion engines and cement plants (part 98) are applicable requirements under 40 CFR 70.2 and must be reflected in the title V operating permit of any sources affected by this rulemaking that are required to have such a permit.

E. Section 105 Grants

The EPA provides annual funding to States under section 105 of the CAA to carry out Act-related programs. Where a State fails to adequately respond to the NO_X SIP call, EPA must adopt and implement a FIP. In such cases, the Agency will withhold all or a portion of the State's section 105 allotment to the extent necessary to implement the FIP provisions promulgated by EPA and in accordance with the procedural requirements of section 105.

F. Findings of Failure

As noted in section III.A. of this notice, EPA is required to promulgate a FIP after finding that a State has failed to adequately respond to a NO_X SIP call. If EPA makes such a finding, it would be a final Agency action but would not be subject to the notice-and-comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553(b). The EPA believes that because of the limited time provided to make findings of failure to submit and findings of incompleteness regarding SIP submissions or elements of SIP submission requirements, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA intends, consistent with past practice (for example, 61 FR 36294), to invoke the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). Notice and comment are unnecessary because no significant EPA judgment is involved in making a nonsubstantive finding of failure to submit elements of SIP submissions required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert agency resources from the critical substantive review of complete SIPs. See 58 FR 51270, 51272, (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

G. Sanctions

If a State fails to submit the required SIP provisions, the CAA provides for EPA to issue a finding of State failure under section 179(a). (EPA is using the phrase ''failure to submit'' to cover both the situation where a State makes no submission and the situation where the State makes a submission that EPA finds is incomplete in accordance with section 110(k)(1)(B) and 40 CFR part 51, Appendix V.) Such a finding starts an 18-month sanctions clock; if the State fails to make the required submittal which EPA determines is complete within that period, one of two sanctions will apply. If 6 months after the sanction is imposed, the State still has not made a complete submittal, the second sanction will apply. The two sanctions are: a requirement that new or modified sources subject to a section 173 new source review program obtain reductions in existing emissions in a 2:1 ratio to offset their new emissions and withholding of certain Federal highway funds, (section 179(b)). These requirements are in addition to EPA's FIP obligation described above.

H. Transitional Areas

As described in the November 7, 1997 NO_X SIP call proposal notice, the Presidential Directive includes goals of early attainment of the health-based ozone standards while minimizing planning and regulatory burdens for State and local governments and businesses where air quality problems are regional in nature. To achieve these goals, the implementation plan includes a policy for areas that attain the 1-hour standard but not the new 8-hour standard in which EPA will follow a flexible implementation approach that encourages cleaner air sooner, responds to the fact that ozone is a regional as well as local problem, and eliminates unnecessary planning and regulatory burdens for State and local governments.

A primary element of the policy will be the establishment under section 172(a)(1) of the CAA of a special ''transitional'' classification both for areas that participate in the NO_X regional strategy proposed in this rulemaking and for those that opt to submit early plans addressing the new 8-hour standard. See the NO_X SIP call NPR (November 7, 1997) and the Presidential Directive for detailed discussions about the transitional classification. On August 18, 1998, EPA issued proposed guidance for public comment to explain the implementation policy in further detail and to provide details on SIP requirements for transitional areas (**Federal Register** Notice of Availability published August 24, 1998, 63 FR 45060). The EPA expects to finalize the August 1998 draft guidance, as well as guidance for areas other than transitional, by December 1998.[1]

It should be noted, however, that under EPA's intended approach, promulgation by EPA of a FIP under this rulemaking would not allow the area to be eligible for the transitional area classification. Such areas in States that fail to comply with the NO_X SIP call would not be eligible for the transitional classification.

[1] For a complete listing of the guidance and other actions EPA plans to issue to implement the revised ozone and PM NAAQS, see a table on EPA's implementation website: http://ttnwww.rtpnc.epa.gov/implement/actions.htm.

IV. Emissions Decreases to Meet the NO_X SIP Call

A. General Approach for Calculating Budgets

In the final NO_X SIP call, EPA determined that NO_X emissions from sources in the 23 jurisdictions contribute significantly to nonattainment problems and interfere with maintenance in downwind areas in the OTAG region. Accordingly, EPA established a NO_X budget for each of these jurisdictions. The budgets reflect the aggregate amount of NO_X emissions that will remain when the States eliminate the specific amount of NO_X emissions that contribute significantly to nonattainment problems and interfere with maintenance in downwind areas. These budgets cover all NO_X emissions from a State, including area, nonroad, stationary, and mobile sources. More detail on the State budgets can be found in the NO_X SIP call final rulemaking notice and support material. The FIP is designed to achieve the same State emissions budgets on the same schedule as that established in the NO_X SIP call final rule, with the same highly cost-effective measures forming the basis for the budgets. Therefore, the FIP rules use the same source cutoff levels, categories, and control levels as were used to develop the final NO_X SIP call budgets and require that the emissions decreases be implemented by May 1, 2003. Because this FIP rulemaking does not establish the State emissions budgets, but instead proposes the way EPA would ensure that the budgets are achieved, EPA is not requesting comment on establishment of the budgets or the schedule for implementing the emissions reductions. For the FIP rulemaking, EPA invites comment specifically on the feasibility and cost effectiveness of control measures and the projection of emissions reductions that various control measures would achieve as outlined in the FIP and described in detail in the NO_X SIP call rulemaking. The EPA summarizes below the conclusions from the relevant parts of the NO_X SIP call rulemaking.

B. Electric Generating Units (EGUs)

The control level for this category of NO_X sources was determined by applying a uniform NO_X emission rate of 0.15 lb/mmBtu regionwide for EGUs greater than 25 MWe or 250 mmBtu/hr. The cost effectiveness for each control level was determined using the Integrated Planning Model. Details regarding the methodologies used can be found in the NO_X SIP call rulemaking and support materials.

C. Industrial Boilers and Turbines

The EPA examined the category of large (greater than 250 mmBtu/hr) industrial boilers and turbines to determine the most emissions reductions from controls that would cost less than $2,000 per ton on average. For this source category, EPA determined that controls are available that would achieve a 60 percent reduction from uncontrolled levels at average costs less than $2,000 per ton. For those sources that participate in the trading program, EPA believes that the costs would be further reduced. Details regarding the methodologies used can be found in the NO_X SIP call rulemaking and support materials.

D. Stationary Internal Combustion Engines

The EPA examined the category of large (emitting more than one ton per day) stationary internal combustion engines to determine the most emissions reductions from controls that would cost less than $2,000 per ton on average. For this source category, EPA determined that controls are available that would achieve a 90 percent reduction from uncontrolled levels at average costs less than $2,000 per ton. Details regarding the methodologies used can be found in the NO_X SIP call rulemaking and support materials.

E. Cement Manufacturing

The EPA examined the category of large (emitting more than one ton per day) cement manufacturing plants to determine the most emissions reductions from controls that would cost less than $2,000 per ton on average. For this source category, EPA determined that controls are available at all types of cement manufacturing facilities that would achieve a 30 percent reduction from uncontrolled levels at average costs less than $2,000 per ton. Details regarding the methodologies used can be found in the NO_X SIP call rulemaking and support materials.

F. Other Point Source Categories

As described in the NO_X SIP call rulemaking and support materials, EPA reviewed the emissions and control cost information for several non-EGU source categories. The EPA's analysis determined that, for large sources (emitting more than one ton per day), the following non-EGU source categories appeared to have controls available only at cost-effectiveness levels above $2,000 per ton: glass manufacturing, process heaters, and commercial and industrial incinerators. Therefore, EPA did not calculate emissions budget decreases nor is the Agency proposing FIP rules for these source categories.

For other non-EGU source categories, NO_X controls may be available for large sources at costs less than $2,000 per ton. However, as described in the NO_X SIP call rulemaking and support materials, each of these source categories include a relatively small number of sources with a small amount of emissions. The EPA believes that controlling these sources for purposes of achieving State budgets would be inefficient because of the relatively high administrative costs of developing regulations for these source categories. As described in the NO_X SIP call rulemaking, there are many sources in the emissions inventory which lack information EPA would need to determine potentially applicable control techniques (63 FR 25909). This group of sources is diverse and does not fit within the categories set out by EPA, but total emissions are low for this group. Therefore, for purposes of today's action, EPA is not proposing FIP rules to decrease emissions for these sources.

In addition, EPA determined in the NO_X SIP call final rulemaking that municipal waste combustors should not be required to reduce emissions beyond that already required by the maximum available control technology (MACT) rules for NO_X required under sections 111 and 129 of the CAA. Therefore, EPA is not proposing additional emissions decreases and FIP rules for municipal waste combustors.

Thus, for non-EGU sources the FIP proposes rules only for boilers and turbines (60 percent decrease), stationary internal combustion engines (90 percent decrease), and cement plants (30 percent decrease). The EPA's analysis determined that these source categories have controls available at cost-effectiveness levels below an average of $2,000 per ton and total emissions from each of these source categories are high relative to other non-EGU source categories.

G. Area, Mobile, and Nonroad Sources

As described in the NO_X SIP call final rulemaking, EPA did not identify additional controls beyond those in the 2007 baseline case for the area, mobile and nonroad source categories at average costs less than $2,000 per ton. Therefore, EPA did not calculate additional emissions budget decreases nor propose FIP rules for these source categories.

H. Projection That Proposed FIP Measures Would Achieve State-by-State Emissions Budgets

Consistent with 40 CFR 51.121(b) and (g), the control measures described above and contained in the FIP rules are designed to achieve the State emissions budgets established in the NO_X SIP call. The tables below result from application of the FIP measures and demonstrate compliance of the FIP with the NO_X SIP call budgets.

1. EGU

As described in section III.B.3. of the NO_X SIP call, the EGU budget component is calculated based on applying a 0.15 lb/mmBtu emission limit to sources greater than 25 MWe. This limit is applied uniformly across all States that are covered by this NO_X SIP call. The higher of 1995 or 1996 heat input, grown to 2007, is used to calculate the budget component. The final percent reduction from the 2007 base case to the budget is shown in Table III–4 of the NO_X SIP call, which is reproduced below.

TABLE III–4.—FINAL NO_X BUDGET COMPONENTS AND PERCENT REDUCTION FOR ELECTRICITY GENERATING UNITS

[Tons/season]

State	Final base	Final budget	Percent reduction
Alabama	76,900	29,051	62
Connecticut	5,600	2,583	54
Delaware	5,800	3,523	39
District of Columbia	*0	207	NA
Georgia	86,500	30,255	65
Illinois	119,300	32,045	73
Indiana	136,800	49,020	64
Kentucky	107,800	36,753	66
Maryland	32,600	14,807	55
Massachusetts	16,500	15,033	9
Michigan	86,600	28,165	67
Missouri	82,100	23,923	71
New Jersey	18,400	10,863	41
New York	39,200	30,273	23
North Carolina	84,800	31,394	63
Ohio	163,100	48,468	70
Pennsylvania	123,100	52,000	58
Rhode Island	1,100	1,118	−2
South Carolina	36,300	16,290	55
Tennessee	70,900	25,386	64
Virginia	40,900	18,258	55
West Virginia	115,500	26,439	77
Wisconsin	52,000	17,972	65
Total	1,501,800	543,825	64

*The base case for DC is actually projected to be 30 tons per season. The base case values in this table are rounded to the nearest 100 tons.

2. Non-EGU Point Sources

As described in the NO_X SIP call, the following emissions decreases from uncontrolled levels were assumed:

i. Non-EGU boilers and turbines—60 percent decrease.

ii. Stationary internal combustion engines—90 percent decrease.

iii. Cement manufacturing plants—30 percent decrease.

These controls result in an overall reduction in emissions from all large non-EGU point sources of almost 40 percent (187,800 tons per season decrease). These resulting budget components are shown in Table III–6 in the NO_X SIP call, and are reproduced below.

TABLE III–6.—FINAL NO_X BUDGET COMPONENTS AND PERCENT REDUCTION FOR NON-ELECTRICITY GENERATING POINT SOURCES

[Tons/season]

	Final base	Final budget	Percent reduction
Alabama	49,781	37,696	24
Connecticut	5,273	5,056	4
Delaware	1,781	1,645	8
District of Columbia	310	292	6
Georgia	33,939	27,026	20
Illinois	55,721	42,011	25
Indiana	71,270	44,881	37
Kentucky	18,956	14,705	22
Maryland	10,982	7,593	31
Massachusetts	9,943	9,763	2
Michigan	79,034	48,627	38
Missouri	13,433	11,054	18
New Jersey	22,228	19,804	11

TABLE III–6.—FINAL NO_X BUDGET COMPONENTS AND PERCENT REDUCTION FOR NON-ELECTRICITY GENERATING POINT SOURCES—Continued

[Tons/season]

	Final base	Final budget	Percent reduction
New York	25,791	24,128	6
North Carolina	34,027	25,984	24
Ohio	53,241	35,145	34
Pennsylvania	73,748	65,510	11
Rhode Island	327	327	0
South Carolina	34,740	25,469	27
Tennessee	60,004	35,568	41
Virginia	39,765	27,076	32
West Virginia	40,192	31,286	22
Wisconsin	22,796	17,973	21
Total	757,281	558,618	26

3. Mobile and Area Sources

As discussed in the NO_X SIP call rulemaking, EPA's highway budget components are based on projected highway vehicle emissions in 2007 from a base year of 1990, assuming implementation of those measures incorporated in existing SIPs, such as inspection and maintenance programs and reformulated fuels, measures already implemented federally, and those additional measures expected to be implemented federally by 2007. Similarly, as discussed in the NO_X SIP call rulemaking, EPA's nonroad mobile source budget components are based on projected nonroad mobile source emissions in 2007 from a base year of 1990 and assume implementation of those measures incorporated in existing SIPs, measures already implemented federally, and those additional measures expected to be implemented federally. For area sources, no highly cost-effective control measures were identified in the NO_X SIP call rulemaking. Thus, EPA is not proposing any FIP measures in these categories. These resulting budget components are shown in Tables III–7,8 & 9 in the NO_X SIP call NFR, and are reproduced below:

TABLE III–7. FINAL NO_X BUDGET COMPONENTS FOR STATIONARY AREA SOURCES

[Tons/season]

	Proposed budget	Final budget	Percent change
Alabama	25,229	25,225	0
Connecticut	4,587	4,588	0
Delaware	1,035	963	−7
District of Columbia	741	741	0
Georgia	11,901	11,902	0
Illinois	7,270	7,822	8
Indiana	25,545	25,544	0
Kentucky	38,801	38,773	0
Maryland	8,123	4,105	−49
Massachusetts	10,297	10,090	−2
Michigan	28,126	28,128	0
Missouri	6,626	6,603	0
New Jersey	11,388	11,098	−3
New York	15,585	15,587	0
North Carolina	9,193	10,651	16
Ohio	19,446	19,425	0
Pennsylvania	17,103	17,103	0
Rhode Island	420	420	0
South Carolina	8,420	8,359	−1
Tennessee	11,991	11,990	0
Virginia	25,261	18,622	−26
West Virginia	4,901	4,790	−2
Wisconsin	10,361	8,160	−21
Total	302,350	290,689	−4

TABLE III–8.—FINAL NO_X BUDGET COMPONENTS AND PERCENT REDUCTION FOR NONROAD SOURCES

[Tons/season]

	Proposed budget	Final budget	Percent change
Alabama	18,727	16,594	−11
Connecticut	9,581	9,584	0

TABLE III–8.—FINAL NO_X BUDGET COMPONENTS AND PERCENT REDUCTION FOR NONROAD SOURCES—Continued

[Tons/season]

	Proposed budget	Final budget	Percent change
Delaware	4,262	4,261	0
District of Columbia	3,582	3,470	−3
Georgia	22,714	21,588	−5
Illinois	56,429	47,035	−17
Indiana	27,112	22,445	−17
Kentucky	22,530	19,627	−13
Maryland	18,062	17,249	−4
Massachusetts	19,305	18,911	−2
Michigan	24,245	23,495	−3
Missouri	19,102	17,723	−7
New Jersey	21,723	21,163	−3
New York	30,018	29,260	−3
North Carolina	18,898	17,799	−6
Ohio	42,032	37,781	−10
Pennsylvania	29,176	25,554	−12
Rhode Island	2,074	2,073	0
South Carolina	12,831	11,903	−7
Tennessee	47,065	44,567	−5
Virginia	25,357	21,551	−15
West Virginia	10,048	10,220	2
Wisconsin	15,145	12,965	−14
Total	500,018	456,818	−9

TABLE III–9.—FINAL NO_X BUDGET COMPONENTS AND PERCENT REDUCTION FOR HIGHWAY VEHICLES

[Tons/season]

	Proposed budget	Final budget	Percent change
Alabama	56,601	50,111	−11
Connecticut	17,392	18,762	8
Delaware	8,449	8,131	−4
District of Columbia	2,267	2,082	−8
Georgia	77,660	86,611	12
Illinois	77,690	81,297	5
Indiana	66,684	60,694	−9
Kentucky	46,258	45,841	−1
Maryland	28,620	27,634	−3
Massachusetts	23,116	24,371	5
Michigan	81,453	83,784	3
Missouri	55,056	55,230	0
New Jersey	39,376	34,106	−13
New York	94,068	80,521	−14
North Carolina	73,056	66,019	−10
Ohio	92,549	99,079	7
Pennsylvania	73,176	92,280	26
Rhode Island	5,701	4,375	−23
South Carolina	49,503	47,404	−4
Tennessee	67,662	64,965	−4
Virginia	79,848	70,212	−12
West Virginia	21,641	20,185	−7
Wisconsin	41,651	49,470	19
Total	1,179,477	1,173,163	−1

4. Statewide Budgets

The statewide budgets are shown in Table III–10 of the NO_X SIP call final rulemaking are reproduced below.

TABLE III–10.—REVISED STATEWIDE NO_X BUDGETS

[Tons/season]

State	Base	Budget	Percent reduction
Alabama	218,610	158,677	27
Connecticut	43,807	40,573	7
Delaware	20,936	18,523	12
District of Columbia	6,603	6,792	−3
Georgia	240,540	177,381	26
Illinois	311,174	210,210	32
Indiana	316,753	202,584	36
Kentucky	230,997	155,698	33
Maryland	92,570	71,388	23
Massachusetts	79,815	78,168	2
Michigan	301,042	212,199	30
Missouri	175,089	114,532	35
New Jersey	106,995	97,034	9
New York	190,358	179,769	6
North Carolina	213,296	151,847	29
Ohio	372,626	239,898	36
Pennsylvania	331,785	252,447	24
Rhode Island	8,295	8,313	0
South Carolina	138,706	109,425	21
Tennessee	252,426	182,476	28
Virginia	191,050	155,718	18
West Virginia	190,887	92,920	51
Wisconsin	145,391	106,540	27
Total	4,179,751	3,023,113	28

V. Emissions Reporting

The EPA believes it is essential that compliance with the regional control strategy be verified. Tracking emissions is the principal mechanism to ensure compliance with the budget and to assure the downwind States and EPA that the ozone transport problem is being mitigated. The new emissions control requirements for stationary sources proposed in the FIP include requirements that the affected sources directly report emissions data to EPA. This includes data used for determining compliance with the requirements of the Federal NO_X Budget Trading Program and specific reporting requirements for stationary internal combustion engines and cement manufacturing facilities. Therefore, under the FIP, EPA will already be collecting the data that can be used to determine compliance with the emissions decreases required by the proposed FIP. For each FIP, EPA will use that data as well as other analyses in order to determine compliance with the Statewide NO_X emissions budget.

VI. Federal NO_X Budget Trading Program

A. Program Summary

1. Purpose of the Federal NO_X Budget Trading Program

In today's FIP notice, EPA proposes to regulate any fossil fuel-fired unit (boiler, turbine, or combined cycle) that serves a generator with a nameplate capacity greater than 25 MWe, and any fossil fuel-fired unit (boiler, turbine, or combined cycle) that has a maximum design heat input of greater than 250 mmBtu/hr, using a capped market-based program. This type of program is a proven method for achieving the highly cost-effective emissions reductions described above while providing sources compliance flexibility. (See 63 FR 25918–19, discussing OTAG's conclusions concerning advantages of market-based systems.)

The Federal NO_X Budget Trading Program is proposed in a new part 97 in title 40 of the Code of Federal Regulations. The regulatory text of part 97 is proposed in the rulemaking on the section 126 action. Participation in the NO_X Budget Trading Program would be mandatory for all soources covered by the finalization of this proposed FIP, except IC engines and cement kilns. It would also be mandatory for any sources affected by a triggering of the section 126 remedy.

Because EPA is proposing to implement the Federal NO_X Budget Trading Program, both if a FIP is appropriate and in response to the section 126 petitions, EPA intends to finalize part 97 in whichever of these actions is finalized first. (The EPA expects part 97 will be finalized in the section 126 rulemaking because it is on a tighter timeframe.) In finalizing part 97, EPA intends to respond to the comments it receives on both rulemaking actions regarding part 97. Therefore, commenters who have identical comments in both rulemakings may submit their comments to one docket and merely reference such comments in their submission to the other docket. However, to the extent comments on part 97 are solely related to how it would be applied through a FIP, commenters should be sure to submit such comments in the docket for this FIP NPR.

The EPA requests comment on whether it is appropriate to use a common trading program for both the FIP and the section 126 remedy, as well as for purposes of the NO_X SIP call. If not, EPA requests specific comment on what should be different and why.

2. Relationship of Trading Program Under FIP to Trading Program Under Section 126 Petitions and NO_X SIP Call

The sources that EPA is proposing to include in the Federal NO_X Budget Trading Program in today's FIP are the same sources included in the State NO_X Budget Trading Program (part 96) that EPA promulgated as a model trading rule which States may elect to use in responding to the final NO_X SIP call. The sources identified in this FIP are the sources for which EPA assumed emissions reductions in calculating the budgets for States in the NO_X SIP call. The NO_X SIP call established an emissions budget for all sources of NO_X

emissions in all States determined by EPA to significantly contribute to nonattainment or interfere with maintenance of the ozone NAAQS in any other jurisdiction. The FIP sets specific stationary source rules to decrease NO_X emissions sufficiently to achieve the NO_X SIP call budget. The section 126 proposed action, on the other hand, is limited to major sources or groups of stationary sources that are named in the section 126 petitions, and that EPA finds emit or would emit in violation of the prohibition in section 110(a)(2)(D) relative to a petitioning State. Despite this difference in the scope of the proposed section 126 action and the final NO_X SIP call or proposed FIP, all 3 actions are aimed at reducing the transport of ozone by controlling emissions from sources in a given State that are found to be contributing to nonattainment or maintenance problems in another State.

The EPA believes that the State NO_X Budget Trading Program—if selected by States to meet their NO_X SIP call obligations—could be coordinated and integrated with a Federal NO_X Budget Trading Program promulgated in a final FIP or in a final section 126 rulemaking. Integration is possible because, as noted above, the NO_X SIP call, the corresponding FIP, and the section 126 petitions all seek to mitigate the ozone transport problem by reducing emissions from upwind sources that hinder attainment or maintenance of the ozone NAAQS downwind. Further, the sources covered in the model cap-and-trade program in the NO_X SIP call include a majority of the sources named by petitioning States in the section 126 action, and are identical in size and categorization to sources for which EPA proposes to issue rules in the section 126 and FIP proposed actions.

In order to be eligible to participate in a cap-and-trade program, the EPA believes that there are two principal criteria that sources must meet, as stated in the supplemental notice for the proposed NO_X SIP call (62 FR 25923). The first criterion requires that sources be able to account accurately and consistently for all of their emissions to ensure the trading program goal of maintaining emissions within a cap. The second criterion for participation in a trading program is the ability to identify a responsible party for each regulated source who would be accountable for demonstrating and ensuring compliance with the program's provisions. Assuming that these criteria are met, and consistent control levels are used in setting emissions requirements for the covered sources, EPA supports the establishment of a common trading program.

The resulting multistate trading program could include all sources in States found to be significantly contributing to nonattainment or interfering with maintenance of the ozone standard in another State. Under this common trading program, sources subject to the Federal program under the FIP or the section 126 rulemaking, and sources in States choosing to participate in the State NO_X Budget Trading Program in response to the NO_X SIP call, could trade with one another under a NO_X cap across participating States. The EPA's analyses in conjunction with the NO_X SIP call demonstrate that implementation of a single trading program with a uniform control level results in no significant changes in location of emissions reductions as compared to a non-trading scenario. Therefore, the common trading program meeting the requirements of either part 96 or part 97 will achieve the intended emissions reductions while providing flexibility and cost savings to the covered sources.

Integration of the trading programs reduces the possibility of inconsistent or conflicting deadlines or requirements, increases the potential cost savings for sources, and streamlines program administration. Inconsistency could hamper the sources' ability to plan and achieve the needed reductions as cost effectively as possible. In addition, if a State subsequently elects to submit a SIP including a trading program after EPA has already established a Federal program under a FIP or section 126, disruptions to sources that would shift from regulation under a FIP or section 126 to regulation under a SIP would be minimized.

The sources included in the trading program for purposes of the NO_X SIP call or a FIP may vary from sources included for purposes of the section 126 remedy. The EPA does not foresee this to be problematic since sources would face consistent control requirements regardless of which rulemaking includes the sources in the common trading program. That the requirements would be consistent follows from the similar nature of the rulemakings and the comparable level of control which EPA has determined to be cost effective for each source category across all three actions.

The EPA proposes, in part 97, to establish the geographic boundaries of the common trading program as those States submitting SIPs in response to the final NO_X SIP call or subject to FIPs, and/or the sources in States for which EPA makes a finding for the section 126 petitions. The EPA would administer this common trading program in collaboration with affected States.

The EPA is proposing a Federal NO_X Budget Trading Program as part of the FIP or section 126 remedy which mirrors, to the extent feasible, the State NO_X Budget Trading Program (set forth in part 96) which is the model trading program that is available for States to adopt in response to the NO_X SIP call. While EPA is proposing to keep the programs as similar as possible, there are several differences which are more fully described below. These differences arise primarily from the need for Federal implementation of the program rather than State implementation. For example, EPA must determine the NO_X allowance allocations for each unit in the Federal NO_X Budget Trading Program, rather than simply provide a recommended methodology for States to use to determine allocations in the State NO_X Budget Trading Program.

B. Federal NO_X Budget Trading Program

1. Program Overview

In part 97, EPA proposes a cap-and-trade program as a means of controlling NO_X mass emissions from any fossil fuel-fired unit (boiler, turbine, or combined cycle) that serves a generator with a nameplate capacity greater than 25 MWe, and any fossil fuel-fired unit (boiler, turbine, or combined cycle) that has a maximum design heat input of greater than 250 mmBtu/hr, in a State for which a FIP is promulgated.

The EPA requests comment as to whether additional stationary sources that are not included in the core applicability of the Federal NO_X Budget Trading Program, but emit to a stack, can monitor NO_X mass emissions using the protocols in part 75, and are located in a State where EPA promulgates a FIP, should be able to voluntarily opt in to the trading program. In today's notice, EPA proposes providing these individual stationary sources the opportunity to opt in to enable further cost savings from the Federal NO_X Budget Trading Program. These opt-in provisions would be very similar to the opt-in provisions allowed under the model trading program in part 96 (see section VI.B.3.e of this FIP notice for further explanation).

The NO_X allowances—each allowance representing a limited authorization to emit one ton of NO_X—would be the currency used in the trading program. A fixed number of NO_X allowances would be allocated to sources for each ozone season equal to the total amount of a State's trading program budget under the FIP. The EPA has included in

today's proposal several alternative methodologies that EPA could use to allocate NO_X allowances to units. Appendices A and B of the section 126 rulemaking set forth the allocation for each unit based on the first 2 of the 3 proposed methodologies, explained in section VI.B.3.c.4 of this preamble. Allocations resulting from the third methodology can be found in the docket to this rulemaking.

The control period for the trading program (i.e., the period during which a source must hold sufficient NO_X allowances to cover emissions) would extend from May 1 through September 30, which is the same as the control period under the NO_X SIP call and the section 126 proposal. The EPA's proposed trading program is based on the application of a uniform control level to the covered universe of sources. Based on analyses done in connection with the proposed NO_X SIP call (63 FR 25921) and the final NO_X SIP call, EPA maintains that trading could occur across States included in a NO_X Budget Trading Program without restrictions, other than the requirement to comply with emission limits under title I and title IV of the CAA, as well as any other State limitations.

Under part 97 as proposed, sources in the Federal NO_X Budget Trading Program would be required to monitor and report their emissions in accordance with relevant portions of 40 CFR part 75. The EPA has promulgated revisions to part 75 that establish NO_X mass monitoring requirements and provide greater flexibility to regulated sources. Consistent and accurate monitoring of emissions is necessary for accountability regarding compliance with the requirement to hold NO_X allowances and to ensure that a ton of emissions attributed to one source in one State is equivalent to a ton attributed to another source in the same or another State.

Under part 97 as proposed, EPA would be responsible for all aspects of program implementation, with the exception of permitting. As further explained in section VI.B.2.c., the State and local agencies would be the permitting authorities for the majority of NO_X Budget sources with title V permits, for which the trading program requirements would be applicable requirements. If a source does not have a federally enforceable permit, the requirements of the NO_X Budget Trading Program rule would be federally enforceable of its own accord.

As discussed herein, EPA proposes to make the Federal and State NO_X Budget Trading Programs as similar as possible and has modeled proposed part 97 after part 96 just finalized. The EPA notes that discussion of the evolution of the NO_X Budget Trading Program is set forth in the supplemental notice of the proposed NO_X SIP call rule at 63 FR 25921–23 and in the final NO_X SIP call rule.

2. Elements of the Federal NO_X Budget Trading Program That Are the Same as the State NO_X Budget Trading Program

Under part 97, as proposed, the following sections would be virtually identical to the corresponding sections in part 96, which sets forth the State NO_X Budget Trading Program. The EPA proposes to retain and rely on the analyses and considerations undertaken in the NO_X SIP call process to determine these program elements. Moreover, the provisions in part 97 would be numbered in the same sequence as the corresponding provisions in part 96, so that, for example, § 97.2 and § 96.2 or § 97.81 and § 96.81 would address the same subject matter. The major differences between the part 97 sections listed below and their corresponding part 96 sections would be the renumbering of cross references to other regulatory provisions so that a section in part 97 would reference the appropriate section in that part, as opposed to the section in part 96. More detailed information on the rationale for the part 96 provisions themselves can be found in the preamble accompanying the proposed part 96 (63 FR 25917–43) and the final part 96.

Subpart A—Federal NO_X Budget Trading Program General Provisions

Sec.
97.3 Measurements, abbreviations, and acronyms.
97.5 Retired unit exemption.
97.7 Computation of time.

Subpart B—Authorized Account Representative for NO_X Budget Sources

97.10 Authorization and responsibilities of the NO_X authorized account representative.
97.11 Alternate NO_X authorized account representative.
97.12 Changing the NO_X authorized account representative and alternate NO_X authorized account representative; changes in the owners and operators.
97.13 Account certificate of representation.
97.14 Objections concerning the NO_X authorized account representative.

Subpart C—Permits

97.20 General NO_X Budget permit requirements.
97.21 Submission of NO_X Budget permit applications.
97.22 Information requirements for NO_X Budget permit applications.
97.23 NO_X Budget permit contents.
97.24 Effective date of initial NO_X Budget permit.
97.25 NO_X Budget permit revisions.

Subpart D—Compliance Certification

97.30 Compliance certification report.

Subpart F—NO_X Allowance Tracking System

97.50 NO_X Allowance Tracking System accounts.
97.51 Establishment of accounts.
97.52 NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.
97.53 Recordation of NO_X allowance allocations.
97.54 Compliance.
97.55 Banking.
97.56 Account error.
97.57 Closing of general accounts.

Subpart G—NO_X Allowance Transfers

97.60 Scope and submission of NO_X allowance transfers.
97.61 EPA recordation.
97.62 Notification.

The EPA requests comment on whether any of the part 97 provisions listed above should differ substantively from the corresponding provisions in part 96. If a commenter believes substantive differences in the rules are appropriate, the commenter should describe the favored changes and explain why these changes are appropriate. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call and final NO_X SIP call and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

a. General Provisions. Under part 97, EPA is proposing to use the same measurements, abbreviations, and acronyms, the same retired unit exemption, and the same provisions for computation of time as those that apply in part 96, with cross references to the appropriate sections in part 97, rather than to sections in part 96 (63 FR 25923–27).

b. Authorized Account Representative. The NO_X Authorized Account Representative (NO_X AAR) is the individual who is authorized to represent the owners and operators of each NO_X budget unit at a NO_X budget source in matters pertaining to the NO_X Budget Trading Program. Subpart B of part 97 addresses, among other things, the process for designating and changing the NO_X AAR and the responsibilities of the NO_X AAR and alternate NO_X AAR. These provisions are the same as those in part 96, with cross references to the appropriate sections of part 97 (63 FR 25927).

c. Permits. The regulations governing State permitting under title V define an

''applicable requirement,'' which must be reflected in a title V operating permit, as including ''[a]ny standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the CAA that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter'' (40 CFR 70.2). Since today's proposed rule is being promulgated under title I (i.e., under section 110), the requirements of this rule would be applicable requirements under § 70.2 and would be reflected in the title V operating permit of NO_X budget sources required to have such a permit. The EPA believes that the majority of NO_X budget sources will be required to have a title V permit. Further, all State and local air permitting authorities currently have EPA-approved title V operating permits programs. These State and local agencies would be the permitting authorities for the majority of NO_X budget sources with title V permits, for which the trading program requirements would be applicable requirements. For any sources that do not have a title V permit, such a permit is not required. If a source does not have a federally enforceable permit, the requirements of the Federal NO_X Budget Trading Program rule would be federally enforceable of its own accord.

Subpart C of part 97 addresses, among other things, the administration of a permit, permit applications, permit contents, effective date, and permit revisions. These provisions are the same as those in part 96, with cross references to the appropriate sections in part 97 (63 FR 25927–29).

d. Compliance Certification. The NO_X AAR must certify at the end of each control period that the unit was in compliance with the emissions limitation and other requirements of the Federal NO_X Budget Trading Program. Proposed § 97.30 sets forth the same provisions for compliance certification reports as those in part 96, with cross references to the appropriate sections in part 97 (63 FR 25929).

e. NO_X Allowance Tracking System. The NO_X Allowance Tracking System is an automated system used to track NO_X allowances held by NO_X budget units under the NO_X Budget Trading Program, as well as those allowances held by other organizations and individuals. Subpart F of part 97 addresses, among other things, NO_X allowance tracking system accounts, the account responsibilities of the NO_X AAR, the recordation of NO_X allowance allocations, the compliance process, account error, and account closing. These provisions are the same as those in part 96, with cross references to the appropriate sections in part 97 (63 FR 25933–37).

f. Banking. The EPA proposes to include banking as a feature in the Federal NO_X Budget Trading Program for the reasons set forth in the final NO_X SIP call. Proposed § 97.55 sets forth the same provisions for banking and the management of banked allowances as specified in part 96. In accordance with these provisions, NO_X allowances held by units subject to the Federal NO_X Budget Trading Program may be banked for future use starting in 2003 (except as noted in section VI.B.3.e.ii. of this preamble). However, as in the State NO_X Budget Trading Program, the Federal NO_X Budget Trading Program contains a flow control mechanism to limit the variability associated with banking. This mechanism allows unlimited banking by units subject to the Federal NO_X Budget Trading Program, but discourages the ''excessive'' use of banked allowances by establishing a discount rate on the use of banked allowances over a certain level. Proposed § 97.55 establishes a flow control mechanism which applies a 2-for-1 discount ratio to the use of banked allowances above a certain level when the total number of banked allowances in the program exceeds 10 percent of the allowable NO_X emissions for all sources covered by the Federal trading program (63 FR 25934–37).

g. NO_X Allowance Transfers. Subpart G of part 97 addresses, among other things, submission, recordation, and notification of transfers of NO_X allowances under the NO_X Budget Trading Program. These provisions are the same as those in part 96, with cross references to the appropriate sections in part 97 (63 FR 25937–38).

h. Audits. While program audits are not explicitly required by today's rule, EPA intends to perform the same types of audits discussed concerning the proposed NO_X SIP call (63 FR 25942) and the final NO_X SIP call.

3. Elements of the Federal NO_X Budget Trading Program that Differ from the State NO_X Budget Trading Program

The EPA proposes that the following sections in part 97 incorporate certain differences from the corresponding sections in part 96 to provide for Federal implementation of the NO_X Budget Trading Program.

Subpart A—Federal NO_X Budget Trading Program General Provisions

Sec.
97.1 Purpose.
97.2 Definitions.
97.4 Applicability.
97.6 Standard Requirements.

Subpart D—Compliance Certification

97.31 Administrator's action on compliance certifications.

Subpart E—NO_X Allowance Allocations

97.40 Trading program budget.
97.41 Timing requirements for NO_X allowance allocations.
97.42 NO_X allowance allocations.

Subpart H—Monitoring and Reporting

97.70 General requirements.
97.71 Initial certification and recertification procedures.
97.72 Out of control periods.
97.73 Notifications.
97.74 Recordkeeping and reporting.
97.75 Petitions.
97.76 Additional requirements to provide data for allocations purposes.

Subpart I—Individual Unit Opt-Ins

97.80 Applicability.
97.81 General.
97.82 NO_X authorized account representative.
97.83 Applying for NO_X Budget opt-in permit.
97.84 Opt-in process.
97.85 NO_X Budget opt-in permit contents.
97.86 Withdrawal from NO_X Budget Trading Program.
97.87 Change in regulatory status.
97.88 NO_X allowance allocations to opt-in units.

a. General Provisions. Proposed § 97.1 explains that proposed part 97 sets forth the provisions for the Federal NO_X Budget Trading Program addressing interstate transport of ozone and NO_X. As discussed above, this program would be activated either under section 126 or under a FIP.

For part 97, EPA is proposing to use the same definitions as those that apply in part 96, with cross references to the appropriate sections in part 97, with three exceptions. First, the definition of the term ''NO_X Budget Trading Program'' would be altered to reflect the fact that the Federal trading program is established pursuant to part 52, as opposed to part 51.121, as is the case with the State NO_X Budget Trading Program under part 96. Secondly, the definition for the term ''State'' would be altered to reference only those States that would be covered by any final section 126 or FIP action, and to reflect the fact that the Federal trading program would be promulgated for a State, as opposed to adopted by the State as is the case with the State NO_X Budget Trading Program. Last, the term ''State trading program budget'' would be replaced with the term ''trading program budget.'' For purposes of the FIP, the trading program budget would be the aggregated budget for all sources

affected by the requirements to participate in the trading program in a given State under the FIP. For purposes of the section 126 action, the trading program budget would be the ''126 trading program budget for the State.'' The term ''126 trading program budget for the State'' is used to clarify the fact that the budget for the Federal NO_X Budget Trading Program is not aggregated to a State level for the purposes of the section 126 action except for the allocation calculation, since the focus in the remedy is sources rather than States.

The following example illustrates the approach taken concerning the unchanged definitions: the term ''NO_X Budget Unit'' is defined under part 97 as ''a unit that is subject to the NO_X Budget Trading Program emissions limitation under § 97.4 and § 97.80,'' while that term has the same definition under part 96 except that appropriate sections in part 96 are referenced (63 FR 25923).

The EPA proposes in part 97 that the Federal NO_X Budget Trading Program under the FIP would apply to any fossil fuel-fired unit (boiler, combustion turbine, or combined cycle) that serves a generator with a nameplate capacity greater than 25 MWe, and any fossil fuel-fired unit (boiler, combustion turbine, or combined cycle) that has a maximum design heat input of greater than 250 mmBtu/hr. This applicability is identical to the core group applicability in the model trading program for SIPs.

In the NO_X SIP call, EPA offered States the option of allowing units with a very low federally enforceable permit limitation (i.e., 25 tons per season) to be exempt from the trading program, even though they were above the applicability threshold (63 FR 25926). The EPA proposes in part 97 to include this provision in the Federal NO_X Budget Trading Program and seeks comment on the appropriateness of such inclusion.

Under the Federal NO_X Budget Trading Program, the NO_X budget units and their owners, operators, and NO_X AARs must meet certain standard requirements that incorporate the full range of program requirements by referencing other sections of the Federal NO_X Budget Trading Program rule. These provisions are the same as the related provisions in part 96, with cross references to the appropriate sections of part 97, except that the Administrator, rather than the permitting authority, would allocate NO_X allowances under the Federal NO_X Budget Trading Program. This reflects the fact that the Federal NO_X Budget Trading Program would be federally run, rather than run by the State as under the NO_X SIP call.

b. Compliance Certification. Proposed § 97.31 is the same as § 96.31 except that the Administrator has the sole responsibility for reviewing and auditing compliance certifications and other submissions under the Federal NO_X Budget Trading Program. This reflects the fact that the part 97 program would be federally run rather than run by the State as under the NO_X SIP call. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25929) and the final NO_X SIP call and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

c. Aggregate NO_X Emissions Levels and Allowance Allocations. This section discusses the calculation of State-specific aggregate emission levels and the methodology and timing for issuance of NO_X budget unit allocations.

1. State-by-State Emissions Levels. The EPA calculated the State specific aggregate emission levels that would remain after the application of reasonable and highly cost-effective NO_X controls to upwind sources which contribute significantly to nonattainment or maintenance problems in downwind States. The level of control that was determined to be reasonable and cost effective is identical to the level used in the NO_X SIP call for purposes of calculating the State budgets. The determination of reasonable and highly cost-effective NO_X controls for the source categories covered by the trading program is discussed more fully in the NO_X SIP call.

For reasons explained in the final NO_X SIP call, EPA has calculated each State's summer season large EGU emissions level using a specific NO_X emission rate and the projected summer season utilization of the year 2007. Specifically, EPA calculated each State's large EGU NO_X emissions level by multiplying: Each State's summer activity level in mmBtu (EPA selected the higher of each State's overall 1995 or 1996 summer utilization), by each State's projected growth between 1996 and 2007 (using the IPM model), by a NO_X rate of 0.15 lb/mmBtu. The resulting figure, in lbs, was divided by 2000 (lbs per ton) to determine tons.

The EPA incorporated growth in industrial activity when determining the large EGU emissions level, and thus accommodates new sources into the FIP. Specifically, EPA projected each State's change in utilization from current levels to the year 2007 and set an emissions level based on that future year's utilization. This was the approach taken in the final NO_X SIP call in determining various State emissions levels.

For reasons also explained in the final NO_X SIP call, EPA is proposing to calculate each State's summer season large non-EGU emissions level by reducing each State's uncontrolled non-EGU NO_X emissions levels (in tons) by 60 percent and assuming growth through the year 2007. Appendix C of the section 126 rulemaking includes the State aggregate emission levels for both EGUs and non-EGUs.

2. Development of State trading program budget. Proposed § 97.40 provides that the trading program budget in each State would equal the sum of the aggregate emission levels for large EGUs and large non-EGUs in each State, calculated as discussed in section VI.B.3.c.1 of this preamble and listed in Appendix C of the section 126 rulemaking. In the Federal NO_X Budget Trading Program being proposed under the part 97, NO_X ''emission limitations'' take the form of NO_X ''allowance allocations'' and are assigned based on the aggregate emission levels for the subcategories in the trading program. The approach to issuing allocations under part 97 is similar to that under the NO_X SIP call, with the exception that under § 96.40, the State permitting authority, rather than the Administrator, determines, through the SIP, the total amount of allowable NO_X emissions apportioned to NO_X budget units.

3. Timing Provisions. Proposed § 97.41 sets forth the provisions for when the Administrator will issue allocations of NO_X allowances to NO_X budget units. Under the Federal trading program, the Administrator (rather than the State permitting authority) determines the NO_X allowance allocations and records them in the NO_X Allowance Tracking System. Thus, proposed § 97.41 does not provide, or set deadlines, for the permitting authority's submission of allocations to EPA. However, as discussed in the final NO_X SIP call, EPA believes it is important to issue the allocations at least a couple years into the future to provide some predictability for sources in their control planning and to build confidence in the market. Therefore, under part 97, the Administrator will issue NO_X allowances in EPA's NO_X Allowance Tracking System (NATS) by April 1 of every year for the control period that is 3 years later. For example, EPA would issue the allocations for the 2003 control period by April 1, 2000 and EPA would issue the allocations for the 2004 control period by April 1, 2001; thus, the allocations are always known 3 years in advance. These

provisions are consistent with the minimum timing requirements specified in the final NO_X SIP call rulemaking.

As stated in the previous paragraph, EPA will issue allocations in the NATS on an annual basis 3 years prior to the relevant control period. However, EPA proposes to use the same allocations for the first 3 years of the program (based upon one of the proposed methodologies described below), unless a State replaces the FIP with its own allocations in an approved SIP. The EPA proposes constant allocations for the first three control periods to provide more consistency and certainty and to build market confidence during the start-up phase of the program. Therefore, while the Agency will not record the allocations in unit accounts until April 1 of the year 3 years preceding each relevant control period, the allocations for 2004 and 2005 will be the same as the allocations for the 2003 control period. However, if a State, as part of an approved SIP, submits allocations for the 2004 control period to EPA prior to April 1, 2001, or for the 2005 control period prior to April 1, 2002, the State's allocations will replace the allocations EPA planned to issue for the relevant control season. By issuing allocations into accounts 1 year at a time, EPA is providing States the ability to replace a FIP with an approved SIP while still ensuring that sources receive allocations at least 3 years prior to the relevant control season.

After the initial 3 year period, EPA may update its allocations on an annual basis 3 years prior to the relevant control season. As discussed in the final NO_X SIP call, updating allocations on an annual basis (3 years ahead) is intended to allow the allocation system to accommodate changes in market conditions.

4. NO_X Allowance Allocation Methodology. The EPA proposes that part 97 include the methodology that the Administrator will use for allocating NO_X allowances to NO_X budget units. While, in part 96, the Agency lays out an optional allocation methodology that may be used by a State permitting authority for issuing allocations, part 97 will prescribe the methodology that the Administrator would use.

a EGUs. The EPA requests comment on three separate methodologies that the Administrator could use for the initial allocation period (the control periods in 2003 through 2005) for EGUs. In whichever of these methodologies the Agency finalizes, the total number of allowances issued would equal the portion of the trading program budget in the State attributed to large EGUs (calculated as described in section VI.B.3.c.1. of this preamble by multiplying a specified emission rate by a State's summer activity level projected to 2007). The first option is to allocate allowances based on the product of an emission rate in pounds of NO_X/mmBtu and the mmBtus of energy utilized for all units in the Federal NO_X Budget Trading Program; the proposed part 97 describes this approach. The second option is to allocate allowances to fossil fuel-fired EGUs in the Federal NO_X Budget Trading Program based on the product of an emission rate in pounds of NO_X/kwh and the kwh of electricity generated. A third option considered by EPA would allocate allowances to all large EGUs, regardless of fuel type, in the States affected by the FIP rulemaking based on their electricity generated. For the second and third options, EPA would use a surrogate for electricity generation data where electricity generation data are not available. The EPA solicits comment on these three methodologies.

With regard to the allocation methodology to be used by the Administrator for the control periods starting in 2006, EPA requests comment on the same three general methodologies mentioned in the previous paragraph. To facilitate the use of the second and third approaches for the control periods in 2006 and thereafter, EPA proposes to work with stakeholders to design a system based on electricity generation that could be used after the initial allocation period. The EPA plans to propose an allocation system based on electricity generation in 1999 and finalize the approach in 2000. Appropriate data could then be measured and collected at NO_X budget units during the control periods in the years 2001 and 2002. When it becomes available, this approach could be incorporated into part 97 if the Agency decides to allocate allowances based on electricity generation.

For whichever of these three allocation methods the Agency selects, EPA proposes to use the average of the data for the two highest control periods for the years 1995, 1996, and 1997 in determining an EGU's allocation for the control periods in 2003, 2004, and 2005. This approach using data from 1995, 1996, and 1997 differs slightly from the way the aggregate emission level was calculated for the EGU subcategory. As explained in section VI.B.3.c.1. of this preamble, EPA calculated the aggregate emission level based upon the greater of the State heat input data from 1995 or 1996. However, the Agency believes it is useful to base the first 3 years of allocations to individual units on operating data reflecting the average of the highest of 2 out of the 3 most recent years. In this way, the initial allocations better represent the operation of particular units.

Once several years of allocations have been built into the system, the Agency believes it is possible to move to an annually updating allocation system that calculates allocations based on operating data from a single year. Using data from a single year as a basis for allocations enables the Agency to develop an updating allocation system that can reflect changes in utilization or electricity generation. By this time, the trading market should be more established and companies will have several years of experience with the program. Therefore, companies will better be able to accommodate variations in single year allocations through the trading market and company-wide compliance strategies. Thus, after the initial period of allocations, EPA would use data measured during the control period of the year that is 4 years before the year for which allocations are being calculated.

Furthermore, for reasons discussed in the final NO_X SIP call, EPA proposes in part 97 the establishment of an allocation set-aside account, to be used in whichever allocation methodology EPA adopts, equaling 5 percent of the State trading program budget in 2003, 2004, and 2005 for new units (units that commence operation during or after the period on which general NO_X allowance allocations are based) and 2 percent of the trading program budget in the State in the subsequent years. The Agency believes that if a new source set-aside is employed, it should be large enough to provide allocations to all new units entering the Federal trading program. Based on analyses EPA conducted using the Integrated Planning Model (IPM) and on the Agency's proposal to reallocate by April 1, 2003 for the control period in 2006, 5 percent appears to be a reasonable portion of NO_X allowances to set-aside for new units in the initial 3 years of the program and 2 percent for the subsequent years.

However, while 5 percent (and 2 percent) may be an appropriate regionwide average, an individual State may experience either more or less growth in new sources during the relevant time period. The EPA calculated the State-specific aggregate emission levels for each subcategory using State-specific growth rates (see rulemaking docket). Therefore, EPA solicits comment on using State-specific growth rates to determine the appropriate size of a State new source

set-aside. Additionally, the 5 percent (and 2 percent) numbers were calculated based upon estimated growth in utilization by new sources and, therefore, may be more appropriate when the first proposed allocation methodology is employed. The EPA solicits comment on the use of a different percentage for the set-aside if the Agency adopts an electricity generation-based allocation system.

Using each of the three allocation methodologies on which EPA solicits comment, the Agency has calculated unit specific allocations. The allocations for each unit, based on the first two proposed methodologies, are in Appendices A and B of part 97. The allocations resulting from the third methodology can be found in the docket to this rulemaking. The EPA is providing these unit specific allocations to solicit comment on the underlying data used in these allocations and the methodologies employed in determining the allocations. The Agency will select and describe a set of allocations in the final notice. The EPA would issue the finalized set of the 2003 control period allocations in the NATS by April 1, 2000 for those units that are subject to a FIP.

For the first allocation approach in part 97, EPA determined initial unadjusted allocations to existing electric generating NO_X budget units by multiplying a NO_X emission rate of 0.15 lb/mmBtu by the units' historical heat input calculated by taking the average of the heat input for the two highest control periods for the years 1995, 1996, and 1997. The Agency used the heat input data reported to EPA in quarterly reports during the ozone season for utilities affected under the Acid Rain Program. For non-utility electricity generators, EPA used heat input information reported to Energy Information Administration (EIA) on EIA Form 867.

After determining the initial unadjusted unit allocations, EPA adjusted the allocation for each unit upward or downward to match the portion of the trading program budget in the State attributed to large EGUs. Then, the Agency adjusted the allocation for each unit in the State proportionately so that the total allocations equaled 95 percent of the portion of the trading program budget in the State attributed to large EGUs. This created a new source set-aside of 5 percent.

For the second allocation approach, EPA multiplied the unit heat input in mmBtu and the generator heat rate [2] associated with the generation for that unit, in Btu/kWh, to determine each unit's associated historical electrical generation in kWh.[3] For non-utility electricity generators, EPA used heat input from OTAG's database (1995 data) and the average heat rate values found below in Table 1. The Agency used this indirect approach to calculate electrical output because EPA did not have access to unit-specific generation data for non-utility electricity generators. The EPA used average heat rate values for generators for which heat rates were not publicly available, as shown in the table below.

TABLE 1.—AVERAGE UTILITY GENERATOR HEAT RATES

Unit and fuel type	Generator size (MW)	Average heat rate (Btu/kWh)
Combustion Turbine (gas or No. 2 fuel oil/diesel)	≤50	14,250
	>50	13,200
Combined Cycle Turbine (gas or No. 2 fuel oil/diesel)	≤100	11,100
	>100	8,500
Oil- or Gas-fired Steam Boiler	≤400	10,600
	1>400	10,000
Coal-fired Boiler	≤500	10,400
	>500	9,800

Some units are cogenerators, which are electrical generators that divert part of their steam to provide steam output, rather than to generate electricity. The Agency calculated output from cogenerating units as described in the previous paragraph. That approach assumes that heat input is converted into electricity at a particular efficiency. The EPA's proposed approach does not account for the fact that steam generation is generally more efficient than electricity generation. The EPA encourages commenters to provide the Agency electrical output data and steam output data to determine the efficiency of cogenerating units.

To determine the individual unit allocations, EPA determined the total electricity generation from all affected EGUs within each State, as estimated in the previous paragraphs, and calculated each unit's share of the total State electricity generation. Each unit was then assigned an allocation based upon its share of electricity generation. For example, if the Agency calculated that a unit contributed 0.4 percent of a State's total electricity generation, then it would receive 0.4 percent of the trading program budget in the State attributed to large fossil-fuel-fired EGUs. After determining the initial unadjusted allocation, the Agency adjusted the allocation for each unit proportionately so that the total allocation equaled 95 percent of the portion of the trading program budget in the State attributed to large fossil-fuel-fired EGUs (to create the new source set-aside).

The EPA is also proposing a third allocation approach which would provide allowances to all electricity generators in the 23-jurisdiction region regardless of the energy source. For fossil fuel-fired power plants, EPA used the approach described above in determining the electrical generation from individual combustion units. For nuclear power plants and hydroelectric plants, EPA used electrical generation reported by utilities to EIA on EIA Form 759. The Agency was unable to find data for all plants. The Agency solicits comment on these methods for determining electricity generation data. The EPA also requests comment on the data and solicits any additional information for the plants for which EPA has not found data.

The Agency determined the initial unadjusted allocations in the same manner as described for the electricity generation-based allocations to fossil-fuel-fired units only. That is, the Agency determined the total electricity generation within each State, calculated each unit's share of the total electricity generation, and calculated an allocation

[2] Utilities report their generator-specific heat rates to EIA on EIA Form 860.

[3] The EPA used the average generation for the ozone season during the highest two of the years from 1995 through 1997, similar to the approach with heat input.

based upon that share of the trading program budget in the State attributed to large EGUs. The Agency then adjusted the allocation for each unit proportionately so that the total allocation equaled 95 percent of the portion of the trading program budget in the State attributed to large EGUs.

For each of these three allocation methodologies, the Agency solicits comment on the data used to determine the allocations. Electricity generators, and utilities in particular, already report many of these data to Federal or State government agencies. The necessary data and their sources include:

• For each plant:

—Plant name as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State environmental agency

—ORISPL number, if available (or other unique identification number for the plant, if no ORISPL number exists) as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State environmental agency

—State postal abbreviation and county FIPS code as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State environmental agency

—Monitoring locations at the plant (e.g., stacks or fuel pipes where monitoring equipment would be located) for existing monitoring equipment, as reported to U.S. EPA, or to the State environmental agency.

• For each unit (boiler or combustion turbine) at the plant:

—An identification designation (e.g., 1, CT2) as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State environmental agency

—A description of each unit (e.g., combustion turbine, coal-fired wet-bottom boiler) as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State environmental agency or State utility commission

—Fuel or energy source used as reported to the EIA or to the State utility commission

—Heat input (mmBtu) in May 1 through September 30 of 1995, 1996 and 1997 as reported to U.S. EPA and EIA;

—Estimated historical NO_X mass emissions in May 1 through September 30 of 1995, 1996 and 1997 (as reported to the U.S. EPA or the State environmental agency).

• For each electrical generator at the plant:

—Generation identification designation as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State utility commission

—Nameplate capacity in MWe as reported to U.S. EPA and EIA; if not currently reporting to Federal government, then as reported to the State utility commission

—Electrical generation (MWh)in May 1 through September 30 of 1995, 1996 and 1997 as reported to EIA.

• For each steam turbine at the plant that is used to generate steam output instead or in addition to electricity:

—An identification designation

—Capacity, in mmBtu/hr output rate

—Steam output (mmBtu) (not used for electrical generation) in May 1 through September 30 of 1995, 1996 and 1997.

The Agency believes these data are needed both to determine the output of each source and to establish a unique identity for each source and its units. The EPA requests comment on the specific data as well as the type of data supporting the proposed allocations under part 97.

b Non-EGUs. For any allocation methodology adopted, the total number of allocations issued to non-EGUs would equal the portion (less the 5 percent set-aside discussed below) of the trading program budget in the State attributed to large non-EGUs (calculated as described in section VI.B.3.c.1. of this preamble by reducing each State's uncontrolled non-EGU NO_X emissions level by 60 percent and assuming activity growth through 2007). At this time, the Agency proposes in part 97 to use heat input as the basis for determining allocations for large non-EGUs in the Federal NO_X Budget Trading Program. The EPA proposes this basis for both the initial allocation period of 2003 through 2005 and for subsequent years of the program. This differs from the method used to determine the aggregate emission level for non-EGUs (a percentage reduction from historical emissions) because at the time the aggregate level was determined (during the NO_X SIP call proposal process), heat input data for individual units were not available. Distributing allocations on a heat-input basis provides a fuel-neutral method of allocating to the units in the trading program similar to the allocation approaches proposed for the EGUs. Heat-input-based allocations also allow for reallocating in the future (to accommodate new units) whereas allocations based upon a specific percentage reduction do not. Heat input data are now available for use in developing allocations, and the Agency solicits comment on the data as well as the use of heat input in developing allocations.

At this time, the Agency is not aware of any databases on steam output information for industrial boilers. Therefore, for combustion sources other than electrical generators, EPA finds that it is most appropriate to base allocations upon heat input. However, EPA requests comment on any methods for distributing allowances on an output basis to non-EGUs. Comments should address the availability, quality, and appropriateness of the data for regulatory purposes and/or methods to obtain such data.

For the non-EGUs subject to the Federal trading program, EPA proposes in part 97 to use 1995 heat input data in the allocation calculation for the control periods in 2003, 2004, and 2005; 1995 data are the most recent data the Agency knows are currently available for non-EGUs. After this initial period of allocations, as with the EGUs, the Agency will use data measured during the control period of the year, that is, 4 years before the year for which allocations are being calculated.

As was done for EGUs, the Agency has calculated unit specific allocations for large non-EGUs. These unit specific allocations are provided in Appendices A and B of part 97. The EPA solicits comment on the underlying data used in these allocations and the methodology employed in determining the allocations. The EPA will determine the final allocations for the control period in 2003 and place them in the NATS by April 1, 2000 for those units that are subject to a FIP.

For the non-EGU allocations proposed in today's notice, EPA determined initial unadjusted allocations to existing non-electric generating NO_X budget units by multiplying a NO_X emission rate of 0.17 lb/mmBtu (the average emission rate for existing non-electricity generating budget units after controls are in place) by the units' historical heat input (described above as 1995 control season data).

After determining the initial unadjusted unit allocations, EPA adjusted the allocation for each unit upward or downward to match the portion of the trading program budget in the State attributed to large non-EGUs. Then, the Agency adjusted the allocation for each unit in the State proportionately so that the total allocations equaled 95 percent of the portion of the trading program budget in the State attributed to large non-EGUs.

The Agency proposes in part 97 to set-aside 5 percent of the non-EGU allocations to be consistent with the

allocation for EGUs. The EPA solicits comment on this approach and the proposed size of the set-aside.

c. Treatment of New Sources. As discussed in previous sections, the Agency has proposed in part 97 a set-aside for new sources consistent with the provisions of part 96. New EGUs and non-EGUs required to participate in the Federal NO_X Budget Trading Program will have access to this set-aside. In 2003, 2004, and 2005, each State set-aside would initially hold NO_X allowances equal to 5 percent of the NO_X allowances in the trading program budget in the State. Starting in 2006, each State set-aside would originally hold 2 percent of the NO_X allowances in the trading program budget in the State. At the end of each relevant control period, EPA will return any allowances remaining in the account on a pro-rata basis to the units that had received an original allocation that had been adjusted to create the new source set-aside in the State.

The NO_X allowances in the allocation set-aside would be available to any unit that would otherwise be eligible for an allocation in a control period but did not receive one because the unit commenced operation during or after the period on which the NO_X allowance allocations for existing units were based. To receive NO_X allowances from the allocation set-aside, the NO_X Authorized Account Representative for a unit would submit a NO_X allowance request to the Administrator. The request could be for no more than 5 consecutive control periods, starting with the control period during which the unit is projected to commence operation and ending with the control period preceding the control period for which it has sufficient data to receive an allocation with existing budget units. For the 6th year or later (and possibly earlier), there would be sufficient operating data for the unit to be incorporated into the NO_X allowance allocations with existing budget units. The NO_X allowance request would need to be submitted prior to May 1 of the first control period for which NO_X allowances are requested and after the date on which the State issues a permit to construct the new unit.

Consistent with part 96, the allowances would be issued to new units on a first-come, first-served basis. For the first allocation approach proposed for EGUs, allowances to new electric generation units would be issued at a rate of 0.15 lb/mmBtu multiplied by the unit's maximum design heat input. Following each control period, the unit would be subject to a reduced utilization calculation. The EPA would deduct NO_X allowances following each control period based on the unit's actual utilization. Because the allocation for a new unit from the set-aside is based on maximum design heat input, this procedure adjusts the allocation by actual heat input for the control period of the allocation. This adjustment is a surrogate for the use of actual utilization in a prior baseline period which is the approach used for allocating NO_X allowances to existing units.

For new non-EGUs, allowances would be issued at the average emission rate (e.g., .17 lbs/mmBtu) for existing budget units (after controls are in place) multiplied by the budget unit's maximum design heat input. Following each control period, the source would be subject to a reduced utilization calculation similar to that described above for EGUs.

For the second and third allocation approaches proposed for EGUs, allowances to new EGUs would be issued at the average emission rate (in lbs/kwh) for existing budget units (after controls are put in place) multiplied by the maximum design electrical generation derived from operation of the new budget unit. Following each control period, the budget unit would be subject to a reduced utilization calculation similar to that described above under the first approach.

d. Compliance Supplement Pool. This notice proposes to establish Federal emissions limits for sources found to significantly contribute to ozone nonattainment problems in a petitioning State. These sources would be required to comply with the emissions limits by May 1, 2003. As discussed in the final NO_X SIP call and the technical support document ''Feasibility of Installing NO_X Control Technologies By May 2003,'' EPA believes that this compliance date is a feasible and reasonable deadline. However, EPA received comments for the NO_X SIP call expressing concern that some sources may encounter unexpected problems installing controls by this deadline that, in turn, could cause unacceptable risk for a source and its associated industry. Commenters explicitly expressed concern related to the electricity industry, stating that the deadline could adversely impact the reliability of the electricity supply.

In the NO_X SIP call, EPA addressed these compliance concerns by providing additional flexibility for sources to comply with the requirements. The EPA is proposing that similar flexibility mechanisms be provided in part 97. First, EPA is proposing that part 97 include banking provisions as discussed in section III.B.2.h. Second, EPA is proposing that part 97 include a compliance supplement pool that may be used by sources to cover excess emissions during the 2003 and 2004 ozone seasons that are unable to meet the compliance deadline. The proposed part 97 includes a separate compliance supplement pool that would be available to the sources in each State identified in this proposal.

1. Size of the Compliance Supplement Pool. The EPA proposes to use the same compliance supplement pools on a State-by-State basis as were included in the final NO_X SIP call. The justification for the size of the State pools is included in the final NO_X SIP call. Table 2 shows the compliance supplement pool that would be available to sources in each State identified in this proposal.

TABLE 2.—COMPLIANCE SUPPLEMENT POOLS

[Tons of NO_X]

State	Compliance supplement pool
Alabama	10,361
Connecticut	559
Delaware	417
District of Columbia	0
Georgia	10,919
Illinois	17,455
Indiana	19,738
Kentucky	13,018
Maryland	3,662
Massachusetts	285
Michigan	15,359
Missouri	10,469
New Jersey	1,722
New York	1,831
North Carolina	10,624
Ohio	22,947
Pennsylvania	13,716
Rhode Island	0
South Carolina	5,062
Tennessee	12,093
Virginia	6,108
West Virginia	16,937
Wisconsin	6,717

2. Distribution of the Compliance Supplement Pool to Sources. In the final NO_X SIP call, EPA provides States with two options for distributing the pool to sources. One option is for a State to distribute some or all of the pool to sources that generate early reductions during ozone seasons prior to May 1, 2003. The second option is for a State to run a public process to provide tons to sources that demonstrate a need for a compliance extension. Tons that are not distributed by a State prior to May 1, 2003 will be retired by EPA. A State wishing to use the compliance supplement pool under the NO_X SIP call may divide the pool and make some of

it available to sources through both options, or may use only one of the options for distributing the pool to sources prior to May 1, 2003. Based on these options, EPA is soliciting comment on a number of approaches for distributing the pool to sources under part 97.

First, EPA solicits comment as to whether the compliance supplement pool should be distributed by EPA to sources or distributed by EPA to the States that have sources included in this proposal. If the pools were distributed to States, the States would then be able to distribute the pool to sources. Part 97 is primarily designed to be implemented and administered directly by EPA. For this reason, it may be most efficient for EPA to retain the responsibility of distributing the pool to sources. However, it may be possible to provide more flexibility in the use of the pool for different sources if States were provided the distribution responsibility.

Second, provided that EPA decides to retain the responsibility of distributing the pool to sources, EPA solicits comment on two options for distribution. First, EPA solicits comment on distributing the compliance supplement pool only for early reductions. Under this option, the Agency would distribute allowances from the compliance supplement pool based upon the optional methodology the Agency laid out in the final NO_X SIP call. Using that methodology, the Agency could issue early reduction credits for the 2001 and 2002 ozone season to units that have installed part 75 monitoring by the 2000 control season, have reduced their emission rate in 2001 or 2002 relative to their rate in 2000 by at least 20 percent, and are operating in the year(s) in which they are applying for early reduction credits at an emission rate below .25 lb/mmBtu. Provided it meets all of these criteria, a unit could request early reduction credits equal to the difference between .25 lb/mmBtu and the unit's actual emissions rate multiplied by the unit's actual heat input for the applicable control period. The Agency laid out the reasons for adopting each of these criteria for early reduction credits in the final NO_X SIP call. Part 97 currently describes this option.

Under this option, if the tons of NO_X in the State's compliance supplement pool exceed the number of valid early reduction credit requests in that State, the Agency would issue one allowance for each ton of early reduction credit requested. Any allowances remaining in the compliance supplement pool after all valid requests have been granted would be retired by the Agency. If, however, the amount of valid requests are more than the size of the State's pool, the Agency would reduce the amount in the credit requests on a pro-rata basis so that the requests equal the size of the State's pool. After the requests have been reduced, the Agency would then issue allowances based on the remaining size of each credit request.

With this option, sources in States in the Ozone Transport Commission (OTC) that are subject to this rulemaking would be allowed to bring their banked allowances into the Federal NO_X Budget Trading Program as early reduction credits provided the sum of the banked allowances in any State does not exceed the size of the State's compliance supplement pool. As is the case under this option for States outside of the OTC, any remaining credits in the compliance supplement pool would be retired. If the NO_X budget units in an OTC State hold banked allowances from the OTC program in excess of the amount of credits in the State's pool, the Agency would reduce the amount of allowances eligible for early reduction credit on a pro-rata basis.

The Agency solicits comment on the methodology for issuing early reduction credits in this option as well as the approach that limits the use of the compliance supplement pool for early reduction credits. Specifically, the Agency solicits comment on alternative methods for calculating early reduction credits. In addition, EPA solicits comment on the approach specified for integration with the OTC program.

The Agency also solicits comment on a second option for distribution of the compliance supplement pool. Under this second option, the Agency proposes that a portion of the compliance supplement pool be given out as early reduction credits and the remaining portion be reserved for sources that demonstrate a need for the compliance supplement. As described in the preamble to the final NO_X SIP call, sources would be responsible for demonstrating to the Agency and the public that achieving compliance by May 1, 2003 would create undue risk either to its own operation or associated industry. The administrator of the compliance supplement pool would provide the public an opportunity to comment on the validity of the need for this ''direct distribution'' of the compliance supplement.

Under this option, the Agency would grant early reduction credits using the method described in the first option (or some variation of that approach) before allowing sources access to the direct distribution credits from the compliance supplement pool. The Agency proposes to address OTC banked allowances held by sources subject to this rulemaking as suggested in the first option. To ensure that the compliance supplement is only provided to sources that truly need a compliance extension, the remaining credits in the compliance supplement pool would be given out to an owner or operator of a source that demonstrates the following:

- The process of achieving compliance by May 1, 2003 would create undue risk for the source or its associated industry. For electric generating units, the demonstration should show that installing controls would create unacceptable risks for the reliability of the electricity supply during the time of installation. This demonstration would include a showing that it was not feasible to import electricity from other systems during the time of installation. Non-electric generating sources may also be eligible for the compliance supplement based on a demonstration of risk comparable to that described for the electricity industry.
- It was not possible to compensate for delayed compliance by generating early reduction credits at the source or by acquiring credits generated by other sources.
- It was not possible to acquire allowances or credits for the 2003 ozone season from sources that will make reductions beyond required levels during the 2003 ozone season.

The Agency solicits comment on this option that distributes the compliance supplement pool both through early reduction credits as well as direct distribution. Specifically, the Agency requests comment on the number of credits to reserve for direct distribution, the methodology used for direct distribution, and options for public review of the direct distribution. The Agency also solicits comment on the appropriate administrator of the direct distribution.

Under any of the options described above, the Agency proposes that NO_X allowances issued from the compliance supplement pool would only be available for sources to use for compliance in the 2003 or 2004 control periods. Any NO_X allowances issued from the compliance supplement pool that is not used for compliance in 2003, would be considered to be ''banked'' for the 2004 control period. The Agency proposes to retire any NO_X allowance issued from the compliance supplement pool that is not used in either the 2003 or 2004 control period at the end of the 2004 true-up period for the reasons cited in the preamble to the final NO_X SIP call.

e. Emissions Monitoring and Reporting. Subpart H of part 97 addresses monitoring and reporting requirements including, among other things, general requirements, initial

certification and recertification procedures, out of control periods, notifications, recordkeeping and reporting, and petitions. These provisions are essentially the same as the monitoring-related provisions of part 96, with cross references to the appropriate sections of part 97. The differences between the provisions reflect the fact that administration of the monitoring requirements is overseen by EPA, rather than by EPA and the permitting authority in the model state trading program. As a result, for example, monitoring certification applications are submitted to the Administrator and the appropriate EPA Regional Office in addition to the permitting authority, and the Administrator, not the permitting authority, will act on the applications. Further, the Administrator handles all audit decertifications and all petitions for alternatives to the monitoring requirements.

Another difference is that in the State NO_X Budget Trading Program, EPA included heat input monitoring requirements that States might choose to adopt if they were basing their allocation methodologies on heat input. The proposed Federal NO_X Budget Trading Program bases its allocation approach on heat input. Therefore, EPA has included the heat input monitoring and reporting requirements in proposed part 97. Note that as explained in section III.3.c.5 of the section 126 proposal, EPA is taking comment on three different allocation methodologies. Depending on the methodology chosen, monitoring and reporting requirements would vary.

The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25938–40) and the final NO_X SIP call and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

In particular, for the reasons set forth in the NO_X SIP call, EPA proposes that NO_X budget units be required to meet the monitoring and reporting requirements in a new subpart H of 40 CFR part 75, the Acid Rain Program regulations (63 FR 25938–40). The EPA has promulgated these revisions to part 75 to establish NO_X mass monitoring requirements and provide greater flexibility to regulated sources in conjunction with the final NO_X SIP call rule.

f. Opt-Ins. Subpart I of part 97 addresses the opt-in process and procedures applicable to operating units that are not NO_X budget units under § 97.4, but are located in a State that is included in the Federal NO_X Budget Trading Program and wish to voluntarily enter (i.e., opt-in to) the trading program. The opt-in provisions can further reduce the cost of achieving NO_X reductions by allowing these units to join the NO_X Budget Trading Program and make incremental, lower cost reductions, freeing NO_X allowances for use by other NO_X budget units. There are potentially individual sources not included in the trading program that may emit significant amounts of NO_X and are able to achieve cost-effective reductions; allowing these sources to join the program would reduce the overall cost of compliance for the program. The EPA proposes in subpart I to allow individual combustion sources that vent to a stack the opportunity to opt-in to the program for purposes of the FIP. The EPA solicits comment on the appropriateness of these opt-in provisions.

Subpart I addresses, among other things, the applicability requirements, allocations, procedures for applying for a NO_X budget opt-in permit, the process of reviewing and approving or denying the permit, contents of the permit, procedures for withdrawing as a NO_X budget opt-in source, and changes in regulatory status. The provisions of this subpart are similar to the opt-in provisions in part 96, with cross references to the appropriate sections in part 97, though the Administrator plays a greater role than in part 96 with regard to actions on opt-in permits, allocations, and other related opt-in submissions. For example, under the Federal trading program, opt-in permit applications are submitted to both the Administrator and the permitting authority, but only the Administrator may determine whether the unit qualifies as a NO_X budget opt-in source. Furthermore the Administrator, rather than the permitting authority, allocates allowances to sources in the Federal NO_X Budget Trading Program. The EPA is proposing these part 97 provisions for the reasons set forth both in the proposed NO_X SIP call (63 FR 25940–42) and the final NO_X SIP call, and in order to minimize differences between the Federal and State NO_X Budget Trading Programs.

g. Program Administration. As discussed above, the Federal NO_X Budget Trading Program would be run by EPA. The EPA would identify the units covered by the program, determine and record the NO_X allowance allocations, receive and review monitoring plans and monitoring certification applications, and take the lead in enforcement. As discussed above, States would still be responsible for permitting.

C. New Source Review (NSR)

As discussed in the proposed and final NO_X SIP call, EPA believes that nonattainment NSR offset requirements of the CAA can be met using the mechanism of the State NO_X Budget Trading Program under part 96. However, because the Agency is continuing to evaluate a number of complex issues involved with integrating NSR and the trading program, it will not be providing guidance at this time. The EPA intends to provide such guidance as soon as possible. At that time, the EPA will also address whether EPA should integrate NSR with the trading program under part 97.

VII. Non-Trading Sources Emissions Limits

A. Introduction

In this section of the notice, EPA summarizes information used in establishing the proposed regulations for the non-trading source categories. The regulations themselves appear at the end of the notice. The EPA encourages readers to provide information and regulatory suggestions to allow EPA to improve the proposed rules' clarity and provide for least-cost compliance approaches. In many cases, affected sources are already subject to existing State and local emissions reduction requirements, and the responsible State and local agencies may be developing further regulatory initiatives as part of their ongoing SIP efforts. The EPA invites comment on approaches to craft the FIP rules in a manner which, to the extent possible, matches the format of State or local regulations and minimizes conflict between the Federal regulatory regime and current or proposed State and local requirements. However, it is important that the projected emissions decreases from the FIP rules are adequate to achieve the emissions budget assigned in the NO_X SIP call final rulemaking.

B. Permits

As mentioned earlier, the regulations governing State permitting under title V define an ''applicable requirement,'' which must be reflected in a title V operating permit, as including any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA, through rulemaking under title I of the CAA, that implements the relevant requirements of the CAA, including any revisions to that plan promulgated in part 52 of this chapter (40 CFR 70.2). Since today's proposed rule is being promulgated under title I, the

requirements of this rule are applicable requirements under § 70.2 and must be reflected in the title V operating permit of sources subject to the FIP that are required to have such a permit. The EPA believes that the large stationary internal combustion engines and cement kilns subject to the FIP are required to have a title V permit. Further, all State and local air permitting authorities currently have EPA-approved title V operating permits programs. Consequently, these State and local agencies would be the permitting authorities for the sources subject to the FIP.

C. Stationary Internal Combustion Engines

1. Rule Requirements

As described in the NO_X SIP call, EPA's budget calculation includes a 90 percent decrease from uncontrolled levels for the large sources in this category. The FIP rules proposed today are designed to achieve that 90 percent emissions decrease, averaged over a rolling 30-day period, using control technologies that are estimated to be less than $2,000 per ton of NO_X removed on average. The requirements are contained in the regulatory section of this notice. To ensure that the rules apply only to large sources, the regulation includes a size cutoff of between 2,400 and 4,400 brake horsepower, depending on the fuel.

2. Background

The control level selected for spark ignited rich-burn engines is a limit of 110 parts per million by volume (ppmv) NO_X at 15 percent oxygen (O_2) for engines that are 2400 brake horsepower (hp) or larger. This represents non-selective catalytic reduction (NSCR) control. The NSCR provides the greatest NO_X reduction of all technologies considered in the Alternative Control Techniques (ACT) document for ''NO_X emissions from Stationary Reciprocating Internal Combustion Engines'' (EPA–453/R–93–032) and is capable of providing a 90 to 98 percent reduction in NO_X emissions. The range of controlled NO_X is reported to be 0.3 to 1.6 grams per brake horsepower-hour (g/hp-hr), or 20 to 110 ppmv (at 15 percent O_2) in the ACT document. The lower end of the range represents 98 percent control and the upper end represents 90 percent control. According to the ACT document, one NSCR supplier guarantees 98 percent reduction. However, an alternative limitation of 90 percent reduction was selected because 98 percent reduction is based on a single supplier's guarantee. Engines that are 2400 hp or larger have the potential to emit 1 ton of NO_X per day.

The control level selected for spark ignited lean-burn engines is a limit of 125 ppmv NO_X at 15 percent O_2 for engines that are 2400 hp or larger. This represents selective catalytic reduction (SCR) control. The SCR provides the greatest NO_X reduction of all technologies considered in the ACT document for lean-burn engines and is capable of providing a 90 percent reduction in NO_X emissions. Engines that are 2400 hp or larger have the potential to emit 1 ton or more of NO_X per day.

The control level selected for diesel engines is a limit of 175 ppmv NO_X at 15 percent O_2 for engines that are 3100 hp or larger. This represents SCR control. The SCR provides the greatest NO_X reduction of all technologies considered in the ACT document for diesel engines and is capable of providing a 90 percent reduction in NO_X emissions. Engines that are 3100 hp or larger have the potential to emit 1 ton or more of NO_X per day.

The control level selected for dual fuel engines is a limit of 125 ppmv NO_X at 15 percent O_2 for engines that are 4400 hp or larger. This represents SCR control which provides the greatest NO_X reduction of all technologies considered in the ACT document for dual fuel engines. The SCR is capable of providing a 90 percent reduction in NO_X emissions from dual fuel engines. Dual fuel engines that are 4400 hp or larger have the potential to emit 1 ton of NO_X per day.

To ensure compliance with these post-combustion controls, EPA is proposing requiring affected sources to install continuous emissions monitoring systems (CEMS). The CEMS must meet the requirements of 40 CFR part 60. The EPA is proposing the part 60 requirements rather than the part 75 requirements because the rule does not regulate mass emissions, but instead regulates on a volumetric (parts per million) basis.

The EPA invites comment on alternative approaches to monitoring emissions, including CEMS meeting the requirements of 40 CFR part 75. The EPA specifically requests comments on the use of predictive emissions monitoring systems (PEMS). The EPA will give greater consideration to comments that provide data demonstrating the accuracy of alternative methods such as PEMS, particularly if the data provide a comparison of the alternative method to simultaneous data gathered using either a CEM or using EPA reference method testing. More consideration will also be given to data that provide complete information about the range of unit operating parameters that the method was tested over. If commenters do not have these data available, EPA requests comments explaining why the alternative methods would be valid over the range of operating conditions that the unit could be expected to be operating.

D. Cement Manufacturing

1. Rule Requirements

As described in the NO_X SIP call, EPA's budget calculation includes a 30 percent decrease from uncontrolled levels for the large sources in this category. The FIP rules proposed today are designed to achieve that 30 percent emissions decrease using control technologies that are estimated to be less than $2,000 per ton of NO_X removed. The requirements are to install and operate low-NO_X burners, mid-kiln firing, or alternative control techniques, subject to EPA approval, that achieve at least the same emissions decreases as low-NO_X burners or mid-kiln firing. These requirements are contained in the regulatory section of this notice. To ensure that the rules apply only to large sources, the rule applies only to kilns with process rates of at least the following:

Long dry kilns—12 tons per hour (TPH)
Long wet kilns—10 TPH
Preheater kilns—16 TPH
Precalciner and preheater/precalciner kilns—22 TPH

For the purpose of determining alternative control techniques that EPA would consider, it should be noted that EPA expects the following emissions limits can be met by low-NO_X burners or mid-kiln firing:

(i) For any long wet kiln, 6.0 lbs/ton of clinker produced when averaged over any 30 consecutive days.

(ii) For any long dry kiln, 5.1 lbs/ton of clinker produced when averaged over any 30 consecutive days.

(iii) For any preheater kiln, 3.8 lbs/ton of clinker produced when averaged over any 30 consecutive days.

(iv) For any preheater/precalciner or precalciner kiln, 2.8 lbs/ton of clinker produced when averaged over any 30 consecutive days.

2. Background

There are 4 types of cement kilns: long wet, long dry, preheater, and precalciner, as described in the ACT document for ''NO_X emissions from Cement Manufacturing'' (EPA–453/R–94-004). For purposes of developing this rule, EPA is using the average of the standard EPA emission factor (see

Volume I: ''Stationary Point and Area Sources,'' Chapter 11, ''Mineral Products Industry Compilation of Air Pollutant Emission Factors,'' AP–42, Fifth Edition, EPA) and ACT document uncontrolled emission factors. Available NO_X controls with cost effectiveness less than $2,000/ton (expressed in 1992 dollars) and which achieved the most reductions are:

a. Mid-Kiln firing. Cost effectiveness of $430–610/ton. Applicable for long wet and long dry kilns. Ten long kilns have been modified for mid-kiln firing. Two emission tests show NO_X reductions of 18 and 36 percent.

b. Low-NO_X burner. Cost effectiveness of $830–1,330/ton. Applicable for all kilns. Experimental tests show NO_X reductions of 20–30 percent. Subsequent to the ACT document, one test at an indirect fired-coal system with a low-NO_X burner shows reduction of 28 percent.

c. Selective noncatalytic reduction. Cost effectiveness of $440–1,240/ton. Applicable for preheater and precalciner kilns. Two experimental tests—NO_X reductions of 27–40 percent.

The definitions in the proposed rule are generally from the cement ACT document and the Mojave Desert, California rule for portland cement (AQMD Rule 1161). The compliance determination, monitoring and recordkeeping requirements, exemptions, and test method sections are adapted primarily from the Mojave Desert rule. In addition, cement rules from the following areas were examined: Santa Barbara County (California), States of Florida, New Hampshire, Maine, Massachusetts, Northeast States for Coordinated Air Use Management and Sacramento Metropolitan (California).

To ensure compliance with these requirements and to determine the emissions reductions, EPA is proposing requiring affected sources to complete an initial performance test and subsequent annual testing. The EPA is proposing this approach rather than requiring CEMS because EPA is not requiring these sources to meet an emission limit, either on a rate basis as IC engines are, or on a mass basis as units subject to the trading program are. Rather, cement kilns are required to demonstrate that controls have been installed and are being properly operated. The proposed combustion controls, once installed and operating, are expected to be effective over the ozone season and are not subject to as much uncertainty as some post-combustion controls, where, for example, the amount of reagent injected by the operator on a daily or hourly basis is critical. Any cement manufacturing units that choose to opt-in to the trading program would need to install and operate CEMS consistent with the requirements of 40 CFR part 75. The part 75 requirements are necessary in a trading program because consistent and accurate monitoring of emissions is necessary for accountability regarding compliance with the requirement to hold NO_X allowances and to ensure that a ton of emissions attributed to one source in one State is equivalent to a ton attributed to another source in the same or another State.

The EPA invites comment on alternative approaches to monitoring emissions for this industry, including CEMS meeting the requirements of 40 CFR part 60 or part 75. The EPA specifically requests comments on the use of PEMS. The EPA will give greater consideration to comments that provide data demonstrating the accuracy of alternative methods such as PEMS, particularly if the data provide a comparison of the alternative method to simultaneous data gathered using either a CEM or using EPA reference method testing.

VIII. Administrative Requirements

A. Regulatory Impact Analysis

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

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

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

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

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

The EPA believes that this action is a ''significant regulatory action'' because it would have an annual effect on the economy of approximately $1.7 billion. The EPA has estimated benefits from this proposal in the range of $1.1–4.2 billion, with EPA's best estimate being $3.4 billion. Therefore, the NPR was submitted to OMB for review. Any written comments from OMB to EPA and any written EPA response to those comments are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble. Detailed information on the benefits and costs of changes in NO_X emissions is contained in the RIA in the NO_X SIP call docket, which also serves as the RIA for the FIP proposal.

The EPA is proposing to regulate NO_X emissions from stationary sources in the following catgegories located in 22 States and the District of Columbia: electric power generating units, industrial boilers and turbines, cement manufacturing and internal combustion engines. This will lead to the placement of NO_X controls on operating units in these categories. Therefore, EPA has estimated the NO_X emissions reductions and costs resulting from this proposal.

Analytical limitations prevented EPA from estimating the costs of a single, State-specific cap-and-trade program for the large EGUs and non-EGU point sources. Therefore, the Agency estimated the impacts of a regional cap-and-trade program only for the EGUs at this time. For non-EGUs in the core trading program, EPA assumed a least-cost analysis as described in the NO_X SIP call. Finally, EPA assumed emissions decreases from large cement plants and stationary internal combustion engines using a command-and-control type approach since trading may not be immediately available as an option for these sources.

B. Impact on Small Entities

1. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), provides that whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available an initial regulatory flexibility analysis, unless it certifies that the proposed rule, if promulgated, will not have ''a significant economic impact on a substantial number of small entities.''

In the process of developing this rulemaking, EPA worked with the Small Business Administration (SBA) and the Office of Management and Budget (OMB) and obtained input from small businesses, small governmental jurisdictions, and small organizations. On June 23, 1998, EPA's Small Business

Advocacy chairperson convened a Small Business Advocacy Review Panel under section 609(b) of the RFA as amended by SBREFA. For this proposal, in addition to its chairperson, the Panel consisted of EPA's Deputy Director of the Office of Air Quality Planning and Standards within the Office of Air and Radiation, the Administrator of the Office of Information and Regulatory Affairs within the OMB, and the Chief Counsel for Advocacy of the SBA.

As described below, this Panel conducted an outreach effort and completed a report on the FIP proposal. The report provides background information on the proposed rule being developed and the types of small entities that would be subject to the proposed rule, describes efforts to obtain the advice and recommendations of representatives of those small entities, summarizes the comments that have been received to date from those representatives, and presents the findings and recommendations of the Panel; the completed report, comments of the small entity representatives, and other information are contained in the docket for this rulemaking.

It is important to note that the Panel's findings and discussion are based on the information available at the time this report was drafted. The EPA is continuing to conduct analyses relevant to the proposed rule, and additional information may be developed or obtained during the remainder of the rule development process. The Panel makes its report at a preliminary stage of rule development and its report should be considered in that light. At the same time, the report provides the Panel and the Agency with an opportunity to identify and explore potential ways of shaping the proposed rule to minimize the burden of the rule on small entities while achieving the rule's statutory purposes. Any options the Panel identifies for reducing the rule's regulatory impact on small entities may require further analysis and/or data collection to ensure that the options are practicable, enforceable, environmentally sound and consistent with the statute authorizing the proposed rule.

2. Outreach to Small Entity Representatives

In consultation with the SBA, EPA invited 36 small entity representatives to participate in its outreach efforts on this proposal. The EPA, OMB, and SBA held an initial outreach meeting with a group of small-entity representatives in Washington, DC on April 14, 1998. The purpose of this meeting was to familiarize the small-entity representatives with the substance of the rulemaking and the kinds of sources being considered for regulation, and to solicit comment on these topics. Subsequent to the meeting, the representatives submitted follow-up comments in writing. The primary outreach was accomplished by a meeting with the small-entity representatives in Washington, D.C. on August 4, 1998. The purpose of this meeting was to present the results of EPA's analysis on small-entity impacts, and to solicit comment on this analysis and on suggestions for impact mitigation. Subsequent to the meeting, the representatives submitted follow up comments in writing.

To define small entities, EPA used the SBA industry-specific criteria published in 13 CFR section 121. The SBA size standards have been established for each type of economic activity under the Standard Industrial Classification (SIC) System. Due to their NO_X-emitting properties, the following industries have the potential to be affected by the NO_X FIP rulemaking:

SIC Codes in Division D: Manufacturing

2611—Pulp mills
2819—Industrial Inorganic Materials
2821—Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers
2869—Industrial Organic Chemicals
3211—Flat Glass
3221—Glass Containers
3229—Pressed and Blown Glass and Glassware
3241—Cement, Hydraulic
3312—Steel Works, Blast Furnaces, and Rolling Mills
3511—Steam, Gas, and Hydraulic Turbines
3519—Stationary Internal Combustion Engines
3585—Air-Conditioning and Warm-Air Heating Equipment and Commercial and Industrial Refrigeration Equipment

SIC Codes in Division E: Transportation, Communications, Electric, Gas, and Sanitary Services

SIC Major Group 49: Electric, Gas, and Sanitary Services, including:

4911—Electric Utilities
4922—Natural Gas Transmission
4931—Electric and other Gas Services
4961—Steam and Air Conditioning Supply

3. Potentially Affected Small Entities

The primary topic of the Panel discussion was the applicability of the FIP to the various categories of NO_X-emitting sources, the costs the rule would impose, and the possibility of further reducing rule applicability. Secondary topics included emissions monitoring and other potentially duplicative Federal rules. These discussions are summarized below.

The FIP rulemaking is potentially applicable to all stationary-source, NO_X-emitting entities in the 23-jurisdiction area covered by the FIP. The EPA estimates that the total number of such entities is approximately 5300, of which about 1200 are small entities. Based primarily on considerations of overall cost effectiveness and administrative efficiency, EPA is considering reducing this applicability based on several factors including input from this Panel. Specifically, EPA is proposing to exempt (i.e., not regulate) a number of source categories from being subject to this regulation based on factors such as low relative emissions and lack of an identified NO_X control technology. Additional categories of sources are being considered for exemption because they may not be highly cost effective to control, with EPA considering an average cost effectiveness of $2000 per ton of NO_X removed as the upper limit for highly cost-effective reductions. These factors are discussed in detail in section IV.F, Other Point Source Categories, of this notice.

If EPA takes final action as proposed today with this reduced-applicability approach, the FIP will apply only to the following types of sources: EGUs, industrial boilers and combustion turbines, and internal combustion engines and cement manufacturers. The stringency levels of control EPA currently intends to propose for these types of sources is as follows: for EGUs, an emission rate of 0.15 pounds of NO_X per million BTU; for industrial boilers and combustion turbines, an emission reduction of 60 percent; for internal combustion engines, an emission reduction of 90 percent; and for cement manufacturers, an emission reduction of 30 percent. At these stringency levels, the estimated number of small entities that would be affected is as follows:

- Electric Generating Units—114 small entities.
- Industrial Boilers and/or Combustion Turbines—31 small entities.
- Internal Combustion Engines and Cement Manufacturers—8 small entities.

EPA has further estimated that, of these affected small entities, the following would experience compliance costs equal or greater to 1 percent of their revenues:

- Electric Generating Units—32 small entities.
- Industrial Boilers and Combustion Turbines—7 small entities.
- Internal Combustion Engines and Cement Manufacturers—3 small entities.

Of these, EPA estimates that about 18 small entities with EGUs and 4 small entities with industrial boilers or turbines would see costs greater than 3 percent of revenues, and that no IC engines or cement manufacturers would see costs above 3 percent of revenues.

Focusing the rule on these categories would constitute a reduction of over 85 percent in the number of small entities affected by the rule: out of 1200 potentially-affected small entities, over 1000 would be exempted, with only 153 small entities remaining. The Panel received written comments from three small-entity representatives strongly endorsing these exemptions.

4. Panel Findings and EPA Actions

a. Exemptions. The Panel agreed with the general approach EPA is proposing to define the scope of the rule. The Panel recommended that the categorical exemptions noted above be included in the proposal, and further recommended that the applicability of EPA's proposed rule be limited to the categories shown in that section. As discussed in section IV of this notice, EPA is proposing to limit applicability as recommended by the Panel. Furthermore, as described below, the Panel considered it appropriate to explore additional options for reducing the impact of the rule.

Several of the small entity representatives suggested that EPA exempt all small entities from this rulemaking. Although EPA does not feel that a blanket, across-the-board exemption could be supported, EPA is receptive to proposals for further exemptions, up to and including exempting all small entities if that could be shown to be appropriate. As recommended by the Panel, EPA solicits comment on additional types of small-entity exemptions and the rational bases on which such exemptions could be made, such as disproportionate ability to bear costs and administrative burden. Further, where such exemptions are recommended, EPA solicits comment on specific approaches to achieving the total emissions reductions proposed in the FIP since additional types of small-entity exemptions would create an emissions shortfall; approaches could include tighter limits on certain sources affected by the FIP or revision of the NO_X SIP call budget.

b. Continuous Emissions Monitoring Systems. The Panel received both written and oral comments to the effect that CEMS would be prohibitively costly for many industrial boilers, representing a significant part of the cost of the rule. The EPA believes that to enhance the enforceability of the emission limitation in the FIP (as required by section 110(a)(2)(A)), it is necessary for all sources in the trading program to be subject to accurate and consistent monitoring requirements designed to demonstrate compliance with a mass emission limitation, and, therefore, intends to require all large units to monitor NO_X mass emissions using CEMS (including units opting-in to the trading program). The EPA is currently considering whether to require CEMS for both trading and non-trading sources in this rule. However, EPA does believe that it is appropriate to provide lower-cost monitoring options for units with low-NO_X mass emissions, and, therefore, intends to allow non-CEMS alternatives for units that have emissions of less than 50 tons per year of NO_X. This cutoff will provide relief for boilers large enough to be covered by the rule, but that run for a smaller number of hours each year, including any such boilers owned by small entities.

The OMB and SBA share the commenters' concern for the potentially high cost of CEMS requirements. Consistent with this concern, EPA solicits comment on alternative monitoring options for non-trading sources, such as parametric monitoring or monitoring as currently required by the new source performance standards (NSPS) program.

c. Trading Program Opt-In. The Panel recommended that EPA encourage non-trading sources to opt-in to the emissions trading program. In the Panel's view, allowing these sources to opt-in to the trading program provides an incentive to develop alternative cost-effective control options that will allow sources to improve overall emissions reduction cost savings. The EPA solicits comment on effective ways to accomplish this while still maintaining the integrity of the trading system.

d. Cement Kilns. Consistent with SBREFA's goal of reducing small-entity impacts, the Panel also proposed a number of specific ideas for exempting or reducing burden on particular categories of small entities. Many of these ideas were generated from comments made by small entity advisors to this Panel. The first category the Panel explored was cement kilns, where commenters had raised questions regarding EPA's analyses of control efficiency and cost. The first option explored was to propose exempting cement kilns as a source category if it could be shown that EPA's assumed 30 percent reduction of NO_X emissions is not feasible, and that the achievable reductions were such that it would not be cost effective to require controls on these sources. As recommended by the Panel, EPA solicits comment on rational bases on which small-entity-owned cement kilns could be exempted if further analysis shows this to be appropriate. Examples of the kinds of factors that might be considered rational bases for exemption are disproportionate ability to bear costs and administrative burdens, and contributing only de minimis amounts of emissions.

The second option considered by the Panel was to retain applicability to cement kilns, but to grant relief if, after installing available controls, they proved to be unable to achieve the mandated 30 percent reduction in NO_X emissions. This concept was conceived in this case due to commenters' claims that cement kilns are highly idiosyncratic, and that the available cost-effective technologies (such as mid-kiln firing) may produce greatly varying results from unit to unit. The model concept considered was that of an Alternative Emission Limit (AEL) similar to the one used in the acid rain NO_X reduction program (59 FR 13538, March 22, 1994), whereby a source can apply for and receive a less stringent reduction requirement if it can be shown that this lesser reduction is the most that can be achieved at that particular unit. To implement this concept, the Panel recommended that EPA solicit comment on whether small-entity-owned cement kilns unable to achieve the mandated reduction should be given the opportunity to apply for an AEL to be set at a level demonstrated to be achievable at the unit in question. The EPA solicits comment on the appropriateness and workability of this option, particularly information that would support it.

e. Electric Generating Units. The next area considered by the Panel was EGUs. The EPA's analysis shows that slightly more than 30 EGUs may experience costs above 1 percent of revenues, and that 18 of these might exceed 3 percent. From comments made by small utilities, the Panel suspects that many of these high-cost-to-revenue situations may involve peaking units, which run only a small percentage of the time and thus may be inefficient to control. To address this problem, the Panel recommended that EPA solicit comment on whether to allow EGUs to obtain a federally enforceable NO_X emissions tonnage limit (e.g., 25 tons during the ozone season) and thereby obtain an exemption from FIP applicability. The EPA solicits comment on the necessity for and appropriateness of such an option.

f. Industrial Boilers. Individual Panel members conceived of other potential ways to mitigate impact on small entities, such as raising the size cutoff for small entities and/or lessening the required percentage reduction in NO_X emissions required from small entities. The SBA encouraged the Agency to conduct analyses to determine the impact of 40 percent reduction being applied solely to small entities and 60 percent solely to large entities, and the resulting effect on control levels for sources regulated in the FIP proposal. The EPA solicits comment on whether requirements should be reduced on small-entity-owned industrial boilers by some combination of raising the size cutoff and/or lessening the required reduction; which, if any, of these options is preferable; the necessity and appropriateness of any such option; the appropriate level (e.g., 40 percent reduction instead of 60 percent); and information to support any comments submitted.

g. EPA Guidance to States on Small Entities. Finally, the Panel noted that several small entity representatives expressed concern that regardless of the sensitivity to small-entity concerns EPA shows in the FIP (or section 126) rulemaking, the States may nevertheless see fit to target small entities in their SIPs. To help address this problem, the Panel recommended that, subsequent to the FIP and 126 proposals, EPA issue guidance that conveys to the States the kinds of options and alternatives EPA has considered in addressing small-entity concerns, explains the rationale behind these kinds of options, and recommended that the States consider adopting similar alternatives in their SIPs. The EPA intends to address this issue as it develops implementation guidance for the States to use in developing SIPs.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule that ''includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more * * * in any one year.'' A ''Federal mandate'' is defined under section 421(6), 2 U.S.C. 658(6), to include a ''Federal intergovernmental mandate'' and a ''Federal private sector mandate.'' A ''Federal intergovernmental mandate,'' in turn, is defined to include a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' section 421(5)(A)(i), 2 U.S.C. 658(5)(A)(i), except for, among other things, a duty that is ''a condition of Federal assistance,'' section 421(5)(A)(i)(I). A ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector,'' with certain exceptions, section 421(7)(A), 2 U.S.C. 658(7)(A).

The EPA is taking the position that the requirements of UMRA apply because this action could result in the establishment of enforceable mandates directly applicable to sources (including sources owned by State and local governments) that could result in costs greater than $100 million in any one year. 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 EPA's analysis, ''Unfunded Mandates Reform Act Analysis For the Proposed Federal Implementation Plan Rule Under the Clean Air Act Amendments Title I,'' is in the docket for this action and examines the impacts of the proposed FIP on EGUs and non-EGUs owned by State, local, and tribal governments, as well as those sources owned by private entities. This proposal potentially affects 78 EGUs that are owned by two States and 24 municipalities (Massachusetts and South Carolina own 19 units, and the municipalities own the remaining 59 units). In addition, 7 non-EGUs owned by 2 States and 5 municipalities are potentially affected. The EPA has not identified any units on Tribal lands that would be subject to the proposed requirements. The overall costs are dominated by the 78 EGUs and range from 3.2 to 3.9 percent of the total costs for all of the EGUs potentially affected by the FIP. These State and municipality-owned units produce approximately 2.6 percent of the electricity in the region, which suggests that their cost impacts are only slightly higher than their production share, in comparison to all units in the region.

Under section 203 of UMRA, 2 U.S.C. 1533, before EPA establishes any regulatory requirements ''that might significantly or uniquely affect small governments,'' EPA must have developed a small government agency plan. The plan must provide for notifying potentially affected small governments; enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates; and informing, educating, and advising small governments on compliance with the regulatory requirements. The proposed requirements do not distinguish EGUs based on ownership, either for those units that are included within the scope of the proposed rule or for those units that are exempted by the generating capacity cut-off. Consequently, the proposed rule has no requirements that uniquely affect small governments that own or operate EGUs within the SIP call region. With respect to the significance of the rule's provisions, EPA's UMRA analysis (cited above) demonstrates that the economic impact of the rule will not significantly affect State or municipal EGUs or non-EGUs, either in terms of total cost incurred and the impact of the costs on revenue, or increased cost of electricity to consumers. Therefore, development of a small government plan under section 203 of the Act is not required.

Under section 204 of UMRA, 2 U.S.C. 1534, if an agency proposes a rule that contains a ''significant Federal intergovernmental mandate'', the agency must develop a process to permit elected officials of State, local, and tribal governments to provide input into the development of the proposal.'' In order to fulfill UMRA requirements that publicly-elected officials be given meaningful and timely input in the process of regulatory development, EPA has sent letters to five national associations whose members include elected officials. The letters provide background information, request the associations to notify their membership of the proposed rulemaking, and encourage interested parties to comment on the proposed actions by sending comments during the public comment period and presenting testimony at the public hearing on the proposal. Any comments will be taken into consideration as the action moves toward final rulemaking.

In addition, during the NO_X SIP call, EPA provided direct notification to potentially affected State and municipally-owned utilities as part of the public comment and hearing process attendant to proposal of the NO_X SIP call and supplemental notice of proposed rulemaking. These procedures helped ensure that small governments had an opportunity to give timely input and obtain information on compliance. EPA provided the 26 State and municipality-owned utilities and appropriate elected officials with a brief

summary of the proposal and the estimated impacts. The public rulemaking also elicited numerous comments from State and municipal utilities and groups representing utility interests.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1883.01) and a copy may be obtained from Sandy Farmer, by mail at OP Regulatory Information Division, US Environmental Protection Agency (2137), 401 M St., SW, Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr.

The EPA believes that it is essential that compliance with the regional control strategy be verified. Tracking emissions is the principal mechanism to ensure compliance with the budget and to assure the downwind affected States and EPA that the ozone transport problem is being addressed. The reporting requirements can be divided into three categories: statewide emissions budgets, trading program, and other stationary source categories regulated.

1. Statewide Emissions Budgets

The reporting and recordkeeping burden (to be incurred by EPA) for this collection of information is described in the final NO_X SIP call rulemaking and is summarized below:

Respondents/Affected Entities: States, along with the District of Columbia, which are included in the NO_X SIP call.

Number of Respondents: 23.

Frequency of Response: annually, triennially.

Estimated Annual Hour Burden per Respondent: 282.

Estimated Annual Cost per Respondent: $7,942.68.

Estimated Total Annual Hour Burden: 6,486.

Estimated Total Annualized Cost: $182,682.00.

2. Trading Program

Respondents/Affected Entities: Large fossil fuel boilers, turbines and combined cycle units which are included in the NO_X FIP.

Number of Respondents: 2313.

Frequency of Response:

—Emissions reports quarterly for some units, twice during ozone season for others

—Test notifications and allowance transfers on an infrequent basis

—Compliance certifications on an annual basis

Estimated Annual Hour Burden per Respondent: 107.

Estimated Annual Cost per Respondent: $6,888.

Estimated Total Annual Hour Burden: 249,150.

Estimated Total Annualized Cost: $15,931,033.

Note that these are an average estimate for the first three years of the program. EPA estimates lower costs in the first two years of the program because less units will be participating at that time. The units that will be participating at that time are units that are applying for early reduction credits. EPA also estimates that the highest compliance costs will occur in 2002, when the majority of the units that have to install and certify new monitors to comply with the program will do so. EPA believes that the year 2003 will be more representative of the actual ongoing costs of the program. At that time EPA estimates a burden of 179 hours per source and a cost of $27,670 per source.

3. Non-Trading Sources Regulated

Respondents/Affected Entities: Large stationary internal combustion engines and cement manufacturing which are included in the NO_X FIP.

Number of Respondents: 363.

Frequency of Response:

—emissions reports either quarterly during the ozone season or annually

Estimated Annual Hour Burden per Respondent: 464.

Estimated Annual Cost per Respondent: $33,303.

Estimated Total Annual Hour Burden: 168,390.

Estimated Total Annualized Cost: $12,089,000.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Office of Policy, Regulatory Information Division, US Environmental Protection Agency (2137), 401 M St., SW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after October 21, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by November 20, 1998. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Executive Order 13045 : Protection of Children from Environmental Health Risks and Safety Risks

1. Applicability

The Executive Order 13045 applies to any rule that EPA determines is (i) ''economically significant'' as defined under Executive Order 12866, and (ii) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

2. Children's Health Protection

In accordance with section 5(501), the Agency has evaluated the environmental health or safety effects of the rule on children, and found that the rule does not separately address any age

groups. However, the Agency has conducted a general analysis of the potential changes in ozone and particulate matter levels experienced by children as a result of the NO_X SIP call; these findings are presented in the RIA. The findings include projected ozone concentrations for every hour of the day, and projected annual average and daily peak particulate matter nominally 10m and less (PM_{10}) and particulate matter nominally 15m and less ($PM_{2.5}$) concentrations in every grid cell in the modeling domain. The EPA has mapped these concentrations to the census-derived population projections for these cells to arrive at a population-weighted exposure characterization. The census data for each cell have been broken down by age, race, and socioeconomic status.

F. Executive Order 12898 Environmental Justice

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The Agency has conducted a general analysis of the potential changes in ozone and PM levels experienced by minorities and low-income populations as a result of the NO_X SIP call; these findings are presented in the RIA. The findings include projected ozone concentrations for every hour of the day, and projected annual average and daily peak PM_{10} and $PM_{2.5}$ concentrations in every grid cell in the modeling domain. The EPA has mapped these concentrations to the census-derived population projections for these cells to arrive at a population-weighted exposure characterization. The census data for each cell has been broken down by age, race, and socioeconomic status.

G. Executive Order 12875: Enhancing the Intergovernmental Partnership

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

The EPA has concluded that this rule may create a mandate on State and local governments and that the Federal government will not provide the funds necessary to pay the direct costs incurred by the State and local governments in complying with the mandate. In order to provide meaningful and timely input in the development of this regulatory action, EPA has sent letters to five national associations whose members include elected officials. The letters provide background information, request the associations to notify their membership of the proposed rulemaking, and encourage interested parties to comment on the proposed actions by sending comments during the public comment period and presenting testimony at the public hearing on the proposal. Any comments will be taken into consideration as the action moves toward final rulemaking.

In addition, during the NO_X SIP call, EPA provided direct notification to potentially affected State and municipally-owned utilities as part of the public comment and hearing process attendant to proposal of the NO_X SIP call and supplemental notice of proposed rulemaking. These procedures helped ensure that small governments had an opportunity to give timely input and obtain information on compliance. EPA provided the 26 State and municipality-owned utilities and appropriate elected officials with a brief summary of the proposal and the estimated impacts. The public rulemaking also elicited numerous comments from State and municipal utilities and groups representing utility interests.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments and, in any event, will not impose substantial direct compliance costs on such communities. The EPA is not aware of sources located on tribal lands that could be subject to the requirements EPA is proposing in this notice. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking would require all sources that participate in the trading program under proposed part 97 to meet the applicable monitoring requirements of part 75. Part 75 already incorporates a number of voluntary consensus standards. In addition, EPA's proposed revisions to part 75 proposed to add two more voluntary consensus standards to the rule (see 63 FR at 28116–17, discussing ASTM D5373–93 ''Standard Methods for Instrumental Determination of Carbon, Hydrogen and Nitrogen in laboratory samples of Coal and Coke,'' and API section 2 ''Conventional Pipe Provers'' from Chapter 4 of the Manual of Petroleum

Measurement Standards, October 1988 edition). EPA's proposed part 75 revisions also requested comments on the inclusion of additional voluntary consensus standards. EPA has recently finalized revisions to part 75 addressing some of the topics raised in EPA's proposed revisions to part 75. As part of this rule finalization, EPA incorporated two new voluntary consensus standards, in response to comments submitted on the proposed part 75 revisions related to other issues:

(i) American Petroleum Institute (API) Petroleum Measurement Standards, Chapter 3, Tank Gauging: section 1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, December 1994; section 1B, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging, April 1992 (reaffirmed January 1997); section 2, Standard Practice for Gauging Petroleum and Petroleum Products in Tank Cars, September 1995; section 3, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Pressurized Storage Tanks by Automatic Tank Gauging, June 1996; section 4, Standard Practice for Level Measurement of Liquid Hydrocarbons on Marine Vessels by Automatic Tank Gauging, April 1995; and section 5, Standard Practice for Level Measurement of Light Hydrocarbon Liquids Onboard Marine Vessels by Automatic Tank Gauging, March 1997; and

(ii) Shop Testing of Automatic Liquid Level Gages, Bulletin 2509 B, December 1961 (Reaffirmed October 1992), for § 75.19.

The EPA intends to finalize other revisions to part 75 in the near future and address comments related to the proposed voluntary consensus standards and to additional voluntary consensus standards at that time.

This proposed rulemaking would require the owners and operators of cement kilns and stationary internal combustion engines to demonstrate compliance with the requirements set forth in part 98 using monitoring provisions set forth in part 60. Part 60 incorporates a number of voluntary consensus standards. At this time, EPA is not proposing any revisions to part 60, however EPA does periodically revise the test procedures set forth in part 60. When EPA does revise the test procedures set forth in part 60, EPA will address the use of any new voluntary consensus standards that are equivalent.

This proposed rulemaking involves environmental monitoring or measurement. Sources that participate in the trading program would be required to meet the monitoring requirements under part 75. Consistent with the Agency's Performance Based Measurement System (PBMS), part 75 sets forth performance criteria that allow the use of alternative methods to the ones set forth in part 75. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified, however any alternative methods must be approved in advance before they may be used under part 75.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation. As part of a larger effort, EPA is undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist EPA in identifying potentially-applicable voluntary consensus standards which can then be evaluated for equivalency and applicability in determining compliance with future regulations.

List of Subjects

40 CFR Part 52

Environmental protection, Acid rain program, Air pollution control, Nitrogen dioxide, Reporting and recordkeeping requirements.

40 CFR Part 98

Environmental protection, Administrative practice and procedure, Air pollution control, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: September 24, 1998.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, parts 52 and 98 of chapter 1 of title 40 of the Code of Federal Regulations are proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart A—General Provisions

2. Subpart A is amended to add § 52.35 to read as follows:

§ 52.35 Requirements of Federal implementation plan relating to budgets for emissions of nitrogen oxides.

(a) *Failure.* The provisions of this section are applicable to sources of emissions of nitrogen oxides (NO_X) located within any State that is listed in 40 CFR 51.121(c) and for which EPA has found that the State has:

(1) Failed to submit the State implementation plan revision required by 40 CFR 51.121;

(2) Failed to submit such a plan revision meeting the minimum criteria in 40 CFR 51.103 and Appendix V of part 51; or

(3) Submitted a plan revision that EPA has disapproved as not meeting the requirements of 40 CFR 51.121.

(b) *FIP Regulations.* The provisions of parts 97 and 98 of this chapter constitute the Federal implementation plan provisions for each State described in paragraph (a) of this section. These provisions do not invalidate or otherwise affect the obligations of States, emissions sources or other persons with respect to all portions of plans approved or promulgated under this part, nor the obligations of States under the requirements of 40 CFR 51.121 and 51.122.

Subpart B—Alabama

3. Subpart B is amended to add § 52.64 to read as follows:

§ 52.64 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Alabama and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart H—Connecticut

4. Subpart H is amended to add § 52.377 to read as follows:

§ 52.377 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Connecticut and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart I—Delaware

5. Subpart I is amended to add § 52.425 to read as follows:

§ 52.425 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Delaware and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

6. Subpart J is amended to add § 52.475 to read as follows:

§ 52.475 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the District of Columbia and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart L—Georgia

6a. Subpart L is amended to add § 52.584 to read as follows:

§ 52.584 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Georgia and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart O—Illinois

7. Subpart O is amended to add § 52.723 to read as follows:

§ 52.723 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Illinois and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart P—Indiana

8. Subpart P is amended to add § 52.774 to read as follows:

§ 52.774 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Indiana and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart S—Kentucky

9. Subpart S is amended to add § 52.939 to read as follows:

§ 52.939 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Kentucky and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart V—Maryland

10. Subpart V is amended to add § 52.1078 to read as follows:

§ 52.1078 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Maryland and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart W—Massachusetts

11. Subpart W is amended to add § 52.1166 to read as follows:

§ 52.1166 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Massachusetts and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart X—Michigan

12. Subpart X is amended to add § 52.1179 to read as follows:

§ 52.1179 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Michigan and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart AA—Missouri

13. Subpart AA is amended to add § 52.1326 to read as follows:

§ 52.1326 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Missouri and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart FF—New Jersey

14. Subpart FF is amended to add § 52.1582 to read as follows:

§ 52.1582 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of New Jersey and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart HH—New York

15. Subpart HH is amended to add § 52.1684 to read as follows:

§ 52.1684 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of New York and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart II—North Carolina

16. Subpart II is amended to add § 52.1779 to read as follows:

§ 52.1779 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of North Carolina and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart KK—Ohio

17. Subpart KK is amended to add § 52.1874 to read as follows:

§ 52.1874 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Ohio and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart NN—Pennsylvania

18. Subpart NN is amended to add § 52.2031 to read as follows:

§ 52.2031 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Pennsylvania and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart OO—Rhode Island

19. Subpart OO is amended to add § 52.2082 to read as follows:

§ 52.2082 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Rhode Island and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart PP—South Carolina

20. Subpart PP is amended to add § 52.2135 to read as follows:

§ 52.2135 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of South Carolina and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart RR—Tennessee

21. Subpart RR is amended to add § 52.2232 to read as follows:

§ 52.2232 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Tennessee and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart VV—Virginia

22. Subpart VV is amended to add § 52.2429 to read as follows:

§ 52.2429 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Virginia and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart XX—West Virginia

23. Subpart XX is amended to add § 52.2529 to read as follows:

§ 52.2529 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of West Virginia and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

Subpart YY—Wisconsin

24. Subpart YY is amended to add § 52.2576 to read as follows:

§ 52.2576 Interstate pollutant transport provisions; requirements for decreases in emissions of nitrogen oxides.

FIP Regulations. The owner or operator of each NO_X source located within the State of Wisconsin and for which requirements are set forth in parts 97 or 98 of this chapter must comply with such applicable requirements.

25. Part 98 is added to read as follows:

PART 98—NITROGEN OXIDES (NO_X) BUDGET PROGRAM REQUIREMENTS FOR STATIONARY SOURCES NOT IN THE TRADING PROGRAM

Subpart A—Emissions of NO_X From Stationary Reciprocating Internal Combustion Engines

Sec.
98.1 Applicability.
98.2 Definitions.
98.3 Standard requirements.
98.4 Compliance determination.
98.5 Reporting, monitoring and recordkeeping.
98.6 Exemptions.

Subpart B—Emissions of NO_X From Cement Manufacturing.

98.41 Applicability.
98.42 Definitions.
98.43 Standard requirements.
98.44 Reporting, monitoring and recordkeeping.
98.45 Exemptions.

Authority: 42 U.S.C. 7401–7671q.

Subpart A—Emissions of NO_X From Stationary Reciprocating Internal Combustion Engines

§ 98.1 Applicability.

(a) Any owner or operator of a rich burn stationary internal combustion engine rated at equal to or greater than 2,400 brake horsepower shall comply with the applicable requirements of this section and §§ 98.2 through 97.6.

(b) Any owner or operator of a lean burn stationary internal combustion engine rated at equal to or greater than 2,400 brake horsepower shall comply with the applicable requirements of this section and §§ 98.2 through 98.6.

(c) Any owner or operator of a diesel stationary internal combustion engine rated at equal to or greater than 3,000 brake horsepower shall comply with the applicable requirements of this section and § 98.2 through 98.6.

(d) Any owner or operator of a dual fuel stationary internal combustion engine rated at equal to or greater than 4,400 brake horsepower shall comply with the applicable requirements of this section and § 98.2 through 98.6.

§ 98.2 Definitions.

For the purposes of this subpart, the following definitions shall apply.

(a) *Diesel engine* means a compression ignited two- or four-stroke engine in which liquid fuel injected into the combustion chamber ignites when the air charge has been compressed to a temperature sufficiently high for auto-ignition.

(b) *Dual fuel engine* means a compression ignited stationary internal combustion engine that is burning liquid fuel and gaseous fuel simultaneously.

(c) *Emergency standby engine* means an internal combustion engine used only when normal power line or natural gas service fails, or for the emergency pumping of water for either fire protection or flood relief. An emergency standby engine may not be operated to supplement a primary power source when the load capacity or rating of the primary power source has been either reached or exceeded.

(d) *Engine rating* means the output of an engine as determined by the engine manufacturer and listed on the nameplate of the unit, regardless of any derating.

(e) *Higher heating value (HHV)* means the total heat liberated per mass of fuel burned (Btu per pound), when fuel and dry air at standard conditions undergo complete combustion and all resultant products are brought to their standard States at standard conditions. If certification of the HHV is not provided by the third party fuel supplier, it shall be determined by one of the following test methods: ASTM D2015–85 for solid fuels; ASTM D240–87 or ASTM D2382–88 for liquid hydrocarbon fuels; or ASTM D1826–88 or ASTM D1945–81 in conjunction with ASTM D3588–89 for

gaseous fuels. These methods are all incorporated by reference as specified at 40 CFR 52.3002.

(f) *Lean-burn engine* means any two- or four-stroke spark-ignited engine that is not a rich-burn engine.

(g) *Maintenance operation* means the use of an emergency standby engine and fuel system during testing, repair and routine maintenance to verify its readiness for emergency standby use.

(h) *Malfunction* means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

(i) *Output* means the shaft work output from an engine plus the energy reclaimed by any useful heat recovery system.

(j) *Peak load* means the maximum instantaneous operating load.

(k) *Permitted capacity factor* means the annual permitted fuel use divided by the manufacturers specified maximum fuel consumption times 8,760 hours per year.

(l) *Rich-burn engine* means a two- or four-stroke spark-ignited engine where the manufacturers original recommended operating air/fuel ratio divided by the stoichiometric air/fuel ratio is less than or equal to 1.1.

(m) *Shutdown* means the period of time a unit is cooled from its normal operating temperature to cold or ambient temperature.

(n) *Startup* means the period of time a unit is heated from cold or ambient temperature to its normal operating temperature as specified by the manufacturer.

(o) *Stationary internal combustion engine* means any internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and remains at a single site at a building, structure, facility, or installation for more than 12 consecutive months. Any engine (or engines) that replaces an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period. Nonroad engines and engines used solely for competition are not stationary internal combustion engines.

(p) *Stoichiometric air/fuel ratio* means the air/fuel ratio where all fuel and all oxygen in the air/fuel mixture will be consumed.

(q) *Unit* means any diesel, lean-burn, or rich-burn stationary internal combustion engine as defined in paragraph (o) of this section.

§ 98.3 Standard requirements.

After May 1, 2003, an owner or operator of a unit subject to the standards of this subpart shall not operate the unit May 1 through September 30 of 2003, and any subsequent year unless the owner or operator complies with the requirements of paragraph (a) of this section during May 1 through September 30 of each year.

(a) No owner or operator of a stationary internal combustion engine shall cause to be discharged into the atmosphere any gases that contain NO_X in excess of the following applicable limit, expressed as NO_2 corrected to 15 percent parts per million by volume (ppmv) stack gas O_2 on a dry basis, averaged over a rolling 30-day period:

(1) Rich-burn, ≥ 2400 bhp: 110 ppmv
(2) Lean-burn, ≥ 2400 bhp: 125 ppmv
(3) Diesel, ≥ 3000 bhp: 175 ppmv
(4) Dual fuel, ≥ 4400 bhp: 125 ppmv

(b) Each emission limit expressed in paragraphs (a)(1) through (4) of this section may be multiplied by X, where X equals the engine efficiency (E) divided by a reference efficiency of 30 percent. Engine efficiency (E) shall be determined using one of the methods specified in paragraph (b)(1) or (2) of this section, whichever provides a higher value. However, engine efficiency (E) shall not be less than 30 percent. An engine with an efficiency lower than 30 percent shall be assigned an efficiency of 30 percent.

(1)

$$E = \frac{(\text{Engine output}) * (100)}{\text{Energy input}}$$

where energy input is determined by a fuel measuring device accurate to ±5 percent and is based on the higher heating value (HHV) of the fuel. Percent efficiency (E) shall be averaged over 15 consecutive minutes and measured at peak load for the applicable engine.

(2)

$$E = \frac{(\text{Mftrs Rated Efficiency[Continuous] at LHV}) * (\text{LHV})}{(\text{HHV})}$$

Where
LHV = the lower heating value of the fuel; and
HHV = the higher heating value of the fuel

§ 98.4 Compliance determination.

Any owner or operator of a unit subject to the requirements of § 98.3 shall determine compliance using a continuous emissions monitoring system (CEMS) which meets the applicable requirements of Appendices B and F of 40 CFR part 60, excluding data obtained during periods specified in § 98.6.

§ 98.5 Reporting, monitoring, and recordkeeping.

(a) *Reporting requirements.* Any owner or operator subject to the requirements of § 98.3 shall comply with the following requirements:

(1) By May 1, 2003, submit to the Administrator the identification number and type of each unit subject to the section, the name and address of the plant where the unit is located, and the name and telephone number of the person responsible for demonstrating compliance with the section.

(2) Submit a report documenting for that unit the total NO_X emissions from May 1 through September 30 of each year to the Administrator by October 31 of each year, beginning in 2003.

(3) Each owner or operator of a unit subject to this rule and operating a CEMS shall submit an excess emissions and monitoring systems performance report, in accordance with the requirements of 40 CFR 60.7(c) and 60.13.

(b) *Monitoring requirements.* (1) Any owner or operator subject to the requirements of § 98.3 shall not operate such equipment unless it is equipped with one of the following:

(i) A CEMS which meets the applicable requirements of 40 CFR part 60, subpart A, and appendix B, and complies with the quality assurance procedures specified in 40 CFR part 60, appendix F. The CEMS shall be used to demonstrate compliance with the applicable emission limit.

(ii) An alternate calculational and recordkeeping procedure based upon actual emissions testing and correlations with operating parameters. The installation, implementation and use of such an alternate calculational and recordkeeping procedure must be approved by EPA in writing prior to implementation.

(2) The CEMS or approved alternate recordkeeping procedure shall be operated and maintained in accordance with an on-site CEMS operating plan approved by EPA.

(c) *Recordkeeping requirements.*

(1) Any owner or operator of a unit subject to this subpart shall maintain all records necessary to demonstrate compliance with the section for a period of 2 calendar years at the plant at which the subject unit is located. The records shall be made available to the

Administrator upon request. The owner or operator shall maintain records of the following information for each day the unit is operated:

(i) Identification and location of each engine subject to the requirements of this section.

(ii) Calendar date of record.

(iii) The number of hours the unit is operated during each day including startups, shutdowns, malfunctions, and the type and duration of maintenance and repairs.

(iv) Date and results of each emissions inspection.

(v) A summary of any emissions corrective maintenance taken.

(vi) The results of all compliance tests.

(vii) If a unit is equipped with a CEMS:

(A) Identification of time periods during which NO_X standards are exceeded, the reason for the exceedance, and action taken to correct the exceedance and to prevent similar future exceedances.

(B) Identification of the time periods for which operating conditions and pollutant data were not obtained including reasons for not obtaining sufficient data and a description of corrective actions taken.

(2) [Reserved]

§ 98.6 Exemptions.

(a) The requirements of §§ 98.3, 98.4, and 98.5 shall not apply to the following periods of operation:

(1) Start-up and shut-down periods and periods of malfunction, not to exceed 36 consecutive hours;

(2) Regularly scheduled maintenance activities.

Subpart B—Emissions of NO_X From Cement Manufacturing

§ 98.41 Applicability.

The requirements of this subpart apply only to kilns with process rates of at least the following: long dry kilns—12 tons per hour (TPH); long wet kilns—10 TPH; preheater kilns—16 TPH; precalciner and preheater/precalciner kilns—22 TPH.

§ 98.42 Definitions.

(a) *Clinker* means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(b) *Long dry kiln* means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is dry.

(c) *Long wet kiln* means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is a slurry.

(d) *Low-NO_X* burners means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel-rich zones for initial combustion.

(e) *Malfunction* means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(f) *Mid-kiln firing* means the secondary firing in kilns by injecting solid fuel at an intermediate point in the kiln using a specially designed feed injection mechanism for the purpose of decreasing NO_X emissions through:

(1) Burning part of the fuel at a lower temperature; and

(2) Reducing conditions at the solid waste injection point that may destroy some of the NO_X formed upstream in the kiln burning zone.

(g) *Portland cement* means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

(h) *Portland cement kiln* means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

(i) *Precalciner kiln* means a kiln where the feed to the kiln system is preheated in cyclone chambers and utilize a second burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.

(j) *Preheater kiln* means a kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.

(k) *Shutdown* means the cessation of operation of a Portland cement kiln for any purpose.

(l) *Startup* means the setting in operation of a Portland cement kiln for any purpose.

§ 98.43 Standard requirements.

After May 1, 2003, an owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 to September 30 with low-NO_X burners, mid-kiln firing, or alternative control techniques, subject to EPA approval, that achieve at least the same emissions decreases as low-NO_X burners or mid-kiln firing.

§ 98.44 Reporting, monitoring and recordkeeping.

(a) *Reporting requirements.* Any owner or operator subject to the requirements of § 98.43 shall comply with the following requirements:

(1) By May 1, 2003, submit to the Administrator the identification number and type of each unit subject to the section, the name and address of the plant where the unit is located, and the name and telephone number of the person responsible for demonstrating compliance with the section.

(2) Submit a report documenting for that unit the total NO_X emissions from May 1 through September 30 of each year to the Administrator by October 31 of each year, beginning in 2003.

(b) *Monitoring requirements.* Any owner or operator of a unit subject to this subpart shall complete an initial performance test and subsequent annual testing consistent with the requirements of 40 CFR part 60, appendix A, Method 7, 7A ,7C, 7D, or 7E.

(c) *Recordkeeping Requirements.* Any owner or operator of a unit subject to this subpart shall produce and maintain records which shall include, but are not limited to:

(1) The emissions, in pounds of NO_X per ton of clinker produced from each affected Portland cement kiln.

(2) The date, time and duration of any startup, shutdown or malfunction in the operation of any of the cement kilns or the emissions monitoring equipment.

(3) The results of any performance testing.

(4) Daily cement kiln production records.

(5) All records required to be produced or maintained shall be retained on site for a minimum of 2 years and be made available to the EPA or State or local agency upon request.

§ 98.45 Exemptions.

The requirements of §§ 98.43 and 98.44 shall not apply to the following periods of operation:

(a) Start-up and shut-down periods and periods of malfunction, not to exceed 36 consecutive hours;

(b) Regularly scheduled maintenance activities.

[FR Doc. 98–26431 Filed 10–20–98; 8:45 am]

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Wednesday
October 21, 1998

Part IV

Office of Personnel Management

5 CFR Part 591

Cost-of-Living Allowances (Nonforeign Areas); Kauai, Honolulu, HI; U.S. Virgin Islands; Final Rules

Report on 1997 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas; Notice

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206—AH07

Cost-of-Living Allowances (Nonforeign Areas); Kauai, HI; U.S. Virgin Islands

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) published an interim regulation for comment on March 25, 1997, (62 FR 14188) to increase the cost-of-living allowance (COLA) rates paid to General Schedule, U.S. Postal Service, and certain other Federal employees in Kauai County, Hawaii, and the U.S. Virgin Islands. The effect of this interim regulation was to raise the COLA rate for Kauai County from 20 percent to 22.5 percent, and to raise the COLA rate for the U.S. Virgin Islands from 17.5 percent to 20 percent. These increases were the result of cost-of-living surveys conducted in Hawaii, Alaska, Guam, Puerto Rico, and the U.S. Virgin Islands in February, 1996. OPM received no comments on the interim regulation. Therefore, we are adopting the rates as final without change.

DATES: *Effective date:* November 20, 1998. *Implementation date:* The rate increases authorized by these regulations are applicable as of the first day of the first pay period beginning on or after March 25, 1998.

FOR FURTHER INFORMATION CONTACT: Donald L. Paquin, (202) 606–2838, FAX: (202) 606–4264, or email at COLA@opm.gov.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

PART 591—ALLOWANCES AND DIFFERENTIALS

Accordingly, under the authority of 5 U.S.C. 5941, E.O. 10000 (3 CFR, 1943–1948 Comp., p. 792), and E.O. 12510 (3 CFR, 1985 Comp., p. 338), OPM is adopting the interim regulations for 5 CFR part 591 published on March 25, 1997, at 62 FR 14188 as final without change.

[FR Doc. 98–28053 Filed 10–20–98; 8:45 am]

BILLING CODE 6325–01–F

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206—AI38

Cost-of-Living Allowances (Nonforeign Areas); Honolulu, HI

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is publishing an interim regulation to increase the cost-of-living allowance (COLA) rate paid to General Schedule, U.S. Postal Service, and certain other Federal employees in the City and County of Honolulu, Hawaii. This increase is a result of cost-of-living surveys conducted by OPM in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. This regulation increases the Honolulu COLA rate from 22.5 percent to 25 percent. Additionally, OPM is broadening the composition of the Miscellaneous Expense Category used in the COLA methodology. This change allows the addition of other types of expenses to that category, including the use of private education (K–12) data collected in the 1997 surveys. This amendment will permit OPM additional flexibility in organizing survey data under the COLA model.

DATES: *Effective date:* October 21, 1998. *Implementation date:* The rate increases authorized by these regulations are to be applied as of the first day of the first pay period beginning on or after October 21, 1998. *Comment date:* Comments must be received on or before January 19, 1999.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, FAX: (202) 606–4264, or email at cola@opm.gov.

FOR FURTHER INFORMATION CONTACT: Donald L. Paquin, (202) 606–2838.

SUPPLEMENTARY INFORMATION: Under section 5941 of title 5, United States Code, certain Federal employees in nonforeign areas outside the 48 contiguous States are eligible for cost-of-living allowances (COLAs) when local living costs are substantially higher than those in Washington, DC. Nonforeign area COLAs are currently paid in the following locations: Alaska, Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

During the summer of 1997, OPM surveyed Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. Data were collected by OPM in conjunction with COLA Partnership Committees and Subcommittees established under the COLA Partnership Pilot Project. This is a 2-year pilot project established to test and evaluate a new approach in the administration of the COLA program, including the conduct of living-cost surveys. At approximately the same time data were collected in the allowance areas, OPM also surveyed the Washington, DC, area, which is the base or reference area for living-cost comparisons. OPM is publishing a separate **Federal Register** notice immediately following this rulemaking that provides the complete ''Report On 1997 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.'' This report explains the methodology, procedures, and results of the 1997 living-cost surveys.

The COLA rate increase is summarized in the following table:

INCREASE IN COLA RATE

Allowance area/category	Current rate	New rate
City and County of Honolulu, Hawaii		
All employees	22.5	25.0

OPM is adjusting the only rate for which the 1997 surveys indicate an increase is warranted. Rates that would otherwise be reduced will remain unchanged, as required by a provision in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Pub. L. 102–141), as amended.

OPM is also broadening the composition of the Miscellaneous Expense Category, as described in section 591.205 (b)(4) of title 5, Code of Federal Regulations. (The Miscellaneous Expense Category is one of the four major expense categories used in the COLA methodology. Currently, the composition of the Miscellaneous Expense Category is defined to cover six types of expenses: health care, gifts, contributions, savings and investments, retirement, and life insurance.) This change allows the addition of other types of expenses to the miscellaneous

category, including the use of private education (K–12) data collected in the 1997 survey. These data could have been used under the Consumption Goods and Services Category, and mathematically, the result would have been the same. However, in terms of how data are organized and analyzed within the COLA model, OPM believes it is more appropriate to include the private education data within the Miscellaneous Expense Component.

Application of 5 U.S.C. 553

Pursuant to paragraphs (b)(3)(B) and (d)(3) of § 553 of title 5 of the United States Code, OPM finds that good cause exists to waive the publication of proposed rulemaking and the 30-day delay in the effective date of this regulation. Because it has taken longer than expected to complete these surveys and calculate the living-cost indexes, OPM believes it is in the public interest to implement the COLA rate increase immediately. In the future, as in the past, OPM plans to announce COLA rate adjustments in a proposed rule for notice and comment.

Implementation of Rate Changes

For administrative purposes, the rate increases authorized by these regulations will be applied as of the first day of the first pay period beginning on or after October 21, 1998.

E.O. 12866, Regulatory Review

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR part 591 as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

1. The authority citation for subpart B of part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; E.O. 12510, 3 CFR, 1985 Comp., p. 338.

2. In § 591.205, paragraph (b)(4) is revised to read as follows:

§ 591.205 Comparative cost index.

* * * * *

(b)* * *

(4) *Miscellaneous expenses.* Miscellaneous expenses, including expenses for health care, gifts, contributions, savings and investments, retirement, and life insurance, are estimated from consumer expenditure surveys and other data appropriate for Federal employees for each income level.

* * * * *

3. Appendix A of subpart B is revised to read as follows:

Appendix A of Subpart B—Places and Rates at Which Allowances Shall be Paid

Geographic coverage/ allowance category	Authorized allowance rate (percent)
State of Alaska	
City of Anchorage and 80-kilometer (50-mile) radius by road:	
All Employees	25.0
City of Fairbanks and 80-kilometer (50-mile) radius by road:	
All Employees	25.0
City of Juneau and 80-kilometer (50-mile) radius by road:	
All Employees	25.0
Rest of the State:	
All Employees	25.0
State of Hawaii	
City and County of Honolulu:	
All Employees	25.0
County of Hawaii:	
All Employees	15.0
County of Kauai:	
All Employees	22.5
County of Maui and County of Kalawao:	
All Employees	22.5
Territory of Guam and Commonwealth of the Northern Mariana Islands	
All Locations:	
Local Retail	22.5
Commissary/Exchange	20.0
Commonwealth of Puerto Rico	
All Employees	10.0
U.S. Virgin Islands	
All Employees	20.0

Definitions of Allowance Categories

The following are definitions of the allowance categories used in the tables in this appendix.

All Employees: This category covers all Federal employees eligible for an allowance under 5 U.S.C. 5941.

Local Retail: This category covers all Federal employees eligible for an allowance who do not have unlimited access to commissary and exchange facilities by virtue of their Federal civilian employment.

Commissary/Exchange: This category covers all Federal employees eligible for an allowance who have unlimited access to commissary and exchange facilities by virtue of their Federal civilian employment.

Note: Eligibility for access to military commissary and exchange facilities is determined by the appropriate military department. If an employee is furnished with these privileges for reasons associated with his or her Federal civilian employment, he or she will receive an identification card that authorizes access to such facilities. Possession of such an identification card is sufficient evidence that the employee uses the facilities.

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OFFICE OF PERSONNEL MANAGEMENT

Report on 1997 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice publishes the ''Report on 1997 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.'' The results of the surveys are used to determine cost-of-living allowances (COLAs) paid to General Schedule, U.S. Postal Service, and certain other Federal employees in Alaska, Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. This report provides the basis for an increase in the COLA rate for the City and County of Honolulu, Hawaii, allowance area being published by OPM in the interim rulemaking immediately preceding this notice.

DATES: Comments must be received on or before February 18, 1999.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, FAX: (202) 606-4264, or email at cola@opm.gov.

FOR FURTHER INFORMATION CONTACT: Donald L. Paquin, (202) 606-2838, FAX: (202) 606-4264, or email at cola@opm.gov.

SUPPLEMENTARY INFORMATION: Sections 591.205(d) and 591.206(c) of title 5, Code of Federal Regulations, require that nonforeign area cost-of-living allowance (COLA) survey summaries and calculations be published in the **Federal Register** . Accordingly, the Office of Personnel Management (OPM) is publishing the complete ''Report on 1997 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas'' with this notice. This report explains in detail the methodologies, calculations, and findings of the 1997 COLA surveys.

Results of Surveys. OPM computed index values of relative living costs in the allowance areas using an index scale where the living costs in the Washington, DC, area equal 100. (See the Executive Summary of the report.) The results of the surveys show that the COLA rate for the Honolulu allowance area should be increased from its current level of 22.5 percent to 25 percent. The survey results also show that the COLA rate for one area is currently at the appropriate level and that the COLA rates in 10 areas are above levels warranted by the living-cost indexes. However, the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Pub. L. 102-141), as amended, prohibits reductions in COLA rates through December 31, 2000. Therefore, OPM is *not* proposing any COLA rate reductions.

Comments on 1996 Report. OPM published the report on the 1996 surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, the U.S. Virgin Islands, and the Washington, DC, area in the **Federal Register** (62 FR 14190) on March 25, 1997. Twelve respondents submitted comments on the report.

Most of the commenters believed the surveys did not fully consider the expenses incurred in the allowance areas. Many noted dissimilarities between the allowance areas and the Washington, DC, area that they felt were either not accounted for in the surveys or that affected the accuracy of the results of the surveys. These differences included --

—Goods and services typically found in the Washington, DC, area that are not available in the allowance areas, the cost to obtain these goods and services in the allowance areas (e.g., shipping fees), and the quality of the goods and services that are available;

—Goods and services typically purchased in the allowance areas that are not typically purchased in the Washington, DC, area;

—Variations in spending patterns between the Washington, DC, area and the allowance areas;

—Hardships encountered under adverse climate conditions;

—Climate influences on automobile purchase, maintenance, and insurance;

—The frequency and cost of air travel in the allowance areas;

—House size, selection, necessary features, purchase price, storage needs, and maintenance as affected by climate and availability;

—The additional need for travel, lodging, and out-of-pocket expenses for quality medical care in the allowance areas;

—Recreational expenses in the allowance areas; and

—Out-of-area colleges and the quality of local schools.

OPM is participating in two major initiatives concerning the COLA program. Many of these and other concerns are being considered under one or both of these initiatives. These two initiatives are discussed below.

Memorandum of Understanding and Report to Congress. In 1996, OPM entered into a memorandum of understanding (MOU) with litigants in the cases of *Alaniz* v. *Office of Personnel Management* and *Karamatsu* v. *United States.* The MOU committed OPM and the plaintiffs to a ''Safe Harbor'' process for conducting studies relating to the COLA program and the compensation of Federal employees in the allowance areas. The purpose of the Safe Harbor process is to resolve COLA issues that have long been contested and to assist OPM as it prepares a report to Congress on the COLA program. That report, required by the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102-141), as amended, is due by March 1, 2000. OPM anticipates that the studies will examine many of the issues raised by comments on the survey reports and will produce a number of valuable recommendations for improving the COLA program.

COLA Partnership. In November 1996, OPM established a pilot project to involve agencies and employee representatives directly in a partnership to help plan and conduct COLA surveys, to explore ways to improve the COLA program, and to help everyone, including OPM, better understand issues related to the compensation of Federal employees in the COLA areas. Under the 2-year pilot project, five partnership committees were formed--one each in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. There were also four subcommittees formed to represent individual allowance areas. Committee/subcommittee functions include --

—Advising and assisting OPM in planning living-cost surveys;

—Observing data collection during the surveys;

—Advising and assisting OPM in the review of survey data;

—Advising OPM on the COLA program, including survey methodology and other compensation issues relating to the allowance areas;

—Assisting OPM in the dissemination of information to affected employees about the living-cost surveys and the COLA program.

As with the studies being conducted for OPM's report to Congress, we anticipate that the committees will examine some of the issues raised by the comments on the survey reports and will provide many recommendations for improving the COLA program.

Program Changes during MOU Research and Pilot Project

During the Safe Harbor process and the COLA partnership pilot project, OPM plans generally to avoid making substantive policy changes in the COLA program. OPM intends to first complete its research, receive public comment, and deliver its report to Congress. This does not mean that OPM will make no changes. There are administrative changes relating to survey coverage that must be made for each survey, and OPM may implement other improvements in response to comments it receives. As with the 1996 surveys, OPM has made a few changes in this year's surveys compared with previous years. These are discussed in the report.

Comments on Partnership

The Alaska COLA Partnership Committee submitted comments in regard to its decision not to participate in the 1997 COLA surveys in Alaska. The Alaska Committee felt that OPM had not provided sufficient time for the committee to become knowledgeable enough to make sound decisions and to solve problems related to the survey. They noted that the Partnership Pilot Project was effective November 21, 1996, but it was not until May that OPM met with the Committee in advance of the July survey.

The Alaska Committee, as well as one other commenter, also felt that OPM was not working with the Committee in good faith or in the spirit of a partnership. The Committee felt that it was being asked to ''rubber stamp'' a survey that would not reflect actual cost-of-living differences between Washington, DC, and Alaska. The Committee members stated that they wanted ''to work towards building a true partnership with OPM in order to find an equitable COLA process.''

Six other commenters similarly asked that OPM not relegate the Alaska Committee to an advisory role, but accept the Committee as a full partner in evaluating COLAs. The commenters requested that OPM delay the survey until the partnership issues were resolved.

OPM agrees that more lead time between the establishment of the COLA Partnership Committees and the 1997 surveys would have been desirable. The amount of time it took to launch the committees was much greater than OPM had expected. OPM had not anticipated the significant amount of time required by many agencies and unions to nominate committee members and/or approve their release for committee work. As a result, OPM delayed the surveys, originally scheduled to be conducted during the period January-March, until July. Delaying the surveys further was not deemed acceptable.

Despite the short lead time, OPM encouraged the partnership committees to participate in the survey. We believe the local knowledge and perspective offered by the committees would benefit the surveying of outlets and items in their region. The committees would also be able to offer preliminary feedback, based on their experience in assisting OPM in the survey, on survey procedures. Participation would additionally provide an opportunity for the committees to familiarize OPM with COLA issues unique to their area. We also believe that by participating in the survey, committees would become more knowledgeable about the survey process and that that knowledge would be valuable in understanding and examining the various elements of the COLA rate-setting process.

OPM addressed the role of the partnership committees in the publication of its final COLA Partnership Pilot Project regulations on November 21, 1996 (61 FR 59173). The following is excerpted from the discussion of comments in those regulations:

No two partnerships look exactly alike, and OPM believes that establishment of these committees will result in a more collaborative relationship among affected agencies and employees with respect to this complex and often contentious program. By statute and Executive order, however, OPM has the final authority for conducting COLA surveys and administering the COLA program. If a consensus cannot be reached on an issue or if the views of one COLA committee differ from those of another on the same issue, OPM must still conduct surveys and set COLA rates. Nevertheless, this does not mean that we cannot use partnership to improve the COLA program.

OPM plans to accommodate suggestions whenever practical and consistent with the laws and regulations that govern the COLA program. We certainly do not expect the committees to ''rubber stamp'' our proposals. Instead, we plan to listen carefully to and seriously consider all of the information and advice that will be provided. We know there is much we can learn that will help us improve the surveys and the way we administer the program, and we look forward to having frank and open discussions with the other committee members. It is our hope that we can reach a consensus on the vast majority of issues that will face us. As several commenters said, the partnership process will not work unless there is a sincere commitment from all parties, including OPM, to share ideas, listen to others, learn from what is said, and find areas of agreement. OPM is committed to this process.

Overall Living Cost Model

Several commenters stated that the surveys compare only prices, not total living costs. Two commenters said the surveys should consider other factors, such as cultural differences, individual needs, isolation from friends and family, and other hidden costs. Another commenter stated that Alaska was unique and should be evaluated based on Alaska costs and needs.

The COLA model compares the cost of an item in an allowance area with the cost for the same brand, model, and size of item in the Washington, DC area. OPM believes this model is consistent with the settlement of *Hector Arana, et al.,* v. *United States,* in which the plaintiffs asked that OPM adopt a methodology that compared specified brands, models, and sizes whenever possible. Nevertheless, the COLA model does reflect some differences between areas. For example, the model assumes that cars in Alaska have certain accessories, such as engine block heaters, that are not common in the DC area. Also, differences in home construction (e.g., triple-pane windows and greater wall insulation common in Alaska) are included in the model to the extent that these differences are reflected in real estate prices.

Intangible influences on living costs, such as cultural differences and isolation from family, are very difficult to quantify objectively. This is, however, one of the MOU research topics, and OPM plans to discuss this issue in its report to Congress.

One commenter said that OPM's price comparison methodology is not an accurate method for comparing cost-of-living differences. Under the MOU and as part of the COLA Partnership Pilot Project, OPM is studying various ways of improving the price comparison methodology for its report to Congress.

Another commenter suggested an alternative method of cost comparison under which employees with similar individual and family situations in the comparison areas would be selected to maintain a detailed record of expenses for a given period of time. OPM does not believe this approach is practical.

One commenter disagreed with OPM's inclusion of sale taxes in the COLA model. The commenter said that taxes are purchases of services, not part of the price of items, and that areas with

lower taxes receive fewer services. As such, the commenter argued, OPM should compare the services being provided in its calculations or, if the services are not measurable, should not measure the sales tax that pays for those services.

This issue was originally raised in comments on the 1995 surveys and responded to by OPM in the 1996 survey notice. As stated in the notice, OPM believes that the effect on living costs of any area differences in community programs and services due to differences in sales tax revenues probably cannot be measured. Revenues for community services or programs may originate from many sources other than sales taxes, including State and local income taxes, corporate taxes and subsidies, property and other taxes, user fees, lottery revenues, civil penalties, and Federal funds. Furthermore, the sales tax is a direct consumer expense. Regardless of the services that are supported by the sales tax, it is a cost that the consumer must pay. For that reason, OPM continues to believe that it is appropriate to include the sales tax in the prices of the items surveyed.

The same commenter said that using the Consumer Expenditure Survey (CES) is inappropriate because it assumes DC and Alaska consumers spend their money in the same manner. As stated in the report, OPM uses the nationwide CES data because OPM knows of no other source of comprehensive consumer expenditure information by income level suitable for use in the COLA model. One of the topics being researched under the MOU is the possible use of local CES data, including Anchorage CES data, in the COLA model. OPM anticipates including the results of this research in its report to Congress.

One commenter noted how much more expensive it was in Alaska compared to Wyoming. OPM is required by law to use Washington, DC, as the reference area for living-cost comparisons.

Goods and Services

One commenter said that there are fewer department stores in Alaska and that sales at these stores are infrequent. Two commenters noted that one of the fast food restaurants in the survey advertised a sale item at one price, but the price in Alaska was much higher. The survey compares only non-sale prices of identical items from similar outlets, which we believe is consistent with *Arana*.

One commenter felt that Alaskans are more likely than Washington, DC, residents to incur expenses related to snow removal and other winter conditions. One of the research topics under the MOU concerns expenses unique to each allowance area and to the Washington, DC, area. OPM plans to include the results of this MOU research in its report to Congress.

The same commenter thought OPM should publish with the report the prices for all items. More than 18,000 prices were collected in the 1997 surveys. Publishing this volume of information is not practical.

One commenter said OPM should examine additional fees charged by mail order companies to ship to Alaska or Hawaii. OPM included catalog prices for selected items in the surveys. Additional costs for shipping and excise taxes, if any, were added to the catalog pricing where applicable.

The same commenter said that in Alaska the cost of lettuce is by the pound, not by the head, as is charged elsewhere in the U.S. For comparison purposes, where lettuce is sold by the head, OPM collects the price and weight of an average head and converts the price to price per pound. The commenter also said OPM should examine the cost of dairy products in Alaska. OPM collects price data for milk, cheese, eggs, ice cream, and margarine in each of the allowance areas for use in the comparisons.

Two commenters noted the high cost of goods and services on Prince of Wales Island in Alaska. Prince of Wales Island is in the Rest of Alaska allowance area, and OPM notes that, as have the previous surveys, the results of the 1997 survey show that the maximum allowable COLA rate (25 percent) should continue to be paid in this allowance area.

Housing

One commenter felt that OPM's calculations should allow for Alaskans having larger homes because of Arctic entrances and extra storage needs. The home purchase price data collected reflect local home sales, which in turn should reflect the cost of any special features common to dwellings in each area.

The same commenter stated that Alaskan homes require more frequent maintenance because of the harsh winters and the composition of houses. The commenter also stated that house heating systems wear out more quickly in Alaska. One of the key research topics under the MOU is housing costs, and the possible application of a ''rental equivalence approach,'' which is the approach the Bureau of Labor Statistics uses for measuring change in housing costs for the Consumer Price Index. OPM will include the findings of this MOU research in its report to Congress.

One commenter noted that housing is scarce and thereby expensive in Thorne Bay, Alaska. Thorne Bay is in the Rest of Alaska allowance area, and as OPM noted earlier, COLA surveys have consistently shown that payment of the maximum COLA rate is warranted in that area.

Transportation Component

One commenter stated that Alaskans have a higher accident rate and incur higher insurance and repair costs because of icy roads. The same commenter felt that a fuel adjustment should be made because Alaskans need to warm up their cars in the morning, using more fuel. The commenter also said that OPM should include the cost of changing to and from snow tires in its calculations.

The COLA model takes into consideration automobile purchase price, maintenance, insurance, and depreciation. Purchase costs and insurance are based on price data obtained in each area. Maintenance is also based on local price data, and the model assumes that certain types of maintenance occur more frequently in the allowance areas than in the DC area. For example, the model assumes that tires wear out faster in the allowance areas than in the Washington, DC, area, and that tires have to be purchased more frequently in the allowance areas. For the 1997 surveys, OPM also priced the cost of mounting and balancing snow tires and the cost of switching mounted snow tires and street tires on a semi-annual basis.

The model also includes the severe driving maintenance schedule for the allowance areas and the standard schedule for the Washington, DC, area. Depreciation is based on the difference between the new car value and the value of the car 4 years later, as reflected in popular guides such as the National Automobile Dealers Association Official Used Car Guide and the Kelly Blue Book. The model assumes that used car prices are constant among areas, except in Fairbanks and Nome. Since new car prices are typically higher in the allowance areas, this assumption translates into a typically higher depreciation rate for new cars in the allowance areas relative to the DC area. For Fairbanks and Nome, the model uses 90 percent of the used car value to reflect an even higher depreciation cost related to increased wear in these areas caused by the severe climate.

Although OPM does not take into consideration the effect of extended periods of idling on fuel consumption,

OPM does take into consideration the effect of climate on gas mileage. (See section 5.2.3.1 of the report.) In the case of Alaska, the COLA model assumes that automobiles there generally get fewer miles per gallon than equivalent automobiles in the Washington, DC, area.

Several commenters stated that travel by air is more necessary, and therefore more frequent, in Alaska. The current model assumes that the typical Federal employee puts 15,000 miles per year on a car. Many Federal employees in the allowance areas may drive less than that, particularly in some of the smaller allowance areas. On the other hand, these employees may fly more frequently. If so, it may be appropriate to make adjustments in the COLA model to reflect these differences. Transportation is one of the MOU research topics, and OPM plans to include this research in its report to Congress.

One commenter noted that DC residents have Metro costs subsidized by tax dollars. OPM does not survey municipal mass transportation. The cost of bus, train, subway, or taxi service is not part of the surveys because the service available in many allowance areas is not comparable to the service available in the DC area. Instead, OPM compares the cost of roundtrip airfares from the allowance areas with the cost of roundtrip airfares from the Washington, DC, area to the same destinations.

Miscellaneous Component

Several commenters felt that the medical expense portion of the Miscellaneous Component fails to reflect high out-of-pocket expenses they believe Federal employees in the allowance areas frequently incur. The commenters cited several possible causes for this, including higher costs not covered by insurance carriers, the absence of health maintenance organizations in several allowance areas, and the need to travel outside the area to obtain some medical services. Medical expense is one of the research topics under the MOU, and OPM plans to include this research in its report to Congress. OPM also notes that in the analysis of the results of the 1997 survey, OPM used average employee Federal health benefit expense by area. These data indicate that, with the exception of Puerto Rico, these expenses are higher in the allowance areas than in the Washington, DC, area.

General Comments

One commenter asked that OPM consider the effect significant reductions would have on the local economy of the allowance area. Another commenter believed that the results of the survey would end COLAs in the more populous areas of Alaska. This is not quite accurate. If COLA rates were based on the results of the 1997 survey, employees in both Juneau and Fairbanks would continue to receive COLAs, though at a lower rate. However, as noted earlier, COLA reductions are prohibited by law until December 31, 2000. In addition, OPM has the authority to reduce COLA rates gradually.

Two commenters cited the scarcity of higher education choices in Alaska and the expenses of having family members attend out-of-state schools. Education is an MOU research topic, and OPM will report on this research in its report to Congress.

One commenter noted that DC residents have free access to many recreational opportunities on the Mall in Washington, DC, such as museums and concerts. OPM believes each area offers recreational opportunities that are unique to that area, such as beaches, rivers, mountains, parks, or museums, as well as various leisure activities. Some of the recreational choices require paid admission, and others are free. Surveying everything is not feasible. OPM surveys the cost related to a number of recreational activities for which a fee is charged, including movie theaters, video rentals, golf, and bowling.

Two commenters noted that they had only a short time in which to prepare comments on the notice. In response to similar comments on the previous survey, OPM had increased the comment period for the notice from 60 to 90 days. For this report, OPM is further increasing the comment period from 90 to 120 days.

One commenter requested to be placed on a mailing list and notified of COLA publications. OPM does not maintain a mailing list for employee notification on COLA issues. OPM does employ several other means outside **Federal Register** publication for disseminating this information to Federal employees. These include agency, union, and Partnership Committee notification; agency postings; and publication on OPM's Internet web page (www.opm.gov) and the nonforeign area COLA web page (www.opm.gov/cola).

Clarification and Correction of the 1996 Report

In preparing its report on the 1997 surveys, OPM discovered discrepancies in section 4.2.2, section 5.2.5, and Appendix 8 of the 1996 report. These discrepancies are discussed below, and OPM addressed them in the 1997 report. OPM notes that the clarifications and corrections had no effect on any COLA rate.

Section 4.2.2 did not fully describe the procedures used to assign home sales observations to the appropriate income level. As stated in the report, Runzheimer was unable to obtain on a consistent basis across areas information on number and types of rooms for home sales. Therefore, in assigning home sales observations to each income level, Runzheimer relied primarily on living community and home size. In areas where discrete communities were assigned to each income level, Runzheimer used all observations, regardless of room count and type, that met the size range specification shown in Table 4-3. As shown in table 4-3, these size ranges overlap. Therefore, in areas where the same communities were used at more than one income level, Runzheimer relied on room count and type to assign home sales in the size range overlap to the appropriate income level. When such information was not available, as was the case in St. Thomas, Runzheimer assigned homes in the 600 to 1,100 square foot range to the lower income level, homes in the 1,101 to 1,500 square foot range to the middle income level, and homes in the 1,501 to 2,300 square foot range to the upper income level.

Table 4-2 also implied that OPM used the prices of condominiums and rowhouses at the lower and middle income levels. This was not correct. To allow the comparison of the same type of housing across areas, OPM used the prices only of detached, single family homes in all areas. Some of these homes, particularly in the Virgin Islands, probably had apartment units within them, but this level of detail was not available.

Section 5.2.5 stated that, in addition to the price of studded snow tires, Runzheimer surveyed the extra cost of wheels (i.e., rims) in each of the Alaska COLA areas. In comparing the results of the 1997 survey with those of the 1996 survey, OPM found that the extra cost of rims was not obtained in the 1996 survey. In the 1997 survey, OPM did price rims in Alaska, as well as the cost of mounting and balancing snow tires and the cost of switching mounted snow tires and street tires on a semi-annual basis, although the quantity of data was limited. For the coming surveys, OPM is improving the item description, which will address this problem.

In Appendix 8, the Consumption Goods and Services indexes for

Honolulu, HI, did not agree with the indexes in Appendix 22. The Honolulu indexes in Appendix 22 were the correct indexes and were used to determine the final index for Honolulu. Therefore, the final total comparative cost index for Honolulu was correct.

Office of Personnel Management.

Janice R. Lachance,

Director.

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Executive Summary

Cost-of-living allowances (COLAs) are paid to Federal employees in nonforeign areas in consideration of living costs higher than in the Washington, DC, area. OPM conducts living-cost surveys in order to set the COLA rates. This report provides the results of the summer 1997 living-cost surveys and compares living costs in nonforeign COLA areas to those in the Washington, DC, area.

Survey data were collected by the Office of Personnel Management (OPM) under the COLA Partnership Pilot Project, a 2-year pilot project that was established to test and evaluate a new approach in the administration of the COLA program, including the conduct of living-cost surveys. Surveys were conducted in Alaska, Hawaii, Guam, Puerto Rico, the U.S. Virgin Islands, and the Washington, DC, area. OPM analyzed the survey data and produced this report. In the interest of expediting COLA rate increases, OPM is publishing this report at the same time it is discussing the survey results with the COLA Partnership Pilot Project Committees and Subcommittees. If, as a result of these discussions, OPM implements changes that affect the results of the 1997 survey, OPM will describe these changes and the results in a future **Federal Register** notice.

For this study, over 3,500 outlets were contacted and over 18,000 prices collected on about 200 items representing typical consumer purchases. These data were then combined by OPM using consumer expenditure information developed by the Bureau of Labor Statistics. The final result of the study is a series of living-cost indexes, shown in the table below, that compare living costs in the allowance areas to those in the Washington, DC, area. The index for the DC area (not shown) is 100.00 because it is, by definition, the reference area.

TABLE E–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
Anchorage, Alaska	102.93
Fairbanks, Alaska	107.57
Juneau, Alaska	111.54
The rest of the State of Alaska	126.64
City and County of Honolulu, Hawaii	126.78
Hawaii County, Hawaii	110.85
Kauai County, Hawaii	114.92
Maui County, Hawaii	118.84
Guam/CNMI*, Local Retail	121.77
Guam/CNMI, Commissary/Exchange	118.23
Puerto Rico	105.42
U.S. Virgin Islands	119.09

*CNMI=Commonwealth of the Northern Mariana Islands

1. Introduction

1.1 Report Objectives

This report provides the results of the Summer 1997 surveys. A listing of

earlier reports that provided the results of previous surveys is shown in Appendix 1. The analyses show the comparative living-cost differences between the Washington, DC, area and the allowance areas listed below. By law, Washington, DC, is the base or ''reference'' area for the nonforeign area cost-of-living allowance program.

1. Anchorage, Alaska
2. Fairbanks, Alaska
3. Juneau, Alaska
4. The rest of the State of Alaska
5. City and County of Honolulu, Hawaii
6. Hawaii County, Hawaii
7. Kauai County, Hawaii
8. Maui County, Hawaii
9. Guam and the Commonwealth of the Northern Mariana Islands (CNMI)
10. Puerto Rico
11. U.S. Virgin Islands

In the interest of expediting COLA rate increases, OPM is publishing this report at the same time it is discussing the survey results with the committees and subcommittees established under the COLA Partnership Pilot Project. OPM will have these discussions in the near future. If, as a result of these discussions, OPM implements changes that affect the results of the 1997 survey, OPM will describe these changes in a future **Federal Register** notice.

1.2. The COLA Partnership Pilot Project and Changes in This Year's Survey

In November 1996, OPM established the COLA Partnership Pilot Project, a 2-year pilot project designed to assist OPM in the administration of the COLA program. (See 61 FR 59173.) Under the pilot project, COLA Partnership Pilot Project Committees and Subcommittees were established in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. The committees and subcommittees are composed of four representatives of Federal unions, four representatives from Federal agencies in each local area, plus two OPM representatives.

All of the Committees and Subcommittees, except the Alaska Committee, worked with OPM in planning the COLA surveys, observing OPM data collection, and advising OPM on the COLA program and on compensation issues relating to the COLA areas. The Alaska COLA Partnership Committee elected not to be involved in survey planning and data collection observation because it believed there had not been sufficient time to become knowledgeable about the COLA program and to resolve issues prior to the survey. Agency and employee representatives in some Alaska areas, however, worked with OPM on an informal basis.

Prior to the surveys, OPM central office staff traveled to each of the COLA areas to discuss with the Committees and Subcommittees survey plans and specifications. OPM adopted several changes in response to Committee/Subcommittee recommendations. Appendix 6 lists significant changes made for this survey relative to the previous survey. Among the key changes are the following:

—Private education (K-12) was surveyed in all areas, and ''use factors'' derived from the results of the 1992/93 Federal Employee Housing and Living Patterns Survey were used to reflect the mix by area of Federal employees whose children attend private schools and those who attend public schools.
—Average employee Federal health benefit expense was estimated by area and used in place of the fixed amount used in previous surveys.
—Several other new survey items were added, including windshield replacement, cellular phone service, hospital attendant, and air ambulance insurance.[1]
—Omaha, NE, was added to the list of destinations for pricing air fares.
—Rental and home sales data were collected for new housing communities on Oahu.
—Outlet specifications were changed for certain items, such as restaurant meals, to provide a more consistent mix of outlet types across areas.

Another change compared with previous surveys is that a private contractor no longer collected price data. Instead, under the COLA Partnership Pilot Project, OPM central office staff collected these data, usually with the assistance of local observers from the COLA Partnership Committees and Subcommittees. OPM found this to be a very beneficial and informative process. OPM staff has gained a much better understanding of local conditions and issues and believes that the Committees, Subcommittees, and observers also have gained a better understanding of the COLA program.

In addition to the above changes, OPM collected data on several test items and in two test areas: the Waimea/Waikoloa area on the Island of Hawaii and on St. John, U.S. Virgin Islands. OPM will be discussing the results of these tests with the Committees and Subcommittees in the near future. Since these test data were not used in the calculation of living-cost indexes, they are not discussed in this report.

1.3 Pricing Period

Although OPM implemented the COLA Partnership Pilot Project in November 1996, it took much longer than expected to establish the COLA Partnership Committees and Subcommittees. Therefore, it was necessary to delay the surveys from the February time frame in which OPM originally planned to conduct the survey. The Committees and Subcommittees were established in early spring, 1997; and in April and May 1997, OPM central office staff traveled to each of the COLA areas to discuss with the Committees and Subcommittees plans for the 1997 living-cost surveys. As noted above, OPM adopted several changes in response to Committee and Subcommittee recommendations. In July and August 1997, OPM central office staff returned to the COLA areas to collect living-cost data. During roughly the same time frame, OPM staff collected data in the Washington, DC, area. The prices of some items--those dependent upon the pricing of other items--were collected later. Limitations on OPM staffing resources and budget allocations also extended the pricing period on these few items.

As in previous surveys, some catalog sales were included in the survey. Only catalogs that sell merchandise in both the allowance areas and the Washington, DC, area were used. To ensure consistent seasonal catalog pricing, summer catalogs were used for all catalog items surveyed. Because the surveys were conducted during the summer months, winter items, such as downhill skiing, were not surveyed.

2. The COLA Model

2.1 Measurement of Living-Cost Differences

The COLA model measures living-cost differences between the allowance areas and the Washington, DC, area by selecting representative items that people purchase in these locations, calculating their respective cost differences, and combining them according to their importance to each other (as measured by relative percentage of expenditures). This involves the following major steps:

Step 1: Identify the segment of the population for which the analysis is

[1]Hospital attendant and air ambulance insurance were surveyed in all areas, but were used in index calculations only in two areas because these services were not available in other areas. Hospital attendant prices were added to the cost of the hospital room in Puerto Rico, and air ambulance insurance premiums were added to the cost of Federal health benefits premiums in the U.S. Virgin Islands.

targeted (i.e., typical Federal white-collar employees).

Step 2: Estimate how these people spend their money.

Step 3: Select items to represent the types of expenditures people usually make and outlets at which people typically make purchases for each selected item.

Step 4: Conduct pricing surveys of the selected items in each area.

Step 5: Compute price ratios for the surveyed items and aggregate them according to the relative importance of each item.

2.2 Step 1: Identifying the Target Population

The study estimates living-cost differences for typical Federal white-collar employees who have annual base salaries between approximately $12,400 and $90,100, the range of the 1996 General Schedule. Because living costs may vary depending on an employee's income level, living costs are analyzed at three income levels.

2.2.1 Federal Salaries

To determine the appropriate income levels, OPM analyzed the 1996 distribution of salaries for General Schedule employees in all of the allowance areas combined. OPM divided this distribution into three income groups of equal size and identified the minimum, maximum, and median salary in each group. The median values were then rounded to the nearest $100 to produce the three representative income levels of $22,300, $34,000, and $51,500. OPM compared living costs at each of these three income levels to produce three sets of estimated expenditures for each allowance area and for the Washington, DC, area. OPM combined these estimated expenditures into a single overall index for each allowance area using the employment weights described below.

2.2.2 Federal Employment Weights

OPM used the minimum and maximum values of each income group and the 1996 distribution of General Schedule employees by salary in each allowance area to derive employment weights. These were combined with similar data from 1994 and 1995 to produce a moving average. (OPM uses moving averages to lessen index changes caused by the introduction of new weights over time.) From these averages, OPM calculated the percentage of the General Schedule workforce in each income group in each area. These percentages were the weights used to combine estimated expenditures to compute the final index. Appendix 2 shows the General Schedule employment distributions and how the percentage weights were derived. Appendix 21 shows how the weights were used in the final calculations.

2.3 Step 2: Estimating How People Spend Their Money

2.3.1 Consumer Expenditure Survey

Expenditure patterns used in the calculations are based on national data from the Consumer Expenditure Survey (CES). OPM obtained from the Bureau of Labor Statistics ''prepublished'' CES results for 1992, 1994, and 1995. The Bureau of Labor Statistics has advised OPM that ''prepublished'' CES data may not be statistically significant. To OPM's knowledge, however, it is the only source of comprehensive consumer expenditure information by income level. Therefore, it is used in the model.

CES data are used in two ways: (1) to identify appropriate items for the survey and (2) to derive item, category, and component weights. The item weights are not income-sensitive. Aggregated CES data are analyzed by income level to derive category and component weights. These weights are income-sensitive. The CES data used in this study are shown in Appendices 3 and 4. As with the Federal employment weights, the 3 years of CES data were combined to produce a moving average.

2.3.2 Expenditure Categories and Components

The CES is grouped into small, logical families of items. For example, pre-published data for beef are grouped into four subcategories: ground beef, roast, steak, and other. The steak and roast groupings were further separated into smaller clusters of items (e.g., sirloin and round steak, chuck and round roast). OPM separated the CES items into the four main cost components specified in OPM's regulations: Consumption Goods and Services, Transportation, Housing, and Miscellaneous Expenses. To develop weighting patterns for the three income levels, OPM performed linear regression analyses on the CES data shown in Appendix 3.[2] These analyses produced estimated expenditures at the three income levels identified in section 2.2.1 above. OPM converted these expenditures to percentages of total expenditures for the four components to produce the values shown in the table below. These were the weights used to combine the expenditures for each of the components into an overall value for each income level in each allowance area and the Washington, DC, area.

TABLE 2–1.—COMPONENT EXPENSES EXPRESSED AS A PERCENTAGE OF TOTAL EXPENSES

1996 income level	1994 adjusted income level*	Goods and services (percent)	Housing (percent)	Transportation (percent)	Misc. (percent)	Total (percent)
$22,300	$21,450	38.90	26.03	18.72	16.34	100.00
34,000	32,700	38.18	24.67	18.54	18.61	100.00
51,500	49,500	37.52	23.43	18.38	20.68	100.00

*Income levels are adjusted as described in footnote 2.
(Values may not total because of rounding.)

Goods and Services Component items were further separated into 10 categories, and linear regression techniques were used to estimate expenditures on these 10 categories by income level. The weights for these categories are shown in section 3.1. The same technique was also used to compute category weights for the Transportation and Miscellaneous Components and to produce ratios of renters to homeowners at each income level.

[2]The midpoint of the moving average of CES data was 1994. Therefore, for the purposes of these regressions, OPM adjusted Federal salaries to reflect 1994 pay rates. OPM used the pay increases for 1995 (2.0%) and 1996 (2.0%) to deflate the 1996 salaries. This produced adjusted Federal salaries of $21,450, $32,700, and $49,500 for use in the regression equations.

2.4 Step 3: Selecting Items and Outlets

2.4.1 Item Selections--The Market Basket

As noted above, CES items were grouped into ''clusters'' of expenses to determine which items to survey. These clusters were chosen so that no market basket item would have an overwhelmingly large or an insignificantly small item weight.

For each of these clusters, a set of items to price was identified. Collectively, these items are called a ''market basket.'' Because it would have been impractical to survey all of the thousands of items consumers might buy, the market basket contains representative items, such as cheddar cheese, that represents itself and the many other related items that consumers purchase (e.g., edam, gouda, jack, swiss, etc). The market basket that OPM used had approximately 200 items ranging from table salt to new cars to home purchases.

Whenever practical, the item description included the exact brand, model, type, and size, so that exactly the same items could be priced in all areas if possible. For example, a 10.5-ounce can of Campbell's vegetable soup was selected for the survey because it is representative of canned and packaged soups, is a commonly-purchased brand, and is found in all areas. Appendix 5 provides a list of the items surveyed and their descriptions.

Changes in the item list and descriptions are an important aspect of the COLA survey. These changes are necessary to improve the survey and keep the item descriptions current. For this survey, several of the items or descriptions were changed. The major changes and the reasons for each are listed in Appendix 6.

2.4.2 Geographic Coverage and Outlet Selection

Just as it is important to select commonly-purchased items and survey the same items in all areas, it is important to select outlets frequented by consumers and find equivalent outlets in all areas. This involves deciding which geographic areas to survey and which outlets to survey within these geographic areas.

2.4.2.1 Geographic Areas

For some areas, the choice of which area(s) to survey was obvious. On St. Thomas, for example, essentially the whole island is surveyed because the island is not that large and Federal employees live throughout the island. For other areas, specific communities had to be identified. To do this, OPM relied mainly on the results of the 1992 Federal Employee Housing and Living Patterns Survey. Among other things, that survey obtained information on where Federal employees lived. OPM used this information, in consultation with the COLA Partnership Committees and Subcommittees, to select the living communities in which housing costs were priced. OPM, again in consultation with the Committees and Subcommittees, identified outlets within a normal shopping radius of these housing communities. Outlets within a living community or within an adjoining living community were generally considered to be within a normal shopping radius.

2.4.2.2 Similarity of Outlets

Whenever possible, OPM and the Committees/Subcommittees selected outlets that were popular with consumers and that were comparable to outlets in other areas. For example, grocery items were surveyed at supermarkets in all areas because most people purchase their groceries at such stores and because supermarkets are found in nearly all areas.[3] The selection of comparable outlets is particularly important because comparing the prices of items purchased at dissimilar outlets would be inappropriate (e.g., comparing the price of a box of cereal at a supermarket with one sold at a convenience store).

Although major supermarkets, department stores, and discount stores represented a sizable portion of the survey, outlets were also selected to represent the diversity of consumer shopping options. For example, department stores could have been used for pricing all clothing items surveyed. However, this would not have reflected the range of consumer choices. Therefore, some clothing items were priced in men's and women's clothing stores, other clothing items in department stores, others in shoe stores, and still others in discount stores. For each item, the same type of outlet (e.g., clothing store, discount store, department store) was selected in each area whenever possible.

2.4.2.3 Catalog Pricing

A limited amount of catalog pricing was included in the survey to reflect this common purchasing option. Eleven item prices were surveyed by catalog. Catalog pricing allowed the comparison of comparable items that would have been difficult to price otherwise. All catalog prices included any charges for shipping and handling and all applicable taxes.

As noted earlier, OPM obtained over 18,000 prices on about 200 items from over 3,500 outlets. In each survey area, OPM attempted to get three price quotes for most items. There were certain exceptions. For example, essentially all of the available home sales and rental data meeting the survey specifications were obtained. For other items, such as utilities and real estate tax rates, only one quote was obtained in each area because these items have uniform rates within an area. Because the Washington, DC, area has six survey communities, OPM attempted to get 18 price quotes for most items in this area.

2.5.1 Data Collection

To avoid possible conflicts of interest, price data were collected in each area by OPM central office staff. In all of the COLA areas, except Anchorage, a data collection observer, usually designated by the local COLA Partnership Committee or Subcommittee, accompanied OPM staff and advised and assisted in contacting outlets, matching items, selecting substitutes, and generally informing OPM staff on living costs and related compensation issues. OPM found this to be a very informative process.

Most data were collected onsite in stores, repair shops, etc. However, many items, such as insurance, home maintenance services, and private education expenses, were priced by telephone. Some items, such as property tax rates, were collected from web sites on the Internet. OPM also purchased home sales and some rental data from various sources.

2.5.2 Inclusion of Sales and Excise Taxes

For all items subject to sales and/or excise taxes, the appropriate amount of tax was added prior to analysis. OPM gathered applicable information on taxes by contacting appropriate sources of information in the allowance areas and the Washington, DC, area.

2.5.3 Surveying the Washington, DC, Area

As noted above, OPM attempted to get more price quotes in the DC area than in the allowance areas because of the size and diversity of the DC metropolitan area and because DC is the basis for all comparisons. For the purposes of the COLA surveys, the DC

[3] Groceries were surveyed at two kinds of supermarkets (i.e., full-service supermarkets and ''warehouse-type'' supermarkets) in areas where both types of supermarkets were common and within a normal shopping radius of the living communities surveyed. OPM notes, however, that some areas do not have warehouse-type supermarkets. Membership stores, such as Costco, were not surveyed in any area.

area was divided into six survey areas: two in the District of Columbia, two in Maryland, and two in Virginia. The outlets surveyed were within a normal shopping radius of the housing communities identified in Appendix 8. Survey data from each of the six DC survey areas were combined using equal weights.

As in the COLA areas, OPM central office staff collected data onsite and by phone in the DC area. Due to funding limitations, allowance area data collection observers did not travel to the DC area to observe and assist in data collection.

2.6 Step 5: Analyzing Data and Computing Indexes

2.6.1 Indexes and Weights

2.6.1.1 Indexes

Nonforeign area COLA's are derived from the living-cost indexes. These indexes are mathematical comparisons of living costs in the allowance areas compared with living costs in the Washington, DC, area. An index is a way to state the difference between two prices (or sets of prices). For example, if a can of corn costs $1.00 in the allowance area and 80 cents in the DC area, canned corn is 25 percent more expensive in the allowance area than in DC. That difference can also be stated as a price index of 125.

2.6.1.2 Item Weights

OPM computed indexes for hundreds of items. As briefly described in section 2.3, OPM used weights derived from the CES to combine these indexes. These weights reflected the relative amount consumers normally spend on different items. For example, the price of a can of corn has a lower weight than the price of a pound of apples because, according to the CES, people generally spend less on canned corn than on apples.

The COLA model uses a fixed-weight indexing methodology. The weights used are based on the expenditure patterns of consumers nationwide as reported by the CES. This is the only source of which OPM is aware that provides expenditure information by income level.

2.6.1.3 Category and Component Weights

As described in section 2.3.2, OPM also computed income sensitive category and component weights. This allowed the combination of comparative price data in a manner that reflected the spending patterns of people at each income level. The way data were combined varied among the components.

For the Goods and Services and Miscellaneous Expense components, OPM combined indexes within each category using the CES weights to derive an overall index for the category. The category indexes were then combined into an overall component index using the income-sensitive category weights described above. For the Transportation and Housing Components, OPM used the same approach in combination with a cost-build-up approach. For example, the annual cost of owning and operating an automobile was computed by taking individual prices (e.g., automobile financing, insurance, gas and oil, and maintenance) and computing an overall dollar cost for each area. These costs were compared with those in the DC area to compute the Private Transportation Category index. This index was then combined with the Other Transportation Category index using income sensitive category weights to compute an overall Transportation Component index for each area.

2.6.2 Computing the Overall Index

The item, category, and component indexes were combined using the process prescribed in section 591.205(c) of title 5, Code of Federal Regulations. That is a five-step process that involves converting the indexes to dollar values and weighting these, combining them, and comparing them to compute a final weighted-average index. The process is described below.

First, OPM used the CES data and the income ranges described in section 2.2.1 to determine how much money consumers typically spend on each component at each income level. These amounts appear in the table below and in Appendix 21. They were derived by taking the component weights shown in Table 2-1 times the representative income levels described in section 2.2.1.

TABLE 2–2.—TYPICAL CONSUMER EXPENDITURES BY INCOME LEVEL AND COMPONENT

Income level	Goods and services	Own/rent	Transpor-tation	Misc.	Total
Lower	$8,675	$5,805	$4,175	$3,644	$22,300
Middle	12,981	8,388	6,304	6,327	34,000
Upper	19,323	12,066	9,466	10,650	51,500

(Note: Values may not total because of rounding here and in Table 2–1.)

Second, for each allowance area, OPM multiplied the dollar values above by the component indexes for the allowance area. Because the housing component consisted of two indexes (one for owners and another for renters), total relative costs were produced separately for owners and renters.

Third, for each allowance area and income level, OPM combined the total relative costs for owners and renters using as weights the proportion of owners and renters as identified in the CES. (See section 4.2.1.) This produced an overall expenditure dollar amount for each income level in each allowance area.

Fourth, OPM computed a single overall average expenditure for each allowance area by combining the income level expenditures using the allowance area General Schedule employment distribution as weights. This produced a single overall dollar expenditure value for the allowance area. Using the same General Schedule employment weights, OPM also computed a single overall dollar expenditure value for the DC area.

The final step was to divide the overall dollar expenditure for the allowance area by the overall dollar expenditure for the DC area to compute a final index. These indexes are shown in the last section of this report and in Appendix 22.

3. Consumption Goods and Services

3.1 Categories and Category Weights

Based on the CES data, OPM identified 10 categories of expenses within the Goods and Services Component. Using linear regression analyses and the CES data, OPM identified the portion of total Goods and Services expenditures that the typical consumer spends in each category at various income levels. The categories and the relative expenditures are shown in the table below:

TABLE 3–1.—CATEGORY WEIGHTS EXPRESSED AS A PERCENTAGE OF GOODS AND SERVICES EXPENDITURES BY INCOME LEVEL

Category	Income levels		
	Lower	Middle	Upper
Food at Home	26.85	23.89	21.11
Food Away from Home	13.59	14.26	14.88
Tobacco	2.91	2.41	1.95
Alcohol	2.49	2.52	2.54
Furnishings and Household Operations	15.19	16.35	17.45
Clothing	13.34	13.95	14.53
Domestic Service	1.80	2.03	2.23
Professional Services	6.97	6.81	6.66
Personal Care	3.58	3.49	3.41
Recreation	13.28	14.29	15.24
Totals	100.00	100.00	100.00

(Note: Values may not total because of rounding.)

3.2 Goods and Services Survey Results

Section 2.6 of this report provides a detailed explanation of the economic model used to analyze the price data. As it applies to Goods and Services, the approach involved comparing the average prices of market basket items in each allowance area with those in the Washington, DC, area. The resulting price ratios were aggregated into subcategory and then category indexes using the moving-average expenditure weights derived from the CES data.

Appendix 7 shows for each allowance area 10 category indexes, the weights used at each of the 3 income levels, and the overall Goods and Services Component indexes. The Washington, DC, area is not shown because it is, by definition, the reference area. Therefore, the DC indexes are 100.

3.2.1 Exchange and Commissary Expenditure Research

Executive Order 10000, as amended, requires OPM to adjust COLA rates when employees have special purchasing privileges, such as unlimited access to commissaries and exchanges. In Guam, some employees have such access, so OPM priced the same market basket of Goods and Services items at the commissaries and exchanges in Guam as it used for the local retail pricing. One price quote was obtained for each market basket item found in these facilities.

Employees who have access to military facilities make some of their purchases in these facilities and make other purchases elsewhere. Therefore, OPM used the results of a survey of Federal employees to determine the percentage of purchases that families typically make in military facilities versus local outlets. For example, as the following table shows, it is estimated that employees with commissary/exchange access in Guam purchase approximately 70% of their Food at Home items at a commissary and purchase the remaining 30% of such items in local retail outlets.

TABLE 3–2.—PERCENTAGES OF PURCHASES MADE AT THE COMMISSARIES AND EXCHANGES IN GUAM

Category	Percentage
Food at Home	70.0
Food Away	0.0
Tobacco	64.0
Alcohol	76.0
Furnishings. & Hsld. Op.	64.5
Clothing	43.7
Domestic Service	0.0
Professional Services	0.0
Personal Care	49.3
Recreation	49.7

These percentages were used to aggregate the local retail and commissary/exchange prices into one set of appropriate, blended prices, hereinafter referred to as the Commissary/PX prices. The blended prices were compared to the local retail prices in the Washington, DC, area to compute Commissary/PX Goods and Services Category indexes, which were then combined using CES weights to derive an overall Commissary/PX Goods and Services Component index. Just as with the Guam Local Retail Goods and Services Component index, the Guam Commissary/PX Goods and Services Component index was combined with the indexes for the Housing, Transportation, and Miscellaneous Expense Components to derive a single, overall Commissary/PX index for the Guam allowance area.

4. Housing

4.1 Component Overview

The Housing Component consists of the following expenses related to owning or renting a dwelling:

—Mortgage or rent payments,
—Utilities,
—Real estate taxes,
—Homeowner's or renter's insurance,
—Home maintenance, and
—Telephone expenses.

At each of the three income levels, the annual housing costs for homeowners and renters were measured separately. The results were then combined using as weights the percentages of owners and renters reported by the CES.

4.2 Housing Model

4.2.1 Expenditure Research

The CES was used to determine the national average ratio of families who own, as opposed to rent, their residences at each income level. Using the tenure data by income range as input into a linear regression analysis, OPM calculated the owner and rental weights shown below and in Appendix 22. OPM excluded data for homeowning families without a mortgage because they were not typical of Federal homeowners in the base area or in the allowance areas.

TABLE 4–1.—OWNER/RENTER WEIGHTS

Category	Income levels		
	Lower (percent)	Middle (percent)	Upper (percent)
Homeowner with mortgage	38.60	48.05	62.17
Renter	61.40	51.95	37.83
Totals	100.00	100.00	100.00

The CES data were also used to identify which home-maintenance items to price and to establish the relative importance of those items.

4.2.2 Housing Profiles

To compare housing costs in all locations, six typical housing profiles are used--three for homeowners and three for renters. These profiles are shown in Table 4.2. One owner and one renter profile was assigned to each income level. OPM attempted to collect information on the living area, numbers and types of rooms, and other information that might influence home sale or rental prices. This information was rarely available for rental units, so OPM relied on bedroom count and living community to segregate rental prices by income level. The additional information shown in Table 4.2, however, was used during the interview of rental brokers to collect broker data.

Information about characteristics of houses sold was also difficult to collect on a consistent basis across all areas. Although detailed information about the houses sold was available for many areas, it was not available for other areas, including the District of Columbia and the Maryland suburbs of the Washington, DC, area. The only housing characteristics that were consistently available across all areas were house type and size. OPM surveyed only the prices of single family detached houses in each area and relied mainly on house size and living community to segregate homes sales by income level.[4] As shown in Table 4.2, these size ranges overlap. Therefore, when housing was priced in the same living community at two or more income levels, the additional information was used to separate home sales observations into the appropriate income level so that no single home sale observation was used at more than one income level.

TABLE 4–2.—HOUSING PROFILES

Income level	Renters		Owners	
	Key Characteristic	Additional Information	Key Characteristic	Additional Information
Lower	1 bedroom apartment	3 rooms total, 1 bath; Reference size: 600 sq. ft..	Detached house, 600 to 1,200 sq.ft..	4 rooms total, 2 bedrooms, 1 bath; Reference size: 900 sq. ft.
Middle	2 bedroom apartment	4 rooms total, 2 baths; Reference size: 900 sq. ft..	Detached house, 1,000 to 1,600 sq.ft..	5 rooms total, 3 bedrooms, 1 bath; Reference size: 1,300 sq. ft.
Upper	2 bedroom townhouse or detached house.	4 rooms total, 2 baths; Reference size: 1,100 sq. ft..	Detached house, 1,400 to 2,300 sq.ft..	7 rooms total, 3 bedrooms, 2 baths; Reference size: 1700 sq. ft.

The reference sizes in Table 4.2 are used for the calculation of utility costs in the model. (See section 4.2.4.1.) As noted above, they are not the only sizes surveyed for each profile.

4.2.3 Living Community Selection

As discussed briefly in section 2.4.2.1, OPM identified the living communities to be surveyed based on the results of the 1992 Federal Employee Housing and Living Patterns Survey and in consultation with the COLA Partnership Committees and Subcommittees. The communities surveyed are identified in Appendix 8. As with previous surveys, nine homeowner and nine renter communities were identified for the Washington, DC, area--one for each income level in each of the three areas (DC, Maryland, and Virginia). In the allowance areas, up to three homeowner and three renter communities were identified--one for each income level.

The three-community owner/renter goal was not achievable in many of allowance areas due to the relatively few home sales and rental opportunities in these areas. In such areas, OPM collected prices for the entire survey area or allowance area rather than in specific communities. This was done in Fairbanks, Juneau, Nome, Hilo, Kailua Kona, Kauai, Maui, Guam, St. Croix and St. Thomas. In these areas, all home sales and/or rental rates meeting the housing characteristics for the particular income group were included in the analysis.

For most areas in which discrete living communities were identified, OPM used zip code boundaries. The exceptions were Anchorage and San Juan. In Anchorage, OPM used the multiple listing service location codes that realtors commonly use in that area. In San Juan, OPM used the name of the municipio or community.

4.2.4 Housing-Related Expenses

Based on the CES data, housing-related expense items were categorized into one of five groups in the COLA model. These groups were--

—Utilities,
—Real estate taxes,
—Owners/renters insurance,

[4] In the U.S. Virgin Islands, many of the houses surveyed had apartments within them. Since this is a very common characteristic of housing in that area, exclusion of the price of housing with apartments was not feasible. It is also likely that some of the home sale prices obtained in other areas, including the Washington, DC, area were for housing that had basement or ''mother-in-law'' apartments, although the sources OPM used did not provide that information.

—Maintenance, and
—Telephone expenses.

4.2.4.1 Utilities

Electricity, oil, gas, and water were the utilities used in the model. Many utility companies were able to provide current charges per unit of consumption and average consumption patterns for all households. The companies were not, however, able to provide separate consumption patterns by the size or type of housing.

Because many utility costs vary by size of house, a factor was needed to derive the utility rates at each of the home profiles. The table below shows the standard square foot sizes and utility factors used for each home profile. The factors were calculated by assuming that utility use increases or decreases at half the rate that square footage increases or decreases.

TABLE 4–3.—UTILITY FACTORS

Income level	Renter profile		Owner profile	
	Sq. ft.	Factor	Sq. ft.	Factor
Lower	600	.73	900	.85
Middle	900	.85	1,300	1.00
Upper	1,100	.92	1,700	1.15

In each area, OPM obtained the price of each of the types of utilities noted above. Where available, OPM also gathered from local utility companies average annual consumption data per household information. The local rates and consumption information were used to compute average annual utility costs. The above factors were then used to adjust the total annual utility costs for each of the various housing profiles.

In the DC area, OPM was unable to obtain estimates for electricity usage for houses heated by gas or oil. However, OPM was able to obtain kilowatt usage for all-electric houses. In order to avoid potential double counting of utility costs, OPM used the all-electric data for the DC area. This was not a problem in the warm-area COLA areas, where there is little heat expense. It also was not a problem in Alaska, where most consumers use gas or oil heat, not electric heat.

4.2.4.2 Real Estate Taxes

For this study, OPM contacted the local tax assessors or municipal web sites on the Internet to obtain real estate tax information on the living communities surveyed. These real estate tax formulas were applied to the median home values for each income level to estimate annual real estate taxes. For San Juan, however, OPM was able to obtain only general information about home assessment values. This information verified data collected during the 1996 survey, which indicated that property taxes were very low in Puerto Rico. Therefore, OPM used the 1996 San Juan property tax expense in this year's calculations.

4.2.4.3 Owners/Renters Insurance

Homeowners' insurance rates were gathered for each of the survey areas for both renter and owner profiles. For renters, the following estimated content values were used: $25,000 at the lower and middle income levels and $30,000 at the upper income level. At the request of the Guam COLA Partnership Committee, OPM also collected, on a test basis, renter insurance rates at other levels of coverage. OPM has not had the opportunity to examine these test data in detail. Therefore, they were not used in these calculations. OPM may test price such coverage again in the coming survey.

For homeowners, the cost of insurance was dependent on the median home values calculated as part of this survey. In most areas, it was assumed that the structure was equal to 80 percent of the total home value. In Hawaii, where the land represents a greater proportion of property value, 50 percent was used.

Hurricane insurance was priced for all of the allowance areas in Hawaii and in Guam, Puerto Rico, and the U.S. Virgin Islands. This year, at the request of the Hawaii COLA Partnership Committee, OPM attempted to collect flood insurance information in Hawaii, particularly information on how frequently this type of coverage is required by lenders. The information OPM obtained was sparse and inconclusive. OPM will attempt to collect more information in the coming survey. In research previously conducted for OPM, the contractor found that insurance coverage for disasters, such as floods and earthquakes, was not widely purchased in the allowance areas. Therefore, the COLA model does not include these additional riders. (See section 4.2.4.3 of the Report to OPM on Living Costs in Selected Nonforeign Areas and in the Washington, DC, Area, December 10, 1992, at 57 FR 58556).

4.2.4.4 Home Maintenance

Estimated home maintenance expense was computed for each of the homeowner and renter profiles. In previous surveys, OPM used maintenance costs for owners only on the premise that most, if not all, maintenance expenses are covered by the landlord. It was pointed out, however, that this assumption resulted in a mathematical error, albeit a very small one, because of the way OPM uses CES data. Therefore, this year OPM derived from the CES separate home maintenance expenditure amounts for both owners and renters. Not surprisingly, the CES indicates that renters spend relatively little on home maintenance compared with homeowners.

As done in previous surveys, OPM priced both home maintenance services as well as home maintenance commodities using the CES information to identify items to price and the weights associated with these items. The maintenance service items priced were interior painting, plumbing repair, electrical repair, and pest control. In the Nome area, however, pest control was not priced because local sources indicated it is not necessary. The maintenance commodities priced were bathroom caulking, a kitchen faucet set, an electrical outlet, latex interior paint, and a fire extinguisher.

At the request of the Hawaii COLA Partnership Committee, OPM also attempted to collect, on a test basis, the cost of termite bait treatment systems. OPM found that this service is not common in some allowance areas nor in the Washington, DC, area. Therefore, the test data were not used. OPM may test price this service again in future surveys.

To compute home maintenance cost differences between each allowance area and the Washington, DC, area for the homeowner and renter profiles, an index was computed for each maintenance item by comparing the allowance area price to the DC area price. As with the Goods and Services component items, the CES data were used to weight these maintenance indexes into an overall home maintenance index for each area.

To combine the maintenance indexes with the other homeowner and renter costs, which were expressed in dollar amounts, OPM converted the indexes to dollars by multiplying the index for each area by the average maintenance expense reported in the CES for owners and renters separately. This cost was assigned to the middle-income homeowner and renter profile. Logically, maintenance costs for larger homes would generally be greater than costs for middle-sized homes, while costs for smaller homes would generally be less. Therefore, the same owner and renter multipliers used in the utilities model were applied to recognize differences in maintenance costs due to house size at the various income levels.

4.2.4.5 Telephone Expenses

Telephone expenses consisted of local service charges, additional charges for local calls (if applicable), charges for long distance calls, and basic cellular phone service. To measure estimated expenses for local service and local calls, OPM surveyed the cost of touch-tone service with unlimited calling in each area. To estimate long distance charges in all areas, OPM priced from a major long distance provider the cost of three 10-minute direct dial calls per month to large U.S. mainland cities (i.e., Los Angeles, Chicago, and New York City). As in previous surveys, OPM priced a call placed in the survey area at the time of day necessary to be received in the respective city at 8:00 p.m. local time. In many areas, this resulted in pricing a combination of daytime and evening-rate calls.

This year, OPM also priced cellular phone service. In each area, OPM priced the basic monthly plan for such service. Weights were derived from CES data to account for the portion consumers spend on regular phone service and cellular phone service. These weights were then used to combine the prices of these two types of phone service.

4.3 Housing Data Collection Procedures

OPM collected home sales information from multiple listing type services and rental information mainly from rental brokers and advertisements.

4.3.1 Homeowner Data Collection

OPM obtained the selling prices of homes that matched the housing profiles in each living community for home sales that occurred roughly during the 12-month period preceding and including the survey month. The amount of data obtained depended on the number of home sales in the community and the availability of square footage and other information on housing characteristics. This in turn depended on the size of the community, economic conditions, quality and quantity of the realty data available, and the willingness and ability of local realty professionals to provide data.

Relatively large quantities of home sales data were obtained in all areas except Nome and St. Thomas. In Nome, home sales were extremely limited because Nome is not very large. In St. Thomas, home sales were limited because, at the time of the survey, there was no readily available and comprehensive source of home sales data that provided home size (i.e., square footage) information. OPM obtained a limited amount of St. Thomas home sales information, as well as more general home sale trend information. Analysis of the home sales information indicated that prices on St. Thomas had fallen sharply, but the more general trend information indicated that lower average prices were probably caused by the sale of hurricane damaged properties. It is not OPM's policy to price uninhabitable or severely damaged homes. Therefore, OPM held home prices on St. Thomas constant by using the previous year's data.

Identifying houses that were uninhabitable, severely damaged, or otherwise in need of significant repairs was impossible for most areas, given the limited amount of information available from the listing services. As discussed in section 4.4.1 below, OPM uses the median rather than the average home value to compute housing costs. (The median is the middle value in a rank-ordered set of observations and tends to be less sensitive than the average to unusually low or high values at the ends of a range of data.) Nevertheless, in some of the data bases OPM purchased, the quantity of exceptionally low priced homes had a significant effect on the median. Therefore, in all areas OPM trimmed home sale prices that were $30,000 or less, recognizing that $30,000 was probably a conservative price threshold for most areas. No trimming was done at the upper end of the data, even though there were a few very expensive homes in some of the data bases, particularly in Hawaii. OPM plans to review the issue of data trimming with the COLA Partnership Committees and Subcommittees.

4.3.2 Renter Data Collection

Rental data also were obtained from a variety of sources, e.g., brokers, rental management firms, property managers, newspaper advertisements, and other listings. Analyses of these data revealed what appeared to be two separate rental markets: a broker market and a non-broker market. Rental rates and estimates provided by brokers generally exceeded those obtained from other sources. The methodology used to analyze these two data sets is discussed in section 4.4.2.

4.4 Housing Analysis

4.4.1 Homeowner Data Analysis

One of the most important factors relating to the price of a home is the number of square feet of living space. For each income profile in each allowance area and the Washington, DC, area, OPM computed price per square foot for each of the comparables and determined the median price per square foot. The median was used to reduce the volatility of the housing data from one survey to the next because a relatively few extremely high or low home prices could significantly influence average housing prices. The median price per square foot was then multiplied by the reference square footage for the income level to determine the home purchase price.

As was done last year, OPM also used historical housing data in addition to data collected in this survey. These data are found in Appendix 9 of this report. For all areas except Oahu, the historical data are from previous living-cost surveys that were published in the **Federal Register** beginning with the 1990 report. (See Appendix 1 for a listing of these publications). The data for the period prior to 1990 were published with the results of the 1991-1992 living-cost surveys at 57 FR 58617. All housing values are based on the community selections and analytical methodologies used at the time of each respective survey.

For Oahu, OPM obtained additional historical housing data. As discussed earlier in this report, OPM, at the recommendation of the Hawaii COLA Partnership Committee, surveyed housing prices in new living communities on Oahu. Because OPM's historical data did not cover these communities, OPM obtained and used this additional historical price data.[5]

The historical housing data used were estimated annual principal plus interest payments by income level in each area. To combine these data, OPM used weights that were derived from the 1992 Federal Employee Housing and Living Patterns Survey. These weights reflect the proportion of Federal employee homeowners by year of purchase in all allowance areas and in the Washington, DC, area. The historical housing weights and analyses are shown in Appendix 10.

4.4.2 Rental Data Analysis

OPM assigned each rental quote to a single income level based on the criteria shown in Table 4-2. As discussed earlier, there were essentially two sources of rental information: broker and non-broker sources. In each area, the quantity of data obtained from either source varied significantly. Therefore, analyzing all of the rental data (both broker and non-broker) together for an area and income level was undesirable. Instead, OPM analyzed broker and non-broker data separately by income level.

[5]The Honolulu historical data covered the period from 1988 to 1997. For this year's calculations, OPM needed data for 1987 as well. These data were extrapolated using the relationship of the newly obtained historical data to the previously obtained historical data for 1988.

As with the housing data analyses, OPM used the median rental values. For each income level, OPM separately ranked rental rates from low to high for broker and non-broker data. The median values for broker and non-broker data for each group were determined and then averaged to compute a single rental value for each income level. Because OPM has no information on how the Federal employees who rent generally secure their lodgings, OPM applied equal weights to the broker and non-broker data to compute an overall average rental rate for the area and income level.

The broker and non-broker medians and final results are shown in Appendix 11. As noted in that appendix, OPM found inexplicable rental price trends in some of the data, particularly in the broker data. For example, the median broker rental price at the middle income level was sometimes less than that quoted at the lower income level. Therefore, OPM adjusted the rental data to address these anomalies.

4.5 Housing Survey Results

In the above sections, the processes used for determining the costs for maintenance, insurance, utilities, real estate taxes, rents, and homeowner mortgages were described. Appendix 12 shows the cost of each of these items for renters and homeowners in each allowance area and in the Washington, DC, area. Appendix 13 compares the total cost of these items by income level in each allowance area with the total cost of the same items by income level in the DC area. Again, there are separate comparisons for renters and homeowners. The final housing-cost comparisons take the form of indexes that are used in Appendix 21 to derive the total, overall indexes for owners and renters.

5. Transportation

5.1 Component Overview

The transportation component consists of two categories: Automobile Expense and Other Transportation Costs. The Automobile Expense Category reflects costs relating to owning and operating a car in each area. The Other Transportation Costs Category is represented by the cost of air travel from each location to common points within the contiguous 48 States.

5.2 Private Transportation Methodology

As in previous surveys, OPM analyzed automobile transportation costs for three commonly purchased vehicles: a domestic auto, an import auto, and a utility vehicle. New car costs were used for these analyses because it was believed that pricing used vehicles of equivalent quality in each area could introduce inconsistencies because of the value judgments that would be required.

5.2.1 Vehicle Selection and Pricing

The same three models of automobiles that were surveyed in previous years were surveyed again this year:

—Domestic-Ford Taurus GL 4-door sedan 3.0L 6 cyl.
—Import-Honda Civic DX 4-door sedan 1.5L 4 cyl.
—Utility-Chevrolet S10 Blazer 4X4 2 door 4.3L 6 cyl.

For each model car, OPM collected new vehicle prices at dealerships in each area. All vehicles were equipped with standard options, such as automatic transmission, AM/FM stereo radio, and air conditioning. In Alaska locations, special additional equipment was included in new-vehicle prices (i.e., engine-block heaters and heavy-duty batteries). Snow tires were also priced in Alaska. (See section 5.2.5.) In addition to the MSRP, the price included additional charges such as shipping, dealer preparation, additional dealer markup, excise tax, sales tax, and any other one-time taxes or charges. In Anchorage, for example, documentation fees were also included as part of the new-vehicle costs.

5.2.2 Vehicle Trade Cycle

Calculating the cost of owning and operating a vehicle requires knowing the miles driven and how long the car is owned. In the automobile industry, these two factors are known collectively as a vehicle's ''trade cycle.'' The trade cycle is stated as a length of time (in months or years) and the total number of miles driven in that time period. This information is used in the model to compute annual costs related to fuel, oil, tires, maintenance, and depreciation. As with the previous living-cost analyses, OPM used a 4-year, 60,000-mile trade cycle in all areas.

5.2.3 Fuel Performance and Type

All vehicles included in this study used regular unleaded fuel. OPM collected self-service cash prices of unleaded regular gasoline at name-brand gas stations in the Washington, DC, area and in all allowance areas. In Alaska, OPM obtained both the full-service and self-service gasoline prices at stations that offered both and averaged the prices.

To establish average fuel-performance ratings, the COLA model uses the ''city driving'' figures published by the U.S. Environmental Protection Agency (EPA). The ''city'' figures instead of ''highway'' figures are used because all locations contained considerable stop-and-go driving conditions. As in previous COLA surveys, OPM included in its analysis the following fuel-performance factors: temperature, road surface, and gradient. These factors are based on research previously conducted for OPM. This research and the factors are discussed below.

5.2.3.1 Impact of Temperature upon Fuel Performance

Gas mileage is affected by temperature. The lower the temperature, the fewer miles-per-gallon achieved, and vice versa. According to EPA's *Passenger Car Fuel Economy: EPA and Road*, the temperature at which no adjustments to fuel performance occur is 77°F. Below that temperature, miles-per-gallon achieved drops. Above 77°F miles-per-gallon achieved improves. The model uses the average monthly temperatures for each allowance area and the DC area as reported in *The Weather Almanac*, published by Ruffner and Blair. For each location and month, the model uses the appropriate factor from the EPA study based on the average monthly temperature for the area. These factors are then averaged to derive a single overall factor for each location. The results of these calculations are shown in Table 5-1.

5.2.3.2 Impact of Road Surface upon Fuel Performance

For the model, it is assumed that Federally controlled roadways are typically composed of concrete and/or high-load asphalt and that locally controlled roadways are typically composed of low-load asphalt. EPA's research indicates that cars are generally more fuel-efficient on the firmer, high-load surfaces than on the softer, low-load surfaces. Although traffic patterns and road usage vary among areas, previous research conducted for OPM produced no relevant findings regarding this issue. Therefore, the model uses the assumption that Federally-controlled roadways generally support twice the traffic of, or are used at least twice as much as, locally controlled roadways.

In each allowance area, the total mileage falling into either the Federal or local categories was collected. For example, Alaska contains 5,512 miles of Federally controlled roads and 7,120 miles of locally controlled roads. The usage assumption increased Federal road mileage by a factor of two for the Alaska allowance areas.

The average low-load asphalt factor (which reflects dry, wet, and snowy conditions) was applied to the local mileage percentage, and the average

concrete and/or high-load asphalt factor was applied to the Federal mileage percentage to produce two weighted average factors--one for the Alaska allowance areas and another for the other allowance areas. These factors are shown in Table 5-1. The Washington, DC, area was assigned a factor of 1.00 on the premise that the vast majority of traffic in that area travels on dry, high-load surfaces. The application of these factors is described in Section 5.2.3.4.

5.2.3.3 Impact of Gradient Upon Fuel Performance

The effect of gradient on gas mileage is also estimated from EPA's *Passenger Car Fuel Economy: EPA and Road*. Local topography (i.e., gradient) affects fuel efficiency. EPA provides mileage factors based upon various gradients ranging from less than 0.5% (essentially flat) to greater than 6% (steep).

In research previously conducted for OPM, the contractor reviewed the topographic features of each area and found a wide range of road conditions. However, the contractor was unable to find relevant information on the types of terrain drivers typically encounter in each area or the number of miles drivers travel in each type of terrain. Lacking such information, the contractor assumed that drivers in the allowance areas generally traveled roads having approximately the same gradients that are found on average in the United States.

Applying the information from EPA's research, a fuel-performance factor of 0.98 was computed for this type of driving. This factor was assigned to each allowance area. For the DC area, a factor of 1.00 was used on the premise that the vast majority of traffic in that area travels on major freeways and highways that are relatively flat. The application of these factors is described in the next section.

5.2.3.4 Overall Impact upon Fuel Performance

OPM applied the factors described above to make adjustments in the average gas mileage ratings for each type of automobile surveyed for each allowance area and for the Washington, DC, area. The adjustment factors compound--that is, the total adjustment is the result of multiplying the three individual factors together for each area.

In table 5-1, the factor 1.00 means that no adjustment in EPA fuel performance is appropriate. A factor of less than 1.00 means that the estimated gasoline mileage in the area is less than the EPA average. For example, the total adjustment factor for Juneau is 0.84. This means that the estimated gasoline mileage in Juneau is 84 percent of the EPA estimated average. Note that the adjustment factor for the DC area (0.94) indicates that average gasoline mileage in that area is also below the EPA estimate.

TABLE 5–1.—SUMMARY OF FUEL-PERFORMANCE ADJUSTMENTS

Location	Temperature	Road surface	Gradient	Total
Anchorage	0.88	0.96	0.98	0.83
Fairbanks	0.85	0.96	0.98	0.80
Juneau	0.89	0.96	0.98	0.84
Nome	0.85	0.96	0.98	0.80
Hawaii	0.99	0.98	0.98	0.95
Virgin Islands	1.01	0.98	0.98	0.97
Puerto Rico	1.01	0.98	0.98	0.97
Guam	0.99	0.98	0.98	0.95
Washington, DC	0.94	1.00	1.00	0.94

5.2.4 Vehicle Maintenance

OPM surveyed the cost of common maintenance services and repairs performed on the vehicles surveyed. The services and repairs were--

—Tuneup,
—Oil change,
—Automatic transmission fluid change,
—Flush/fill coolant,
—Muffler/exhaust pipe replacement,
—Constant velocity joint (CVJ) boot replacement, and
—Windshield replacement.

The automobile manufacturers' recommended maintenance schedules were used to determine the frequency of performing each of the first five maintenance jobs. Maintenance schedules vary, depending on the driving conditions typically encountered. Consistent with the assumptions used for fuel economy and tire mileage, it was assumed that driving conditions in the allowance areas are generally severe, and the maintenance schedules used reflected that kind of driving. For the DC area, it was assumed that driving conditions are normal, and the maintenance schedules used for that area reflected that kind of driving.

The recommended frequency of performing each of these jobs was combined with the prices charged by local dealers and service stations to compute an estimated annual maintenance expense. OPM collected the cost of the complete maintenance service or repair job for each vehicle. For example, the cost of a complete oil change was collected for each vehicle including the total charge for parts and the total charge for labor.

Previous research conducted for OPM revealed varying replacement cycles for constant velocity joint (CVJ) boots among the Alaska allowance areas and between the Alaska areas and the DC area: Anchorage and Juneau--every 45,000 miles (3 years), Nome--every 30,000 miles (2 years), Fairbanks--every 15,000 miles (1 year), and the Washington, DC, area--every 60,000 miles (4 years). OPM used the Washington, DC, area frequency of repair for the other (i.e., non-Alaska) COLA areas. In each area, the cost of replacement for all three vehicle types was factored into the indexes based upon the frequency of the replacement. In Fairbanks, for example, 100 percent of the cost was included because previous research indicated annual replacement was the norm.

To determine the frequency of replacement of windshields, OPM contacted local dealers and automobile repair shops. Based on the information obtained, OPM determined that windshield replacement was much more frequent in Alaska than in the other allowance areas or the Washington, DC, area. Therefore, OPM assumed that windshields had to be replaced every 2 years in the Alaska areas but rarely (i.e., never) in the other areas or in the DC area during the 4-year trade cycle used in the COLA model. Windshield replacement, however, is normally covered by the owner's automotive insurance. Therefore, OPM used the deductible rather than the

surveyed price of windshield replacement, since the deductible was always less than the replacement prices.

5.2.5 Tires

Research previously conducted for OPM revealed that various factors (e.g., road quality/state of repair, road composition) appeared to reduce tread life (i.e., the average number of miles a tire is expected to last) in the allowance areas compared with the Washington, DC, area. Based on this research, the model uses tire expense based on a 40,000-mile tread life in allowance areas and a 55,000-mile tread life in the DC area.

OPM priced the cost of a new set of tires, including mounting and balancing and all applicable taxes, in each area. This cost was converted into an annual cost by dividing the estimated number of annual miles driven by the expected tread life and multiplying this by the new tire price. Previous research indicated that four extra studded snow tires would be required for all three vehicles in the Alaska allowance areas (but not in the DC area). Therefore, OPM surveyed the prices of studded snow tires for all vehicles in Anchorage, Fairbanks, Juneau, and Nome. OPM also priced the cost of rims and switching snow and street tires semi-annually in these Alaska areas.

5.2.6 License and Registration Fees and Miscellaneous Taxes

OPM obtained information regarding license and registration fees, miscellaneous taxes, and personal property taxes (where applicable). License and registration fees were included as part of the annual cost of owning an automobile. Miscellaneous and personal-property taxes were computed for each year of the vehicle's 4-year trade cycle using the vehicle's estimated used-car value for each year. The resulting four personal property tax values were then averaged, and that average was included as part of the annual cost of owning an automobile. As stated in section 5.2.1, sales and excise taxes were included in the purchase price of the vehicle and were accounted for under the annual vehicle purchase and finance costs.

5.2.7 Depreciation

The single largest annual expense related to owning and operating a new car is depreciation--the lost value of the vehicle as it ages and is driven. In the COLA model, total depreciation is calculated by subtracting from the purchase price the estimated residual value (used car value) 4 years later. This value is then divided by four to produce an annual depreciation amount.

As described earlier, the new car price was the manufacturer's suggested retail price plus any additional charges, such as shipping, dealer prep, additional dealer markup, excise tax, and sales tax. The used car value was based on information from sources such as the *Kelly Blue Book*. Although such sources track prices of vehicles sold only in the contiguous 48 States, previous research performed by a contractor for OPM did not indicate that used cars in allowance areas were (on average) worth more or less than used cars in the DC area, except for Fairbanks and Nome. For Fairbanks and Nome, 90 percent of the projected residual values were used to reflect more severe conditions.

It should be noted that identical residual values did not result in identical depreciation amounts. Depreciation amounts were generally higher in the allowance areas than in the Washington, DC, area because new car prices were generally higher in the allowance areas.

5.2.8 Finance Expense

The COLA model assumes that new car purchases are financed. Therefore, OPM surveyed banks in all areas to obtain their auto-loan interest rates for a 48-month loan with 80 percent financing. OPM computed the finance cost for each vehicle in each area and included it in the annual cost of owning and operating an automobile.

5.2.9 Vehicle Insurance

OPM surveyed the cost of car insurance in each location. Consistent with the previous year's survey, the following common coverages, limits, and deductibles were used:

Bodily Injury	$100,000/$300,000.
Property Damage	$50,000.
Medical	$5,000.
Uninsured Motorist	$100,000/300,000.
Comprehensive	$100 Deductible.
Collision	$250 Deductible.

In each survey area, OPM identified the common automobile insurance companies and attempted to obtain three insurance price quotes for each type of car surveyed. These quotes were averaged by type of car to produce estimated insurance costs for each area.

As had been reported in previous surveys, OPM found that some insurance companies in Guam, Puerto Rico, and the Virgin Islands did not offer the coverages, limits, and deductibles shown above. To allow the comparison of the cost of these different policies with DC costs, OPM surveyed in the DC area the cost of insurance that was comparable to that offered in these allowance areas. The costs of these equivalent policies were then compared to derive adjustment factors that could be applied to the cost of the standard coverage shown above. By applying these factors to the DC area average price, the cost of equivalent coverage was estimated for these particular allowance areas. The factors and their derivation are shown in Appendix 15.

The procedure used this year was much simpler than that used in previous surveys. Sensitivity analysis indicated that the new procedure produced essentially the same results, and the simpler procedure requires less information from the insurance companies. Therefore, it reduces the public burden of the survey.

5.2.10 Overall Annual Costs

As described above, OPM surveyed the annual costs for fuel, maintenance and oil, tires, licensing, taxes, depreciation, finance, and insurance for three types of automobiles in each allowance area and in the Washington, DC, area. These costs were then summed to determine the overall annual costs by area for owning and operating each type of automobile. Appendix 14 shows these costs for each area by type of vehicle.

5.3 Other Transportation Costs--Air Fares

Air fare is the only item priced for the Other Transportation Costs Category. For this item, OPM surveyed the lowest priced round-trip air fare on a major carrier with a 2-week advance purchase and a 1-week stay over. Trips were priced from each allowance area and the Washington, DC, area to Chicago, Los Angeles, Miami, New York, Seattle, St. Louis, and Omaha, NE. These cities were selected to represent a range of travel destinations coast-to-coast for COLA-area and DC-area Federal employees. The costs of the trips from each allowance area were averaged and compared with the average cost of the trips from the DC area to compute the category indexes. The fares are shown in Appendix 16.

5.4 Transportation Component Analyses

OPM compared the total cost of private auto transportation for each vehicle in each allowance area with the total cost for the same vehicle in the DC area. These comparisons are expressed as indexes and are shown in Appendix 17. Likewise, OPM compared the cost of air fares for each area with those for the DC area and computed a cost index. These indexes are shown in Appendices 16 and 18. OPM used national average expenditure data to derive weights that

reflected how much consumers typically spend to own and operate an automobile versus other transportation expenses. These weights vary by income level and were used to combine the Automobile Expense Category index with the Other Transportation Costs index by area to derive the overall Transportation Component index for the area. The weights, computations, and final Transportation Component indexes are shown in Appendix 18.

6. Miscellaneous Expenses

6.1 Component Overview

The Miscellaneous Expense component consists of four categories of expenses:

—Medical care.
—Private education (K-12).
—Contributions (including gifts to non-family members).
—Personal insurance and retirement contributions/investments.

6.2 Component Weights

OPM used CES data to determine the appropriate weights for each of the items and categories in the Miscellaneous Component. The category weights are shown in the following table and in Appendix 20. Item weights are shown in Appendix 19.

TABLE 6–1.—MISCELLANEOUS EXPENSE CATEGORIES AND WEIGHTS

Categories	Income level		
	Lower (percent)	Middle (percent)	Upper (percent)
Medical Care	40.74	30.79	23.66
Private Education (K-12)	.87	1.23	1.48
Contributions	16.07	16.56	16.91
Personal Insurance and Retirement Contributions	42.31	51.42	57.95
Totals	100.00	100.00	100.00

Note: Values may not total because of rounding.

6.3 Component Categories

6.3.1 Medical Expense Category

OPM surveyed the price of medical care items using essentially the same approach it used for the Goods and Services component items. The following medical care items were priced in each allowance area and in the Washington, DC, area:

—nonprescription pain reliever
—prescription drugs
—contact lenses
—dental service
—doctor visit
—hospital room
—Federal health insurance

In addition, OPM surveyed the price of hospital attendant services and air ambulance insurance on a test basis in each area. OPM found that hospital attendant services were only available in Puerto Rico, where hospital services are significantly different from those in the Washington, DC, area. Therefore, OPM added the price of daily hospital attendant service to that of a hospital room in Puerto Rico. Air ambulance insurance was found to be available only in the Virgin Islands, where on-island hospital services are limited. Therefore, OPM added the price of air ambulance insurance to the price of health insurance in the Virgin Islands.

To address comments OPM had received on previous surveys and to allow the use of air ambulance insurance in this fashion, OPM dropped the constant $100 that had been used for health insurance in previous surveys.[6] Instead, OPM used Federal employee health benefit enrollment information from OPM's Central Personnel Data File along with Federal health benefit premiums to compute average health benefit expense by areas. These expenses varied by area, and OPM used these averages rather than assuming that costs were constant among areas.

OPM surveyed the cost of the health care items in both the allowance areas and in the DC area. OPM compared the prices to produce an index for each item in each area, then combined these indexes using CES weights to produce a single Medical Care Category index for each area.

6.3.2 Private Education (K-12) Category

Private education (K-12) was added this year at the recommendation of the Puerto Rico COLA Partnership Committee. Since not everyone sends their children to private school, OPM derived use factors from the results of the 1992/93 Federal Employee Housing and Living Patterns Survey. The following table shows these factors and the resulting adjustment of price indexes by area. The factors reflect the relative extent to which Federal employees make use of private education in the COLA areas compared with the Washington, DC, area. For example, the table indicates a use factor of 4.1066 for Puerto Rico because about 54 percent of Federal employees with school age children there send at least one child to private school compared with about 13 percent for the DC area.

TABLE 6-2.—SUMMARY OF PRIVATE EDUCATION USE FACTORS AND INDEXES

Location	Employees w/children in private schools		Use factor	Price index	Price index w/use factor
	Local area	DC area			
Anchorage	10.34	13.23	0.7816	55.53	43.40
Fairbanks	8.56	13.23	0.6470	41.59	26.91
Juneau	12.43	13.23	0.9395	57.30	53.84

[6] In previous surveys, it had been assumed that the cost of health insurance was constant among areas because the choice of Federal health coverage was considered to be, by and large, a matter of personal preference. Therefore, in those surveys, the index for this item was 100.00.

TABLE 6-2.—SUMMARY OF PRIVATE EDUCATION USE FACTORS AND INDEXES—Continued

Location	Employees w/children in private schools		Use factor	Price index	Price index w/use factor
	Local area	DC area			
Nome	8.08	13.23	0.6107	38.42	23.46
Honolulu	26.86	13.23	2.0302	113.03	229.48
Hilo*	18.94	13.23	1.4316	44.23	63.32
Kona*	18.94	13.23	1.4316	87.03	124.59
Kauai	22.46	13.23	1.6977	95.72	162.50
Maui	20.39	13.23	1.5412	89.05	137.24
Guam	42.26	13.23	3.1943	90.95	290.52
Puerto Rico	54.33	13.23	4.1066	66.85	274.52
St. Croix	57.27	13.23	4.3288	90.26	390.72
St. Thomas	51.90	13.23	3.9229	95.78	375.74

*Use data available only for Hawaii County.

6.3.3 Contributions Category

The index for the Contributions Category is the Goods and Services Component index for the area. The use of the Goods and Services index is based on the assumption that the relative level of contributions is roughly equivalent to that reflected by the Goods and Services index.

6.3.4 Personal Insurance and Retirement Category

The index for personal insurance and retirement contributions and investments is assumed to be constant among areas. The cost of Federal Employees Group Life Insurance is a matter of personal preference and is constant in all areas for the same age, salary, and benefit option combinations. Likewise, retirement contributions are a matter of personal preference, and the minimum contribution requirements are constant among areas for equivalent salary levels.

6.4 Miscellaneous Expense Analyses

As with the Goods and Services Component, the indexes for each of the Miscellaneous Component categories were combined using CES weights to produce component indexes by income level for each area. These indexes are shown in Appendix 20. Section 2.6 describes how the miscellaneous expense component indexes are combined with the other component indexes to derive the final index for each area.

7. Final Results

7.1 Total Comparative Cost Indexes

The total comparative cost indexes appear below. Appendix 22 shows how each index was derived from the component indexes.

TABLE 7–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
Anchorage, Alaska	102.93
Fairbanks, Alaska	107.57
Juneau, Alaska	111.54
The rest of Alaska	126.64
City and County of Honolulu, Hawaii	126.78
Hawaii County, Hawaii	110.85
Kauai County, Hawaii	114.92
Maui County, Hawaii	118.84
Guam/CNMI*, Local Retail	121.77
Guam/CNMI, Commissary/Exchange	118.23
Puerto Rico	105.42
U.S. Virgin Islands	119.09

*CNMI=Commonwealth of the Northern Mariana Islands

APPENDIX 1.—PUBLICATION IN THE FEDERAL REGISTER OF RESULTS OF NONFOREIGN AREA LIVING-COST SURVEYS: 1990–1997

Citation	Title	Contents
56 FR 7902	Office of Personnel Management: Cost-of-Living Allowances and Post Differentials (Nonforeign Areas).	Results of summer 1990 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
57 FR 58556	Office of Personnel Management: Report on 1991/1992 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1991 and winter 1992 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 45558	Office of Personnel Management: Report on 1992/1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1992 and winter 1993 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 27316	Office of Personnel Management: Report on Summer 1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1993 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
59 FR 45066	Office of Personnel Management: Report on Winter 1994 Surveys Used to Determine Cost-of-Living Allowances in Alaska.	Results of winter 1994 living-cost surveys conducted in Alaska.
60 FR 61332	Office of Personnel Management: Report on Summer 1994 Surveys Used to Determine Cost-of-Living Allowances in Selected Nonforeign Areas.	Results of summer 1994 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
61 FR 4070	Office of Personnel Management: Report on Winter 1995 Surveys Used to Determine Cost-of-Living Allowances in Alaska.	Results of winter 1995 living-cost surveys conducted in Alaska.

APPENDIX 1.—PUBLICATION IN THE FEDERAL REGISTER OF RESULTS OF NONFOREIGN AREA LIVING-COST SURVEYS: 1990–1997—Continued

Citation	Title	Contents
62 FR 14190	Office of Personnel Management: Report on 1996 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of 1996 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.

APPENDIX 2.—MULTIPLE SURVEY AREAS:1997 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location	1994	1995	1996	Average	Weights
Hawaii County					
Hilo	310	304	308	307	75.99
Kona	99	97	96	97	24.01
Total	.....	.....	.....	404	100.00
Virgin Islands					
St. Croix	151	154	166	157	48.76
St. Thomas/St. John	166	160	170	165	51.24
Total	.....	.....	.....	322	100.00

MULTIPLE INCOME LEVELS: 1997 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1994	1995	1996	Average	Weights
Anchorage:					
Lower	1,609	1,540	1,445	1,531	26.11
Middle	1,971	1,754	1,719	1,815	30.95
Upper	2,583	2,522	2,448	2,518	42.94
Totals	.....	.....	.....	5,864	100.00
Fairbanks:					
Lower	444	388	449	427	33.54
Middle	442	446	456	448	35.19
Upper	392	405	397	398	31.26
Totals	.....	.....	.....	1,273	99.99
Juneau:					
Lower	145	139	126	137	19.77
Middle	220	203	199	207	29.87
Upper	360	341	346	349	50.36
Totals	.....	.....	.....	693	100.00
Rest of Alaska:					
Lower	414	349	363	375	24.32
Middle	722	703	687	704	45.65
Upper	445	481	462	463	30.03
Totals	.....	.....	.....	1,542	100.00
Honolulu:					
Lower	4,239	4,140	4,453	4,277	33.20
Middle	4,171	3,952	4,009	4,044	31.40
Upper	4,689	4,514	4,476	4,560	35.40
Totals	.....	.....	.....	12,881	100.00
Hawaii:					
Lower	165	139	152	152	37.16
Middle	154	164	163	160	39.12
Upper	91	98	101	97	23.72
Totals	.....	.....	.....	409	100.00
Kauai:					
Lower	81	73	59	71	29.10
Middle	84	76	80	80	32.79
Upper	89	97	92	93	38.11
Totals	.....	.....	.....	244	100.00

MULTIPLE INCOME LEVELS: 1997 SURVEY—Continued

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1994	1995	1996	Average	Weights
Maui:					
Lower	39	35	35	36	24.66
Middle	56	59	62	59	40.41
Upper	51	51	51	51	34.93
Totals	.....	.....	.....	146	100.00
Guam/CNMI:					
Lower	1,060	947	873	960	46.00
Middle	681	669	640	663	31.77
Upper	498	464	430	464	22.23
Totals	.....	.....	.....	2,087	100.00
Puerto Rico:					
Lower	2,428	2,370	2,281	2,360	40.42
Middle	2,184	2,166	2,177	2,176	37.27
Upper	1,321	1,303	1,286	1,303	22.32
Totals	.....	.....	.....	5,839	100.01
Virgin Islands:					
Lower	114	98	123	112	34.67
Middle	128	133	137	133	41.18
Upper	75	83	76	78	24.15
Totals	.....	.....	.....	323	100.00

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Average Before Tax Income	33,854.00	36,838.00	36,948.00	35,880.00
Average annual expenditures	30,527.49	32,762.99	33,610.38	32,300.29
Food	4,358.56	4,526.94	4,690.51	4,525.34
Food at home	2,684.35	2,764.21	2,885.98	2,778.18
Cereals and bakery products	418.15	439.36	454.64	437.38
Cereals and cereal products	144.15	166.94	169.16	160.08
Flour	7.21	7.93	8.93	8.02
Prepared flour mixes	13.62	13.20	13.29	13.37
Ready–to–eat and cooked cereals	88.39	102.02	99.83	96.75
Rice	12.67	15.47	19.43	15.86
Pasta, cornmeal and other cereal products	22.27	28.32	27.68	26.09
Bakery products	274.00	272.42	285.49	277.30
Bread	77.58	77.20	78.18	77.65
White bread	38.04	38.02	38.37	38.14
Bread, other than white	39.54	39.17	39.81	39.51
Crackers and cookies	67.10	64.36	70.09	67.18
Cookies	40.75	43.78	46.76	43.76
Crackers	26.34	20.58	23.33	23.42
Frozen and refrigerated bakery products	21.06	22.16	22.42	21.88
Other bakery products	108.27	108.70	114.79	110.59
Biscuits and rolls	35.55	37.26	39.48	37.43
Cakes and cupcakes	31.67	31.12	36.15	32.98
Bread and cracker products	4.70	4.68	4.45	4.61
Sweetrolls, coffee cakes, doughnuts	24.93	23.08	21.57	23.19
Pies, tarts, turnovers	11.41	12.55	13.14	12.37
Meats, poultry, fish, and eggs	687.17	728.89	758.30	724.79
Beef	210.36	226.73	232.15	223.08
Ground beef	87.67	89.79	87.81	88.42
Roast	37.74	37.79	40.70	38.74
Chuck roast	13.48	12.10	12.54	12.71
Round roast	12.96	14.18	13.55	13.56
Other roast	11.30	11.51	14.62	12.48
Steak	69.00	85.81	87.57	80.79
Round steak	14.63	16.44	18.92	16.66
Sirloin steak	17.72	24.09	22.70	21.50
Other steak	36.65	45.28	45.95	42.63
Other beef	15.95	13.34	16.06	15.12
Pork	155.56	154.66	157.51	155.91
Bacon	20.47	23.01	20.26	21.25

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Pork chops	34.88	37.47	39.03	37.13
Ham	42.73	36.74	38.51	39.33
Ham, not canned	38.98	33.91	36.23	36.37
Canned ham	3.75	2.84	2.28	2.96
Sausage	23.29	22.63	21.35	22.42
Other pork	34.19	34.80	38.36	35.78
Other meats	94.58	94.34	105.31	98.08
Frankfurters	21.19	19.13	22.78	21.03
Lunch meats (cold cuts)	63.56	65.67	71.55	66.93
Bologna, liverwurst, salami	22.91	23.25	25.15	23.77
Other lunch meats	40.65	42.41	46.40	43.15
Lamb, organ meats and others	9.84	9.54	10.98	10.12
Lamb and organ meats	8.74	9.31	8.92	8.99
Mutton, goat and game	1.10	0.24	2.06	1.13
Poultry	123.39	135.32	136.43	131.71
Fresh and frozen chickens	91.28	107.49	105.79	101.52
Fresh whole chicken	19.61	NA	NA	NA
Fresh and frozen whole chicken	NA	29.05	28.37	25.68
Fresh and frozen chicken parts	71.67	78.44	77.43	75.85
Other poultry, incl. whole frozen chickens	32.10	NA	NA	NA
Other poultry	NA	27.83	30.64	30.19
Fish and seafood	74.99	87.13	95.34	85.82
Canned fish and seafood	17.46	15.60	17.95	17.00
Fresh and frozen shellfish	21.36	NA	NA	21.36
Fresh and frozen finfish	36.17	NA	NA	36.17
Fresh fish and shellfish	NA	48.29	50.11	49.20
Frozen fish and shellfish	NA	23.23	27.28	25.26
Eggs	28.30	30.72	31.55	30.19
Dairy products	307.10	297.87	311.48	305.48
Fresh milk and cream	136.59	131.98	129.41	132.66
Whole milk	47.69	NA	NA	NA
Other milk and cream	88.90	NA	NA	NA
Fresh milk, all types	NA	123.44	119.84	121.64
Cream	NA	8.55	9.56	9.06
Other dairy products	170.52	165.88	182.07	172.82
Butter	9.71	11.78	13.03	11.51
Cheese	87.72	84.78	93.13	88.54
Ice cream and related products	51.93	48.15	53.06	51.05
Miscellaneous dairy products	21.16	21.17	22.85	21.73
Fruits and vegetables	435.20	446.10	467.45	449.58
Fresh fruits	129.17	135.12	148.22	137.50
Apples	26.64	25.34	29.98	27.32
Bananas	26.48	30.25	31.09	29.27
Oranges	13.23	16.05	16.21	15.16
Other fresh fruits	62.82	63.49	70.94	65.75
Fresh vegetables	127.84	138.99	140.83	135.89
Potatoes	24.56	28.24	28.75	27.18
Lettuce	16.33	17.65	18.31	17.43
Tomatoes	19.85	21.59	21.89	21.11
Other fresh vegetables	67.10	71.52	71.89	70.17
Processed fruits	102.67	95.31	96.98	98.32
Frozen fruits and fruit juices	21.35	16.38	17.35	18.36
Frozen orange juice	13.34	9.57	9.19	10.70
Other frozen fruits and juices	8.01	6.81	8.15	7.66
Canned and dried fruits	23.48	21.11	20.11	21.57
Fresh, canned or bottled fruit juices	57.83	57.83	59.52	58.39
Processed vegetables	75.53	76.68	81.42	77.88
Frozen vegetables	25.46	24.78	29.55	26.60
Canned and dried vegetables and juices	50.07	51.90	51.88	51.28
Canned beans	10.09	10.61	11.26	10.65
Canned corn	7.40	6.99	6.80	7.06
Other canned and dried veg. and juices	32.59	34.30	33.80	33.56
Other food at home	836.73	851.99	894.10	860.94
Sugar and other sweets	106.24	110.67	119.49	112.13
Candy and chewing gum	62.86	66.52	73.02	67.47
Sugar	18.12	18.30	17.88	18.10
Artificial sweeteners	3.24	3.57	4.56	3.79
Jams, preserves, other sweets	22.02	22.28	24.02	22.77
Fats and oils	73.79	80.76	83.63	79.39

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Margarine	14.56	14.68	13.13	14.12
Other fats, oils, and salad dressing	40.94	47.48	51.88	46.77
Nondairy cream and imitation milk	6.75	6.71	6.96	6.81
Peanut butter	11.53	11.89	11.66	11.69
Miscellaneous foods	393.26	369.77	394.39	385.81
Frozen prepared foods	73.99	65.79	69.94	69.91
Frozen meals	22.99	20.54	21.71	21.75
Other frozen prepared foods	51.01	45.25	48.22	48.16
Canned and packaged soups	25.44	30.21	31.92	29.19
Potato chips, nuts, and other snacks	78.63	75.91	84.32	79.62
Potato chips and other snacks	62.34	59.81	65.63	62.59
Nuts	16.29	16.10	18.69	17.03
Condiments and seasonings	90.44	82.47	89.18	87.36
Salt, spices, other seasonings	20.79	19.68	20.55	20.34
Olives, pickles, relishes	10.82	10.76	10.13	10.57
Sauces and gravies	43.55	38.05	41.78	41.13
Baking needs and misc. products	15.29	13.98	16.71	15.33
Other canned and packaged prepared foods	124.75	115.39	119.03	119.72
Salads and desserts	20.42	19.30	23.19	20.97
Baby food	24.11	27.68	25.42	25.74
Miscellaneous prepared foods	80.22	68.41	70.42	73.02
Nonalcoholic beverages	219.33	241.81	250.31	237.15
Cola	86.71	93.27	94.76	91.58
Other carbonated drinks	40.41	40.20	43.28	41.30
Coffee	40.13	43.29	47.76	43.73
Roasted coffee	24.56	29.20	32.11	28.62
Instant and freeze dried coffee	15.57	14.09	15.65	15.10
Noncarbonated fruit flavored drinks	20.15	NA	NA	NA
Noncarbonated fruit flavored drinks, inc. non–frozen lemonade	NA	23.02	25.18	22.78
Tea	14.26	16.75	16.01	15.67
Nonalcoholic beer	NA	0.76	1.17	0.97
Other nonalcoholic beverages	17.68	24.52	22.13	21.44
Food prepared by consumer unit on out–of–town trips	44.12	48.98	46.29	46.46
Food away from home	1,674.21	1,762.72	1,804.53	1,747.15
Meals at restaurants, carry–outs and other	1,344.40	1,363.26	1,426.22	1,377.96
Lunch	476.89	475.88	499.50	484.09
Dinner	619.67	668.88	691.44	660.00
Snacks and nonalcoholic beverages	141.35	110.46	126.30	126.04
Breakfast and brunch	106.49	108.05	108.98	107.84
Board (including at school)	46.92	50.40	58.40	51.91
Catered affairs	40.77	55.38	37.05	44.40
Food on out–of–town trips	167.14	213.45	204.85	195.15
School lunches	47.40	54.93	49.47	50.60
Meals as pay	27.58	25.30	28.53	27.14
Alcoholic beverages	321.12	296.57	301.83	306.51
At home	177.01	175.40	179.33	177.25
Beer and ale	99.54	108.74	94.20	100.83
Whiskey	14.23	14.25	12.83	13.77
Wine	43.11	36.06	54.77	44.65
Other alcoholic beverages	20.13	16.36	17.53	18.01
Away from home	144.11	121.17	122.51	129.26
Beer and ale	48.77	42.50	36.61	42.63
Wine	22.95	16.74	22.55	20.75
Other alcoholic beverages	47.06	30.22	33.33	36.87
Alcoholic beverages purchased on trips	25.34	31.71	30.02	29.02
Housing	9,528.41	10,189.41	10,576.98	10,098.27
Shelter	5,431.78	5,695.83	5,912.61	5,680.07
Owned dwellings	3,307.24	3,464.04	3,750.08	3,507.12
Mortgage interest and charges	1,984.40	1,925.26	2,120.77	2,010.14
Mortgage interest	1,856.78	1,825.30	1,997.99	1,893.36
Interest paid, home equity loan	63.99	44.67	56.26	54.97
Interest paid, home equity line of credit	63.32	54.73	66.06	61.37
Prepayment penalty charges	0.31	0.56	0.46	0.44
Property taxes	760.97	879.41	909.28	849.89
Maintenance, repairs, insurance, other expenses	561.86	659.37	720.02	647.08
Homeowners and related insurance	176.37	209.07	224.86	203.43
Fire and extended coverage	5.02	6.34	7.31	6.22
Homeowners insurance	171.35	202.73	217.55	197.21
Ground rent	33.40	40.26	33.61	35.76

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Maintenance and repair services	268.09	312.65	366.16	315.63
Painting and papering	37.27	43.27	38.26	39.60
Plumbing and water heating	34.02	36.45	32.01	34.16
Heat, a/c, electrical work	53.14	55.08	75.83	61.35
Roofing and gutters	40.98	48.91	66.13	52.01
Other repair and maintenance services (old)	91.16	NA	NA	NA
Other repair and maintenance services	NA	112.39	136.51	113.35
Repair and replacement of hard surface flooring	10.16	14.76	15.56	13.49
Repair of built–in appliances	1.36	1.78	1.86	1.67
Maintenance and repair commodities	63.89	75.59	70.72	70.07
Paints, wallpaper and supplies	16.50	18.95	19.73	18.39
Tools and equipment for painting and wallpapering	1.77	2.04	2.12	1.98
Plumbing supplies and equipment	5.96	8.57	7.42	7.32
Electrical supplies, heating and cooling equipment	7.13	5.86	4.97	5.99
Materials for hard surface flooring, repair/replacement	3.13	5.08	3.33	3.85
Materials and equipment for roof and gutters	6.20	5.94	4.96	5.70
Materials for plaster, paneling, siding, doors, etc.	7.29	12.78	10.72	10.26
Materials for patio, walk, fence, driveway, etc.	0.67	0.52	0.59	0.59
Materials for landscaping maintenance	1.15	1.48	1.66	1.43
Miscellaneous supplies and equipment	14.08	14.37	15.22	14.56
Material for insulation, other maint., and repair	7.84	10.19	11.05	9.69
Materials to finish basements, remodeling, etc.	6.24	4.18	4.17	4.86
Property management and security	20.12	21.59	24.67	22.13
Property management	13.24	12.78	18.44	14.82
Management and upkeep services for security	6.88	8.81	6.22	7.30
Parking	NA	0.21	0.00	0.11
Rented dwellings	1,787.19	1,828.52	1,786.70	1,800.80
Rent	1,714.30	1,755.05	1,716.57	1,728.64
Rent as pay	37.09	42.31	48.19	42.53
Maintenance, insurance and other expenses	35.80	31.16	21.94	29.63
Tenant's insurance	9.16	9.65	7.50	8.77
Maintenance and repair services	11.88	11.56	5.29	9.58
Repair or maintenance services (old)	11.52	NA	NA	NA
Repair or maintenance services	NA	10.37	4.97	8.95
Repair and replacement of hard surface flooring	0.29	1.05	0.25	0.53
Repair of built–in appliances	0.07	0.13	0.07	0.09
Maintenance and repair commodities	14.76	9.95	9.15	11.29
Paint, wallpaper, and supplies	1.70	2.09	1.62	1.80
Tools and equipment for painting and wallpapering	0.18	0.22	0.17	0.19
Materials for plastering, panels, roofing, gutters, etc	2.86	1.23	0.87	1.65
Materials for patio, walk, fence, driveway, etc.	0.04	0.09	0.04	0.06
Plumbing supplies and equipment	0.55	0.70	1.35	0.87
Electrical supplies, heating and cooling equipment	0.26	1.36	0.37	0.66
Miscellaneous supplies and equipment	7.71	3.41	4.00	5.04
Material for insulation, other maintenance and repair	1.51	1.13	1.51	1.38
Termite and pest control (capital improvement)	NA	NA	0.00	0.00
Materials for additions, finishing basements, etc.	5.90	1.67	2.44	3.34
Construction materials for jobs not started	0.30	0.61	0.04	0.32
Material for hard surface flooring	0.90	0.54	0.27	0.57
Material for landscape maintenance	0.55	0.31	0.47	0.44
Other lodging	337.35	403.28	375.83	372.15
Owned vacation homes	115.29	122.14	110.00	115.81
Mortgage interest and charges	54.55	43.30	38.31	45.39
Mortgage interest	50.60	39.56	36.36	42.17
Interest paid, home equity loan	1.06	0.43	0.15	0.55
Interest paid, home equity line of credit	2.88	3.31	1.80	2.66
Prepayment penalty charge	NA	NA	NA	NA
Property taxes	42.04	51.02	48.11	47.06
Maintenance, insurance, and other expenses	18.70	27.82	23.58	23.37
Homeowners and related insurance	4.10	7.66	5.66	5.81
Homeowners insurance	3.86	7.35	5.53	5.58
Fire and extended coverage	0.24	0.31	0.14	0.23
Ground rent	1.75	3.62	2.15	2.51
Maintenance and repair services	7.53	11.87	11.13	10.18
Repair and remodeling services (old)	7.39	NA	NA	NA
Repair and remodeling services	NA	11.40	11.07	9.95
Repair and replacement of hard surface flooring	0.15	0.47	0.06	0.23
Maintenance and repair commodities	1.97	1.35	2.35	1.89
Paints, wallpaper, supplies	1.31	0.16	0.58	0.68

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Tools and equipment for painting and wallpapering	0.14	0.02	0.06	0.07
Materials for plaster., panel., roof., gutters, etc.	0.07	0.10	0.51	0.23
Material for patio, walk, fence, drive, masonry, etc.	0.01	NA	NA	0.01
Plumbing supplies and equipment	0.32	0.05	0.07	0.15
Electrical supplies, heating and cooling equipment	0.03	NA	NA	0.03
Miscellaneous supplies and equipment	0.09	0.99	0.29	0.46
Material for insulation, other maintenance and repair	0.09	0.99	0.29	0.46
Material for finishing basements & remodeling rooms	NA	NA	NA	0.00
Materials for hard surface flooring	NA	0.03	0.84	0.44
Materials for landscaping maintenance	NA	NA	NA	0.00
Property management and security	3.35	3.27	2.28	2.97
Property management	2.25	2.36	1.51	2.04
Management and upkeep services for security	1.10	0.91	0.77	0.93
Parking	NA	0.06	NA	0.06
Housing while attending school	54.71	59.54	56.69	56.98
Lodging on out–of–town trips	167.34	221.60	209.14	199.36
Utilities, fuels, and public services	1,962.49	2,170.32	2,180.19	2,104.33
Natural gas	246.97	280.09	268.59	265.22
Utility—natural gas (renter).	55.98	60.54	60.43	58.98
Utility—natural gas (owned home)	189.86	216.97	206.77	204.53
Utility—natural gas (owned vacation)	1.07	2.53	1.25	1.62
Utility—natural gas (rented vacation)	0.06	0.05	0.14	0.08
Electricity	770.65	846.21	854.21	823.69
Electricity (renter)	201.59	207.80	201.80	203.73
Electricity (owned home)	562.26	630.39	643.72	612.12
Electricity (owned vacation)	6.59	7.36	7.78	7.24
Electricity (rented vacation).	0.20	0.65	0.92	0.59
Fuel oil and other fuels	93.93	98.11	85.56	92.53
Fuel oil	55.61	59.27	48.19	54.36
Fuel oil (renter)	7.00	6.49	3.92	5.80
Fuel oil (owned home)	48.25	52.38	43.76	48.13
Fuel oil (owned vacation)	0.36	0.40	0.47	0.41
Fuel oil (rented vacation)	NA	NA	0.04	0.04
Coal	2.50	1.66	2.47	2.21
Coal (renter)	0.05	0.55	0.10	0.23
Coal (owned home)	2.44	1.12	2.37	1.98
Coal (owned vacation)	0.02	NA	NA	0.02
Coal (rented vacation)	NA	NA	NA	0.00
Bottled gas	27.18	30.68	28.71	28.86
Gas, btld/tank (renter)	4.79	4.19	4.12	4.37
Gas, btld/tank (owned home).	20.75	23.43	21.80	21.99
Gas, btld/tank (owned vacation)	1.64	3.03	2.78	2.48
Gas, btld/tank (rented vacation)	NA	0.04	0.02	0.03
Wood and other fuels	8.64	6.49	6.19	7.11
Wood/other fuels (renter)	1.59	0.61	0.80	1.00
Wood/other fuels (owned home)	6.71	5.81	5.36	5.96
Wood/other fuels (owned vacation)	0.34	0.06	0.04	0.15
Wood/other fuels (rented vacation)	NA	NA	NA	0.00
Telephone services	619.87	688.52	709.69	672.69
Telephone (old)	0.00	NA	NA	NA
Telephone services in home city, excluding car phones	619.87	674.31	683.24	659.14
Telephone services for mobile car phones	NA	14.21	26.45	20.33
Water and other public services	231.08	257.41	262.14	250.21
Water and sewerage maintenance	160.22	182.67	188.59	177.16
Water/sewer maint. (renter)	24.38	26.75	26.25	25.79
Water/sewer maint. (owned home)	133.69	154.37	160.72	149.59
Water/sewer maint. (owned vacation)	2.10	1.50	1.47	1.69
Water/sewer maint. (rented vacation)	0.05	0.04	0.16	0.08
Trash and garbage collection	69.38	73.48	71.56	71.47
Trash/garb. coll. (renter)	7.37	9.37	8.40	8.38
Trash/garb. coll. (owned home)	59.92	62.61	62.16	61.56
Trash/garb. coll. (owned vacation)	2.09	1.45	0.96	1.50
Trash/garb. coll. (rented vacation)	0.01	0.04	0.05	0.03
Septic tank cleaning	1.47	1.26	1.99	1.57
Septic tank clean. (renter)	0.11	0.01	0.02	0.05
Septic tank clean. (owned home)	1.29	1.23	1.88	1.47
Septic tank clean. (owned vacation)	0.07	NA	0.08	0.08
Septic tank clean. (rented vacation)	NA	0.01	NA	0.01
Household operations	487.20	499.86	517.87	501.64

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Personal services	253.05	240.70	263.71	252.49
Babysitting	85.92	81.17	78.64	81.91
Care for elderly, invalids, handicapped, etc	43.92	19.24	32.74	31.97
Day–care centers, nursery, and preschools	123.21	140.29	152.33	138.61
Other household expenses	234.15	259.16	254.16	249.16
Housekeeping services	71.70	82.83	86.51	80.35
Gardening, lawn care service	64.99	69.73	63.82	66.18
Water softening service	3.28	2.65	3.12	3.02
Household laundry, dry cleaning, sent out (nonclothing)	2.32	1.79	1.78	1.96
Coin–operated laundry and dry cleaning (nonclothing)	5.58	5.40	4.72	5.23
Services for termite/pest control maintenance	NA	7.46	12.01	9.73
Other home services	18.38	20.11	16.38	18.29
Termite/pest control products	0.29	0.29	0.13	0.24
Moving, storage, freight express	24.37	27.54	27.59	26.50
Appliance repair, including service center	15.88	15.24	15.45	15.52
Reupholstering, furniture repair	18.56	11.03	11.54	13.71
Repair/rental of lawn/garden equipment, tools, etc.	3.74	9.20	5.85	6.26
Appliance rental	1.86	1.55	1.76	1.72
Rental of office equipment for nonbusiness use	0.13	0.31	0.35	0.26
Repair of misc. household equipment and furnishings	1.89	2.46	1.98	2.11
Repair of computer systems for nonbusiness use	1.19	1.57	1.18	1.31
Rental/installation of dishwashers, range hoods, etc.	NA	NA	NA	0.00
Housekeeping supplies	462.61	424.30	465.39	450.77
Laundry and cleaning supplies	123.97	117.94	117.93	119.95
Soaps and detergents	70.41	66.49	66.92	67.94
Other laundry cleaning products	53.56	51.45	51.00	52.00
Other household products	211.79	187.75	207.85	202.46
Cleansing and toilet tissue, paper towels and napkins	60.52	60.17	65.62	62.10
Miscellaneous household products	94.75	80.66	74.41	83.27
Lawn and garden supplies	56.52	46.92	67.82	57.09
Postage and stationery	126.85	118.61	139.62	128.36
Stationery, stationery supplies, giftwraps	62.59	62.86	68.49	64.65
Postage	64.26	55.74	71.12	63.71
Household furnishings and equipment	1,184.33	1,399.10	1,500.92	1,361.45
Household textiles	94.56	106.15	107.85	102.85
Bathroom linens	15.62	13.89	17.82	15.78
Bedroom linens	43.17	52.67	47.70	47.85
Kitchen and dining room linens	7.84	7.27	9.73	8.28
Curtains and draperies	19.11	19.08	18.51	18.90
Slipcovers, decorative pillows	1.42	2.08	1.38	1.63
Sewing material for slipcovers, curtains, etc.	6.54	10.11	11.54	9.40
Other linens	0.86	1.04	1.18	1.03
Furniture	316.15	323.70	320.03	319.96
Mattress and springs	38.97	44.00	41.99	41.65
Other bedroom furniture	57.57	53.64	52.39	54.53
Sofas	70.67	76.89	69.70	72.42
Living room chairs	30.70	34.47	35.69	33.62
Living room tables	17.63	14.27	17.12	16.34
Kitchen, dining room furniture	42.37	49.61	48.99	46.99
Infants' furniture	6.74	6.04	6.46	6.41
Outdoor furniture	11.02	12.29	10.46	11.26
Occasional furniture	40.48	32.50	37.23	36.74
Floor coverings	61.08	131.65	211.89	134.87
Wall–to–wall carpeting (renter)	2.57	2.50	4.40	3.16
Wall–to–wall carpet, installed (renter)	2.05	2.12	3.79	2.65
Wall–to–wall carpet, not installed carpet squares (renter)	0.52	0.38	0.61	0.50
Wall–to–wall carpet (replacement) (owned home)	29.06	34.44	33.43	32.31
Wall–to–wall carpet, not installed, carpet squares (owner)	1.89	1.81	2.20	1.97
Wall–to–wall carpet, installed (replacement) (owner)	27.17	32.63	31.24	30.35
Room size rugs and other floor covering, nonpermanent	29.45	94.72	174.05	99.41
Major appliances	144.89	152.32	155.56	150.92
Dishwashers (built–in), garbage disposals, etc. (renter)	0.16	0.75	1.00	0.64
Dishwashers (built–in), garbage disposals, etc. (owner)	7.21	10.97	9.72	9.30
Refrigerators, freezers (renter)	8.38	6.90	6.34	7.21
Refrigerators, freezers (owned home)	33.30	38.91	41.01	37.74
Washing machines (renter)	6.28	6.05	4.51	5.61
Washing machines (owned home).	15.85	14.39	15.37	15.20
Clothes dryers (renter)	3.35	4.04	2.99	3.46
Clothes dryers (owned home)	9.78	9.31	11.07	10.05

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Cooking stoves, ovens (renter)	3.11	2.42	2.79	2.77
Cooking stoves, ovens (owned home)	14.81	22.97	18.73	18.84
Microwave ovens (renter)	3.09	3.35	3.29	3.24
Microwave ovens (owned home)	4.74	6.48	5.74	5.65
Portable dishwasher (renter)	0.11	0.08	0.21	0.13
Portable dishwasher (owned home)	1.15	0.49	0.64	0.76
Window air conditioners (renter)	1.18	2.83	3.08	2.36
Window air conditioners (owned home)	3.31	3.93	9.56	5.60
Electric floor cleaning equipment	13.63	13.92	13.86	13.80
Sewing machines	5.15	2.92	4.88	4.32
Miscellaneous household appliances	10.29	1.61	0.75	4.22
Small appliances, miscellaneous housewares	86.46	85.73	90.94	87.71
Housewares	62.47	60.60	67.05	63.37
Plastic dinnerware	1.61	1.60	1.69	1.63
China and other dinnerware	11.60	11.63	12.23	11.82
Flatware	3.97	5.16	4.46	4.53
Glassware	13.59	8.14	7.26	9.66
Silver serving pieces	1.35	1.31	2.20	1.62
Other serving pieces	1.59	1.63	1.26	1.49
Nonelectric cookware	11.66	15.22	16.70	14.53
Tableware, nonelectric kitchenware	17.08	15.92	21.25	18.08
Small appliances	23.99	25.13	23.90	24.34
Small electric kitchen appliances	18.75	18.19	16.55	17.83
Portable heating and cooling equipment	5.23	6.94	7.34	6.50
Miscellaneous household equipment	481.19	599.55	614.64	565.13
Window coverings	17.37	14.48	11.21	14.35
Infants' equipment	5.52	7.46	8.08	7.02
Laundry and cleaning equip.	10.99	11.25	12.49	11.58
Outdoor equipment	4.83	5.48	4.61	4.97
Clocks	3.38	5.32	3.28	3.99
Lamps and lighting fixtures	26.10	36.98	33.94	32.34
Other household decorative items	111.16	119.06	158.39	129.54
Telephones and accessories	20.55	38.10	16.02	24.89
Lawn and garden equipment	43.15	53.17	44.68	47.00
Power tools	16.15	13.51	16.39	15.35
Small miscellaneous furnishings	1.15	1.88	2.64	1.89
Hand tools	14.07	9.88	11.98	11.98
Indoor plants, fresh flowers	53.49	52.70	49.20	51.80
Closet and storage items	12.21	8.33	8.09	9.54
Rental of furniture	3.67	4.53	3.62	3.94
Luggage	7.04	8.00	10.25	8.43
Computers and computer hardware nonbusiness use	63.66	115.01	145.69	108.12
Computer software/accessories for nonbusiness use	9.48	20.05	19.51	16.35
Telephone answering devices	4.64	3.95	3.74	4.11
Calculators	1.57	2.35	2.10	2.01
Business equipment for home use	4.23	4.75	4.63	4.54
Other hardware	13.74	25.27	16.69	18.57
Smoke alarms (owned home)	0.47	0.86	1.32	0.88
Smoke alarms (renter)	0.06	0.15	0.18	0.13
Smoke alarms (owned vacation)	NA	NA	NA	0.00
Other household appliances (owned home)	4.40	6.69	4.94	5.34
Other household appliances (renter)	0.99	1.36	1.10	1.15
Miscellaneous household equipment and parts	27.08	28.95	19.90	25.31
Apparel and services	1,732.90	1,688.22	1,770.53	1,730.55
Men and boys	436.86	418.74	437.23	430.94
Men, 16 and over	353.05	320.76	339.22	337.68
Men's suits	43.98	32.42	33.44	36.61
Men's sportcoats, tailored jackets	12.04	13.87	13.43	13.11
Men's coats and jackets	26.12	29.56	31.87	29.18
Men's underwear	14.13	12.90	19.04	15.36
Men's hosiery	13.73	10.30	14.66	12.90
Men's nightwear	5.84	2.73	3.93	4.17
Men's accessories	33.64	29.43	32.09	31.72
Men's sweaters and vests	13.11	14.23	12.51	13.28
Men's active sportswear	11.96	11.96	10.37	11.43
Men's shirts	87.25	79.19	78.33	81.59
Men's pants	70.18	62.55	65.60	66.11
Men's shorts, shorts sets	16.40	15.91	18.79	17.03
Men's uniforms	3.70	3.35	4.01	3.69

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Men's costumes	0.98	2.34	1.14	1.49
Boys, 2 to 15	83.82	97.98	98.01	93.27
Boys' coats and jackets	5.73	6.61	11.14	7.83
Boys' sweaters	2.70	2.76	1.94	2.47
Boys' shirts	19.50	21.53	21.66	20.90
Boys' underwear	4.89	4.57	5.52	4.99
Boys' nightwear	2.83	2.13	0.81	1.92
Boys' hosiery	4.26	3.75	4.69	4.23
Boys' accessories	5.19	7.57	5.72	6.16
Boys' suits, sportcoats, vests	2.13	6.10	3.30	3.84
Boys' pants	19.41	21.77	23.82	21.67
Boys' shorts, shorts sets	9.03	12.15	12.16	11.11
Boys' uniforms, active sportswear	7.30	7.76	6.45	7.17
Boys' costumes	0.85	1.30	0.81	0.99
Women and girls	703.40	653.73	694.23	683.79
Women, 16 and over	607.23	552.35	591.01	583.53
Women's coats and jackets	58.80	49.54	45.93	51.42
Women's dresses	89.96	81.37	93.51	88.28
Women's sportcoats, tailored jackets	3.90	4.15	4.49	4.18
Women's vests and sweaters	40.43	32.73	31.47	34.88
Women's shirts, tops, blouses	106.20	96.49	106.16	102.95
Women's skirts	21.52	19.13	22.83	21.16
Women's pants	79.18	58.46	72.07	69.90
Women's shorts, shorts sets	23.33	23.01	25.21	23.85
Women's active sportswear	32.91	24.30	29.46	28.89
Women's sleepwear	25.33	24.72	22.66	24.24
Women's undergarments	33.13	24.46	31.17	29.59
Women's hosiery	25.01	25.02	21.93	23.99
Women's suits	30.71	37.27	33.78	33.92
Women's accessories	33.98	49.54	46.86	43.46
Women's uniforms	1.82	0.42	2.00	1.41
Women's costumes	1.01	1.73	1.48	1.41
Girls, 2 to 15	96.17	101.38	103.22	100.26
Girls' coats and jackets	7.65	7.23	6.84	7.24
Girls' dresses, suits	13.23	13.99	13.73	13.65
Girls' shirts, blouses, sweaters	22.42	25.48	20.64	22.85
Girls' skirts and pants	14.87	16.06	17.94	16.29
Girls' shorts, shorts sets	9.83	9.07	9.98	9.63
Girls' active sportswear	8.41	6.56	12.65	9.21
Girls' underwear and sleepwear	6.26	7.49	7.67	7.14
Girls' hosiery	5.05	5.82	4.87	5.25
Girls' accessories	4.50	4.55	4.61	4.55
Girls' uniforms	1.86	2.15	1.94	1.98
Girls' costumes	2.08	2.98	2.35	2.47
Children under 2	80.39	83.32	83.72	82.48
Infant coat, jacket, snowsuit	3.25	2.69	3.30	3.08
Infant dresses, outerwear	20.75	22.30	23.32	22.12
Infant underwear	46.85	49.15	48.46	48.15
Infant nightwear, loungewear	4.26	3.94	3.78	3.99
Infant accessories	5.28	5.23	4.86	5.12
Infant hosiery	NA	NA	NA	0.00
Footwear	243.05	258.43	287.27	262.92
Men's footwear	73.53	84.05	103.76	87.11
Boys' footwear	31.65	34.18	28.94	31.59
Women's footwear	115.47	113.26	121.72	116.82
Girls' footwear	22.41	26.94	32.85	27.40
Other apparel products and services	269.19	274.00	268.09	270.43
Material for making clothes	8.58	7.24	5.46	7.09
Sewing patterns and notions	2.56	2.57	2.13	2.42
Watches	20.47	24.45	20.37	21.76
Jewelry	108.73	108.96	109.19	108.96
Shoe repair and other shoe service	3.47	3.16	2.88	3.17
Coin–operated apparel laundry and dry cleaning	38.61	37.33	40.94	38.96
Apparel alteration and repair	6.02	6.90	5.90	6.27
Clothing rental	3.56	3.75	3.46	3.59
Watch and jewelry repair	5.54	5.99	5.41	5.65
Apparel laundry and dry cleaning not coin operated	70.94	73.18	71.82	71.98
Clothing storage	0.71	0.47	0.52	0.57
Transportation	5,232.14	6,075.53	6,123.07	5,810.25

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Vehicle purchases (net outlay)	2,167.03	2,703.01	2,677.81	2,515.95
Cars and trucks, new	1,095.97	1,333.33	1,188.62	1,205.97
New cars	749.56	727.70	688.75	722.00
New trucks	346.42	605.63	499.87	483.97
Cars and trucks, used	1,033.39	1,320.82	1,456.39	1,270.20
Used cars	737.98	866.68	963.07	855.91
Used trucks	295.42	454.14	493.32	414.29
Other vehicles	37.66	48.85	32.80	39.77
New motorcycles	18.06	25.77	17.64	20.49
New aircraft	NA	NA	NA	0.00
Used motorcycles	9.04	23.09	15.16	15.76
Used aircraft	10.57	NA	NA	10.57
Gasoline and motor oil	972.68	989.97	1,014.48	992.38
Gasoline	868.13	877.48	904.95	883.52
Diesel fuel	9.86	9.16	10.91	9.98
Gasoline on out–of–town trips	82.43	90.64	86.11	86.39
Gasohol	NA	0.18	NA	0.18
Motor oil	11.44	11.60	11.64	11.56
Motor oil on out–of–town trips	0.83	0.92	0.87	0.87
Other vehicle expenses	1,805.62	1,989.07	2,064.09	1,952.93
Vehicle finance charges	258.96	238.49	267.24	254.90
Automobile finance charges	169.13	139.82	154.84	154.60
Truck finance charges	71.72	86.72	99.05	85.83
Motorcycle and plane finance charges	1.93	1.05	1.36	1.45
Other vehicle finance charges	16.18	10.90	11.98	13.02
Maintenance and repairs	627.51	700.79	675.26	667.85
Coolant, additives, brake, transmission fluids	6.77	6.32	5.79	6.29
Tires – purchased, replaced, installed	92.70	89.79	90.02	90.84
Parts, equipment, and accessories	75.63	111.43	64.20	83.75
Vehicle audio equipment, excluding labor	NA	5.45	10.74	8.10
Vehicle products	3.14	5.28	3.89	4.59
Misc. auto repair, servicing	20.13	33.34	36.88	30.12
Body work and painting	32.21	36.88	32.55	33.88
Clutch, transmission repair	34.71	46.56	45.07	42.11
Drive shaft and rear–end repair	7.96	5.94	6.61	6.84
Brake work	43.87	43.70	48.70	45.42
Repair to steering or front–end	15.62	18.42	20.05	18.03
Repair to engine cooling system	24.59	22.60	24.32	23.84
Motor tune–up	46.95	42.86	43.84	44.55
Lube, oil change, and oil filters	35.54	39.86	44.30	39.90
Front–end alignment, wheel balance	12.40	NA	NA	NA
Front–end alignment, wheel balance and rotation	NA	9.78	11.19	11.12
Shock absorber replacement	8.25	7.04	6.98	7.42
Brake adjustment	5.13	3.89	3.18	4.07
Gas tank repair, replacement	1.60	2.52	1.73	1.95
Repair tires and other repair work	33.63	27.94	34.28	31.95
Vehicle air conditioning repair	NA	14.87	15.01	14.94
Exhaust system repair	18.29	20.56	20.98	19.94
Electrical system repair	28.19	31.39	30.57	30.05
Motor repair, replacement	73.60	69.19	68.10	70.30
Auto repair service policy	6.60	5.17	6.27	6.01
Vehicle insurance	638.83	698.00	726.03	687.62
Vehicle rental, leases, licenses, other charges	280.31	351.79	395.56	342.55
Leased and rented vehicles	125.45	196.83	230.89	184.39
Rented vehicles	32.93	39.82	38.99	37.25
Auto rental	8.36	6.03	7.41	7.27
Auto rental, out–of–town trips	16.16	26.09	26.90	23.05
Truck rental	2.71	1.68	1.13	1.84
Truck rental, out–of–town trips	5.20	4.61	3.35	4.39
Motorcycle rental	NA	NA	NA	0.00
Aircraft rental	0.24	0.16	NA	0.20
Motorcycle rental, out–of–town trips	0.07	0.09	0.12	0.09
Aircraft rental, out–of–town trips	0.20	1.16	0.09	0.48
Leased vehicles	92.52	157.01	191.89	147.14
Car lease payments	69.08	104.24	125.21	99.51
Cash down payment (car lease)	8.22	9.84	12.91	10.32
Termination fee (car lease)	0.14	0.44	0.28	0.29
Truck lease payments	12.47	38.15	51.07	33.90
Cash down payment (truck lease)	1.52	4.30	2.13	2.65

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Termination fee (truck lease)	1.08	0.03	0.29	0.47
State and local registration	87.09	82.74	89.55	86.46
Driver's license	7.41	7.34	7.34	7.36
Vehicle inspection	9.03	8.78	9.52	9.11
Parking fees	23.01	27.47	27.86	26.11
Parking fees (old)	0.00	NA	NA	0.00
Parking fees in home city, excluding residence	20.52	24.17	24.09	22.93
Parking fees, out–of–town trips	2.49	3.30	3.77	3.19
Tolls	10.98	10.47	12.04	11.16
Tolls on out–of–town trips	4.18	4.69	4.76	4.54
Towing charges	5.02	5.37	5.11	5.17
Automobile service clubs	8.14	8.10	8.49	8.24
Public transportation	286.82	393.48	366.69	349.00
Airline fares	173.89	253.06	234.86	220.60
Intercity bus fares	10.90	11.57	14.61	12.36
Intracity mass transit fares	48.57	49.28	49.60	49.15
Local trans. on out–of–town trips	8.74	10.19	9.25	9.39
Taxi fares on trips	5.14	5.99	5.43	5.52
Taxi fares	6.46	8.23	7.61	7.43
Intercity train fares	17.38	17.13	19.01	17.84
Ship fares	14.54	36.91	25.86	25.77
School bus	1.21	1.12	0.47	0.93
Health care	1,653.66	1,768.03	1,746.75	1,722.81
Health insurance	727.65	818.43	864.44	803.51
Commercial health insurance	232.16	251.06	234.49	239.24
Blue Cross, Blue Shield	173.35	159.34	170.15	167.61
Health maintenance plans (HMO's)	90.57	127.97	150.70	123.08
Medicare payments	111.33	157.72	175.97	148.34
Commercial medicare supplements	120.24	122.35	133.13	125.24
Medical services	546.03	567.28	501.51	538.27
Physician's services	170.75	159.89	140.03	156.89
Dental services	174.32	194.50	192.07	186.96
Eyecare services	29.20	29.81	29.82	29.61
Service by professionals other than physician	32.66	32.95	38.29	34.63
Lab tests, x–rays	31.35	25.73	22.15	26.41
Hospital room	37.42	44.70	32.45	38.19
Hospital service other than room	44.63	54.60	28.76	42.66
Medical care in retirement community	NA	NA	NA	0.00
Care in convalescent or nursing home	13.48	13.21	8.79	11.83
Repair of medical equipment	NA	NA	NA	0.00
Other medical care services	12.24	11.88	9.16	11.09
Drugs	284.99	294.24	293.39	290.87
Nonprescription drugs	80.16	84.17	86.92	83.75
Prescription drugs	204.83	210.08	206.47	207.13
Medical supplies	94.98	88.07	87.41	90.15
Eyeglasses and contact lenses	57.35	54.20	55.05	55.53
Hearing aids	7.13	0.94	NA	4.04
Topicals and dressings	24.32	24.55	23.49	24.12
Medical equipment for general use	2.25	2.41	2.90	2.52
Supportive and convalescent medical equipment	2.85	3.82	4.61	3.76
Rental of medical equipment	0.35	0.72	0.34	0.47
Rental of supportive, convalescent medical equipment	0.74	1.43	1.02	1.06
Entertainment	1,525.52	1,619.28	1,687.41	1,610.74
Fees and admissions	375.11	451.13	447.26	424.50
Recreation expenses, out–of–town trips	15.32	22.00	22.61	19.98
Social, recreation, civic club membership	85.24	87.17	80.62	84.34
Fees for participant sports	61.15	73.87	69.49	68.17
Participant sports, out–of–town trips	21.17	27.40	27.94	25.50
Movie, theater, opera, ballet	64.92	78.89	75.36	73.06
Movie, other admissions, out–of–town trips	27.20	37.79	42.78	35.92
Admission to sporting events	22.94	32.52	31.57	29.01
Admission to sports events, out–of–town trips	9.08	12.59	14.26	11.98
Fees for recreational lessons	52.76	56.90	60.02	56.56
Other entertainment services, out–of–town trips	15.32	22.00	22.61	19.98
Television, radios, sound equipment	493.86	545.23	560.84	533.31
Televisions	331.31	376.08	376.88	361.42
Community antenna or cable tv	188.40	209.78	220.04	206.07
Black and white tv	3.06	2.23	2.51	2.60
Color tv – console	21.37	25.51	27.65	24.84

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Color tv – portable, table model	41.51	54.63	47.71	47.95
VCR's and video disc players	31.41	32.98	29.11	31.17
Video cassettes, tapes, and discs	18.88	22.55	25.44	22.29
Video game hardware and software	16.25	19.24	15.27	16.92
Repair of tv, radio, and sound equipment	9.60	8.79	7.99	8.79
Rental of televisions	0.81	0.36	1.16	0.78
Radios, sound equipment	162.55	169.15	183.96	171.89
Radios	10.71	9.05	12.59	10.78
Phonographs	0.87	NA	NA	0.87
Tape recorders and players	5.32	5.86	12.77	7.98
Sound components and component systems	35.56	31.51	33.69	33.59
Miscellaneous sound equipment	1.68	1.51	0.64	1.28
Sound equipment accessories	4.28	4.83	4.82	4.64
Compact disc, tape, record and video mail order clubs	8.97	13.11	13.35	11.81
Records, CDS, audio tapes, needles	31.01	37.80	40.00	36.27
Rental of VCR, radio, and sound equipment	0.79	0.35	0.28	0.47
Musical instruments and accessories	20.45	17.62	20.47	19.51
Rental and repair of musical instruments	2.11	2.06	1.86	2.01
Rental of video cassettes, tapes, films, and discs	40.79	45.45	43.48	43.24
Pets, toys, and playground equipment	281.46	305.98	348.78	312.07
Pets.	167.12	177.55	223.00	189.22
Pet food	84.94	82.75	86.92	84.87
Pet purchase, supplies, medicine	24.72	29.36	57.03	37.04
Pet services	13.87	16.52	20.41	16.93
Vet services	43.58	48.92	58.65	50.38
Toys, games, hobbies, and tricycles	112.38	125.48	123.52	120.46
Playground equipment	1.96	2.95	2.26	2.39
Other entertainment supplies, equipment, and services	375.10	316.93	330.53	340.85
Unmotored recreational vehicles.	33.20	29.18	30.46	30.95
Boat without motor and boat trailers	14.72	5.16	3.63	7.84
Trailer and other attachable campers	18.48	24.02	26.84	23.11
Motorized recreational vehicles.	142.45	81.72	77.55	100.57
Motorized camper coaches and other vehicles	77.70	43.13	36.43	52.42
Purchase of boat with motor	64.75	38.58	41.12	48.15
Rental of recreational vehicles.	1.90	2.42	3.01	2.44
Rental noncamper trailer	0.05	0.13	0.14	0.11
Boat and trailer rental, out–of–town trips	0.47	0.74	1.24	0.82
Rental of campers, etc. on out–of–town trips (old)	NA	NA	NA	0.00
Rental of campers on out–of–town trips	0.54	0.39	0.36	0.43
Rental of other vehicles on out–of–town trips	0.40	0.66	1.03	0.70
Rental of boat	0.05	0.10	0.01	0.05
Rental of campers, other r.v.'s	0.39	0.40	0.24	0.34
Outboard motors	2.17	2.05	0.44	1.55
Docking and landing fees	5.77	5.05	4.76	5.19
Sports, recreation and exercise equipment	102.67	115.10	115.57	111.11
Athletic gear, game tables, and exercise equipment	45.98	54.37	51.11	50.49
Bicycles	16.46	14.10	13.23	14.60
Camping equipment	3.77	3.61	7.30	4.89
Hunting and fishing equipment.	16.92	20.58	17.87	18.46
Winter sports equipment	3.19	4.99	3.73	3.97
Water and miscellaneous sport equipment	14.68	15.51	20.52	16.90
Rental and repair of misc. sports equipment	1.68	1.95	1.83	1.82
Photographic equipment and supplies	81.66	74.17	87.03	80.95
Film	20.32	20.48	20.91	20.57
Other photographic supplies	0.17	0.31	0.40	0.29
Film processing	27.09	28.34	29.72	28.38
Repair and rental of photographic equipment	0.39	0.33	0.30	0.34
Photographic equipment	13.47	12.63	12.58	12.89
Photographer fees	20.23	12.09	23.10	18.47
Fireworks	0.63	0.76	2.69	1.36
Souvenirs	1.21	0.49	0.18	0.63
Visual goods	0.57	1.49	1.76	1.27
Pinball, electronic video games	2.88	4.50	7.07	4.82
Personal care products and services	408.21	414.76	429.80	417.59
Personal care products	223.41	235.24	229.70	229.45
Hair care products	42.44	49.23	42.18	44.62
Nonelectric articles for the hair	5.35	7.26	4.70	5.77
Wigs and hairpieces	1.23	0.89	0.89	1.00
Oral hygiene products, articles	28.07	25.52	23.92	25.84

APPENDIX 3—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1992	1994	1995	Average
Shaving needs	9.46	12.64	13.06	11.72
Cosmetics, perfume, bath preparation	103.29	106.82	112.96	107.69
Deodorants, feminine hygiene, misc. personal care	28.78	28.40	28.04	28.41
Electric personal care appliances	4.80	4.46	3.94	4.40
Personal care services	184.80	179.53	200.11	188.15
Personal care service for females	98.60	89.46	107.59	98.55
Personal care service for males	86.08	89.94	92.24	89.42
Repair of personal care appliances	0.12	0.12	0.28	0.17
Reading	165.57	171.39	170.42	169.13
Newspapers	70.60	70.94	71.14	70.89
Magazines	38.78	39.53	38.06	38.79
Newsletters	0.67	0.15	0.27	0.36
Books thru book clubs	10.56	11.44	10.29	10.76
Books not thru book clubs	41.38	47.99	48.98	46.12
Encyclopedia and other sets of reference books	3.58	1.33	1.67	2.19
Education	423.79	469.39	477.94	457.04
College tuition	237.86	275.33	271.57	261.59
Elementary and high school tuition	69.99	65.45	76.52	70.65
Other schools tuition	16.39	15.34	14.55	15.43
Other school expenses including rentals	18.40	19.50	17.94	18.61
School books, supplies, equipment for college	36.94	39.14	36.93	37.67
School books, supplies, etc. for elementary high school	6.89	9.71	8.71	8.44
School books, supplies, etc. for day care, nursery, other	3.64	3.49	1.99	3.04
School supplies, etc. – unspecified	33.67	41.43	49.73	41.61
Tobacco products and smoking supplies	278.59	261.81	271.59	270.66
Cigarettes	256.67	238.23	244.94	246.61
Other tobacco products	19.51	21.96	25.50	22.32
Smoking accessories	2.41	1.62	1.15	1.73
Miscellaneous	794.63	810.79	808.33	804.58
Miscellaneous fees, pari–mutuel losses	60.93	50.63	53.69	55.08
Legal fees	88.62	119.22	99.93	102.59
Funeral expenses	51.73	91.97	86.77	76.82
Safe deposit box rental	5.88	5.79	5.47	5.71
Checking accounts, other bank service charges	26.45	27.69	27.35	27.16
Cemetery lots, vaults, maintenance fees	16.64	19.45	14.55	16.88
Accounting fees	47.58	44.90	41.35	44.61
Miscellaneous personal services	41.90	27.76	23.44	31.03
Finance charges excluding mortgage and vehicle	227.00	228.84	244.92	233.59
Occupational expenses	109.07	94.19	115.56	106.27
Expenses for other properties	110.86	94.77	90.93	98.85
Interest paid, home equity line of credit (other property)	0.80	0.50	0.15	0.48
Credit card memberships	7.17	5.08	4.23	5.49
Cash contributions	1,020.99	1,066.81	1,034.59	1,040.80
Cash contributions to non–CU memb., incl. child sup., etc.	240.72	292.68	256.97	263.46
Gifts of cash, stocks and bonds to non–CU members	249.31	228.78	198.88	225.66
Contributions to charity	105.65	102.81	97.57	102.01
Contributions to church	378.37	404.30	428.54	403.74
Contributions to educational organizations	31.50	22.66	40.51	31.56
Contributions to political organizations	7.22	8.33	3.69	6.41
Other contributions	8.21	7.25	8.44	7.97
Personal insurance and pensions	3,083.40	3,404.08	3,520.62	3,336.03
Life and other personal insurance	354.24	413.43	382.39	383.35
Life, endowment, annuity, other personal insurance	342.74	395.89	369.76	369.46
Other nonhealth insurance	11.50	17.54	12.63	13.89
Pensions and Social Security	2,729.16	2,990.65	3,138.23	2,952.68
Deductions for government retirement	77.00	84.07	81.20	80.76
Deductions for railroad retirement	3.03	5.38	6.53	4.98
Deductions for private pensions	264.82	324.08	399.84	329.58
Non–payroll deposit to retirement plans	337.62	331.09	352.23	340.31
Deductions for Social Security	2,046.70	2,246.03	2,298.44	2,197.06

*Data might not be statistically significant.
Source: Bureau of Labor Statistics

APPENDIX 4—CONSUMER EXPENDITURE SURVEYS

[Pre–published Data for All Consumer Units Nationwide*]

	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 and over
Average income before taxes:						
1992	$12,437.00	$17,420.00	$24,560.00	$34,439.00	$44,442.00	$81,602.00
1994	12,340.00	17,229.00	24,721.00	34,402.00	44,388.00	84,162.24
1995	12,420.00	17,341.00	24,603.00	34,606.00	44,408.00	81,698.83
Average	12,399.00	17,330.00	24,628.00	34,482.33	44,412.67	82,487.69
Goods and services:						
1992	6,735.63	8,878.05	10,200.76	12,021.89	15,600.83	20,967.26
1994	6,989.07	8,346.77	10,014.51	12,274.85	14,404.18	21,193.80
1995	7,340.81	8,788.33	10,287.78	12,679.10	14,447.22	21,289.89
Average	7,021.84	8,671.05	10,167.68	12,325.28	14,817.41	21,150.32
Food at home:						
1992	2,060.61	2,473.08	2,558.40	2,785.24	3,265.99	3,799.25
1994	2,219.92	2,437.04	2,597.85	2,833.99	3,175.54	3,797.84
1995	2,205.73	2,732.23	2,611.14	2,906.99	3,358.72	3,871.65
Average	2,162.09	2,547.45	2,589.13	2,842.07	3,266.75	3,822.91
Food away from home:						
1992	841.79	1,201.22	1,405.80	1,771.87	2,354.17	3,131.93
1994	822.30	1,089.35	1,334.07	1,820.82	2,211.78	3,383.08
1995	866.36	1,148.01	1,454.82	1,803.04	2,139.09	3,265.04
Average	843.48	1,146.19	1,398.23	1,798.58	2,235.01	3,260.02
Alcohol:						
1992	200.85	223.45	324.37	313.65	374.96	590.09
1994	135.15	215.61	287.46	347.42	327.07	495.08
1995	194.58	179.17	218.69	242.44	378.37	568.80
Average	176.86	206.08	276.84	301.17	360.13	551.32
Domestic Service:						
1992	151.62	129.29	147.99	222.40	398.61	559.53
1994	85.17	111.05	203.94	235.13	310.43	489.65
1995	111.01	126.23	166.25	343.84	349.86	473.43
Average	115.93	122.19	172.73	267.12	352.97	507.54
Furnishings & household operations:						
1992	970.65	1,370.53	1,587.26	1,932.32	2,427.52	3,651.88
1994	1,128.53	1,178.62	1,521.80	1,938.32	2,574.21	4,075.65
1995	1,109.71	1,246.51	1,649.53	1,999.62	2,229.32	4,360.44
Average	1,069.63	1,265.22	1,586.20	1,956.75	2,410.35	4,029.32
Clothing:						
1992	889.14	1,093.68	1,563.66	1,603.41	2,267.24	3,394.31
1994	790.15	1,079.54	1,464.58	1,672.99	1,890.64	3,188.54
1995	923.98	1,186.11	1,469.03	1,658.21	2,075.29	3,128.63
Average	867.76	1,119.78	1,499.09	1,644.87	2,077.72	3,237.16
Recreation:						
1992	755.24	1,146.23	1,302.99	1,726.85	2,558.20	3,374.39
1994	828.97	1,060.46	1,342.40	1,741.22	2,128.85	3,451.76
1995	988.13	1,015.06	1,357.80	1,942.08	2,113.61	3,445.93
Average	857.45	1,073.92	1,334.40	1,803.38	2,266.89	3,424.03
Personal Care:						
1992	229.68	340.56	376.85	405.19	528.27	702.54
1994	256.43	286.31	348.68	454.00	491.54	693.28
1995	272.68	299.08	362.99	450.49	541.39	685.06
Average	252.93	308.65	362.84	436.56	520.40	693.63
Tobacco:						
1992	242.99	287.66	296.57	321.75	321.76	300.33
1994	222.20	250.93	280.57	340.50	295.12	278.18
1995	198.73	275.38	309.00	324.43	274.74	297.88
Average	221.31	271.32	295.38	328.89	297.21	292.13
Professional Services:						
1992	393.06	612.35	636.87	939.21	1,104.11	1,463.01
1994	500.25	637.86	633.16	890.46	999.00	1,340.74
1995	469.90	580.55	688.53	1,007.96	986.83	1,193.04
Average	454.40	610.25	652.85	945.88	1,029.98	1,332.26
Housing:						
1992	5,063.74	5,566.03	6,434.77	7,383.31	9,071.67	12,721.51
1994	5,231.62	5,948.47	6,764.14	7,878.29	9,000.79	12,785.95
1995	5,523.22	6,036.42	6,602.85	8,126.79	9,423.94	13,031.92
Average	5,272.86	5,850.31	6,600.59	7,796.13	9,165.47	12,846.46

APPENDIX 4—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre–published Data for All Consumer Units Nationwide*]

	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 and over
Transportation:						
1992	2,830.29	3,352.10	4,803.28	5,744.17	6,992.50	9,305.77
1994	2,757.80	4,313.27	5,598.36	6,010.98	8,886.15	10,415.29
1995	3,326.35	4,016.68	5,281.03	6,411.15	7,505.49	10,725.91
Average	2,971.48	3,894.02	5,227.56	6,055.43	7,794.71	10,148.99
Private transportation:						
1992	2,704.31	3,171.96	4,570.31	5,504.80	6,638.47	8,663.84
1994	2,560.05	4,021.24	5,343.02	5,696.30	8,493.93	9,583.58
1995	3,141.90	3,812.35	5,051.61	6,087.00	7,181.50	9,948.58
Average	2,802.09	3,668.52	4,988.31	5,762.70	7,437.97	9,398.67
Air fares & other transportation expenses:						
1992	125.98	180.14	232.97	239.37	354.03	641.93
1994	197.75	292.03	255.34	314.68	392.22	831.71
1995	184.45	204.33	229.42	324.15	323.99	777.33
Average	169.39	225.50	239.24	292.73	356.75	750.32
Miscellaneous:						
1992	2,554.32	3,313.71	4,382.17	5,857.42	7,895.29	13,169.05
1994	2,574.86	3,285.99	4,378.03	6,077.48	7,606.33	13,486.24
1995	2,572.70	3,626.25	4,410.77	5,771.32	7,520.24	13,325.24
Average	2,567.29	3,408.65	4,390.32	5,902.07	7,673.95	13,326.84
Education, K–12, Private:						
1992	24.03	33.31	32.84	56.17	140.80	244.81
1994	7.13	47.92	41.54	58.93	79.83	216.02
1995	38.05	9.99	45.96	39.93	75.34	252.12
Average	23.07	30.41	40.11	51.68	98.66	237.65
Health care:						
1992	1,409.04	1,652.24	1,647.83	1,711.96	1,953.77	2,262.82
1994	1,484.32	1,666.38	1,578.60	1,761.97	2,007.63	2,447.22
1995	1,485.92	1,612.11	1,724.73	1,666.17	1,959.98	2,329.26
Average	1,459.76	1,643.58	1,650.39	1,713.37	1,973.79	2,346.43
Cash contributions:						
1992	509.71	515.63	688.17	834.21	1,424.12	2,515.30
1994	396.39	455.67	771.77	1,049.71	1,005.01	2,428.04
1995	452.91	804.69	730.13	816.26	1,046.00	2,171.79
Average	453.00	592.00	730.02	900.06	1,158.38	2,371.71
Personal insurance:						
1992	611.54	1,112.53	2,013.33	3,255.08	4,376.60	8,146.12
1994	687.02	1,116.02	1,986.12	3,206.87	4,513.86	8,394.96
1995	595.82	1,199.46	1,909.95	3,248.96	4,438.92	8,572.07
Average	631.46	1,142.67	1,969.80	3,236.97	4,443.13	8,371.05
Consumer units:						
1992	10,053	8,294	14,616	10,448	7,967	18,181
1994	9,780	7,851	13,975	10,922	8,280	20,609
1995	8,725	7,724	12,643	10,648	8,191	20,952
Percentage of Owners with Mortgage:						
1992	15%	23%	31%	44%	58%	71%
1994	14%	17%	31%	44%	53%	68%
1995	14%	24%	31%	42%	52%	70%
Percentage of Renters:						
1992	50%	45%	43%	33%	25%	14%
1994	49%	47%	42%	34%	25%	15%
1995	49%	43%	39%	35%	26%	13%
Owners with Mortgages as Percentage of Renters Plus Owners with Mortgages:						
1992	23.08%	33.82%	41.89%	57.14%	69.88%	83.53%
1994	22.22%	26.56%	42.47%	56.41%	67.95%	81.93%
1995	22.22%	35.82%	44.29%	54.55%	66.67%	83.78%
Average	22.51%	32.07%	42.88%	56.03%	68.17%	83.08%
Renters as Percentage of Renters Plus Owners with Mortgages:						
1992	76.92%	66.18%	58.11%	42.86%	30.12%	16.47%
1994	77.78%	73.44%	57.53%	43.59%	32.05%	18.07%
1995	77.78%	64.18%	55.71%	45.45%	33.33%	16.22%
	77.49%	67.93%	57.12%	43.97%	31.83%	16.92%

*Data may not be statistically significant.

Source: Bureau of Labor Statistics

APPENDIX 5:—ITEM DESCRIPTIONS

Accounting services — Hourly rate for individual tax work (not business). Price rate for preparing Federal 1040 and Schedule A tax forms with typical itemized deductions. Price separately and note in comments the charge for preparing equivalent state or local tax forms.

Apples, fresh — Price per LB of apples, loose (not in bag). If only bagged apples are available, report the weight of the bag. Note quality in comments. Order of choice: *Red delicious, Golden delicious.*

Area rug — 8 X11 braided rug. 100% wool or wool blend. Order of choice: *JC Penney's, L L Bean.*

ATV — Price for all terrain sports vehicle with four–wheel drive and a 250 to 300 CC (approximate sizes) engine. Do not price industrial ATV's (similar to sports model but heavier duty) or Arctic Cat models. Order of choice: *Honda TRX399FW, Suzuki 250LT4WDT, Polaris W968040.*

Automobile finance — Price the interest rate for a 4–year loan based on a down payment of 20 percent. Assume the loan applicant is a current bank customer who will make payments by cash/check and not by automatic deduction from the account.

Baby food — 4 OZ jar strained vegetables or fruit. Order of choice: *Gerber, Second Foods, Heinz.*

Babysitter — Average hourly rate for one child, age four years, evening, before midnight. (Teenager in your home.) Do not price commercial baby–sitting service. Special Instructions: If feasible, obtain quotes from the observer or committee of acquaintances who use teenage babysitters.

Bacon, sliced — 16 OZ (1LB) package USDA grade, regular sliced bacon. Do not price Canadian bacon, extra thick sliced, or extra lean. Order of choice: *Oscar Mayer, Hormel, Armour.*

Baking dish — 8'' square glass baking dish (any color). Do not include cover or lid. Order of choice: *Pyrex Anchor Hocking.*

Bananas, fresh — Price per pound of bananas. If sold by bunch report price and weight of bunch. Note quality in comments section. Order of choice: Available Variety.

Basic cable service — Price for one month of lowest level of service for cable TV. Report the number of channels offered. If service provides 12 or fewer channels, price the next level of service. Do not include hookup charges or premium (e.g., movie) channels. Convert monthly cost to price per channel, per month.

Bath towel — 27x50'' bath towel made of 100% cotton. Order of choice: *Cannon, Heir Loom, Fieldcrest.*

Bathroom caulking — Price a 5.5 OZ plastic tube of latex white bathroom caulking. Do not price caulking gun cartridge. Order of choice: *DAP Kwik Seal, Red Devil, GE Silicone II.*

Bed sheet set — One set queen–size no–iron cotton & polyester percale sheets (180 thread count). One set consists of one fitted sheet, one flat sheet, and two pillowcases. Do not price designer sheet sets. Price sheet sets with minimum design. Record in comments price for 200 thread count set. Order of choice: *Fieldcrest, New Concept, Dan Rivers.*

Bedroom set — Price for 5 piece oak bedroom set—vertical mirror, triple dresser, 5 drawer chest, nightstand, full/queen headboard. Include shipping and handling. Order of choice: *JC Penney's, Damark.*

Bedroom set test — Price for 5 piece oak bedroom set—vertical mirror, triple dresser, 5 drawer chest, nightstand, full/queen headboard.

Beer at home — Six–pack of 12 OZ cans (Puerto Rico – 10 OZ cans.) Do not price refrigerated beer unless that is all that is available. Order of choice: *Budweiser.*

Beer away — Glass of Budweiser/Miller Lite beer. Order of choice: *Budweiser, Miller Lite.*

Board game — Price for board game. Do not price deluxe edition. Order of choice: *Monopoly, Sorry, Scrabble.*

Book — Store price (not publisher's price unless that is the store price) for top selling paperback book. Order of choice: *Sudden Prey, Moonlight Become You, Rapture of Canaan.*

Bottled water — 1 gallon (128 FL OZ) bottled spring water. Do not price sparkling or distilled water. Order of choice: Store brand

Bowling — 1 game of open (or non–league) 10–pin bowling on Saturday night. Exclude cost of shoe rental. If priced by the hour, report the estimated number of games per hour. Do not price duck–pin bowling.

Boy's jeans — Regular fit (size 9–14), inexpensive jeans. Do not price bleached, stone–washed or designer jeans. Order of choice: *Wranglers, Rustlers, Lee's.*

Boy's polo shirt — Knit polo shirt with collar, solid color, preferably without embroidered emblem. Size 7–14. Do not price Izod, Polo or equivalent brands. Order of choice: *Penney's, Sears.*

Boy's t–shirt — Screen–printed t–shirt commonly worn by boys ages 8 thru 10 (size 7–14). Pullover with crew neck, short sleeves and polyester/cotton blend. Order of choice: *Ocean Pacific, Team Shirts (NFL), Miller.*

Bread, white — 16 OZ loaf of sliced white bread. Do not price store brand. Order of choice: *Wonder, Sunbeam.*

Breakfast — Price for a breakfast consisting of 2 strips of bacon or 2 sausages, 2 eggs, toast, and coffee or juice. Report percentages added for tax. Order of choice: *Denny's, Bob Evans.*

Broker rental low — Obtain monthly rent for three room, one bedroom , one bath apartments (average size roughly 600 sq ft.). Obtain three price estimates of the prevailing range of rental rates in area (low, median & high). To the extent practical, obtain square footage, age of the unit, total room count, whether utilities are included, and special amenities.

Broker rental mid — Obtain monthly rent for four room, two bedroom , one bath apartments (average size roughly 900 sq ft.) .Obtain three price estimates of the prevailing range of rental rates in area (low, median & high). To the extent practical, obtain square footage, age of the unit, total room count, whether utilities are included, and special amenities.

Broker rental upr — Obtain monthly rent for four room, two bedroom , two bath townhouse or detached house (average size roughly 1100 sq ft.). Obtain three price estimates of the prevailing range of rental rates in area (low, median & high). To the extent practical, obtain square footage, age of the unit, total room count, whether utilities are included, and special amenities.

Camera film — Price for 35 millimeter, 24 exposure, 100 ASA Kodak camera film in single pack. Order of choice: *Kodak.*

Candy bar — Price for ONE regular size candy bar. The weight of a regular size candy bar could range from 1.55 oz to 2.13 oz. Do not price king–size or multi–pack candy bars. Order of choice: *Snickers, Hersheys, Mars.*

Canned soup — One can Campbell's soup, regular size (approximately 10 oz). Do not price hearty, reduced fat or salt free varieties. Order of choice: *Campbell's Vegetable, Campbell's Chicken Noodle, Campbell's Vegetable Beef.*

Celery, fresh — Price per pound for celery. Do not price celery hearts or Pascal type celery. If celery is only sold by the bunch, report the price and the weight of an average bunch. Find equivalent size bunches at each store. Note quality in comments. Order of choice: Available Brand

Cereal — 20 OZ box of cereal. Do not price significantly larger or smaller size. Order of choice: *Post Raisin Bran, Kelloggs Raisin Bran.*

Charge card annl fee — Annual fee on major charge card through local bank. Note: Finance charges are reported as Charge Card Finance (See item description immediately below). Both charges must be obtained for the same card. Order of choice: *Mastercard, Visa.*

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Charge card finance — Finance charges on a major charge card through a local bank Record Annual Percentage Rate. Please report the financial charges on the first month's balance of $1500. Do Not include principal payments. Note: Annual fees are reported as Charge Card Annl Fee (See item description immediately above). Both charges must be obtained for the same card. Do not price special introductory rates. Order of choice: *Mastercard, Visa.*

Cheddar cheese — 10 OZ package cheese. Price mild cheddar if available. Order of choice: *Kraft, Cracker Barrel, Tillamook.*

Chevy atf change — Price to change automatic transmission fluid in a one year old Chevrolet Blazer, similar to current year model. Include parts and labor for the following: drain and replace transmission fluid and test vehicle. Include filter and pan gasket replacement.

Chevy blazer — Chevrolet Blazer, current year model. T–Series, Two Door, four wheel drive, 4.3 Liter 6 Cylinder. Order of choice: *Chevrolet Blazer T10.*

Chevy coolant serv — Price to flush and fill engine coolant in a one year old Chevrolet Blazer, similar to current year model. Include parts and labor for the following: remove old coolant, flush contaminants, and replace with new coolant.

Chevy cvj boots — Price the replacement of the inner and outer CVJ (constant velocity joint) Boots on both front wheels for a 3–year old Chevrolet Blazer, T–Series, Two Door, four wheel drive, 4.3 Liter 6 Cylinder.

Chevy license/reg — Price title fee (including lien fee), passenger vehicle registration fees, plate fees, inspection fees (safety and emissions), administration/clerical/other fees and local added fees for a current year Chevrolet Blazer, T–Series, Two Door, four wheel drive, 4.3 Liter 6 Cylinder.

Chevy min insurance — DC AND VI ONLY. Assume that vehicles are used in commuting 15 miles one–way per day, 15,000 mi/yr and that the driver is a 35–year–old married male with no accidents or violations in the last 5 years. Include related fees and taxes. Include applicable safety feature discounts. COVERAGES (BI minimum avail., PD minimum, Med minimum or PIP minimum, and UM minimum. Com 250 deductible. Col 500 ded.. If these deductibles are not avail., price the policy with the closest coverage.

Chevy misc taxes — Price annual miscellaneous tax (e.g., personal property tax, use tax, etc) for a current year model Chevrolet Blazer, T–Series, Two Door, four wheel drive, 4.3 Liter 6 Cylinder. Report how rate is determined, give formula for new vehicle purchase, give formula for subsequent year (2 to 5) and explain billing.

Chevy muffler — Price complete muffler system for a 4–year old Chevrolet Blazer, T–Series, Two Door, four wheel drive, 4.3 Liter 6 Cylinder. Include parts and labor for the following: install all parts after the catalytic converter. These parts include mid pipes, clamps, muffler, and tail pipes.

Chevy oil change — Price oil change for a one year old Chevrolet Blazer, T–Series, Two Door, four wheel drive, 4.3 Liter 6 Cylinder. Include parts and labor for the following: drain old oil, replace oil filter and refill with appropriate number of qts of 10W30 SG grade oil. If SG grade not available, price SF grade oil.

Chevy reg insurance — Price coverage identified below. Assume that vehicles are used in commuting 15 miles one–way per day, 15,000 mi/yr and that the driver is a 35–year–old married male with no accidents or violations in the last 5 years. Include related expense fees and taxes. Include applicable safety feature discounts. COVERAGES (BI 100/300,000 PD 25,000 Med 15,000 or PIP 50,000 UM 100/300,000. Com 100 deductible. Col 250 ded.. If these deductibles are not avail., price the policy with the closest coverage avail.

Chevy regular tires — Price a Black Side Wall P205/75R15 for Chevrolet blazer. Order of choice: *Goodyear Wrangler AT, Michelin XCHF, BF Goodrich Radial TA.*

Chevy snow tire — Price for a studded P205/75R15 snow tire, for the Chevy Blazer. Order of choice: *Goodyear Ultra Grip, Michelin XM+S ALPIN, BF Goodrich Trailmaker Plus.*

Chevy tire change — Price for removing street tires, and installing mounted snow tires on all four wheels.

Chevy tune–up — Price basic tune–up for a one year old Chevrolet Blazer. Include replacing spark plugs (do not price platinum), check distributor cap, and rotor. Check and adjust ignition timing. Adjust idle. Inspect air cleaner. Do not include cost to replace PVC valve, fuel filter or air filter. Sales tax should not be included in price.

Chevy value – 4 yr — Retail value of a 4 yr old Chevrolet Blazer.

Chevy windshield rpl — Cost to replace windshield on 1 year old Chevy Blazer, meeting item description. Ask outlet about the frequency of windshield replacement and record in comments. Price at specialty shop or, if not available, at dealer.

Chicken, whole — Price per pound of USDA grade fresh whole fryer chicken. Price store brand if available, otherwise record brand. Do not price family–pack, value–pack, super–saver pack or equivalent; frozen chicken or roasters. Price store brand if available. Order of choice: Whole fryer, Whole fryer (cut–up).

China — Corelle Abundance pattern tableware set. Set consists of 20 pieces: 4 dinner plates, 4 luncheon plates, 4 bowls, 4 cups, and 4 saucers. The pattern is beige with a fruit and flower motif. Order of choice: *Corelle Impressions, New Corelle.*

Cigarettes king size — 1 carton (200 cigarettes) of filter kings soft pack. Do not price generic brand. Order of choice: *Winston.*

Coffee, ground — 13 OZ can ground coffee. Do not price decaffeinated or special roasts. Order of choice: *Folger's, Maxwell House, Hills Bros.*

Coin laundry — One load of laundry using a regular size, top loading commercial washing machine. Do not include cost of drying.

Color television — 20'' table model color TV with a remote, auto channel search, closed captions, sleep timer, on–screen channel/time and menus, channel flashback, and 181 channel tuning. Order of choice: *Sony KV20TS32, JVC C20CL6, Zenith SR2031.*

Compact disc — Regular price for a current best–selling CD. Do not price double CD's Order of choice: *Wu–Tang Forever, Traveling w/o Moving, God's Property.*

Compact disc player — 5 disc CD player with rotary changer system, 10 key access, 32 track programming, 8 times over sampling, and a remote. Order of choice: *Sony CDPC745, JVC SLPD887, Technics XLF215TN.*

Contact lenses — Price for 1 year supply of soft 2 week replacement contact lenses Order of choice: *Medalists, Sequence, AcuVue.*

Cookies — 18 – 20 OZ package. Order of choice: *Nabisco Oreo Cookies, Keebler Chips Deluxe, Nabisco Chips Ahoy.*

Cooking oil — 48 FL OZ bottle. Order of choice: *Crisco, Wesson, Mazola.*

Day–care — One month of day–care for a three–year–old child (5 days a week, about 10 hours per day). If monthly rate is not available: 1) obtain weekly rate and record in the comment section 2) multiply weekly rate by 4.33 to obtain monthly rate. Price at day care center in a Federal building (but not on a military base) if available.

Dentist clean/check — Charge for x–rays, exam and prophylaxis (light scaling and polishing) or cleaning of teeth without special treatment of gums or teeth. Do not price initial visit. Do not price specialist or oral surgeon.

Dining table — Pedestal oak veneer tabletop with 4 standard spindled hardwood chairs. Include shipping and handling. Order of choice: *JC Penney's, Damark.*

Dining table test — Pedestal oak veneer tabletop with 4 standard spindled hardwood chairs.

Dinner — Price for a dinner consisting of a New York Strip, small side dish (e.g., rice or potato), side salad or salad bar, and coffee. Meal should not include dessert. Order of choice: *Denny's type, TGIF type, Chart House type.*

Disposable diaper — 34 count package of Stage 2 disposable diapers, (child 12–18 LBS). Do not price jumbo, overnight or larger size diapers. Order of choice: *Pampers, Luv's, Huggies.*

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Doctor office visit — Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is needed. Do not include the charge for a regular physical examination, injections, medication or lab tests (routine brief visit). Price general practitioner. DO NOT PRICE SPECIALIST.

Drill, cord–type — 3/8'' Reversible, variable speed 3 amp (1200 rpm. max) electric drill with 6' cord. This is a typical homeowner type drill. Do not price Makita, Dewalt, Milwaukee, or similar brands used by professionals. Order of choice: *Black & Decker 7152.*

Drill, cordless — 3/8'' Reversible, variable speed, 7 to 9 volt, cordless electric drill with 3 hour recharge. This is a typical homeowner type drill. Do not price Makita, Dewalt, Milwaukee, or similar brands used by professionals. Order of choice: *Black & Decker 9052, Skil 2236.*

Dry clean man's suit — Dry clean a man's 2–piece suit of typical fabric. Do not price for silk, suede or other unusual materials.

Education, K–12 priv — Cost of tuition, books and uniforms (if required) for K–12 education at a private school.

Eggs, large — One dozen. Do not price brown eggs. Order of choice: Local brand, Regional Brand.

Electric bill — Average monthly cost including all additional charges. Record in comments the average monthly consumption in KWH, cost for first xxx KWH, and cost over xxx KWH. If monthly amounts vary, based on time of year, obtain data on annual basis. In Alaska assume oil or gas for heating. In all other areas, assume all electric homes.

Electrical outlet — Price 2–plug 15–amp (duplex) grounded electrical outlet. Note: This is a standard wall outlet or plug commonly found in homes. Price blister pack or cardboard mounted (individually packaged) only. Do not price loose electric outlet or 20 amp outlet. Order of choice: *GE, Levitron, Eagle.*

Electrical work — Price of labor to add circuit breaker for dishwasher. Cut 3/4'' hole in wooden floor for cable. Connect dishwasher directly to power box (power box is easy to reach). Report price per hour, estimated time for job, & travel. Exclude cost of materials. Inquire whether outlet is a licensed contractor.

Fast food — Price for a Big Mac, medium french fries, and medium soft drink. Pizza: one personal size cheese pizza (or one slice of cheese pizza). Include small soft drink. Do not price salad. Report percentages added for tax. Order of choice: *McDonalds type, Pizza Hut type.*

Film developing — Price to process and print 35 millimeter, 24 exposure, 100 ASA color. Regular size (3 X 5) single prints only. Price at local lab with 2–3 day service, do not price Kodak or mail order service.

Fire extinguisher — Fire extinguisher with a UL rating of 10 BC, 2.5 pound size. Do not price an ABC type extinguisher. Order of choice: *Kidde, First Alert.*

Fish filet, frozen — Price per pound of frozen ocean whitefish filet. Do not price breaded filets. Do not price family–pack, value–pack, super–saver pack or equivalent. Order of choice: *Cod, Haddock, Snapper.*

Fish, fresh — Price per pound of salmon steak. Do not price previously frozen (PF) or specially prepared skinless or boneless varieties. Do not price family–pack, value–pack, super–save pack, or equivalent. Order of choice: *Salmon steak.*

Ford atf change — Price to change automatic transmission fluid in a one year old Ford. Include parts and labor for the following: drain and replace transmission fluid and test vehicle. Include filter and pan gasket replacement.

Ford coolant serv — Price to flush and fill engine coolant in a one year old Ford Taurus. Include parts and labor for the following: remove old coolant, flush contaminants, and replace with new coolant.

Ford CVJ boots — Price the replacement of the inner and outer CVJ Boots (constant velocity joint) on both front wheels for a 3–year old Ford Taurus GL four door sedan, 3.0 Liter 6 Cylinder.

Ford license/reg — Price title fee (including lien fee), passenger vehicle registration fees, plate fees, inspection fees (safety and emissions), administration/clerical/other fees and local added fees for a current year Ford Taurus GL four door sedan, 3.0 Liter 6 Cylinder.

Ford min insurance — DC AND VI ONLY. Assume that vehicles are used in commuting 15 miles one–way per day, 15,000 mi/yr and that the driver is a 35–year–old married male with no accidents or violations in the last 5 years. Include related fees and taxes. Include applicable safety feature discounts. COVERAGES (BI minimum avail., PD minimum, Med minimum or PIP minimum, and UM minimum. Com 250 deductible. Col 500 ded.) If these deductibles are not avail., price the policy with the closest coverage.

Ford misc taxes — Price annual miscellaneous tax (e.g., personal property tax, use tax, etc) for a current year model Ford Taurus. Report how rate is determined, give formula for new vehicle purchase, give formula for subsequent year (2 to 5) and explain billing.

Ford muffler — Price complete muffler system for a 4–year old Ford Taurus . Include parts and labor for the following: install all parts after the catalytic converter. These parts include mid pipes, clamps, muffler, and tail pipes.

Ford oil change — Price oil change for a one year old Ford Taurus. Include parts and labor for the following: drain old oil, replace oil filter and refill with appropriate number of quarts of 10W30 SG grade oil. If SG grade not available , price SF grade oil.

Ford reg insurance — Price coverage identified below. Assume that vehicles are used in commuting 15 miles one–way per day, 15,000 mi/yr and that the driver is a 35–year–old married male with no accidents or violations in the last 5 years. Include related fees and taxes. Include applicable safety feature discounts COVERAGES (BI 100/300,000 PD 25,000 Med 15,000 or PIP 50,000 UM 100/300,000. Com 100 deductible. Col 250 ded.). If these deductibles are not avail., price the policy with the closest coverage avail.

Ford regular tires — Price a Black Side Wall P205/65R15 for the Ford Taurus GL. Order of choice: *Goodyear Invicta GL, Michelin XW4, BF Goodrich Touring TA.*

Ford snow tire — Price for a studded P205/65R15 snow tire for the Ford Taurus GL. Order of choice: *Goodyear Ultra Grip, Michelin XM+S ALPIN, BF Goodrich Trailmaker Plus.*

Ford taurus — Ford Taurus, current year model, GL four door sedan, 3.0 Liter 6 Cylinder. Order of choice: *Ford Taurus GL.*

Ford tire change — Price for removing street tires, and installing mounted snow tires on all four wheels.

Ford tune–up — Price basic tune–up for a one year old Ford Taurus GL . Include replacing spark plugs (do not price platinum), check distributor cap, and rotor. Check and adjust ignition timing. Adjust idle speed. Inspect air cleaner. Do not include cost to replace PVC valve, fuel filter or air filter. Sales tax should not be included in price.

Ford value – 4 yr — Retail value of a 4 yr old Ford Taurus.

Ford windshield rpl — Cost to replace windshield on 1 year old Ford Taurus, meeting item description. Ask outlet about the frequency of windshield replacement and record in comments. Price at specialty shop or, if not available, at dealer.

Frankfurter — All beef, USDA graded 16 OZ (1LB) package. Do not price chicken, turkey, extra lean, or fat free frankfurters. Order of choice: *Oscar Mayer, Hormel.*

Frozen dinner — 11.5 OZ (326 G) Frozen turkey dinner. Dinner should include whipped potatoes, peas, and fruit compote. Do not price Hungry Man or equivalent extra–portion sizes. Order of choice: *Swanson.*

Frozen orange juice — 12 FL OZ (makes 48 FL OZ) of frozen orange juice concentrate. Do not price calcium fortified, pulp free, country style etc. Order of choice: *Minute Maid, Sunkist, Whole Sun.*

Frozen waffles — Package of 8 frozen waffles. Please record package weight in comments. (Note: Weight should be approximately 11 oz.) Order of choice: *Kellogg's Eggo.*

Fruit drink — 64 FL OZ bottle. Do not price powdered mixes or individual serving sized drinks. Order of choice: *Hawaiian Punch, HI–C, regular.*

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Fruit juice — Price 48 ounce bottle of cranberry juice. Do not price frozen or boxed drink or drink in significantly different size bottle. Order of choice: *Ocean Spray Cranberry Cocktail, Ocean Spray Cranapple Cocktail.*

Funeral services — The charge for a direct cremation. Includes removal of remains, local transportation to crematory, necessary body care and minimal services of the staff. Do not include the fee for the crematory, container or use of facilities and staff.

Gas/oil bill — Average monthly cost including all charges. Record in comments average monthly consumption in cu. ft./gallons, customer service charge, cost for first cu. ft./gallons, and cost for over first xxx cu. ft/gallons. ALASKA ONLY.

Gasoline full serv — Price per gallon for full–service unleaded regular gasoline. Record in comments prevalence of self–serve vs. full–serve pumps.

Gasoline self serv — Price per gallon for self–service unleaded regular gasoline.

Girl's dress — Cotton blend short or long–sleeve dress appropriate for school. Exclude extra ornamentation. For girls ages 8 through 10 (size 7–14). Order of choice: *Carter's, JoLene, Bendina.*

Girl's jeans — Jeans, for girls ages 8 through 10 years (size 7–14). Order of choice: *Zenna, Rider, Lee.*

Girl's knit top — Knit short or long sleeve pullover of cotton/poly blend. For girls ages 8 thru 10 (size 7–14). Order of choice: *Spumoni, Hot Shots, Lee.*

Golf — 18 holes of golf on a weekend. Do not price par 3 courses. Do not include golf–cart rental, or special early–bird or off hours pricing in cost. If only 9 hole rate is available, report twice the price. If only daily rate is available (unlimited number of holes), report the Saturday or Sunday rate. Please ask if the course is publicly–owned or privately–owned and record this information in the comment section.

Green beans, canned — 14.5 OZ can of plain cut green beans. Do not price French style, Italian style, canned vegetable mixtures or similar variations. Order of choice: *Del Monte, Green Giant.*

Ground beef — Price per pound of fresh USDA graded (*select* not *choice*) average size package with no more than 30% fat content. Do not price lean, ground round, frozen beef et cetera. Do not price family–pack, value–pack, super–saver pack, or equivalent. Order of choice: Regular ground beef.

Ham, canned — 3 LB tin of canned ham. Do not price Hormel's supreme cut ham or equivalent. Order of choice: *Hormel, Dubuque, Bar–S.*

Hamburger buns — Package of 8 sliced enriched white hamburger buns. Do not price store brand, whole wheat or sesame seed buns. Order of choice: *Wonder, Sunbeam, Regional brand.*

Hammer — Curved claw hammer with a 16 OZ head, wood handle, high carbon steel head, black finish. Overall length 13 1/4''. This is a typical homeowner type hammer. Do not price hammers with non–wooden handles or hammers typically used by carpenters or cabinet makers. Order of choice: *Stanley 51616, Stanley 51416.*

Health club — Regular individual membership for 1 year for existing member. Do not include any initial fees assessed only to new members or any special offers provided only to new members. If yearly rate is not available, price per month and note as such. Minimum services must include free weights, cardiovascular equipment, and aerobic classes. Note if pool, tennis, racquet ball, or other significant services are also offered.

Home sale low — Obtain sales comparables between 600 and 1200 square feet. Collect selling price, sale date, and square footage for each comparable. Collect age and room count when available. Obtain data for the most recently available 12 month time frame. 4 Rooms, 2BR, 1bath, condo or detached house.

Home sale mid — Obtain sales comparables between 1000 and 1600 square feet. Collect selling price, sale date, and square footage for each comparable. Collect age and room count when available. Obtain data for the most recently available 12 month time frame. 5 Rooms, 3BR, 1 bath, detached house.

Home sale upr — Obtain sales comparables between 1400 and 2300 square feet. Collect selling price, sale date, and square footage for each comparable. Collect age and room count when available. Obtain data for the most recently available 12 month time frame. 7 Rooms, 3BR, 2 baths, detached house.

Homeowner insur low — Report annual renewal premium for HO–2 type coverage. If the company does not refer to the coverage as HO–2, obtain the cost for a comprehensive coverage that covers all risk for dwelling and named peril for contents with contents at replacement value.

Homeowner insur mid — Report annual renewal premium for HO–2 type coverage. If the company does not refer to the coverage as HO–2, obtain the cost for a comprehensive coverage that covers all risk for dwelling and named peril for contents with contents at replacement value.

Homeowner insur upr — Report annual renewal premium for HO–2 type coverage . If the company does not refer to the coverage as HO–2, obtain the cost for a comprehensive coverage that covers all risk for dwelling and named peril for contents with contents at replacement value.

Honda atf change — Price to change automatic transmission fluid in a one year old Honda. Include parts and labor for the following: drain and replace transmission fluid and test vehicle.

Honda civic — Honda Civic, current year model, DX four door sedan, 1.5 Liter 4 Cylinder. Order of choice: *Honda Civic DX.*

Honda coolant serv — Price to flush and fill engine coolant in a one year old Honda Civic DX. Include parts and labor for the following: remove old coolant, flush contaminants, and replace with new coolant.

Honda CVJ boots — Price the replacement of the inner and outer CVJ (constant velocity joint) Boots on both front wheels for a 3–year old Honda Civic DX four door sedan, 1.5 Liter 4 Cylinder.

Honda license/reg — Price title fee (including lien fee), passenger vehicle registration fees, plate fees, inspection fees (safety and emissions), administration/clerical/other fees and local added fees for a current year Honda Civic DX four door sedan, 1.5 Liter 4 Cylinder.

Honda min insurance — DC AND VI ONLY. Assume that vehicles are used in commuting 15 miles one–way per day, 15,000 mi/yr, and that the driver is a 35–year–old married male with no accidents or violations in the last 5 years. Include related fees and taxes. Include applicable safety feature discounts. COVERAGES (BI minimum avail., PD minimum, Med minimum or PIP minimum, and UM minimum. Com 250 deductible. Col 500 ded.). If these deductibles are not avail., price the policy with the closest coverage.

Honda misc taxes — Price annual miscellaneous tax (e.g., personal property tax, use tax, etc.) for a current year model Honda Civic DX four door sedan, 1.5 Liter 4 Cylinder. Report how rate is determined, give formula for new vehicle purchase, give formula for subsequent year (2 to 5) and explain billing.

Honda muffler — Price complete muffler system for a 4–year old Honda Civic DX . Include parts and labor for the following: install all parts after the catalytic converter. These parts include mid pipes, clamps, muffler, and tail pipes.

Honda oil change — Price oil change for a one year old Honda Civic DX . Include parts and labor for the following: drain old oil, replace oil filter and refill with appropriate number of quarts of 10W30 SG grade oil. If SG grade not available, price SF grade oil.

Honda reg insurance — Price coverage identified below. Assume that vehicles are used in commuting 15 miles one–way per day, 15,000 mi/yr, and that the driver is a 35–year–old married male with no accidents or violations in the last 5 years. Include related fees and taxes. Include applicable safety feature discounts. COVERAGES (BI 100/300,000 PD 25,000 Med 15,000 or PIP 50,000 UM 100/300,000. Com 100 deductible. Col 250 ded.). If these deductibles are not avail., price the policy with the closest coverage avail.

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Honda regular tires — Price a Black Side Wall P175/70R13 for the Honda Civic. Order of choice: *Goodyear Invicta GL, Michelin LX1, BF Goodrich Touring TA.*

Honda snow tire — Price for a studded P175/70R13 snow tire for Honda Civic DX. Order of choice: *Goodyear Ultra Grip, Michelin XM+S ALPIN, BF Goodrich Trailmaker Plus.*

Honda tire change — Price for removing street tires, and installing mounted snow tires on all four wheels.

Honda tune–up — Price basic tune–up for a one year old Honda Civic DX . Include replacing spark plugs (do not price platinum), check distributor cap, and rotor. Check and adjust ignition timing. Adjust idle speed. Inspect air cleaner. Do not include cost to replace PVC valve, fuel filter or air filter. Sales tax should not be included in price.

Honda value – 4 yr — Retail value of a 4 yr. old Honda Civic DX.

Honda windshield rpl — Cost to replace windshield on 1 year old Honda Civic DX, meeting item description. Ask outlet about the frequency of windshield replacement and record in comments. Price at specialty shop or, if not available, at dealer.

Hospital attendant — Daily charge for an attendant (e.g. LPN). Price only if typical hospital service is not equivalent to that found in DC area.

Hospital room — Daily charge for a semi–private room. Include food and routine care. Exclude cost of operating room, surgery, medicine, lab fees, etc. Do not price speciality rooms, e.g., those in cardiac care units.

Housekeeping service — Price per hour for twice per month cleaning. House approximately 2,000 sq. ft. Family size four. Services include Bathroom(s): clean floor, counter, bathtub, stool; Kitchen: clean counters, cabinets, appliances; Living Room and Dining Room; dust, polish furniture, and vacuum; Bedroom; polish furniture and vacuum. If other services are included please note. Report the number of cleaners and estimated number of hours to complete service.

Ice cream — 1/2 gallon (2 QT) of vanilla ice cream. Do not price ice milk or frozen yogurt. Order of choice: Store brand

Ice cream cone — Regular (one scoop) vanilla ice cream cone. Do not price frozen yogurt or soft–serve ice cream. Order of choice: *Baskin–Robbins type, TCBY type, Lapperts type.*

Infant's sleeper — One–piece sleeping garment with legs, covering the body including the feet. Order of choice: *Gerber, Playskool, Health Tex.*

Insurance, air ambul — Annual premium for air ambulance insurance.

Interior painting — Price labor to paint 12' x 14' lvng rm with 8' ceilings, one coat over same color. Walls are drywall in good repair. Two std sized sash windows, 1 std wood door. Rms have simple wood baseboards and trim. Existing paint is latex, flat white, smooth finish, about 3 yrs old. Trim paint is latex, white, gloss enamel, about 3 yrs old. Walls and trim require no surface prep. Report price per hr, est time for job, and travel. If flat charge, report est time to complete job. Do not include materials.

Jello gelatin — 3 OZ box gelatin dessert. Order of choice: *Jello, Royal.*

Jewelry — One pair 6mm 14K gold ball earrings for pierced ears.

Ketchup — 28 OZ plastic squeeze bottle. Order of choice: *Heinz, Hunts, Del Monte.*

Kitchen faucet — Price for a single control chrome–plated faucet with spray. Faucet is solid brass and stainless steel quality construction with copper waterways, washer less design, and triple chrome plating. Faucet sprayer should sit in a separate hole in the sink. Do not price decorator models or *in the deck* (sprayer sits in a hole in the faucet base or *deck*). Guaranteed for 2 years or longer. Order of choice: *Peerless 8500–ECP, Delta 400, Moen 87511.*

Kitchen range — 30–inch electric range with upswept cook–top, removable coil elements, electronic clock with timer, oven light, delay–start cook control, storage drawer, self–cleaning oven with two oven racks and a porcelain enamel broiler pan. Order of choice: *Maytag CRE9500, General Electric JBP47GV, Whirlpool RF385PXDQ.*

Latex interior paint — One gallon white, interior flat latex paint. Price a national brand with one coat coverage. *Pittsburgh* also an acceptable brand . Ask whether special formulations or additives are typically used to prevent mildew. If so record price in comments. Order of choice: *Dutch Boy, Glidden, Benjamin Moore.*

Laundry soap — 100 FL OZ of liquid household laundry detergent. Do not price detergent with bleach or whiteners. Order of choice: *Tide, Cheer.*

Lawn care service — Price to cut and trim a 1/4 acre lot on a weekly basis. Do not include other yard services (e.g. fertilizing, raking, or watering).

Lawn trimmer — Gas powered 31 CC two–cycle engine single line lawn trimmer with a 17'' wide cut.

Ld call Chicago — Cost of a 10 minute call using AT&T, received on a weekday in Chicago at 8: 00 p.m. (Chicago time); direct dial from the location being surveyed to Chicago. Include any federal, state, local or excise tax that is applicable. Order of choice: *AT&T Regional Service.*

Ld call LA — Cost of a 10 minute call using AT&T, received on a weekday in LA at 8: 00 p.m. (LA time); direct dial from the location being surveyed to Los Angeles. Include any federal, state, local or excise tax that is applicable. Order of choice: *AT&T Regional Service.*

Ld call NYC — Cost of a 10 minute call using AT&T, received on a weekday in NY at 8: 00 p.m. (NY time); direct dial from the location being surveyed to New York City. Include any federal, state, local or excise tax that is applicable. Order of choice: *AT&T Regional Service.*

Legal services — Hourly rate for preparing a simple will or trust or for real estate closing. If fee varies, note in comments.

Lettuce, fresh — Price per pound of iceberg lettuce. If lettuce is sold by the head, report the price and weight of an average head. Find equivalent–size heads at each store. Note quality in comments. Order of choice: Available Brand

Lipstick — One tube of lipstick. Order of choice: *Revlon Super Lustrous, Revlon Moondrops, L'Oreal.*

Living rm chair tst — Flexsteel Recliner or equivalent.

Living room chair — Flexsteel Recliner or equivalent. Include shipping and handling. Order of choice: *JC Penney's, Damark.*

Lunch — Price for a lunch consisting of a cheeseburger platter with fries and small soft drink. Order of choice: *Denny's type, TGIF type, Chart House type.*

Lunch meat — 8 OZ pkg. Order of choice: *Oscar Mayer Bologna, Oscar Mayer Cotto Salami.*

Magazine — Store price (not publisher's price unless that is the store price) for a single copy. Order of choice: *Time, Newsweek, US News&World Report.*

Man's dress shirt — White or solid color, long sleeve, button cuff, plain collar dress shirt, approximately 35% cotton, 65% polyester. A dress shirt will have exact collar and sleeve sizes. Example: 15 1/2'' collar, 34'' sleeve. Order of choice: *Arrow, Van Heusen, Moose Creek.*

Man's haircut — Man's typical haircut. Do not include wash.

Man's jacket — Man's summer weight denim jacket from catalog. Relaxed fit and machine washable. TROPICAL AND DC ONLY. Order of choice: *JC Penney's, Eddie Bauer.*

Man's jeans — Regular loose fit, non–designer jeans. Do not price bleached, stone–washed or designer jeans. Order of choice: *Wranglers, Rustlers, Lee's regular fit.*

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Man's shoes — 100% leather wing tips or plain toe. Order of choice: *Rockport, Bostonian.*

Man's suit — Man's suit from catalog, double breasted worsted wool, ventless back. Include shipping and handling. Order of choice: *JC Penney's, Bachrach.*

Man's undershirt — White 100% cotton undershirts with short sleeves, set of three. If not in set of three, report the number of undershirts in package. Order of choice: *Fruit of the Loom, Hanes.*

Margarine — Four sticks (1 LB). Do not price reduced fat variety. Order of choice: *Blue Bonnet, Parkay.*

Milk, 2% — Gallon (128 FL OZ), 2%. Order of choice: Store brand

Mortgage interest — Current interest rate for a 30–year loan on the average house assuming 80 percent financing.

Motor scooter — Price for a 50 CC scooter. One seater with electric start, oil injection 2–stroke engine. Order of choice: *Yamaha JOG CY 50, Honda Elite SA 50.*

Movie theater — Typical adult price for regular length, current–release (currently advertised on television) evening film. Report weekend evening price if different from weekday.

Moving — Price per hour for a within–city move, two men with enclosed van. Include any van rental fees. Do not include any extra insurance options or specialty packaging options. Note number of men if other than two used.

Non–aspirin pain rel — Price for 60 tablets of extra–strength Tylenol. Do not price caplets or gelcaps.

Non–broker rntl low — Obtain monthly rent for three room, one bedroom , one bath apartments (average size roughly 600 sq ft.). If possible, obtain square footage, age, room count whether utilities are included and special amenities.

Non–broker rntl mid — Obtain monthly rent for four room, two bedroom , one bath apartments (average size roughly 900 sq ft.). If possible, obtain square footage, age, room count whether utilities are included and special amenities.

Non–broker rntl upr — Obtain monthly rent for four room, two bedroom , two bath townhouse or detached house (average size roughly 1100 sq ft.). If possible, obtain square footage, age, room count whether utilities are included and special amenities.

Oranges, fresh — Price per pound of loose VALENCIA oranges. If only bagged oranges are available, also report the weight of the bag. Note quality in comments. Order of choice: California Valencia, Florida Valencia.

Parcel post — Cost of mailing a 5 pound package to each of the following cities: Chicago, Los Angeles, New York Order of choice: *United States Postal.*

Peaches, canned — 16 OZ can sliced yellow cling peaches. Do not price lite or juice pack. Order of choice: *Libby, Del Monte.*

Peas, frozen — 16 OZ package of frozen peas. Do not price peas with sauce or Green Giant Select. Order of choice: *Green Giant, Birdseye, Hanover.*

Pen — 10 pack round stick medium pen. Order of choice: *Bic Round Stic, Paper Mate.*

Pest control — Price for basic pest control maintenance (one visit to control crawling insects, not wood eating), based on the inside of a 1,200 sq. ft. single story home. Price follow–up maintenance only, not the initial application.

Pet food — Price for 5.5 OZ can of cat food. Order of choice: *Purina, 9 Lives, Whiskas.*

Piano lessons — Private lesson for a beginner one–half hour in length. Price through a music studio if possible.

Plant food — 8 OZ container of liquid indoor plant food. Order of choice: *Miracle Grow.*

Pork chops, bone in — Price per pound of an average size USDA graded (*select* not *choice*) package. Do not price family–pack, value–pack, super–saver pack or equivalent. Do not price frozen chops. Order of choice: Center cut rib chop, Loin chop with bone.

Postage stamp — First Class postage.

Potatoes — 5 LB bag of Russet baking potatoes. Do not price loose potatoes. If 5 lb bag is not available, substitute nearest size bag and note price and size. Do not price white, red or new potatoes. Note quality in comments. Order of choice: Available Brand.

Real estate tax low — Current real property tax rate, any special charges that are added to the tax bill and any homestead credits that might be deducted from the bill. Report when properties were last assessed and to what base year the tax rate should be applied. Report when rates are certified and when bills are mailed.

Real estate tax mid — Current real property tax rate, any special charges that are added to the tax bill and any homestead credits that might be deducted from the bill. Report when properties were last assessed and to what base year the tax rate should be applied. Report when rates are certified and when bills are mailed.

Real estate tax upr — Current real property tax rate, any special charges that are added to the tax bill and any homestead credits that might be deducted from the bill. Report when properties were last assessed and to what base year the tax rate should be applied. Report when rates are certified and when bills are mailed.

Red roses, fresh cut — One dozen long stemmed, fresh cut red roses. Do not price boxed or arranged.

Refrigerator — No–frost top–mount 20.5 to 21.5 cubic ft. refrigerator with reversible doors, glass shelves, moisture controlled crisper drawers, and meat drawer. Door contains one or more covered compartments and adjustable bins. Freezer has adjustable wire shelves, door bins and ice trays. Do not price models with ice makers, chilled water dispensers, or other extra features. Order of choice: *Maytag RTD2100DAE, General Electric TBX21ZAX, Whirlpool ET21DKXD.*

Regional newspaper — Price for one year of home delivery of the largest selling daily regional paper (including Sunday edition) distributed in the area. Do not include tip. In Alaska, price the major Anchorage newspaper. In Hawaii, price the major Honolulu newspaper.

Rental car — Cost for daily and weekly rental rate of an economy class automobile. Obtain costs with leasing company's recommended insurance packages. Price with unlimited mileage, and assume automobile is rented and returned to the same location and with a full tank of gas. Do not price weekend rates or special promotional rates which apply to specific areas. Order of choice: *Hertz, Avis, National.*

Renter insur low — Report price of HO–4 type coverage; assume value of contents at $25,000.

Renter insur mid — Report price of HO–4 type coverage; assume value of contents at $25,000.

Renter insur test 1 — Report price of HO–4 type coverage; assume value of contents at $25,000.

Renter insur test 2 — Report price of HO–4 type coverage; assume value of contents at $35,000.

Renter insur test 3 — Report price of HO–4 type coverage; assume value of contents at $45,000.

Renter insur upr — Report price of HO–4 type coverage; assume value of contents at $30,000.

Round roast boneless — Price per pound of an average size USDA graded (*select* not *choice*) package. Do not price family–pack, value–pack, super–saver pack or equivalent. Do not price frozen roast. Order of choice: Boneless rump, Sirloin tip rolled, Boneless top round.

Round steak boneless — Price per pound of an average size USDA graded (*select* not *choice*) package. Do not price family–pack, value–pack, super–saver pack or equivalent. Do not price frozen steak. Order of choice: Boneless beef round, Boneless top round, Boneless bottom rnd.

Round trip Chicago — Price for lowest cost round trip ticket to Chicago, IL with 2 week advance reservation. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all flights from National Airport.)

Round trip LA — Price for lowest cost round trip ticket to Los Angeles, CA. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all flights from National Airport.)

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Round trip Miami — Price for lowest cost round trip ticket to Miami, FL with 2 week advance reservation. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all flights from National Airport.)

Round trip NYC — Price for lowest cost round trip ticket to New York, NY with 2 week advance reservation. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all fares from National Airport.)

Round trip Omaha — Price for lowest cost round trip ticket to Omaha NE, with 2 week advance reservation. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all flights from National Airport.)

Round trip Seattle — Price for lowest cost round trip ticket to Seattle, WA with 2 week advance reservation. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all flights from National Airport.)

Round trip St. Louis — Price for lowest cost round trip ticket to St. Louis, MO with 2 week advance reservation. Disregard restrictions, super–saver fares and special promotions. (In reference area, price all flights from National Airport.)

Salt — 26 OZ box of iodized salt. Do not price sea–salt, kosher–style salt etc. Order of choice: *Morton, Ivory, Regional Brand.*

Shampoo — 15 ounce bottle of shampoo for normal hair. Order of choice: *Suave, VO5, White Rain.*

Snack cake — Package of two cellophane wrapped, cream–filled sponge cake deserts. Do not price fresh baked desserts, boxed, or family packs. Order of choice: *Hostess Twinkees, Krispy Kreme, Hostess Cupcakes.*

Snack food — 6 OZ bag or box of regular potato chips. Order of choice: *Ruffles, Lays.*

Soft drink — 2 liter plastic bottle. Order of choice: *Coca–Cola, Pepsi.*

Spaghetti, dry — 16 OZ box or bag. Do not price store brand. Order of choice: *Creamette, American Beauty Mission.*

Sugar, granulated — 5 LB bag of granulated cane or beet sugar. Do not price superfine or generic. Order of choice: Non–store brand, Store brand.

Taxi fare — Cost of a four–five mile, 10 minute taxi–cab ride. Trip should begin and end within the county or city limits of each survey area. Do not price cost for additional passengers, rush–hour fares or cost for handling or carrying of packages or luggage.

Telephone service — Monthly cost for unmeasured touchtone service. Include tax. Do not include options such as call waiting, call forwarding or fees for equipment rental.

Telephone, cellular — Cost of basic monthly cellular phone service plus 10 prime–time 2 minute calls per month. Do not price special offers.

Tennis balls — Can of three heavy–duty felt, yellow, tennis balls. Do not price special gas–filled or premium tennis balls. Order of choice: *Wilson, Penn.*

Termite treatmnt tst — Cost of initial treatment and annual maintenance for Sentricon – type termite bait treatment for a typical single–family dwelling meeting middle income profile. Order of choice: *Sentricon.*

Tetracycline — Price of 40 capsules of tetracycline, 250 milligram strength. Record whether generic or non–generic. If price differs record both prices in comment area.

Toilet tissue — Regular 4 roll pack. Do not price family–pack, double roll, value–pack, super–saver size package, or equivalent. Order of choice: *Cottonelle, Northern, Charmin.*

Tomatoes, fresh — Price per pound of medium–size tomatoes. Do not price organic, hydro, plum, or extra fancy tomatoes. Note quality in comments. Order of choice: Available Variety.

Tuna, canned — Chunk light, packed in water (6.0 oz to 6.13 oz). Do not price fancy style. Order of choice: *Star Kist, Chicken of the Sea, Bumble Bee.*

Two–slice toaster — Two–slice toaster, chrome body, wide slot with pastry defrost setting. Order of choice: *Proctor–Silex T620B, Proctor Silex 22100.*

Unclog drain — Price to unclog kitchen sink drain by mechanical means (small snake or auger, etc.). Assume clog is in the plumbing inside the house, not in the yard. Price the job. If job rate not available, obtain minimum labor rate charge for auger and travel. If provided a price range use low–end quote because this is a simple clog. Exclude extra charge for excess travel, overtime, weekend or emergencies.

Vacuum — Upright vacuum cleaner with approximately 12 amps, 120 volts, minimum 5 above–the–floor attachments, height adjustment, regular bag and 20 to 25 foot cord. Order of choice: *Eureka, Hoover, Dirt Devil.*

Veterinary services — Typical fee for general office visit for a small dog.

Video recorder — VCR with 4 video heads, double azimuth, unified TV/VCR remote, one–year eight event timer, auto tracking, LED display, and HI–FI stereo. Order of choice: *Sony SLV740, JVC HRJ620, Zenith VR4205.*

Video rental — Price to rent one video tape. Saturday night (1 day or minimum rental period) rate. Non–member fee. Do not price new releases, oldies or classics where price is different from a regular rental.

Washing machine — Super capacity washing machine with 3 water temperatures, 8 wash cycles, 3 water levels, white porcelain tub, self–clean lint filter, fabric softener dispenser and 2 speed combinations. Order of choice: *Maytag LAT9604, General Electric WWSR3090T, Whirlpool LSC8244D.*

Water bill — Average monthly consumption in gallons and dollars; customer service charge; cost for first xxx gallons; cost for over xxx gallons.

Window shade — Window shade from catalog light–filtering unfringed 37.5'' width window shade. Order of choice: *JC Penney's, Smith and Noble.*

Wine at home — 1.5 L of Chablis blanc. Order of choice: *Gallo, Inglenook.*

Wine away — Price one glass of house white wine. Order of choice: House Brand.

Woman's accessory — Split–grain, cowhide leather, checkbook clutch wallet. Do not price eel skin, snake skin or other varieties. Order of choice: *Michael Stevens, Mundi, Cadillac.*

Woman's blouse — 100 % polyester, white, long sleeve, button front blouse with minimum trim. Order of choice: *Wrapper; Girls, Girls, Girls; Christy Jill.*

Woman's coat — 100 % wool, double–breasted coat. Include shipping and handling. ALASKA AND DC ONLY. Order of choice: *JC Penney's, Donnybrook, Chadwicks.*

Woman's cut & style — Regular service for a woman's cut and styled blow dry. Include wash but do not include curling iron if extra. Price hair salons in major department stores and malls.

Woman's dress — Sleeved shirtwaist dress appropriate for office attire. Exclude any unusual ornamentation. Dress should be unlined and 100% rayon or 100% polyester with or without a belt. Order of choice: *Stewart Allen, Lesley Fay, California Design.*

Woman's shoes — Plain woman's pump style shoes with enclosed heel and toe, leather uppers and the rest of man–made materials. Heel height should be approximately two inches. Do not price shoes w/ornamentation or extra thick heals. Order of choice: *Naturalizer, Capezio.*

Woman's slacks — Misses unlined slacks appropriate for office attire. The slacks should be a blend of cotton and polyester with or without a belt. Do not price elastic waist. Order of choice: *Donnkenny, Alfred Dunner, Fundamental Things.*

APPENDIX 5:—ITEM DESCRIPTIONS—Continued

Woman's sweater — Woman's sweater from catalog. Cotton knit crewneck pullover sweater. Machine washable. Order of choice: *JC Penney's, Lands End.*

APPENDIX 6.—PRINCIPAL PRICING CHANGES

[For Home Sale and Rental Communities see Appendix 8]

Current	Previous	Reason
1. Boy's polo shirt	Not surveyed	New item.
2. Cordless electric drill	Not surveyed	New item.
3. Cellular telephone service	Not surveyed	New item.
4. Windshield (autoglass) replacement (Alaska only)	Not surveyed	New item.
5. Private K–12 Education	Not surveyed	New item.
6. Hospital attendant (Puerto Rico only)	Not surveyed	New item.
7. Air ambulance insurance (Virgin Islands only)	Not surveyed	New item.
8. Ground beef: 25% to 30% fat content	Ground beef: 25% fat content	Old specification too restrictive.
9. Waffles: package of 8 frozen waffles	Waffles: package of frozen waffles	Specification improves price comparison.
10. Disposable diapers: 34 to 36 count	Disposable diapers: 36 count	Change improves price comparison.
11. Fruit drink: 64 fl. oz. can	Fruit drink: 46 fl. oz. can	Change improves price comparison.
12. Potatoes: 5 lb. bag	Potatoes: 10 lb. bag	Change improves price comparison.
13. Appliances, electrical equipment, and hardware: electrical/appliance, hardware, and Sears stores.	Appliances, electrical equipment, and hardware: electrical/appliance and hardware stores.	Sears available in most areas.
14. Fast food: McDonalds and Pizza Hut	Fast food: McDonalds and Burger King	More widely used outlet.
15. Breakfast: Denny's, and Holiday Inn type	Denny's and Bob Evans	More widely used outlet.
16. Lunch: Denny's and TGIF	Lunch: Denny's and Sizzlers	Sizzlers out of business.
17. Dinner: Denny's, TGIF, and Chart House types	Dinner: Denny's and Sizzlers	Sizzlers out of business.
18. Not surveyed	Snowblower, skiing, woman's boots, jacket, man's boots, insulated shirt, parka, and roller skating.	Winter items.
19. Roundtrip airfares to multiple locations, including Omaha.	Roundtrip airfares to multiple locations	Expands cost information base to include Midwestern destination.
20. Legal services: simple will	Legal services: real estate closing	More widely used service.

APPENDIX 7—CONSUMPTION GOODS AND SERVICES ANALYSIS

[1997 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Anchorage, AK:							
1. Food At Home	114.09	26.85	30.63	23.89	27.26	21.11	24.08
2. Food Away From Home	113.33	13.59	15.40	14.26	16.16	14.88	16.86
3. Tobacco	111.35	2.91	3.24	2.41	2.68	1.95	2.17
4. Alcohol	103.94	2.49	2.59	2.52	2.62	2.54	2.64
5. Furnishings and Household Operations	101.51	15.19	15.42	16.35	16.60	17.45	17.71
6. Clothing	106.96	13.34	14.27	13.95	14.92	14.53	15.54
7. Domestic Services	103.29	1.80	1.86	2.03	2.10	2.23	2.30
8. Professional Services	96.55	6.97	6.73	6.81	6.58	6.66	6.43
9. Personal Care	107.64	3.58	3.85	3.49	3.76	3.41	3.67
10. Recreation	116.85	13.28	15.52	14.29	16.70	15.24	17.81
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			109.51				
Middle					109.38		
Upper							109.21
Fairbanks, AK:							
1. Food At Home	114.99	26.85	30.87	23.89	27.47	21.11	24.27
2. Food Away From Home	118.84	13.59	16.15	14.26	16.95	14.88	17.68
3. Tobacco	106.38	2.91	3.10	2.41	2.56	1.95	2.07
4. Alcohol	108.06	2.49	2.69	2.52	2.72	2.54	2.74
5. Furnishings and Household Operations	105.76	15.19	16.06	16.35	17.29	17.45	18.46
6. Clothing	103.54	13.34	13.81	13.95	14.44	14.53	15.04
7. Domestic Services	94.98	1.80	1.71	2.03	1.93	2.23	2.12
8. Professional Services	86.32	6.97	6.02	6.81	5.88	6.66	5.75
9. Personal Care	98.69	3.58	3.53	3.49	3.44	3.41	3.37
10. Recreation	121.00	13.28	16.07	14.29	17.29	15.24	18.44

APPENDIX 7—CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[1997 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	110.01	.....	.....	.....	.....
Middle	.....	.....	.....	.....	109.97	.....	.....
Upper	.....	.....	.....	.....	.....	.....	109.94
Juneau, AK:							
1. Food At Home	122.34	26.85	32.85	23.89	29.23	21.11	25.83
2. Food Away From Home	126.00	13.59	17.12	14.26	17.97	14.88	18.75
3. Tobacco	98.85	2.91	2.88	2.41	2.38	1.95	1.93
4. Alcohol	112.09	2.49	2.79	2.52	2.82	2.54	2.85
5. Furnishings and Household Operations	109.76	15.19	16.67	16.35	17.95	17.45	19.15
6. Clothing	107.20	13.34	14.30	13.95	14.95	14.53	15.58
7. Domestic Services	102.96	1.80	1.85	2.03	2.09	2.23	2.30
8. Professional Services	93.88	6.97	6.54	6.81	6.39	6.66	6.25
9. Personal Care	123.76	3.58	4.43	3.49	4.32	3.41	4.22
10. Recreation	139.96	13.28	18.59	14.29	20.00	15.24	21.33
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	118.02	.....	.....	.....	.....
Middle	.....	.....	.....	.....	118.10	.....	.....
Upper	.....	.....	.....	.....	.....	.....	118.19
Nome, AK:							
1. Food At Home	165.41	26.85	44.41	23.89	39.52	21.11	34.92
2. Food Away From Home	145.26	13.59	19.74	14.26	20.71	14.88	21.61
3. Tobacco	114.44	2.91	3.33	2.41	2.76	1.95	2.23
4. Alcohol	115.22	2.49	2.87	2.52	2.90	2.54	2.93
5. Furnishings and Household Operations	122.80	15.19	18.65	16.35	20.08	17.45	21.43
6. Clothing	114.79	13.34	15.31	13.95	16.01	14.53	16.68
7. Domestic Services	107.90	1.80	1.94	2.03	2.19	2.23	2.41
8. Professional Services	97.81	6.97	6.82	6.81	6.66	6.66	6.51
9. Personal Care	115.04	3.58	4.12	3.49	4.01	3.41	3.92
10. Recreation	174.48	13.28	23.17	14.29	24.93	15.24	26.59
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	140.36	.....	.....	.....	.....
Middle	.....	.....	.....	.....	139.77	.....	.....
Upper	.....	.....	.....	.....	.....	.....	139.23
Honolulu, HI:							
1. Food At Home	136.63	26.85	36.69	23.89	32.64	21.11	28.84
2. Food Away From Home	118.58	13.59	16.12	14.26	16.91	14.88	17.64
3. Tobacco	116.44	2.91	3.39	2.41	2.81	1.95	2.27
4. Alcohol	106.29	2.49	2.65	2.52	2.68	2.54	2.70
5. Furnishings and Household Operations	109.20	15.19	16.59	16.35	17.85	17.45	19.06
6. Clothing	107.94	13.34	14.40	13.95	15.06	14.53	15.68
7. Domestic Services	94.54	1.80	1.70	2.03	1.92	2.23	2.11
8. Professional Services	86.14	6.97	6.00	6.81	5.87	6.66	5.74
9. Personal Care	115.19	3.58	4.12	3.49	4.02	3.41	3.93
10. Recreation	113.19	13.28	15.03	14.29	16.17	15.24	17.25
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	116.69	.....	.....	.....	.....
Middle	.....	.....	.....	.....	115.93	.....	.....
Upper	.....	.....	.....	.....	.....	.....	115.22
Hilo, HI:							
1. Food At Home	137.50	26.85	36.92	23.89	32.85	21.11	29.03
2. Food Away From Home	112.26	13.59	15.26	14.26	16.01	14.88	16.70
3. Tobacco	113.98	2.91	3.32	2.41	2.75	1.95	2.22
4. Alcohol	102.70	2.49	2.56	2.52	2.59	2.54	2.61

APPENDIX 7—CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[1997 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
5. Furnishings and Household Operations	106.01	15.19	16.10	16.35	17.33	17.45	18.50
6. Clothing	104.43	13.34	13.93	13.95	14.57	14.53	15.17
7. Domestic Services	82.09	1.80	1.48	2.03	1.67	2.23	1.83
8. Professional Services	90.32	6.97	6.30	6.81	6.15	6.66	6.02
9. Personal Care	104.42	3.58	3.74	3.49	3.64	3.41	3.56
10. Recreation	112.18	13.28	14.90	14.29	16.03	15.24	17.10
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			114.51				
Middle					113.59		
Upper							112.74
Kailua Kona, HI:							
1. Food At Home	138.62	26.85	37.22	23.89	33.12	21.11	29.26
2. Food Away From Home	134.09	13.59	18.22	14.26	19.12	14.88	19.95
3. Tobacco	113.98	2.91	3.32	2.41	2.75	1.95	2.22
4. Alcohol	104.16	2.49	2.59	2.52	2.62	2.54	2.65
5. Furnishings and Household Operations	107.43	15.19	16.32	16.35	17.56	17.45	18.75
6. Clothing	113.55	13.34	15.15	13.95	15.84	14.53	16.50
7. Domestic Services	96.14	1.80	1.73	2.03	1.95	2.23	2.14
8. Professional Services	101.45	6.97	7.07	6.81	6.91	6.66	6.76
9. Personal Care	102.87	3.58	3.68	3.49	3.59	3.41	3.51
10. Recreation	123.40	13.28	16.39	14.29	17.63	15.24	18.81
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			121.69				
Middle					121.09		
Upper							120.55
Kauai County, HI:							
1. Food At Home	145.59	26.85	39.09	23.89	34.78	21.11	30.73
2. Food Away From Home	118.12	13.59	16.05	14.26	16.84	14.88	17.58
3. Tobacco	120.05	2.91	3.49	2.41	2.89	1.95	2.34
4. Alcohol	100.44	2.49	2.50	2.52	2.53	2.54	2.55
5. Furnishings and Household Operations	109.20	15.19	16.59	16.35	17.85	17.45	19.06
6. Clothing	109.28	13.34	14.58	13.95	15.24	14.53	15.88
7. Domestic Services	83.10	1.80	1.50	2.03	1.69	2.23	1.85
8. Professional Services	98.04	6.97	6.83	6.81	6.68	6.66	6.53
9. Personal Care	113.22	3.58	4.05	3.49	3.95	3.41	3.86
10. Recreation	114.67	13.28	15.23	14.29	16.39	15.24	17.48
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			119.91				
Middle					118.84		
Upper							117.86
Maui County, HI:							
1. Food At Home	150.23	26.85	40.34	23.89	35.89	21.11	31.71
2. Food Away From Home	128.95	13.59	17.52	14.26	18.39	14.88	19.19
3. Tobacco	123.75	2.91	3.60	2.41	2.98	1.95	2.41
4. Alcohol	101.77	2.49	2.53	2.52	2.56	2.54	2.58
5. Furnishings and Household Operations	109.52	15.19	16.64	16.35	17.91	17.45	19.11
6. Clothing	102.93	13.34	13.73	13.95	14.36	14.53	14.96
7. Domestic Services	86.47	1.80	1.56	2.03	1.76	2.23	1.93
8. Professional Services	91.14	6.97	6.35	6.81	6.21	6.66	6.07
9. Personal Care	111.33	3.58	3.99	3.49	3.89	3.41	3.80
10. Recreation	115.88	13.28	15.39	14.29	16.56	15.24	17.66
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			121.65				
Middle					120.51		

APPENDIX 7—CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[1997 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Upper	.....	.....	.....	.....	.....	.....	119.42
Guam:							
1. Food At Home	129.56	26.85	34.79	23.89	30.95	21.11	27.35
2. Food Away From Home	131.98	13.59	17.94	14.26	18.82	14.88	19.64
3. Tobacco	81.65	2.91	2.38	2.41	1.97	1.95	1.59
4. Alcohol	86.19	2.49	2.15	2.52	2.17	2.54	2.19
5. Furnishings and Household Operations	129.97	15.19	19.74	16.35	21.25	17.45	22.68
6. Clothing	108.15	13.34	14.43	13.95	15.09	14.53	15.71
7. Domestic Services	72.13	1.80	1.30	2.03	1.46	2.23	1.61
8. Professional Services	98.53	6.97	6.87	6.81	6.71	6.66	6.56
9. Personal Care	115.09	3.58	4.12	3.49	4.02	3.41	3.92
10. Recreation	115.94	13.28	15.40	14.29	16.57	15.24	17.67
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	119.12	.....	.....	.....	.....
Middle	.....	.....	.....	.....	119.01	.....	.....
Upper	.....	.....	.....	.....	.....	.....	118.92
Guam Blend:**							
1. Food At Home	105.98	26.85	28.46	23.89	25.32	21.11	22.37
2. Food Away From Home	131.98	13.59	17.94	14.26	18.82	14.88	19.64
3. Tobacco	76.91	2.91	2.24	2.41	1.85	1.95	1.50
4. Alcohol	86.19	2.49	2.15	2.52	2.17	2.54	2.19
5. Furnishings and Household Operations	122.58	15.19	18.62	16.35	20.04	17.45	21.39
6. Clothing	103.38	13.34	13.79	13.95	14.42	14.53	15.02
7. Domestic Services	72.13	1.80	1.30	2.03	1.46	2.23	1.61
8. Professional Services	98.53	6.97	6.87	6.81	6.71	6.66	6.56
9. Personal Care	104.28	3.58	3.73	3.49	3.64	3.41	3.56
10. Recreation	107.08	13.28	14.21	14.29	15.29	15.24	16.31
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	109.32	.....	.....	.....	.....
Middle	.....	.....	.....	.....	109.73	.....	.....
Upper	.....	.....	.....	.....	.....	.....	110.16
Puerto Rico:							
1. Food At Home	104.85	26.85	28.15	23.89	25.05	21.11	22.13
2. Food Away From Home	109.68	13.59	14.91	14.26	15.64	14.88	16.32
3. Tobacco	101.82	2.91	2.96	2.41	2.45	1.95	1.99
4. Alcohol	117.64	2.49	2.93	2.52	2.96	2.54	2.99
5. Furnishings and Household Operations	106.08	15.19	16.11	16.35	17.34	17.45	18.51
6. Clothing	103.92	13.34	13.86	13.95	14.50	14.53	15.10
7. Domestic Services	58.14	1.80	1.05	2.03	1.18	2.23	1.30
8. Professional Services	96.00	6.97	6.69	6.81	6.54	6.66	6.39
9. Personal Care	102.27	3.58	3.66	3.49	3.57	3.41	3.49
10. Recreation	120.62	13.28	16.02	14.29	17.24	15.24	18.38
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	106.34	.....	.....	.....	.....
Middle	.....	.....	.....	.....	106.47	.....	.....
Upper	.....	.....	.....	.....	.....	.....	106.60
St. Croix, VI:							
1. Food At Home	120.00	26.85	32.22	23.89	28.67	21.11	25.33
2. Food Away From Home	123.45	13.59	16.78	14.26	17.60	14.88	18.37
3. Tobacco	61.95	2.91	1.80	2.41	1.49	1.95	1.21
4. Alcohol	88.59	2.49	2.21	2.52	2.23	2.54	2.25
5. Furnishings and Household Operations	118.35	15.19	17.98	16.35	19.35	17.45	20.65
6. Clothing	112.71	13.34	15.04	13.95	15.72	14.53	16.38
7. Domestic Services	63.66	1.80	1.15	2.03	1.29	2.23	1.42
8. Professional Services	116.13	6.97	8.09	6.81	7.91	6.66	7.73
9. Personal Care	117.76	3.58	4.22	3.49	4.11	3.41	4.02

APPENDIX 7—CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[1997 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
10. Recreation	128.81	13.28	17.11	14.29	18.41	15.24	19.63
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			116.60				
Middle					116.78		
Upper							116.99
St. Thomas, VI:							
1. Food At Home	130.05	26.85	34.92	23.89	31.07	21.11	27.45
2. Food Away From Home	113.10	13.59	15.37	14.26	16.13	14.88	16.83
3. Tobacco	65.40	2.91	1.90	2.41	1.58	1.95	1.28
4. Alcohol	101.15	2.49	2.52	2.52	2.55	2.54	2.57
5. Furnishings and Household Operations	118.64	15.19	18.02	16.35	19.40	17.45	20.70
6. Clothing	103.45	13.34	13.80	13.95	14.43	14.53	15.03
7. Domestic Services	56.69	1.80	1.02	2.03	1.15	2.23	1.26
8. Professional Services	119.80	6.97	8.35	6.81	8.16	6.66	7.98
9. Personal Care	121.46	3.58	4.35	3.49	4.24	3.41	4.14
10. Recreation	124.64	13.28	16.55	14.29	17.81	15.24	19.00
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			116.80				
Middle					116.52		
Upper							116.24

*Numbers might not add to 100 due to rounding.
**Local Retail and Commissary/Exchange

CONSUMPTION GOODS AND SERVICES ANALYSIS—COMPOSITES

[1997 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
Hilo, HI	75.99	114.51	113.59	112.74
Kailua Kona, HI	24.01	121.69	121.09	120.55
Total weight	100.00			
Hawaii County, HI		116.23	115.39	114.62
St. Croix, VI	48.76	116.60	116.78	116.99
St. Thomas, VI	51.24	116.80	116.52	116.24
Total weight	100.00			
Virgin Islands		116.70	116.65	116.61

APPENDIX 8.—OPM LIVING COMMUNITY LIST

	Low	Middle	High
Anchorage, AK:			
Homeowner	North Anchorage*	North Anchorage*	South Anchorage.*
Renter	North Anchorage*	North Anchorage*	South Anchorage.*

*Dividing line between North and South Anchorage is Tudor Road.

Fairbanks, AK:			
Homeowner	Fairbanks	Fairbanks	Fairbanks.
Renter	Fairbanks	Fairbanks	Fairbanks.
Juneau, AK:			
Homeowner	Juneau/Mendenhall	Juneau/Mendenhall	Juneau/Mendenhall.

APPENDIX 8.—OPM LIVING COMMUNITY LIST—Continued

	Low	Middle	High
Renter	Juneau/Mendenhall	Juneau/Mendenhall	Juneau/Mendenhall.
Nome, AK:			
Homeowner	Nome	Nome	Nome.
Renter	Nome	Nome	Nome.
Honolulu:			
Homeowner	Pearl City	Kailua	Aina Haina.
	Waipahu	Kanehoe	Hawaii Kai.
		Mililani Town	Kaimuki.
			Manoa.
Renter	Kalihi	Aiea	Aina Haina.
	Pearl Harbor Area	Kailua	Hawaii Kai.
		Kanehoe	Kaimuki.
		Mililani Town	Manoa.
Hawaii County—Hilo:			
Homeowner	Hilo	Hilo	Hilo.
Renter	Hilo	Hilo	Hilo.
Hawaii County—Kailua Kona:			
Homeowner	Kailua Kona Area	Kailua Kona Area	Kailua Kona Area.
Renter	Kailua Kona Area	Kailua Kona Area	Kailua Kona Area.
Kauai:			
Homeowner	Kauai	Kauai	Kauai.
Renter	Kauai	Kauai	Kauai.
Maui:			
Homeowner	Maui	Maui	Maui.
Renter	Maui	Maui	Maui.
Guam:			
Homeowner	Guam	Guam	Guam.
Renter	Guam	Guam	Guam.
Puerto Rico:			
Homeowner	Bayamon	Rio Piedras including VA Hospital Area.	Guaynabo.
	Carolina		
Renter	Bayamon	Isla Verde	Condado.
	Carolina	Rio Piedras excluding VA Hospital Area.	Guaynabo.
	Rio Piedras excluding VA Hospital Area.		
St. Croix:			
Homeowner	St. Croix	St. Croix	St. Croix.
Renter	St. Croix	St. Croix	St. Croix.
St. Thomas:			
Homeowner	St. Thomas	St. Thomas	St. Thomas.
Renter	St. Thomas	St. Thomas	St. Thomas.
Washington, DC DC:			
Homeowner	Southeast DC	Northeast DC	Northwest DC.*
Renter	Southeast DC	Northeast DC	Northwest DC.*

*Excludes Georgetown, but includes Dupont Circle, Cleveland Park, and Adams Morgan.

Washington, DC MD:			
Homeowner	Capitol Heights/Suitland	Gaithersburg/Silver Spring	Rockville.
Renter	Capitol Heights/Suitland	Hyattsville/College Park	Rockville.
Washington, DC VA:			
Homeowner	Woodbridge/Dale City	Springfield	Alexandria.
Renter	Woodbridge/Dale City	Alexandria	Arlington.

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
Anchorage, AK	1987	9.375	Lower	$81,024	$6,469.56
			Middle	109,147	8,715.12
			Upper	130,227	10,398.36
	1988	10.500	Lower	74,218	6,517.44
			Middle	101,300	8,895.60
			Upper	117,190	10,291.08
	1989	11.125	Lower	67,538	6,235.80
			Middle	93,454	8,628.72
			Upper	112,532	10,390.20
	1990	10.250	Lower	60,784	5,229.00

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
			Middle	87,071	7,490.40
			Upper	114,783	9,874.32
	1992	9.000	Lower	65,700	5,074.92
			Middle	96,200	7,430.88
			Upper	139,400	10,767.84
	1993	8.125	Lower	70,902	5,053.92
			Middle	99,073	7,061.88
			Upper	130,815	9,324.48
	1994	7.625	Lower	72,216	4,906.92
			Middle	99,099	6,733.56
			Upper	124,780	8,478.60
	1995	8.625	Lower	83,286	6,218.76
			Middle	102,089	7,622.76
			Upper	134,580	10,048.80
	1996	7.125	Lower	83,646	5,409.96
			Middle	112,671	7,287.24
			Upper	139,689	9,034.68
	1997	7.792	Lower	86,859	5,997.96
			Middle	119,561	8,256.24
			Upper	149,073	10,294.20
Fairbanks, AK	1987	9.375	Lower	71,839	5,736.24
			Middle	97,958	7,821.72
			Upper	131,833	10,526.64
	1988	10.500	Lower	64,696	5,681.28
			Middle	93,191	8,183.52
			Upper	123,467	10,842.24
	1989	11.125	Lower	57,553	5,313.96
			Middle	88,424	8,164.32
			Upper	115,101	10,627.44
	1990	10.250	Lower	50,604	4,353.24
			Middle	83,619	7,193.40
			Upper	107,143	9,217.08
	1992	9.000	Lower	70,851	5,472.84
			Middle	101,400	7,832.52
			Upper	137,000	10,582.44
	1993	8.125	Lower	69,498	4,953.84
			Middle	101,478	7,233.36
			Upper	115,787	8,253.24
	1994	7.625	Lower	76,302	5,184.60
			Middle	112,580	7,649.64
			Upper	127,829	8,685.72
	1995	8.708	Lower	68,940	5,186.76
			Middle	84,240	6,337.80
			Upper	108,426	8,157.48
	1996	7.125	Lower	72,918	4,716.12
			Middle	92,625	5,990.76
			Upper	115,855	7,493.16
	1997	8.183	Lower	78,804	5,647.92
			Middle	97,110	6,959.88
			Upper	122,196	8,757.72
Juneau, AK	1987	9.375	Lower	83,909	6,699.96
			Middle	100,846	8,052.36
			Upper	120,885	9,652.44
	1988	10.500	Lower	76,441	6,712.68
			Middle	93,787	8,235.96
			Upper	113,874	9,999.84
	1989	11.125	Lower	68,797	6,352.08
			Middle	86,284	7,966.68
			Upper	106,131	9,799.20
	1990	10.250	Lower	78,429	6,746.88
			Middle	99,227	8,536.08
			Upper	123,324	10,609.08
	1992	9.000	Lower	89,470	6,911.04
			Middle	114,400	8,836.68
			Upper	146,300	11,300.76
	1993	8.125	Lower	87,570	6,241.92
			Middle	115,518	8,234.04
			Upper	134,232	9,568.08
	1994	7.625	Lower	92,826	6,307.32
			Middle	117,364	7,974.72
			Upper	140,760	9,564.36

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
	1995	8.625	Lower	102,879	7,681.80
			Middle	138,723	10,358.16
			Upper	163,812	12,231.48
	1996	7.125	Lower	114,255	7,389.72
			Middle	143,767	9,298.44
			Upper	169,507	10,963.20
	1997	7.792	Lower	130,266	8,995.44
			Middle	162,955	11,252.76
			Upper	185,011	12,775.80
Nome, AK	1987	9.375	Lower	81,367	6,497.04
			Middle	107,602	8,591.76
			Upper	129,445	10,335.96
	1988	10.500	Lower	78,763	6,916.56
			Middle	104,159	9,146.76
			Upper	125,312	11,004.24
	1989	11.125	Lower	76,243	7,039.56
			Middle	100,826	9,309.36
			Upper	121,302	11,199.96
	1990	10.250	Lower	73,803	6,348.96
			Middle	97,600	8,396.16
			Upper	117,420	10,101.12
	1992	9.000	Lower	71,100	5,492.04
			Middle	97,500	7,531.32
			Upper	122,400	9,454.68
	1993	8.125	Lower	56,453	4,023.96
			Middle	77,415	5,518.08
			Upper	97,186	6,927.36
	1994	7.625	Lower	82,365	5,596.56
			Middle	112,948	7,674.60
			Upper	141,794	9,634.68
	1995	8.625	Lower	81,711	6,101.16
			Middle	118,027	8,812.80
			Upper	154,343	11,524.44
	1996	7.125	Lower	80,856	5,229.48
			Middle	119,171	7,707.60
			Upper	139,213	9,003.84
	1997	8.183	Lower	99,324	7,118.52
			Middle	143,468	10,282.32
			Upper	187,612	13,446.12
Honolulu, HI	1987	10.375	Lower	122,352	10,634.76
			Middle	151,096	13,133.16
			Upper	281,713	24,486.24
	1988	11.000	Lower	134,388	12,286.20
			Middle	173,823	15,891.48
			Upper	335,274	30,651.72
	1989	10.500	Lower	182,268	16,005.84
			Middle	231,218	20,304.36
			Upper	410,550	36,052.44
	1990	10.250	Lower	248,571	21,383.52
			Middle	299,702	25,782.12
			Upper	510,714	43,934.52
	1991	9.125	Lower	258,300	20,175.48
			Middle	320,866	25,062.48
			Upper	501,701	39,187.20
	1992	8.125	Lower	192,168	13,697.64
			Middle	323,752	23,076.96
			Upper	483,820	34,486.56
	1993	7.125	Lower	243,072	15,721.20
			Middle	331,006	21,408.48
			Upper	470,730	30,445.44
	1994	9.333	Lower	257,814	20,510.40
			Middle	340,392	27,079.80
			Upper	466,242	37,091.88
	1996	7.025	Lower	220,896	14,144.04
			Middle	303,849	19,455.60
			Upper	417,095	26,706.72
	1997	7.875	Lower	213,003	14,826.48
			Middle	278,759	19,403.52
			Upper	401,642	27,957.00
Hilo, HI	1987	10.375	Lower	59,435	5,166.00
			Middle	82,183	7,143.24

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
	.....	.....	Upper	106,098	9,221.88
	1988	11.000	Lower	68,410	6,254.28
	.....	.....	Middle	92,371	8,444.88
	.....	.....	Upper	114,412	10,459.92
	1989	10.500	Lower	77,386	6,795.60
	.....	.....	Middle	102,559	9,006.24
	.....	.....	Upper	122,727	10,777.32
	1990	10.250	Lower	121,688	10,468.32
	.....	.....	Middle	108,821	9,361.44
	.....	.....	Upper	164,283	14,132.52
	1991	9.125	Lower	134,100	10,474.44
	.....	.....	Middle	180,700	14,114.28
	.....	.....	Upper	204,000	15,934.20
	1992	8.125	Lower	130,743	9,319.32
	.....	.....	Middle	162,903	11,611.68
	.....	.....	Upper	197,863	14,103.60
	1993	7.125	Lower	127,854	8,269.20
	.....	.....	Middle	173,095	11,195.28
	.....	.....	Upper	202,018	13,065.96
	1994	9.333	Lower	114,696	9,124.92
	.....	.....	Middle	162,500	12,927.96
	.....	.....	Upper	196,146	15,604.80
	1996	7.000	Lower	115,750	7,392.84
	.....	.....	Middle	164,711	10,519.92
	.....	.....	Upper	183,841	11,741.76
	1997	7.792	Lower	89,064	6,150.24
	.....	.....	Middle	139,191	9,611.76
	.....	.....	Upper	186,983	12,912.00
Kailua Kona, HI	1987	10.375	Lower	88,880	7,725.36
	.....	.....	Middle	122,387	10,637.76
	.....	.....	Upper	140,297	12,194.52
	1988	11.000	Lower	100,662	9,202.80
	.....	.....	Middle	137,180	12,541.44
	.....	.....	Upper	160,692	14,691.00
	1989	10.500	Lower	112,444	9,874.32
	.....	.....	Middle	151,973	13,345.56
	.....	.....	Upper	181,087	15,902.16
	1990	10.250	Lower	134,609	11,579.88
	.....	.....	Middle	189,900	16,336.32
	.....	.....	Upper	225,100	19,364.40
	1991	9.130	Lower	154,800	12,096.60
	.....	.....	Middle	204,100	15,949.08
	.....	.....	Upper	256,700	20,059.44
	1992	8.125	Lower	159,867	11,395.32
	.....	.....	Middle	222,950	15,891.84
	.....	.....	Upper	261,018	18,605.28
	1993	7.125	Lower	153,666	9,938.64
	.....	.....	Middle	219,245	14,180.16
	.....	.....	Upper	261,902	16,939.08
	1994	9.333	Lower	152,235	12,111.36
	.....	.....	Middle	215,826	17,170.44
	.....	.....	Upper	224,128	17,830.92
	1996	6.958	Lower	144,434	9,186.12
	.....	.....	Middle	191,923	12,206.40
	.....	.....	Upper	220,752	14,039.88
	1997	8.042	Lower	141,552	10,010.88
	.....	.....	Middle	186,056	13,158.36
	.....	.....	Upper	219,674	15,535.92
Kauai County, HI	1987	10.375	Lower	78,576	6,829.80
	.....	.....	Middle	106,294	9,238.92
	.....	.....	Upper	121,318	10,544.88
	1988	11.000	Lower	91,046	8,323.68
	.....	.....	Middle	124,556	11,387.28
	.....	.....	Upper	145,581	13,309.44
	1989	10.500	Lower	103,516	9,090.24
	.....	.....	Middle	142,818	12,541.56
	.....	.....	Upper	177,900	15,622.32
	1990	10.250	Lower	177,351	15,256.80
	.....	.....	Middle	233,846	20,116.80
	.....	.....	Upper	295,854	25,451.04
	1991	9.125	Lower	174,336	13,617.12

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
			Middle	229,900	17,957.16
			Upper	290,800	22,714.08
	1992	8.125	Lower	171,792	12,245.28
			Middle	221,624	15,797.28
			Upper	273,921	19,524.96
	1993	7.125	Lower	171,964	11,122.08
			Middle	221,858	14,349.12
			Upper	274,195	17,734.08
	1994	9.333	Lower	163,350	12,995.64
			Middle	222,196	17,677.20
			Upper	255,000	20,287.08
	1996	6.958	Lower	176,907	11,251.32
			Middle	228,147	14,510.28
			Upper	265,084	16,859.40
	1997	8.042	Lower	151,551	10,718.04
			Middle	209,781	14,836.32
			Upper	235,688	16,668.48
Maui County, HI	1987	10.375	Lower	100,293	8,717.40
			Middle	133,911	11,639.40
			Upper	168,401	14,637.24
	1988	11.000	Lower	121,107	11,071.92
			Middle	160,693	14,691.00
			Upper	202,081	18,474.84
	1989	10.500	Lower	151,384	13,293.84
			Middle	200,866	17,639.04
			Upper	252,601	22,182.12
	1990	10.250	Lower	174,092	14,976.36
			Middle	230,996	19,871.64
			Upper	290,491	24,989.64
	1991	9.125	Lower	210,651	16,453.68
			Middle	279,500	21,831.36
			Upper	351,494	27,454.80
	1992	8.125	Lower	207,913	14,820.00
			Middle	275,925	19,667.88
			Upper	346,925	24,728.76
	1993	7.125	Lower	180,099	11,648.28
			Middle	255,476	16,523.40
			Upper	310,845	20,104.56
	1994	9.333	Lower	180,000	14,320.32
			Middle	250,588	19,936.08
			Upper	278,443	22,152.12
	1996	7.000	Lower	192,575	12,299.64
			Middle	260,593	16,643.88
			Upper	283,138	18,083.76
	1997	7.417	Lower	182,448	12,147.36
			Middle	234,429	15,608.28
			Upper	274,074	18,247.80
Guam	1987	10.375	Lower	74,841	6,505.08
			Middle	91,802	7,979.40
			Upper	188,786	16,409.16
	1988	11.000	Lower	84,271	7,704.36
			Middle	103,920	9,500.64
			Upper	207,287	18,950.76
	1989	10.375	Lower	93,709	8,145.12
			Middle	116,079	10,089.48
			Upper	225,735	19,620.72
	1990	10.500	Lower	103,174	9,060.24
			Middle	128,151	11,253.60
			Upper	244,245	21,448.32
	1991	10.125	Lower	113,491	9,662.04
			Middle	140,966	12,001.08
			Upper	268,670	22,873.20
	1992	9.491	Lower	130,855	10,554.60
			Middle	162,534	13,109.88
			Upper	309,777	24,986.28
	1993	7.750	Lower	144,738	9,954.48
			Middle	189,280	13,017.84
			Upper	258,978	17,811.36
	1994	10.050	Lower	133,452	11,290.32
			Middle	188,240	15,925.44
			Upper	244,375	20,674.56

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
	1996	7.875	Lower	130,746	9,100.80
			Middle	180,074	12,534.36
			Upper	224,347	15,616.08
	1997	7.917	Lower	149,292	10,433.52
			Middle	162,500	11,356.56
			Upper	212,500	14,850.96
Puerto Rico	1987	10.625	Lower	60,266	5,346.36
			Middle	73,818	6,548.64
			Upper	106,847	9,478.80
	1988	10.875	Lower	64,485	5,837.04
			Middle	78,985	7,149.48
			Upper	114,326	10,348.44
	1989	10.375	Lower	70,934	6,165.48
			Middle	86,884	7,551.84
			Upper	122,329	10,632.72
	1990	10.375	Lower	78,027	6,782.04
			Middle	95,572	8,307.00
			Upper	134,562	11,696.04
	1991	8.875	Lower	82,800	6,324.48
			Middle	100,255	7,657.68
			Upper	141,100	10,777.44
	1992	8.125	Lower	62,271	4,438.68
			Middle	84,721	6,038.88
			Upper	151,946	10,830.72
	1993	7.125	Lower	61,389	3,970.44
			Middle	84,084	5,438.28
			Upper	151,878	9,822.96
	1994	8.750	Lower	66,843	5,048.16
			Middle	102,232	7,720.92
			Upper	143,633	10,847.64
	1996	7.792	Lower	69,714	4,813.92
			Middle	107,367	7,413.96
			Upper	168,385	11,627.40
	1997	7.770	Lower	73,683	5,077.32
			Middle	108,849	7,500.60
			Upper	172,244	11,869.08
St. Croix, VI	1987	12.000	Lower	54,140	5,346.12
			Middle	70,157	6,927.72
			Upper	119,042	11,754.96
	1988	12.000	Lower	66,051	6,522.36
			Middle	85,592	8,451.96
			Upper	145,231	14,341.08
	1989	11.750	Lower	64,730	6,272.52
			Middle	83,880	8,128.20
			Upper	142,326	13,791.84
	1990	11.250	Lower	80,912	7,544.28
			Middle	104,850	9,776.28
			Upper	177,908	16,588.32
	1991	10.250	Lower	85,281	7,336.32
			Middle	110,500	9,505.80
			Upper	187,500	16,129.80
	1992	9.500	Lower	103,635	8,365.68
			Middle	151,866	12,258.96
			Upper	188,037	15,178.68
	1993	8.375	Lower	112,962	8,242.44
			Middle	174,161	12,708.00
			Upper	194,004	14,155.92
	1994	9.083	Lower	77,409	6,024.00
			Middle	128,076	9,966.84
			Upper	210,035	16,344.96
	1996	9.042	Lower	86,304	6,691.32
			Middle	124,863	9,680.88
			Upper	180,796	14,017.44
	1997	9.250	Lower	78,489	6,198.84
			Middle	128,076	10,115.04
			Upper	152,099	12,012.24
St. Thomas, VI	1987	12.000	Lower	103,617	10,231.80
			Middle	131,108	12,946.44
			Upper	156,484	15,452.28
	1988	12.000	Lower	121,129	11,961.12
			Middle	153,265	15,134.40

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
	.....	.....	Upper	182,929	18,063.60
	1989	11.750	Lower	126,943	12,301.20
	.....	.....	Middle	160,622	15,564.84
	.....	.....	Upper	191,710	18,577.32
	1990	11.250	Lower	122,500	11,422.08
	.....	.....	Middle	155,000	14,452.32
	.....	.....	Upper	185,000	17,249.64
	1991	10.250	Lower	126,900	10,916.64
	.....	.....	Middle	180,700	15,544.80
	.....	.....	Upper	210,800	18,134.28
	1992	9.000	Lower	128,930	9,959.04
	.....	.....	Middle	183,591	14,181.24
	.....	.....	Upper	214,173	16,543.56
	1993	8.250	Lower	139,680	10,074.00
	.....	.....	Middle	198,829	14,339.88
	.....	.....	Upper	231,949	16,728.48
	1994	9.083	Lower	106,533	8,290.44
	.....	.....	Middle	190,164	14,798.52
	.....	.....	Upper	195,381	15,204.60
	1996	8.292	Lower	137,936	9,987.00
	.....	.....	Middle	197,134	14,273.16
	.....	.....	Upper	187,673	13,588.08
	1997	8.333	Lower	137,936	10,025.52
	.....	.....	Middle	197,134	14,328.24
	.....	.....	Upper	187,673	13,640.52
Washington, DC (DC)	1987	10.250	Lower	70,543	6,068.52
	.....	.....	Middle	113,015	9,722.16
	.....	.....	Upper	187,324	16,114.68
	1988	10.500	Lower	76,327	6,702.60
	.....	.....	Middle	126,817	11,136.48
	.....	.....	Upper	202,310	17,765.88
	1989	9.625	Lower	82,128	6,701.52
	.....	.....	Middle	140,619	11,474.40
	.....	.....	Upper	218,495	17,829.00
	1990	9.875	Lower	87,877	7,325.52
	.....	.....	Middle	140,974	11,751.84
	.....	.....	Upper	235,975	19,671.24
	1991	9.250	Lower	90,104	7,116.12
	.....	.....	Middle	144,550	11,416.08
	.....	.....	Upper	242,000	19,112.40
	1992	8.313	Lower	90,828	6,589.32
	.....	.....	Middle	127,270	9,233.04
	.....	.....	Upper	241,230	17,500.56
	1993	7.375	Lower	93,369	6,190.80
	.....	.....	Middle	115,021	7,626.48
	.....	.....	Upper	286,564	19,000.56
	1994	8.677	Lower	82,242	6,170.04
	.....	.....	Middle	104,657	7,851.72
	.....	.....	Upper	305,541	22,922.64
	1996	7.625	Lower	73,177	4,972.20
	.....	.....	Middle	110,425	7,503.12
	.....	.....	Upper	290,563	19,743.24
	1997	7.823	Lower	56,115	3,886.56
	.....	.....	Middle	82,940	5,744.52
	.....	.....	Upper	220,779	15,291.24
Washington, DC (MD)	1987	10.125	Lower	66,032	5,621.64
	.....	.....	Middle	102,250	8,705.04
	.....	.....	Upper	121,660	10,357.56
	1988	10.375	Lower	73,295	6,370.68
	.....	.....	Middle	113,498	9,865.20
	.....	.....	Upper	135,043	11,737.80
	1989	10.000	Lower	81,357	6,854.04
	.....	.....	Middle	125,983	10,613.64
	.....	.....	Upper	149,898	12,628.44
	1990	9.875	Lower	89,493	7,460.28
	.....	.....	Middle	138,581	11,552.28
	.....	.....	Upper	164,888	13,745.28
	1991	8.750	Lower	93,475	7,059.48
	.....	.....	Middle	144,748	10,931.88
	.....	.....	Upper	169,958	12,835.80
	1992	8.313	Lower	104,198	7,559.28

APPENDIX 9—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
			Middle	131,118	9,512.28
			Upper	207,502	15,053.64
	1993	7.375	Lower	92,655	6,143.52
			Middle	118,911	7,884.36
			Upper	204,264	13,543.68
	1994	8.688	Lower	90,963	6,831.24
			Middle	167,349	12,567.72
			Upper	214,030	16,073.40
	1996	6.896	Lower	109,369	6,912.12
			Middle	222,845	14,083.80
			Upper	224,792	14,206.80
	1997	7.920	Lower	94,536	6,608.76
			Middle	160,823	11,242.56
			Upper	199,648	13,956.72
Washington, DC (VA)	1987	10.125	Lower	76,526	6,515.04
			Middle	86,350	7,351.44
			Upper	143,173	12,189.00
	1988	10.500	Lower	83,413	7,324.92
			Middle	94,122	8,265.36
			Upper	156,059	13,704.36
	1989	9.500	Lower	90,086	7,271.88
			Middle	101,652	8,205.60
			Upper	168,544	13,605.24
	1990	10.000	Lower	97,293	8,196.60
			Middle	109,784	9,249.00
			Upper	182,028	15,335.28
	1991	8.938	Lower	103,462	7,947.48
			Middle	117,650	9,037.44
			Upper	187,000	14,364.60
	1992	8.250	Lower	100,103	7,219.56
			Middle	126,315	9,110.04
			Upper	182,810	13,184.52
	1993	7.500	Lower	94,905	6,370.44
			Middle	126,874	8,516.40
			Upper	181,705	12,196.92
	1994	8.698	Lower	99,657	7,490.88
			Middle	167,876	12,618.72
			Upper	228,191	17,152.44
	1996	7.083	Lower	108,327	6,976.80
			Middle	169,472	10,914.84
			Upper	206,918	13,326.60
	1997	7.858	Lower	104,364	7,252.56
			Middle	160,706	11,168.04
			Upper	229,925	15,978.24

*Principal and interest assumes 80 financing.

APPENDIX 10.—HISTORICAL HOUSING DATA

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Anchorage, AK:							
1987	6.31	6,469.56	408.23	8,715.12	549.92	10,398.36	656.14
1988	6.77	6,517.44	441.23	8,895.60	602.23	10,291.08	696.71
1989	8.19	6,235.80	510.71	8,628.72	706.69	10,390.20	850.96
1990	7.03	5,229.00	367.60	7,490.40	526.58	9,874.32	694.16
1992	7.72	5,074.92	391.78	7,430.88	573.66	10,767.84	831.28
1993	8.32	5,053.92	420.49	7,061.88	587.55	9,324.48	775.80
1994	10.08	4,906.92	494.62	6,733.56	678.74	8,478.60	854.64
1995	12.92	6,218.76	803.46	7,622.76	984.86	10,048.80	1,298.30
1996	13.78	5,409.96	745.49	7,287.24	1,004.18	9,034.68	1,244.98
1997	18.88	5,997.96	1,132.41	8,256.24	1,558.78	10,294.20	1,943.54
Totals	100.00		5,716.02		7,773.19		9,846.51
Fairbanks, AK:							
1987	6.31	5,736.24	361.96	7,821.72	493.55	10,526.64	664.23
1988	6.77	5,681.28	384.62	8,183.52	554.02	10,842.24	734.02
1989	8.19	5,313.96	435.21	8,164.32	668.66	10,627.44	870.39
1990	7.03	4,353.24	306.03	7,193.40	505.70	9,217.08	647.96

APPENDIX 10.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
1992	7.72	5,472.84	422.50	7,832.52	604.67	10,582.44	816.96
1993	8.32	4,953.84	412.16	7,233.36	601.82	8,253.24	686.67
1994	10.08	5,184.60	522.61	7,649.64	771.08	8,685.72	875.52
1995	12.92	5,186.76	670.13	6,337.80	818.84	8,157.48	1,053.95
1996	13.78	4,716.12	649.88	5,990.76	825.53	7,493.16	1,032.56
1997	18.88	5,647.92	1,066.33	6,959.88	1,314.03	8,757.72	1,653.46
Totals	100.00	.....	5,231.43	.....	7,157.90	.....	9,035.72
Juneau, AK:							
1987	6.31	6,699.96	422.77	8,052.36	508.10	9,652.44	609.07
1988	6.77	6,712.68	454.45	8,235.96	557.57	9,999.84	676.99
1989	8.19	6,352.08	520.24	7,966.68	652.47	9,799.20	802.55
1990	7.03	6,746.88	474.31	8,536.08	600.09	10,609.08	745.82
1992	7.72	6,911.04	533.53	8,836.68	682.19	11,300.76	872.42
1993	8.32	6,241.92	519.33	8,234.04	685.07	9,568.08	796.06
1994	10.08	6,307.32	635.78	7,974.72	803.85	9,564.36	964.09
1995	12.92	7,681.80	992.49	10,358.16	1,338.27	12,231.48	1,580.31
1996	13.78	7,389.72	1,018.30	9,298.44	1,281.33	10,963.20	1,510.73
1997	18.88	8,995.44	1,698.34	11,252.76	2,124.52	12,775.80	2,412.07
Totals	100.00	.....	7,269.54	.....	9,233.46	.....	10,970.11
Nome, AK:							
1987	6.31	6,497.04	409.96	8,591.76	542.14	10,335.96	652.20
1988	6.77	6,916.56	468.25	9,146.76	619.24	11,004.24	744.99
1989	8.19	7,039.56	576.54	9,309.36	762.44	11,199.96	917.28
1990	7.03	6,348.96	446.33	8,396.16	590.25	10,101.12	710.11
1992	7.72	5,492.04	423.99	7,531.32	581.42	9,454.68	729.90
1993	8.32	4,023.96	334.79	5,518.08	459.10	6,927.36	576.36
1994	10.08	5,596.56	564.13	7,674.60	773.60	9,634.68	971.18
1995	12.92	6,101.16	788.27	8,812.80	1,138.61	11,524.44	1,488.96
1996	13.78	5,229.48	720.62	7,707.60	1,062.11	9,003.84	1,240.73
1997	18.88	7,118.52	1,343.98	10,282.32	1,941.30	13,446.12	2,538.63
Totals	100.00	.....	6,076.86	.....	8,470.21	.....	10,570.34
Honolulu, HI:							
1987	6.31	10,634.76	671.05	13,133.16	828.70	24,486.24	1,545.08
1988	6.77	12,286.20	831.78	15,891.48	1,075.85	30,651.72	2,075.12
1989	8.19	16,005.84	1,310.88	20,304.36	1,662.93	36,052.44	2,952.69
1990	7.03	21,383.52	1,503.26	25,782.12	1,812.48	43,934.52	3,088.60
1991	7.72	20,175.48	1,557.55	25,062.48	1,934.82	39,187.20	3,025.25
1992	8.32	13,697.64	1,139.64	23,076.96	1,920.00	34,486.56	2,869.28
1993	10.08	15,721.20	1,584.70	21,408.48	2,157.97	30,445.44	3,068.90
1994	12.92	20,510.40	2,649.94	27,079.80	3,498.71	37,091.88	4,792.27
1996	13.78	14,144.04	1,949.05	19,455.60	2,680.98	26,706.72	3,680.19
1997	18.88	14,826.48	2,799.24	19,403.52	3,663.38	27,957.00	5,278.28
Totals	100.00	.....	15,997.09	.....	21,235.82	.....	32,375.66
Hilo, HI:							
1987	6.31	5,166.00	325.97	7,143.24	450.74	9,221.88	581.90
1988	6.77	6,254.28	423.41	8,444.88	571.72	10,459.92	708.14
1989	8.19	6,795.60	556.56	9,006.24	737.61	10,777.32	882.66
1990	7.03	10,468.32	735.92	9,361.44	658.11	14,132.52	993.52
1991	7.72	10,474.44	808.63	14,114.28	1,089.62	15,934.20	1,230.12
1992	8.32	9,319.32	775.37	11,611.68	966.09	14,103.60	1,173.42
1993	10.08	8,269.20	833.54	11,195.28	1,128.48	13,065.96	1,317.05
1994	12.92	9,124.92	1,178.94	12,927.96	1,670.29	15,604.80	2,016.14
1996	13.78	7,392.84	1,018.73	10,519.92	1,449.64	11,741.76	1,618.01
1997	18.88	6,150.24	1,161.17	9,611.76	1,814.70	12,912.00	2,437.79
Totals	100.00	.....	7,818.24	.....	10,537.00	.....	12,958.75
Kailua Kona, HI:							
1987	6.31	7,725.36	487.47	10,637.76	671.24	12,194.52	769.47
1988	6.77	9,202.80	623.03	12,541.44	849.06	14,691.00	994.58
1989	8.19	9,874.32	808.71	13,345.56	1,093.00	15,902.16	1,302.39
1990	7.03	11,579.88	814.07	16,336.32	1,148.44	19,364.40	1,361.32
1991	7.72	12,096.60	933.86	15,949.08	1,231.27	20,059.44	1,548.59
1992	8.32	11,395.32	948.09	15,891.84	1,322.20	18,605.28	1,547.96

APPENDIX 10.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
1993	10.08	9,938.64	1,001.81	14,180.16	1,429.36	16,939.08	1,707.46
1994	12.92	12,111.36	1,564.79	17,170.44	2,218.42	17,830.92	2,303.75
1996	13.78	9,186.12	1,265.85	12,206.40	1,682.04	14,039.88	1,934.70
1997	18.88	10,010.88	1,890.05	13,158.36	2,484.30	15,535.92	2,933.18
Totals	100.00	.....	10,337.73	.....	14,129.33	.....	16,403.40
Kauai, HI:							
1987	6.31	6,829.80	430.96	9,238.92	582.98	10,544.88	665.38
1988	6.77	8,323.68	563.51	11,387.28	770.92	13,309.44	901.05
1989	8.19	9,090.24	744.49	12,541.56	1,027.15	15,622.32	1,279.47
1990	7.03	15,256.80	1,072.55	20,116.80	1,414.21	25,451.04	1,789.21
1991	7.72	13,617.12	1,051.24	17,957.16	1,386.29	22,714.08	1,753.53
1992	8.32	12,245.28	1,018.81	15,797.28	1,314.33	19,524.96	1,624.48
1993	10.08	11,122.08	1,121.11	14,349.12	1,446.39	17,734.08	1,787.60
1994	12.92	12,995.64	1,679.04	17,677.20	2,283.89	20,287.08	2,621.09
1996	13.78	11,251.32	1,550.43	14,510.28	1,999.52	16,859.40	2,323.23
1997	18.88	10,718.04	2,023.57	14,836.32	2,801.10	16,668.48	3,147.01
Totals	100.00	.....	11,255.71	.....	15,026.78	.....	17,892.05
Maui, HI:							
1987	6.31	8,717.40	550.07	11,639.40	734.45	14,637.24	923.61
1988	6.77	11,071.92	749.57	14,691.00	994.58	18,474.84	1,250.75
1989	8.19	13,293.84	1,088.77	17,639.04	1,444.64	22,182.12	1,816.72
1990	7.03	14,976.36	1,052.84	19,871.64	1,396.98	24,989.64	1,756.77
1991	7.72	16,453.68	1,270.22	21,831.36	1,685.38	27,454.80	2,119.51
1992	8.32	14,820.00	1,233.02	19,667.88	1,636.37	24,728.76	2,057.43
1993	10.08	11,648.28	1,174.15	16,523.40	1,665.56	20,104.56	2,026.54
1994	12.92	14,320.32	1,850.19	19,936.08	2,575.74	22,152.12	2,862.05
1996	13.78	12,299.64	1,694.89	16,643.88	2,293.53	18,083.76	2,491.94
1997	18.88	12,147.36	2,293.42	15,608.28	2,946.84	18,247.80	3,445.18
Totals	100.00	.....	12,957.14	.....	17,374.07	.....	20,750.50
Guam:							
1987	6.31	6,505.08	410.47	7,979.40	503.50	16,409.16	1,035.42
1988	6.77	7,704.36	521.59	9,500.64	643.19	18,950.76	1,282.97
1989	8.19	8,145.12	667.09	10,089.48	826.33	19,620.72	1,606.94
1990	7.03	9,060.24	636.93	11,253.60	791.13	21,448.32	1,507.82
1991	7.72	9,662.04	745.91	12,001.08	926.48	22,873.20	1,765.81
1992	8.32	10,554.60	878.14	13,109.88	1,090.74	24,986.28	2,078.86
1993	10.08	9,954.48	1,003.41	13,017.84	1,312.20	17,811.36	1,795.39
1994	12.92	11,290.32	1,458.71	15,925.44	2,057.57	20,674.56	2,671.15
1996	13.78	9,100.80	1,254.09	12,534.36	1,727.23	15,616.08	2,151.90
1997	18.88	10,433.52	1,969.85	11,356.56	2,144.12	14,850.96	2,803.86
Totals	100.00	.....	9,546.19	.....	12,022.49	.....	18,700.12
Puerto Rico:							
1987	6.31	5,346.36	337.36	6,548.64	413.22	9,478.80	598.11
1988	6.77	5,837.04	395.17	7,149.48	484.02	10,348.44	700.59
1989	8.19	6,165.48	504.95	7,551.84	618.50	10,632.72	870.82
1990	7.03	6,782.04	476.78	8,307.00	583.98	11,696.04	822.23
1991	7.72	6,324.48	488.25	7,657.68	591.17	10,777.44	832.02
1992	8.32	4,438.68	369.30	6,038.88	502.43	10,830.72	901.12
1993	10.08	3,970.44	400.22	5,438.28	548.18	9,822.96	990.15
1994	12.92	5,048.16	652.22	7,720.92	997.54	10,847.64	1,401.52
1996	13.78	4,813.92	663.36	7,413.96	1,021.64	11,627.40	1,602.26
1997	18.88	5,077.32	958.60	7,500.60	1,416.11	11,869.08	2,240.88
Totals	100.00	.....	5,246.21	.....	7,176.79	.....	10,959.70
St. Croix, VI:							
1987	6.31	5,346.12	337.34	6,927.72	437.14	11,754.96	741.74
1988	6.77	6,522.36	441.56	8,451.96	572.20	14,341.08	970.89
1989	8.19	6,272.52	513.72	8,128.20	665.70	13,791.84	1,129.55
1990	7.03	7,544.28	530.36	9,776.28	687.27	16,588.32	1,166.16
1991	7.72	7,336.32	566.36	9,505.80	733.85	16,129.80	1,245.22
1992	8.32	8,365.68	696.02	12,258.96	1,019.95	15,178.68	1,262.87
1993	10.08	8,242.44	830.84	12,708.00	1,280.97	14,155.92	1,426.92
1994	12.92	6,024.00	778.30	9,966.84	1,287.72	16,344.96	2,111.77

APPENDIX 10.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
1996	13.78	6,691.32	922.06	9,680.88	1,334.03	14,017.44	1,931.60
1997	18.88	6,198.84	1,170.34	10,115.04	1,909.72	12,012.24	2,267.91
Totals	100.00	.....	6,786.90	.....	9,928.55	.....	14,254.63
St. Thomas, VI:							
1987	6.31	10,231.80	645.63	12,946.44	816.92	15,452.28	975.04
1988	6.77	11,961.12	809.77	15,134.40	1,024.60	18,063.60	1,222.91
1989	8.19	12,301.20	1,007.47	15,564.84	1,274.76	18,577.32	1,521.48
1990	7.03	11,422.08	802.97	14,452.32	1,016.00	17,249.64	1,212.65
1991	7.72	10,916.64	842.76	15,544.80	1,200.06	18,134.28	1,399.97
1992	8.32	9,959.04	828.59	14,181.24	1,179.88	16,543.56	1,376.42
1993	10.08	10,074.00	1,015.46	14,339.88	1,445.46	16,728.48	1,686.23
1994	12.92	8,290.44	1,071.12	14,798.52	1,911.97	15,204.60	1,964.43
1996	13.78	9,987.00	1,376.21	14,273.16	1,966.84	13,588.08	1,872.44
1997	18.88	10,025.52	1,892.82	14,328.24	2,705.17	13,640.52	2,575.33
Totals	100.00	.....	10,292.80	.....	14,541.66	.....	15,806.90
Washington, DC (DC):							
1987	6.31	6,068.52	382.92	9,722.16	613.47	16,114.68	1,016.84
1988	6.77	6,702.60	453.77	11,136.48	753.94	17,765.88	1,202.75
1989	8.19	6,701.52	548.85	11,474.40	939.75	17,829.00	1,460.20
1990	7.03	7,325.52	514.98	11,751.84	826.15	19,671.24	1,382.89
1991	7.72	7,116.12	549.36	11,416.08	881.32	19,112.40	1,475.48
1992	8.32	6,589.32	548.23	9,233.04	768.19	17,500.56	1,456.05
1993	10.08	6,190.80	624.03	7,626.48	768.75	19,000.56	1,915.26
1994	12.92	6,170.04	797.17	7,851.72	1,014.44	22,922.64	2,961.61
1996	13.78	4,972.20	685.17	7,503.12	1,033.93	19,743.24	2,720.62
1997	18.88	3,886.56	733.78	5,744.52	1,084.57	15,291.24	2,886.99
Totals	100.00	.....	5,838.26	.....	8,684.51	.....	18,478.69
Washington, DC (MD):							
1987	6.31	5,621.64	354.73	8,705.04	549.29	10,357.56	653.56
1988	6.77	6,370.68	431.30	9,865.20	667.87	11,737.80	794.65
1989	8.19	6,854.04	561.35	10,613.64	869.26	12,628.44	1,034.27
1990	7.03	7,460.28	524.46	11,552.28	812.13	13,745.28	966.29
1991	7.72	7,059.48	544.99	10,931.88	843.94	12,835.80	990.92
1992	8.32	7,559.28	628.93	9,512.28	791.42	15,053.64	1,252.46
1993	10.08	6,143.52	619.27	7,884.36	794.74	13,543.68	1,365.20
1994	12.92	6,831.24	882.60	12,567.72	1,623.75	16,073.40	2,076.68
1996	13.78	6,912.12	952.49	14,083.80	1,940.75	14,206.80	1,957.70
1997	18.88	6,608.76	1,247.73	11,242.56	2,122.60	13,956.72	2,635.03
Totals	100.00	.....	6,747.85	.....	11,015.75	.....	13,726.76
Washington, DC (VA):							
1987	6.31	6,515.04	411.10	7,351.44	463.88	12,189.00	769.13
1988	6.77	7,324.92	495.90	8,265.36	559.56	13,704.36	927.79
1989	8.19	7,271.88	595.57	8,205.60	672.04	13,605.24	1,114.27
1990	7.03	8,196.60	576.22	9,249.00	650.20	15,335.28	1,078.07
1991	7.72	7,947.48	613.55	9,037.44	697.69	14,364.60	1,108.95
1992	8.32	7,219.56	600.67	9,110.04	757.96	13,184.52	1,096.95
1993	10.08	6,370.44	642.14	8,516.40	858.45	12,196.92	1,229.45
1994	12.92	7,490.88	967.82	12,618.72	1,630.34	17,152.44	2,216.10
1996	13.78	6,976.80	961.40	10,914.84	1,504.06	13,326.60	1,836.41
1997	18.88	7,252.56	1,369.28	11,168.04	2,108.53	15,978.24	3,016.69
Totals	100.00	.....	7,233.65	.....	9,902.71	.....	14,393.81

APPENDIX 11.—SUMMARY OF RENTAL ANALYSES

	1997 Data medians					
	B&NB		Non-Brkr		Broker	
	#	$	#	$	#	$
Anchorage, AK:						
Low	29	$534	26	$568	3	$500

APPENDIX 11.—SUMMARY OF RENTAL ANALYSES—Continued

	1997 Data medians					
	B&NB		Non-Brkr		Broker	
	#	$	#	$	#	$
Middle	25	712	22	698	3	725
High	35	975	21	925	14	1,025
Fairbanks, AK:						
Low	18	555	12	585	6	525
Middle	24	669	18	663	6	675
High	17	947	11	1,050	6	843
Juneau, AK:						
Low	19	707	13	700	6	713
Middle	16	869	10	863	6	875
High	12	1,275	6	1,175	6	1,375
Nome, AK:						
Low	7	750	0	NA	7	750
Middle	7	825	0	NA	7	825
High	8	988	0	NA	8	988
*Honolulu, HI:						
Low	135	850	135	700	0	1,000
Middle	554	963	541	925	13	1,000
High	33	1,463	26	1,275	7	1,650
**Hilo, HI:						
Low	79	453	73	400	6	506
Middle	91	491	91	475	0	506
High	89	625	83	575	6	675
Kailua Kona, HI:						
Low	63	584	57	575	6	593
Middle	58	732	55	699	3	765
High	57	850	52	800	5	900
Kauai, HI:						
Low	49	550	43	550	6	550
Middle	45	725	40	750	5	700
High	50	799	44	673	6	925
Maui, HI:						
Low	152	669	148	675	4	663
Middle	226	875	221	750	5	1,000
High	209	978	204	755	5	1,200
***Guam:						
Low	10	638	10	575	0	700
Middle	15	875	15	725	0	1,025
High	13	1,252	12	1,003	1	1,500
****Puerto Rico:						
Low	15	602	8	504	7	700
Middle	13	1,075	6	950	7	1,200
High	5	1,725	5	1,950	0	1,500
St. Croix, VI:						
Low	25	540	17	480	8	600
Middle	21	750	13	550	8	950
High	21	1,038	13	800	8	1,275
St. Thomas, VI:						
Low	25	700	20	700	5	700
Middle	18	962	12	998	6	925
High	10	1,425	7	1,350	3	1,500
*****Washington, DC (DC)						
Low	19	505	13	440	6	570
Middle	21	733	7	625	14	840
High	7	1,275	2	1,000	5	1,550
******Washington, DC (MD)						
Low	16	555	13	555	3	555
Middle	29	765	22	705	7	825
High	4	1,113	1	1,075	3	1,150
Washington, DC (VA)						
Low	22	585	12	580	10	590
Middle	32	963	16	825	16	1,100
High	10	1,375	7	1,250	3	1,500

*Adjustment made to broker data at lower income level because it is unlikely that a smaller rental unit in a lower income level community would rent for more than a larger unit in a middle income level community.

**Adjustment made to broker data at middle income level because it is unlikely that a larger rental unit in a middle income level community would rent for less than a smaller unit in a lower income level community.

***Used last year's broker data at the lower and middle income levels because this year's data are internally inconsistent.

****Used last year's broker quote at the upper income level because this year's data reflect incorrect rental information.

*****Used last year's broker and non-broker data at the upper income level. This year's data were sparse, and increases substantially exceed those at the other income levels.

******Used last year's broker and non-broker data at the upper income level. This year's data were sparse, and the substantial decreases were inconsistent with the increases observed at other income levels.

APPENDIX 12—HOUSING COST ANALYSIS

[1997 Survey]

	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Anchorage, AK:						
Maintenance	$716	$61	$842	$72	$968	$77
Insurance	358	$170	438	$170	509	$164
Utilities	1,663	1,467	1,907	1,663	2,151	1,777
Real estate taxes	1,619	.....	2,226	.....	2,784	.....
Housing	5,716	6,408	7,773	8,544	9,847	11,700
Total annual cost	10,072	8,106	13,186	10,449	16,259	13,718
Fairbanks, AK:						
Maintenance	1,101	94	1,295	110	1,489	119
Insurance	361	101	343	101	401	113
Utilities	2,624	2,297	3,032	2,624	3,440	2,814
Real estate taxes	1,262	.....	1,686	.....	2,171	.....
Housing	5,231	6,660	7,158	8,028	9,036	11,364
Total annual cost	10,579	9,152	13,514	10,863	16,537	14,410
Juneau, AK:						
Maintenance	995	85	1,170	99	1,346	108
Insurance	512	106	568	106	592	105
Utilities	2,780	2,433	3,213	2,780	3,647	2,982
Real estate taxes	1,590	.....	1,920	.....	2,200	.....
Housing	7,270	8,484	9,233	10,428	10,970	15,300
Total annual cost	13,147	11,108	16,104	13,413	18,755	18,495
Nome, AK:						
Maintenance	633	54	745	63	856	68
Insurance	483	124	559	124	655	140
Utilities	2,829	2,479	3,266	2,829	3,702	3,033
Real estate taxes	1,266	.....	1,829	.....	2,392	.....
Housing	6,077	9,000	8,470	9,900	10,570	11,856
Total annual cost	11,288	11,657	14,869	12,916	18,175	15,097
Honolulu, HI:						
Maintenance	841	72	989	84	1,138	91
Insurance	648	249	785	249	1,103	283
Utilities	1,836	1,634	2,090	1,836	2,343	1,955
Real estate taxes	609	.....	840	.....	1,273	.....
Housing	15,997	10,200	21,236	11,556	32,376	17,556
Total annual cost	19,931	12,155	25,940	13,725	38,233	19,885
Hilo, HI:						
Maintenance	1,042	89	1,225	104	1,409	113
Insurance	577	350	666	350	823	395
Utilities	1,973	1,752	2,249	1,973	2,524	2,102
Real estate taxes	218	.....	441	.....	654	.....
Housing	7,818	5,436	10,537	5,892	12,959	7,500
Total annual cost	11,628	7,627	15,118	8,319	18,369	10,110
Kailua Kona, HI:						
Maintenance	1,065	91	1,253	106	1,441	115
Insurance	585	350	615	350	663	395
Utilities	1,973	1,753	2,249	1,973	2,525	2,102
Real estate taxes	452	.....	650	.....	800	.....
Housing	10,338	7,008	14,129	8,784	16,403	10,200
Total annual cost	14,413	9,202	18,896	11,213	21,832	12,812

APPENDIX 12—HOUSING COST ANALYSIS—Continued

[1997 Survey]

	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Kauai County, HI:						
Maintenance	990	85	1,164	99	1,339	107
Insurance	744	331	692	331	730	372
Utilities	2,032	1,800	2,321	2,032	2,611	2,167
Real estate taxes	403	.....	613	.....	706	.....
Housing	11,256	6,600	15,027	8,700	17,892	9,588
Total annual cost	15,425	8,816	19,817	11,162	23,278	12,234
Maui County, HI:						
Maintenance	911	78	1,071	91	1,232	98
Insurance	662	446	745	446	860	508
Utilities	1,498	1,343	1,690	1,498	1,883	1,588
Real estate taxes	499	.....	681	.....	819	.....
Housing	12,957	8,028	17,374	10,500	20,751	11,736
Total annual cost	16,527	9,895	21,561	12,535	25,545	13,930
Guam:						
Maintenance	1,057	91	1,243	106	1,430	114
Insurance	1,576	367	1,709	367	2,234	440
Utilities	2,868	2,514	3,311	2,868	3,755	3,075
Real estate taxes	418	.....	459	.....	617	.....
Housing	9,546	7,656	12,022	10,500	18,700	15,024
Total annual cost	15,465	10,628	18,744	13,841	26,736	18,653
Puerto Rico:						
Maintenance	403	35	475	40	546	44
Insurance	470	180	714	180	1,181	252
Utilities	1,673	1,482	1,911	1,673	2,149	1,784
Real estate taxes	0	.....	9	.....	627	.....
Housing	5,246	7,224	7,177	12,900	10,960	20,700
Total annual cost	7,792	8,921	10,286	14,793	15,463	22,780
St. Croix, VI:						
Maintenance	578	50	680	58	782	62
Insurance	1,254	771	2,046	771	2,444	926
Utilities	1,590	1,417	1,806	1,590	2,022	1,690
Real estate taxes	401	.....	773	.....	953	.....
Housing	6,787	6,480	9,929	9,000	14,255	12,456
Total annual cost	10,610	8,718	15,234	11,419	20,456	15,134
St. Thomas, VI:						
Maintenance	609	52	717	61	824	66
Insurance	2,208	609	3,138	609	3,017	926
Utilities	1,589	1,416	1,806	1,589	2,022	1,690
Real estate taxes	847	.....	1,291	.....	1,220	.....
Housing	10,293	8,400	14,542	11,544	15,807	17,100
Total annual cost	15,546	10,477	21,494	13,803	22,890	19,782
Washington, DC (DC):						
Maintenance	564	48	664	56	763	61
Insurance	259	107	277	107	706	125
Utilities	2,516	2,202	2,909	2,516	3,302	2,700
Real estate taxes	208	.....	421	.....	998	.....
Housing	5,838	6,060	8,685	8,796	18,479	15,300
Total annual cost	9,385	8,417	12,956	11,475	24,248	18,186
Washington, DC (MD):						
Maintenance	564	48	664	56	763	61
Insurance	230	96	247	86	293	98
Utilities	1,826	1,616	2,089	1,826	2,351	1,948
Real estate taxes	1,197	.....	1,664	.....	2,568	.....

APPENDIX 12—HOUSING COST ANALYSIS—Continued

[1997 Survey]

	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Housing	6,748	6,660	11,016	9,180	13,727	13,356
Total annual cost	10,565	8,420	15,680	11,148	19,702	15,463
Washington, DC (VA):						
Maintenance	564	48	664	56	763	61
Insurance	200	93	253	93	308	104
Utilities	1,837	1,626	2,101	1,837	2,365	1,960
Real estate taxes	1,413	.....	1,733	.....	2,432	.....
Housing	7,234	7,020	9,903	11,556	14,394	16,500
Total annual cost	11,248	8,787	14,654	13,542	20,262	18,625

HOUSING COST ANALYSIS—COMPOSITES

[1997 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
Hilo, HI	75.99	$11,628	$7,627	$15,118	$8,319	$18,369	$10,110
Kailua Kona, HI	24.01	14,413	9,202	18,896	11,213	21,832	12,812
Total weight	100.00	.....	.....	.....	.....	.....	.....
Hawaii County, HI	.....	12,297	8,005	16,025	9,014	19,200	10,759
St. Croix, VI	48.76	10,610	8,718	15,234	11,419	20,456	15,134
St. Thomas, VI	51.24	15,546	10,477	21,494	13,803	22,890	19,782
Total weight	100.00	.....	.....	.....	.....	.....	.....
Virgin Islands	.....	13,139	9,619	18,442	12,641	21,703	17,516
Washington, DC, DC	33.34	9,385	8,417	12,956	11,475	24,248	18,186
Washington, DC, MD	33.33	10,565	8,420	15,680	11,148	19,702	15,463
Washington, DC, VA	33.33	11,248	8,787	14,654	13,542	20,262	18,625
Total weight	100.00	.....	.....	.....	.....	.....	.....
DC area	.....	10,399	8,541	14,430	12,055	21,404	17,425

APPENDIX 13—HOUSING ANALYSIS

[1997 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Anchorage, AK:						
Lower income	$10,072	$10,399	96.86	$8,106	$8,541	94.91
Middle income	13,186	14,430	91.38	10,449	12,055	86.68
Upper income	16,259	21,404	75.96	13,718	17,425	78.73
Fairbanks, AK:						
Lower income	10,579	10,399	101.73	9,152	8,541	107.15
Middle income	13,514	14,430	93.65	10,863	12,055	90.11
Upper income	16,537	21,404	77.26	14,410	17,425	82.70
Juneau, AK:						
Lower income	13,147	10,399	126.43	11,108	8,541	130.06
Middle income	16,104	14,430	111.60	13,413	12,055	111.27

APPENDIX 13—HOUSING ANALYSIS—Continued

[1997 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Upper income	18,755	21,404	87.62	18,495	17,425	106.14
Nome, AK:						
Lower income	11,288	10,399	108.55	11,657	8,541	136.48
Middle income	14,869	14,430	103.04	12,916	12,055	107.14
Upper income	18,175	21,404	84.91	15,097	17,425	86.64
Honolulu, HI:						
Lower income	19,931	10,399	191.66	12,155	8,541	142.31
Middle income	25,940	14,430	179.76	13,725	12,055	113.85
Upper income	38,233	21,404	178.63	19,885	17,425	114.12
Hawaii County, HI:						
Lower income	12,297	10,399	118.25	8,005	8,541	93.72
Middle income	16,025	14,430	111.05	9,014	12,055	74.77
Upper income	19,200	21,404	89.70	10,759	17,425	61.74
Kauai County, HI:						
Lower income	15,425	10,399	148.33	8,816	8,541	103.22
Middle income	19,817	14,430	137.33	11,162	12,055	92.59
Upper income	23,278	21,404	108.76	12,234	17,425	70.21
Maui County, HI:						
Lower income	16,527	10,399	158.93	9,895	8,541	115.85
Middle income	21,561	14,430	149.42	12,535	12,055	103.98
Upper income	25,545	21,404	119.35	13,930	17,425	79.94
Guam:						
Lower income	15,465	10,399	148.72	10,628	8,541	124.44
Middle income	18,744	14,430	129.90	13,841	12,055	114.82
Upper income	26,736	21,404	124.91	18,653	17,425	107.05
Puerto Rico:						
Lower income	7,792	10,399	74.93	8,921	8,541	104.45
Middle income	10,286	14,430	71.28	14,793	12,055	122.71
Upper income	15,463	21,404	72.24	22,780	17,425	130.73
Virgin Islands:						
Lower income	13,139	10,399	126.35	9,619	8,541	112.62
Middle income	18,442	14,430	127.80	12,641	12,055	104.86
Upper income	21,703	21,404	101.40	17,516	17,425	100.52

APPENDIX 14—PRIVATE TRANSPORTATION COST ANALYSIS

[1997 Survey]

	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Anchorage, AK:			
Fuel	$873	$1,309	$1,637
Maintenance/oil	629	586	599
Tires	126	188	154
License and registration	105	105	105
Miscellaneous tax	50	50	50
Depreciation	2,217	3,496	3,593
Finance expense	732	878	997
Insurance	1,388	1,214	1,604
Total annual cost	6,120	7,826	8,739
Fairbanks, AK:			
Fuel	964	1,446	1,807
Maintenance/oil	900	814	903
Tires	132	206	163
License and registration	35	35	40

APPENDIX 14—PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[1997 Survey]

	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Miscellaneous tax	0	0	0
Depreciation	2,755	3,719	4,412
Finance expense	841	950	1,170
Insurance	1,340	1,305	1,324
Total annual cost	6,967	8,475	9,819
Juneau, AK:			
Fuel	918	1,378	1,722
Maintenance/oil	777	738	793
Tires	142	188	161
License and registration	73	73	73
Miscellaneous tax	0	0	0
Depreciation	1,794	3,423	3,704
Finance expense	670	875	1,025
Insurance	1,340	1,042	1,368
Total annual cost	5,714	7,717	8,846
Nome, AK:			
Fuel	1,250	1,875	2,344
Maintenance/oil	965	907	971
Tires	122	192	142
License and registration	105	105	105
Miscellaneous tax	0	0	0
Depreciation	2,995	4,312	4,524
Finance expense	748	893	1,008
Insurance	1,388	1,328	1,562
Total annual cost	7,573	9,612	10,656
Honolulu, HI:			
Fuel	831	1,247	1,558
Maintenance/oil	503	530	558
Tires	103	119	187
License and registration	105	125	145
Miscellaneous tax	0	0	0
Depreciation	2,639	3,846	4,521
Finance expense	992	1,158	1,421
Insurance	1,755	1,698	2,106
Total annual cost	6,928	8,723	10,496
Hilo, HI:			
Fuel	879	1,318	1,648
Maintenance/oil	585	570	562
Tires	123	236	177
License and registration	105	125	145
Miscellaneous tax	0	0	0
Depreciation	2,438	3,274	4,440
Finance expense	929	1,019	1,372
Insurance	1,805	1,841	1,993
Total annual cost	6,864	8,383	10,337
Kailua Kona, HI:			
Fuel	981	1,471	1,838
Maintenance/oil	718	682	691
Tires	127	222	194
License and registration	105	125	145
Miscellaneous tax	0	0	0
Depreciation	2,251	3,686	4,410
Finance expense	893	1,100	1,366
Insurance	1,965	1,841	2,086
Total annual cost	7,040	9,127	10,730
Kauai, HI:			

APPENDIX 14—PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[1997 Survey]

	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	901	1,352	1,689
Maintenance/oil	544	507	587
Tires	113	185	179
License and registration	105	125	145
Miscellaneous tax	0	0	0
Depreciation	2,537	3,628	4,441
Finance expense	979	1,123	1,416
Insurance	1,457	1,403	1,786
Total annual cost	6,636	8,323	10,243
Maui, HI:			
Fuel	917	1,376	1,720
Maintenance/oil	581	541	637
Tires	97	145	157
License and registration	105	125	145
Miscellaneous tax	0	0	0
Depreciation	1,899	3,431	4,660
Finance expense	856	1,092	1,471
Insurance	1,573	1,712	1,896
Total annual cost	6,028	8,422	10,686
Guam:			
Fuel	861	1,292	1,614
Maintenance/oil	498	554	636
Tires	89	180	154
License and registration	42	47	47
Miscellaneous tax	0	0	0
Depreciation	2,104	3,996	4,049
Finance expense	843	1,133	1,265
Insurance	1,268	1,555	1,789
Total annual cost	5,705	8,757	9,554
Puerto Rico:			
Fuel	574	861	1,076
Maintenance/oil	383	351	414
Tires	86	175	190
License and registration	76	76	76
Miscellaneous tax	0	0	0
Depreciation	2,350	4,348	5,044
Finance expense	874	1,178	1,428
Insurance	1,529	1,853	2,254
Total annual cost	5,872	8,842	10,482
St. Croix, VI:			
Fuel	556	834	1,043
Maintenance/oil	427	401	506
Tires	99	169	160
License and registration	74	96	105
Miscellaneous tax	0	0	0
Depreciation	2,301	3,953	4,064
Finance expense	902	1,152	1,298
Insurance	2,169	3,062	3,988
Total annual cost	6,528	9,667	11,164
St. Thomas, VI:			
Fuel	843	1,264	1,580
Maintenance/oil	495	504	570
Tires	99	149	144
License and registration	74	96	105
Miscellaneous tax	0	0	0
Depreciation	2,646	3,486	4,957
Finance expense	924	1,010	1,403

APPENDIX 14—PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[1997 Survey]

	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Insurance	1,854	2,498	3,032
Total annual cost	6,935	9,007	11,791
Washington, DC (DC):			
Fuel	671	1,006	1,258
Maintenance/oil	356	330	337
Tires	70	110	101
License and registration	74	74	107
Miscellaneous tax	0	0	0
Depreciation	1,975	3,292	3,694
Finance expense	636	775	929
Insurance	1,504	1,413	1,520
Total annual cost	5,286	7,000	7,946
Washington, DC (MD):			
Fuel	663	994	1,243
Maintenance/oil	371	323	347
Tires	88	124	101
License and registration	94	94	121
Miscellaneous tax	0	0	0
Depreciation	1,788	3,206	4,754
Finance expense	593	744	1,060
Insurance	1,410	1,317	1,396
Total annual cost	5,007	6,802	9,022
Washington, DC (VA):			
Fuel	614	922	1,152
Maintenance/oil	363	343	343
Tires	67	84	96
License and registration	55	60	60
Miscellaneous tax	458	543	730
Depreciation	1,942	3,186	3,825
Finance expense	625	753	941
Insurance	1,000	926	1,018
Total annual cost	5,124	6,817	8,165

PRIVATE TRANSPORTATION COST ANALYSIS—COMPOSITES

[1997 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Hilo, HI	75.99	$6,864	$8,383	$10,337
Kailua Kona, HI	24.01	7,040	9,127	10,730
Total weight	100.00	.....	.....	.....
Hawaii County, HI	.....	6,906	8,562	10,431
St. Croix, VI	48.76	6,528	9,667	11,164
St. Thomas, VI	51.24	6,935	9,007	11,791
Total weight	100.00	.....	.....	.....
Virgin Islands	.....	6,737	9,329	11,485
Washington, DC, DC	33.34	5,286	7,000	7,946
Washington, DC, MD	33.33	5,007	6,802	9,022
Washington, DC, VA	33.33	5,124	6,817	8,165

PRIVATE TRANSPORTATION COST ANALYSIS—COMPOSITES—Continued

[1997 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Total weight	100.00			
DC area		5,139	6,873	8,378

APPENDIX 15.—AUTO INSURANCE CALCULATION WORKSHEET--SPECIAL LIMITS

	Honda	Ford	Chevy
Guam			
Average Local Insurance Price	1201.33	1466.00	1705.00
Price of Equivalent Reference Area Coverage	1128.00	1032.33	1263.17
Index	106.50	142.01	134.98
Price of Reference Area UM 100/300 Coverage	62.45	62.45	62.45
Estimated Local Equivalent UM Coverage	66.51	88.69	84.30
Adjusted Local Insurance Price	1267.84	1554.69	1789.30
Puerto Rico			
Average Local Insurance Price	1448.60	1746.95	2147.48
Price of Equivalent Reference Area Coverage	1128.00	1032.33	1263.17
Index	128.42	169.22	170.01
Price of Reference Area UM 100/300 Coverage	62.45	62.45	62.45
Estimated Local Equivalent UM Coverage	80.20	105.68	106.17
Adjusted Local Insurance Price	1528.80	1852.63	2253.65
St. Croix			
Average Local Insurance Price	1582.56	2179.65	2691.87
Price of Equivalent Reference Area Coverage	868.47	779.43	894.73
Index	182.22	279.65	300.86
Price of Specified Reference Area Coverage	1190.45	1094.78	1325.62
Adjusted Local Insurance Price	2169.24	3061.55	3988.26
St. Thomas			
Average Local Insurance Price	1352.53	1778.64	2046.63
Price of Equivalent Reference Area Coverage	868.47	779.43	894.73
Index	155.74	228.20	228.74
Price of Specified Reference Area Coverage	1190.45	1094.78	1325.62
Adjusted Local Insurance Price	1854.01	2498.29	3032.22

Notes: Special adjustments were required for Guam, Puerto Rico, and U.S. Virgin Islands automobile insurance prices because the coverage available was significantly less than that surveyed in the other locations. In Guam and Puerto Rico, uninsured motorist (UM) coverage had significantly lower coverage or was not available. For both areas, the average price of the local policy was compared with the average price of equivalent coverage in the DC area, and an index was computed. That index was used to adjust the price of the DC area specified UM coverage, which was then added to the average local prices. In the U.S. Virgin Islands, all coverage (bodily injury, property damage, medical, collision, and comprehensive) was significantly less than that priced elsewhere. For these areas, the average price of the local policy was compared with equivalent coverage in the DC area, and an index was computed. That index was used to adjust the price of the DC specified coverage.

APPENDIX 16—AIR FARES COST ANALYSIS

[1997 Survey]

Location	Average allowance area air fares	Average DC area air fares	Index
Anchorage, AK	$628	$355	176.90
Fairbanks, AK	$809	$355	227.89
Juneau, AK	$720	$355	202.82
Nome, AK	$1,026	$355	289.01
Honolulu, HI	$737	$355	207.61
Hawaii County, HI	908	$355	255.77
Kauai, HI	$908	$355	255.77
Maui, HI	$895	$355	252.11
Guam	$1,738	$355	489.58
Puerto Rico	$548	$355	154.37
Virgin Islands	831	$355	234.08

AIR FARES—COMPOSITES

[1997 Survey]

Location	Weights	Costs
Hilo, HI	75.99	$908
Kailua Kona, HI	24.01	$908
Total	100.00	
Hawaii County, HI cost		908
St. Croix, VI	48.76	$834
St. Thomas, VI	51.24	$828
Total	100.00	
Virgin Islands cost		831

APPENDIX 17—TRANSPORTATION ANALYSIS

[1997 Survey]

	Total annual cost	Total cost DC area	Index
Anchorage, AK:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	$6,120	$5,139	119.09
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,826	6,873	113.87
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	8,739	8,378	104.31
Average index			112.42
Fairbanks, AK:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	6,967	5,139	135.57
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,475	6,873	123.31
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,819	8,378	117.20
Average index			125.36
Juneau, AK:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	5,714	5,139	111.19
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,717	6,873	112.28
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	8,846	8,378	105.59
Average index			109.69
Nome, AK:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	7,573	5,139	147.36
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	9,612	6,873	139.85
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	10,656	8,378	127.19
Average index			138.13
Honolulu, HI:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	6,928	5,139	134.81
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,723	6,873	126.92
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	10,496	8,378	125.28
Average index			129.00
Hawaii County, HI:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	6,906	5,139	134.38
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,562	6,873	124.57
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	10,431	8,378	124.50
Average index			127.82
Kauai County, HI:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	6,636	5,139	129.13
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,323	6,873	121.10
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	10,243	8,378	122.26
Average index			124.16
Maui County, HI:			

APPENDIX 17—TRANSPORTATION ANALYSIS—Continued

[1997 Survey]

	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	6,028	5,139	117.30
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,422	6,873	122.54
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	10,686	8,378	127.55
Average index			122.46
Guam:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	5,705	5,139	111.01
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,757	6,873	127.41
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,554	8,378	114.04
Average index			117.49
Puerto Rico:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	5,872	5,139	114.26
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,842	6,873	128.65
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	10,482	8,378	125.11
Average index			122.67
Virgin Islands:			
1. Honda Civic DX 4 dr sedan 1.5L 4 cyl	6,737	5,139	131.10
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	9,329	6,873	135.73
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	11,485	8,378	137.09
Average index			134.64

APPENDIX 18—TRANSPORTATION SUMMARY

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Anchorage, AK:							
Private transportation	112.42	95.16	106.98	94.51	106.25	93.91	105.57
Air fares and other transportation expenses	176.90	4.84	8.56	5.49	9.71	6.09	10.77
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			115.54				
Middle					115.96		
Upper							116.34
Fairbanks, AK:							
Private transportation	125.36	95.16	119.29	94.51	118.48	93.91	117.73
Air fares and other transportation expenses	227.89	4.84	11.03	5.49	12.51	6.09	13.88
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			130.32				
Middle					130.99		
Upper							131.61
Juneau, AK:							
Private transportation	109.69	95.16	104.38	94.51	103.67	93.91	103.01
Air fares and other transportation expenses	202.82	4.84	9.82	5.49	11.13	6.09	12.35
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			114.20				
Middle					114.80		
Upper							115.36
Nome, AK:							
Private transportation	138.13	95.16	131.44	94.51	130.55	93.91	129.72

APPENDIX 18—TRANSPORTATION SUMMARY—Continued

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Air fares and other transportation expenses	289.01	4.84	13.99	5.49	15.87	6.09	17.60
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	145.43	.....	.....	.....	.....
Middle	.....	.....	.....	.....	146.42	.....	.....
Upper	.....	.....	.....	.....	.....	.....	147.32
Honolulu, HI:							
Private transportation	129.00	95.16	122.76	94.51	121.92	93.91	121.14
Air fares and other transportation expenses	207.61	4.84	10.05	5.49	11.40	6.09	12.64
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	132.81	.....	.....	.....	.....
Middle	.....	.....	.....	.....	133.32	.....	.....
Upper	.....	.....	.....	.....	.....	.....	133.78
Hawaii County, HI:							
Private transportation	127.82	95.16	121.63	94.51	120.80	93.91	120.04
Air fares and other transportation expenses	255.77	4.84	12.38	5.49	14.04	6.09	15.58
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	134.01	.....	.....	.....	.....
Middle	.....	.....	.....	.....	134.84	.....	.....
Upper	.....	.....	.....	.....	.....	.....	135.62
Kauai County, HI:							
Private transportation	124.16	95.16	118.15	94.51	117.34	93.91	116.60
Air fares and other transportation expenses	255.77	4.84	12.38	5.49	14.04	6.09	15.58
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	130.53	.....	.....	.....	.....
Middle	.....	.....	.....	.....	131.38	.....	.....
Upper	.....	.....	.....	.....	.....	.....	132.18
Maui County, HI:							
Private transportation	122.46	95.16	116.53	94.51	115.74	93.91	115.00
Air fares and other transportation expenses	252.11	4.84	12.20	5.49	13.84	6.09	15.35
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	128.73	.....	.....	.....	.....
Middle	.....	.....	.....	.....	129.58	.....	.....
Upper	.....	.....	.....	.....	.....	.....	130.35
Guam:							
Private transportation	117.49	95.16	111.80	94.51	111.04	93.91	110.33
Air fares and other transportation expenses	489.58	4.84	23.70	5.49	26.88	6.09	29.82
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	135.50	.....	.....	.....	.....
Middle	.....	.....	.....	.....	137.92	.....	.....
Upper	.....	.....	.....	.....	.....	.....	140.15
Puerto Rico:							
Private transportation	122.67	95.16	116.73	94.51	115.94	93.91	115.20
Air fares and other transportation expenses	154.37	4.84	7.47	5.49	8.47	6.09	9.40
Total weights	.....	100.00	.....	100.00	.....	100.00	.....

APPENDIX 18—TRANSPORTATION SUMMARY—Continued

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total indexes:							
Lower	.....	.....	124.20	.....	.....	.....	.....
Middle	.....	.....	.....	.....	124.41	.....	.....
Upper	.....	.....	.....	.....	.....	.....	124.60
Virgin Islands:							
Private transportation	134.64	95.16	128.12	94.51	127.25	93.91	126.44
Air fares and other transportation expenses	234.08	4.84	11.33	5.49	12.85	6.09	14.26
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	139.45	.....	.....	.....	.....
Middle	.....	.....	.....	.....	140.10	.....	.....
Upper	.....	.....	.....	.....	.....	.....	140.70

APPENDIX 19—MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[1997 Survey]

	Price	Price DC area	Ratio	Weights	Subtotal	Index
Anchorage, AK:						
Medical care	.....	.....	.....	.....	.....	105.30
Non–aspirin pain reliever	$6.15	$6.55	0.94	4.86	4.56	.....
Tetracycline	7.06	7.38	0.96	12.02	11.49	.....
Dentist clean/check	127.00	122.58	1.04	15.29	15.84	.....
Doctor office visit	61.67	54.38	1.13	12.83	14.55	.....
Hospital room	751.75	530.66	1.42	3.12	4.42	.....
Health Insurance	1,107.49	1,038.62	1.07	46.64	49.73	.....
Contact Lenses	166.00	185.26	0.90	5.23	4.69	.....
Fairbanks, AK:						
Medical care	.....	.....	.....	.....	.....	108.68
Non–aspirin pain reliever	5.96	6.55	0.91	4.86	4.42	.....
Tetracycline	6.44	7.38	0.87	12.02	10.49	.....
Dentist clean/check	164.33	122.58	1.34	15.29	20.50	.....
Doctor office visit	65.67	54.38	1.21	12.83	15.49	.....
Hospital room	533.00	530.66	1.00	3.12	3.13	.....
Health Insurance	1,090.01	1,038.62	1.05	46.64	48.95	.....
Contact Lenses	201.33	185.26	1.09	5.23	5.68	.....
Juneau, AK:						
Medical care	.....	.....	.....	.....	.....	113.07
Non–aspirin pain reliever	7.31	6.55	1.12	4.86	5.43	.....
Tetracycline	7.48	7.38	1.01	12.02	12.19	.....
Dentist clean/check	194.17	122.58	1.58	15.29	24.22	.....
Doctor office visit	60.67	54.38	1.12	12.83	14.31	.....
Hospital room	515.00	530.66	0.97	3.12	3.03	.....
Health Insurance	1,076.71	1,038.62	1.04	46.64	48.35	.....
Contact Lenses	196.00	185.26	1.06	5.23	5.53	.....
Nome, AK:						
Medical care	.....	.....	.....	.....	.....	132.11
Non–aspirin pain reliever	10.58	6.55	1.62	4.86	7.85	.....
Tetracycline	14.75	7.38	2.00	12.02	24.03	.....
Dentist clean/check	172.50	122.58	1.41	15.29	21.52	.....
Doctor office visit	74.00	54.38	1.36	12.83	17.46	.....
Hospital room	517.00	530.66	0.97	3.12	3.04	.....
Health Insurance	1,091.05	1,038.62	1.05	46.64	48.99	.....
Contact Lenses	325.88	185.26	1.76	5.23	9.20	.....
Honolulu, HI:						
Medical care	.....	.....	.....	.....	.....	115.51
Non–aspirin pain reliever	7.56	6.55	1.15	4.86	5.61	.....
Tetracycline	8.07	7.38	1.09	12.02	13.14	.....
Dentist clean/check	179.08	122.58	1.46	15.29	22.34	.....
Doctor office visit	41.39	54.38	0.76	12.83	9.77	.....

APPENDIX 19—MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT—Continued

[1997 Survey]

	Price	Price DC area	Ratio	Weights	Subtotal	Index
Hospital room	646.87	530.66	1.22	3.12	3.80	.....
Health Insurance	1,210.02	1,038.62	1.17	46.64	54.34	.....
Contact Lenses	230.21	185.26	1.24	5.23	6.50	.....
Hilo, HI:						
Medical care	.....	.....	.....	.....	.....	105.26
Non–aspirin pain reliever	8.99	6.55	1.37	4.86	6.67	.....
Tetracycline	6.98	7.38	0.95	12.02	11.37	.....
Dentist clean/check	110.54	122.58	0.90	15.29	13.79	.....
Doctor office visit	53.93	54.38	0.99	12.83	12.72	.....
Hospital room	573.96	530.66	1.08	3.12	3.37	.....
Health Insurance	1,145.58	1,038.62	1.10	46.64	51.44	.....
Contact Lenses	208.22	185.26	1.12	5.23	5.88	.....
Kailua Kona, HI:						
Medical care	.....	.....	.....	.....	.....	115.32
Non–aspirin pain reliever	8.26	6.55	1.26	4.86	6.13	.....
Tetracycline	6.09	7.38	0.83	12.02	9.93	.....
Dentist clean/check	181.42	122.58	1.48	15.29	22.63	.....
Doctor office visit	70.83	54.38	1.30	12.83	16.71	.....
Hospital room	533.33	530.66	1.01	3.12	3.14	.....
Health Insurance	1,145.58	1,038.62	1.10	46.64	51.44	.....
Contact Lenses	188.61	185.26	1.02	5.23	5.32	.....
Kauai County, HI:						
Medical care	.....	.....	.....	.....	.....	100.43
Non–aspirin pain reliever	9.58	6.55	1.46	4.86	7.11	.....
Tetracycline	6.29	7.38	0.85	12.02	10.24	.....
Dentist clean/check	128.65	122.58	1.05	15.29	16.05	.....
Doctor office visit	37.15	54.38	0.68	12.83	8.77	.....
Hospital room	573.96	530.66	1.08	3.12	3.37	.....
Health Insurance	1,111.40	1,038.62	1.07	46.64	49.91	.....
Contact Lenses	176.32	185.26	0.95	5.23	4.98	.....
Maui County, HI:						
Medical care	.....	.....	.....	.....	.....	115.09
Non–aspirin pain reliever	8.20	6.55	1.25	4.86	6.09	.....
Tetracycline	7.05	7.38	0.96	12.02	11.48	.....
Dentist clean/check	147.00	122.58	1.20	15.29	18.34	.....
Doctor office visit	63.95	54.38	1.18	12.83	15.09	.....
Hospital room	573.96	530.66	1.08	3.12	3.37	.....
Health Insurance	1,220.98	1,038.62	1.18	46.64	54.83	.....
Contact Lenses	208.33	185.26	1.12	5.23	5.88	.....
Guam:						
Medical care	.....	.....	.....	.....	.....	121.49
Non–aspirin pain reliever	10.09	6.55	1.54	4.86	7.49	.....
Tetracycline	4.65	7.38	0.63	12.02	7.58	.....
Dentist clean/check	159.00	122.58	1.30	15.29	19.83	.....
Doctor office visit	48.00	54.38	0.88	12.83	11.33	.....
Hospital room	259.00	530.66	0.49	3.12	1.52	.....
Health Insurance	1,372.56	1,038.62	1.32	46.64	61.64	.....
Contact Lenses	428.33	185.26	2.31	5.23	12.09	.....
Puerto Rico:						
Medical care	.....	.....	.....	.....	.....	81.61
Non–aspirin pain reliever	4.99	6.55	0.76	4.86	3.71	.....
Tetracycline	4.00	7.38	0.54	12.02	6.52	.....
Dentist clean/check	112.67	122.58	0.92	15.29	14.05	.....
Doctor office visit	38.33	54.38	0.70	12.83	9.04	.....
Hospital room	239.67	530.66	0.45	3.12	1.41	.....
Health Insurance	920.17	1,038.62	0.89	46.64	41.32	.....
Contact Lenses	155.67	185.26	0.84	5.23	4.39	.....
St. Croix, VI:						
Medical care	.....	.....	.....	.....	.....	126.09
Non–aspirin pain reliever	7.12	6.55	1.09	4.86	5.29	.....
Tetracycline	9.62	7.38	1.30	12.02	15.67	.....
Dentist clean/check	120.00	122.58	0.98	15.29	14.97	.....
Doctor office visit	42.50	54.38	0.78	12.83	10.03	.....

APPENDIX 19—MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT—Continued

[1997 Survey]

	Price	Price DC area	Ratio	Weights	Subtotal	Index
Hospital room	550.00	530.66	1.04	3.12	3.23	.....
Health Insurance	1,170.37	1,038.62	1.13	46.64	52.56	.....
Contact Lenses	193.92	185.26	1.05	5.23	5.47	.....
St. Thomas, VI:						
Medical care	.....	.....	.....	.....	.....	122.11
Non–aspirin pain reliever	7.68	6.55	1.17	4.86	5.70	.....
Tetracycline	7.92	7.38	1.07	12.02	12.90	.....
Dentist clean/check	95.00	122.58	0.78	15.29	11.85	.....
Doctor office visit	50.00	54.38	0.92	12.83	11.80	.....
Hospital room	500.00	530.66	0.94	3.12	2.94	.....
Health Insurance	1,170.37	1,038.62	1.13	46.64	52.56	.....
Contact Lenses	194.63	185.26	1.05	5.23	5.49	.....

APPENDIX 20—MISCELLANEOUS EXPENSE ANALYSIS—TOTAL INDEX DEVELOPMENT

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Anchorage, AK:							
1. Medical care	105.30	40.74	42.90	30.79	32.42	23.66	24.91
2. Cash contributions:							
Lower income	109.51	16.07	17.60	.....	.....	.....	.....
Middle income	109.38	.....	.....	16.56	18.11	.....	.....
Upper income	109.21	.....	.....	.....	.....	16.91	18.47
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	43.40	0.87	0.38	1.23	0.53	1.48	0.64
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	103.19	.....	.....	.....	.....
Middle	.....	.....	.....	.....	102.48	.....	.....
Upper	.....	.....	.....	.....	.....	.....	101.97
Fairbanks, AK:							
1. Medical care	108.68	40.74	44.28	30.79	33.46	23.66	25.71
2. Cash contributions:							
Lower income	110.01	16.07	17.68	.....	.....	.....	.....
Middle income	109.97	.....	.....	16.56	18.21	.....	.....
Upper income	109.94	.....	.....	.....	.....	16.91	18.59
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	26.91	0.87	0.23	1.23	0.33	1.48	0.40
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	104.50	.....	.....	.....	.....
Middle	.....	.....	.....	.....	103.42	.....	.....
Upper	.....	.....	.....	.....	.....	.....	102.65
Juneau, AK:							
1. Medical care	113.07	40.74	46.06	30.79	34.81	23.66	26.75
2. Cash contributions:							
Lower income	118.02	16.07	18.97	.....	.....	.....	.....
Middle income	118.10	.....	.....	16.56	19.56	.....	.....
Upper income	118.19	.....	.....	.....	.....	16.91	19.99
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	53.84	0.87	0.47	1.23	0.66	1.48	0.80
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	107.81	.....	.....	.....	.....
Middle	.....	.....	.....	.....	106.45	.....	.....
Upper	.....	.....	.....	.....	.....	.....	105.49

APPENDIX 20—MISCELLANEOUS EXPENSE ANALYSIS—TOTAL INDEX DEVELOPMENT—Continued

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Nome, AK:							
1. Medical care	132.11	40.74	53.82	30.79	40.68	23.66	31.26
2. Cash contributions:							
Lower income	140.36	16.07	22.56				
Middle income	139.77			16.56	23.15		
Upper income	139.23					16.91	23.54
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	23.46	0.87	0.20	1.23	0.29	1.48	0.35
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			118.89				
Middle					115.54		
Upper							113.10
Honolulu, HI:							
1. Medical care	115.51	40.74	47.06	30.79	35.57	23.66	27.33
2. Cash contributions:							
Lower income	116.69	16.07	18.75				
Middle income	115.93			16.56	19.20		
Upper income	115.22					16.91	19.48
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	229.48	0.87	2.00	1.23	2.82	1.48	3.40
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			110.12				
Middle					109.01		
Upper							108.16
Hilo, HI:							
1. Medical care	105.26	40.74	42.88	30.79	32.41	23.66	24.90
2. Cash contributions:							
Lower income	114.51	16.07	18.40				
Middle income	113.59			16.56	18.81		
Upper income	112.74					16.91	19.06
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	63.32	0.87	0.55	1.23	0.78	1.48	0.94
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			104.14				
Middle					103.42		
Upper							102.85
Kailua Kona, HI:							
1. Medical care	115.32	40.74	46.98	30.79	35.51	23.66	27.28
2. Cash contributions:							
Lower income	121.69	16.07	19.56				
Middle income	121.09			16.56	20.05		
Upper income	120.55					16.91	20.39
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	124.59	0.87	1.08	1.23	1.53	1.48	1.84
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			109.93				
Middle					108.51		
Upper							107.46
Kauai County, HI:							
1. Medical care	100.43	40.74	40.92	30.79	30.92	23.66	23.76
2. Cash contributions:							
Lower income	119.91	16.07	19.27				
Middle income	118.84			16.56	19.68		

APPENDIX 20—MISCELLANEOUS EXPENSE ANALYSIS—TOTAL INDEX DEVELOPMENT—Continued

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Upper income	117.86	.....	.....	.....	.....	16.91	19.93
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	162.50	0.87	1.41	1.23	2.00	1.48	2.41
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	103.91	.....	.....	.....	.....
Middle	.....	.....	.....	.....	104.02	.....	.....
Upper	.....	.....	.....	.....	.....	.....	104.05
Maui County, HI:							
1. Medical care	115.09	40.74	46.89	30.79	35.44	23.66	27.23
2. Cash contributions:							
Lower income	121.65	16.07	19.55	.....	.....	.....	.....
Middle income	120.51	.....	.....	16.56	19.96	.....	.....
Upper income	119.42	.....	.....	.....	.....	16.91	20.19
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	137.24	0.87	1.19	1.23	1.69	1.48	2.03
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	109.94	.....	.....	.....	.....
Middle	.....	.....	.....	.....	108.51	.....	.....
Upper	.....	.....	.....	.....	.....	.....	107.40
Guam:							
1. Medical care	121.49	40.74	49.50	30.79	37.41	23.66	28.74
2. Cash contributions:							
Lower income	119.12	16.07	19.14	.....	.....	.....	.....
Middle income	119.01	.....	.....	16.56	19.71	.....	.....
Upper income	118.92	.....	.....	.....	.....	16.91	20.11
3. Personal insurance/pensions	90.95	42.31	38.48	51.42	46.77	57.95	52.71
4. Education	290.52	0.87	2.53	1.23	3.57	1.48	4.30
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	109.65	.....	.....	.....	.....
Middle	.....	.....	.....	.....	107.46	.....	.....
Upper	.....	.....	.....	.....	.....	.....	105.86
Puerto Rico:							
1. Medical care	81.61	40.74	33.25	30.79	25.13	23.66	19.31
2. Cash contributions:							
Lower income	106.34	16.07	17.09	.....	.....	.....	.....
Middle income	106.47	.....	.....	16.56	17.63	.....	.....
Upper income	106.60	.....	.....	.....	.....	16.91	18.03
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	274.52	0.87	2.39	1.23	3.38	1.48	4.06
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	95.04	.....	.....	.....	.....
Middle	.....	.....	.....	.....	97.56	.....	.....
Upper	.....	.....	.....	.....	.....	.....	99.35
St. Croix, VI:							
1. Medical care	126.09	40.74	51.37	30.79	38.82	23.66	29.83
2. Cash contributions:							
Lower income	116.60	16.07	18.74	.....	.....	.....	.....
Middle income	116.78	.....	.....	16.56	19.34	.....	.....
Upper income	116.99	.....	.....	.....	.....	16.91	19.78
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	390.72	0.87	3.40	1.23	4.81	1.48	5.78
Total weights	.....	100.00	.....	100.00	.....	100.00	.....

APPENDIX 20—MISCELLANEOUS EXPENSE ANALYSIS—TOTAL INDEX DEVELOPMENT—Continued

[1997 Survey]

	Category indexes	Lower income		Middle income		Upper income	
		Weights*	Subtotal	Weights*	Subtotal	Weights*	Subtotal
Total indexes:							
Lower	.....	.....	115.82	.....	.....	.....	.....
Middle	.....	.....	.....	.....	114.39	.....	.....
Upper	.....	.....	.....	.....	.....	.....	113.34
St. Thomas, VI:							
1. Medical care	122.11	40.74	49.75	30.79	37.60	23.66	28.89
2. Cash contributions:							
Lower income	116.80	16.07	18.77	.....	.....	.....	.....
Middle income	116.52	.....	.....	16.56	19.30	.....	.....
Upper income	116.24	.....	.....	.....	.....	16.91	19.66
3. Personal insurance/pensions	100.00	42.31	42.31	51.42	51.42	57.95	57.95
4. Education	375.74	0.87	3.27	1.23	4.62	1.48	5.56
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	114.10	.....	.....	.....	.....
Middle	.....	.....	.....	.....	112.94	.....	.....
Upper	.....	.....	.....	.....	.....	.....	112.06

*Numbers might not add to 100 due to rounding.

MISCELLANEOUS EXPENSE ANALYSIS—COMPOSITES

[1997 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
Hilo, HI	75.99	104.14	103.42	102.85
Kailua Kona, HI	24.01	109.93	108.51	107.46
Total weight	100.00	.....	.....	.....
Hawaii County, HI	.....	105.53	104.64	103.96
St. Croix, VI	48.76	115.82	114.39	113.34
St. Thomas, VI	51.24	114.10	112.94	112.06
Total weight	100.00	.....	.....	.....
Virgin Islands	.....	114.94	113.65	112.68

APPENDIX 21—COMPONENT EXPENDITURE AMOUNTS

[1997 Survey]

	Incomes	Indexes					Amounts				
		CG&S	Own	Rent	Trn	Misc	CG&S	Own	Rent	Trn	Misc
Reference Wts/Amts	22,300	38.90	26.03	26.03	18.72	16.34	$8,675	$5,805	$5,805	$4,175	$3,644
	34,000	38.18	24.67	24.67	18.54	18.61	12,981	8,388	8,388	6,304	6,327
	51,500	37.52	23.43	23.43	18.38	20.68	19,323	12,066	12,066	9,466	10,650
Anchorage, AK	Lower	109.51	96.86	94.91	115.54	103.19	9,500	5,623	5,510	4,824	3,760
	Middle	109.38	91.38	86.68	115.96	102.48	14,199	7,665	7,271	7,310	6,484
	Upper	109.21	75.96	78.73	116.34	101.97	21,103	9,165	9,500	11,013	10,860
Fairbanks, AK	Lower	110.01	101.73	107.15	130.32	104.50	9,543	5,905	6,220	5,441	3,808
	Middle	109.97	93.65	90.11	130.99	103.42	14,275	7,855	7,558	8,258	6,543
	Upper	109.94	77.26	82.70	131.61	102.65	21,244	9,322	9,979	12,458	10,932
Juneau, AK	Lower	118.02	126.43	130.06	114.20	107.81	10,238	7,339	7,550	4,768	3,929
	Middle	118.10	111.60	111.27	114.80	106.45	15,331	9,361	9,333	7,237	6,735
	Upper	118.19	87.62	106.14	115.36	105.49	22,838	10,572	12,807	10,920	11,235
Nome, AK	Lower	140.36	108.55	136.48	145.43	118.89	12,176	6,301	7,923	6,072	4,332

APPENDIX 21—COMPONENT EXPENDITURE AMOUNTS—Continued

[1997 Survey]

	Incomes	Indexes					Amounts				
		CG&S	Own	Rent	Trn	Misc	CG&S	Own	Rent	Trn	Misc
	Middle	139.77	103.04	107.14	146.42	115.54	18,144	8,643	8,987	9,230	7,310
	Upper	139.23	84.91	86.64	147.32	113.10	26,903	10,245	10,454	13,945	12,045
Honolulu, HI	Lower	116.69	191.66	142.31	132.81	110.12	10,123	11,126	8,261	5,545	4,013
	Middle	115.93	179.76	113.85	133.32	109.01	15,049	15,078	9,550	8,404	6,897
	Upper	115.22	178.63	114.12	133.78	108.16	22,264	21,553	13,770	12,664	11,519
Hawaii County, HI	Lower	116.23	118.25	93.72	134.01	105.53	10,083	6,864	5,440	5,595	3,846
	Middle	115.39	111.05	74.77	134.84	104.64	14,979	9,315	6,272	8,500	6,621
	Upper	114.62	89.70	61.74	135.62	103.96	22,148	10,823	7,450	12,838	11,072
Kauai County, HI	Lower	119.91	148.33	103.22	130.53	103.91	10,402	8,611	5,992	5,450	3,786
	Middle	118.84	137.33	92.59	131.38	104.02	15,427	11,519	7,766	8,282	6,581
	Upper	117.86	108.76	70.21	132.18	104.05	22,774	13,123	8,472	12,512	11,081
Maui County, HI	Lower	121.65	158.93	115.85	128.73	109.94	10,553	9,226	6,725	5,374	4,006
	Middle	120.51	149.42	103.98	129.58	108.51	15,643	12,533	8,722	8,169	6,865
	Upper	119.42	119.35	79.94	130.35	107.40	23,076	14,401	9,646	12,339	11,438
Guam (Local Retail)	Lower	119.12	148.72	124.44	135.50	109.65	10,334	8,633	7,224	5,657	3,996
	Middle	119.01	129.90	114.82	137.92	107.46	15,449	10,896	9,631	8,694	6,799
	Upper	118.92	124.91	107.05	140.15	105.86	22,979	15,072	12,917	13,267	11,274
Guam (Comm.&Exch.)	Lower	109.32	148.72	124.44	135.50	109.65	9,484	8,633	7,224	5,657	3,996
	Middle	109.73	129.90	114.82	137.92	107.46	14,244	10,896	9,631	8,694	6,799
	Upper	110.16	124.91	107.05	140.15	105.86	21,286	15,072	12,917	13,267	11,274
Puerto Rico	Lower	106.34	74.93	104.45	124.20	95.04	9,225	4,350	6,063	5,185	3,463
	Middle	106.47	71.28	122.71	124.41	97.56	13,821	5,979	10,293	7,843	6,173
	Upper	106.60	72.24	130.73	124.60	99.35	20,598	8,716	15,774	11,795	10,581
Virgin Islands	Lower	116.70	126.35	112.62	139.45	114.94	10,124	7,335	6,538	5,822	4,188
	Middle	116.65	127.80	104.86	140.10	113.65	15,142	10,720	8,796	8,832	7,191
	Upper	116.61	101.40	100.52	140.70	112.68	22,533	12,235	12,129	13,319	12,000

APPENDIX 22—TOTAL COMPARATIVE COST INDEXES

[1997 Survey]

	Income	Income Weights	Own	Rent	Total	WDC	Index
	Lower	22,300	38.60	61.40	.....	.....	.....
	Middle	34,000	48.05	51.95	.....	.....	.....
	Upper	51,500	62.17	37.83	.....	.....	.....
Anchorage, AK	Lower	26.11	$23,707	$23,594	$23,638	$22,300	.....
	Middle	30.95	35,658	35,264	35,453	34,000	.....
	Upper	42.94	52,141	52,476	52,268	51,500	.....
	.....	100.00	.....	.....	39,588	38,460	102.93
Fairbanks, AK	Lower	33.54	24,697	25,012	24,890	22,300	.....
	Middle	35.19	36,931	36,634	36,777	34,000	.....
	Upper	31.26	53,956	54,613	54,205	51,500	.....
	.....	99.99	.....	.....	38,238	35,546	107.57
Juneau, AK	Lower	19.77	26,274	26,485	26,404	22,300	.....
	Middle	29.87	38,664	38,636	38,649	34,000	.....
	Upper	50.36	55,565	57,800	56,411	51,500	.....
	.....	100.00	.....	.....	45,173	40,500	111.54
Nome, AK	Lower	24.32	28,881	30,503	29,877	22,300	.....
	Middle	45.65	43,327	43,671	43,506	34,000	.....
	Upper	30.03	63,138	63,347	63,217	51,500	.....
	.....	100.00	.....	.....	46,111	36,410	126.64
Honolulu, HI	Lower	33.20	30,807	27,942	29,048	22,300	.....

APPENDIX 22—TOTAL COMPARATIVE COST INDEXES—Continued

[1997 Survey]

	Income	Income Weights	Own	Rent	Total	WDC	Index
	Middle	31.40	45,428	39,900	42,556	34,000	.....
	Upper	35.40	68,000	60,217	65,056	51,500	.....
	.....	100.00	.....	.....	46,036	36,311	126.78
Hawaii County, HI	Lower	37.16	26,388	24,964	25,514	22,300	.....
	Middle	39.12	39,415	36,372	37,834	34,000	.....
	Upper	23.72	56,881	53,508	55,605	51,500	.....
	.....	100.00	.....	.....	37,471	33,803	110.85
Kauai County, HI	Lower	29.10	28,249	25,630	26,641	22,300	.....
	Middle	32.79	41,809	38,056	39,859	34,000	.....
	Upper	38.11	59,490	54,839	57,731	51,500	.....
	.....	100.00	.....	.....	42,824	37,265	114.92
Maui County, HI	Lower	24.66	29,159	26,658	27,623	22,300	.....
	Middle	40.41	43,210	39,399	41,230	34,000	.....
	Upper	34.93	61,254	56,499	59,455	51,500	.....
	.....	100.00	.....	.....	44,241	37,228	118.84
Guam (Local Retail)	Lower	46.00	28,620	27,211	27,755	22,300	.....
	Middle	31.77	41,838	40,573	41,181	34,000	.....
	Upper	22.23	62,592	60,437	61,777	51,500	.....
	.....	100.00	.....	.....	39,584	32,508	121.77
Guam (Comm.&Exch.)	Lower	46.00	27,770	26,361	26,905	22,300	.....
	Middle	31.77	40,633	39,368	39,976	34,000	.....
	Upper	22.23	60,899	58,744	60,084	51,500	.....
	.....	100.00	.....	.....	38,433	32,508	118.23
Puerto Rico	Lower	40.42	22,223	23,936	23,275	22,300	.....
	Middle	37.27	33,816	38,130	36,057	34,000	.....
	Upper	22.32	51,690	58,748	54,360	51,500	.....
	.....	100.01	.....	.....	34,976	33,177	105.42
Virgin Islands	Lower	34.67	27,469	26,672	26,980	22,300	.....
	Middle	41.18	41,885	39,961	40,885	34,000	.....
	Upper	24.15	60,087	59,981	60,047	51,500	.....
	.....	100.00	.....	.....	40,692	34,170	119.09

[FR Doc. 98–28055 Filed 10–20–98; 8:45 am]

BILLING CODE 6325–01–F

federal register

Wednesday
October 21, 1998

Part V

Department of Labor

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Notice of an Addition to the Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective October 1, 1998.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, USES, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4470, Attention: TEESS, Washington, DC 20210. Telephone: 202–219–5185, ext. 129.

SUPPLEMENTARY INFORMATION:

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is hereby published the annual list of labor surplus areas.

Subpart B of part 654 States that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The area described below has been classified by the Assistant Secretary as a labor surplus area pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) effective October 1, 1998.

Signed at Washington, DC, on September 29, 1998.

Raymond L. Bramucci,

Assistant Secretary.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
ALABAMA	
ANNISTON CITY	ANNISTON CITY IN CALHOUN COUNTY
BARBOUR COUNTY	BARBOUR COUNTY
BIBB COUNTY	BIBB COUNTY
BULLOCK COUNTY	BULLOCK COUNTY
BUTLER COUNTY	BUTLER COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
CLARKE COUNTY	CLARKE COUNTY
COLBERT COUNTY	COLBERT COUNTY
CONECUH COUNTY	CONECUH COUNTY
COVINGTON COUNTY	COVINGTON COUNTY
CRENSHAW COUNTY	CRENSHAW COUNTY
DALLAS COUNTY	DALLAS COUNTY
ESCAMBIA COUNTY	ESCAMBIA COUNTY
FLORENCE CITY	FLORENCE CITY IN LAUDERDALE COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GADSDEN CITY	GADSDEN CITY IN ETOWAH COUNTY
GENEVA COUNTY	GENEVA COUNTY
GREENE COUNTY	GREENE COUNTY
HALE COUNTY	HALE COUNTY
JACKSON COUNTY	JACKSON COUNTY
LAMAR COUNTY	LAMAR COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LOWNDES COUNTY	LOWNDES COUNTY
MACON COUNTY	MACON COUNTY
MARENGO COUNTY	MARENGO COUNTY
MARION COUNTY	MARION COUNTY
MONROE COUNTY	MONROE COUNTY
PERRY COUNTY	PERRY COUNTY
PICKENS COUNTY	PICKENS COUNTY
PIKE COUNTY	PIKE COUNTY
PRICHARD CITY	PRICHARD CITY IN MOBILE COUNTY
SUMTER COUNTY	SUMTER COUNTY
TALLADEGA COUNTY	TALLADEGA COUNTY
WALKER COUNTY	WALKER COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WILCOX COUNTY	WILCOX COUNTY
WINSTON COUNTY	WINSTON COUNTY
ALASKA	
BETHEL CENSUS AREA	BETHEL CENSUS AREA
BRISTOL BAY BOROUGH DIV	BRISTOL BAY BOROUGH DIV
DENALI BOROUGH	DENALI BOROUGH
DILLINGHAM CENSUS AREA	DILLINGHAM CENSUS AREA
FAIRBANKS CITY	FAIRBANKS CITY IN FAIRBANKS NORTH STAR BOROUGH
BALANCE OF FAIRBANKS NORTH STAR BOROUGH	FAIRBANKS NORTH STAR BOROUGH LESS FAIRBANKS CITY
HAINES BOROUGH	HAINES BOROUGH

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
KENAI PENINSULA BOROUGH	KENAI PENINSULA BOROUGH
KETCHIKAN GATEWAY BOROUGH	KETCHIKAN GATEWAY BOROUGH
KODIAK ISLAND BOROUGH	KODIAK ISLAND BOROUGH
LAKE AND PENINSULA BOROUGH	LAKE AND PENINSULA BOROUGH
MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSITNA BOROUGH
NOME CENSUS AREA	NOME CENSUS AREA
NORTHWEST ARCTIC BOROUGH	NORTHWEST ARCTIC BOROUGH
PRINCE OF WALES OUTER KETCHIKAN	PRINCE OF WALES OUTER KETCHIKAN
SITKA BOROUGH	SITKA BOROUGH
SKAGWAY-HOONAH-ANGOON CEN AREA	SKAGWAY-HOONAH-ANGOON CEN AREA
SOUTHEAST FAIRBANKS CENSUS AREA	SOUTHEAST FAIRBANKS CENSUS AREA
VALDEZ CORDOVA CENSUS AREA	VALDEZ CORDOVA CENSUS AREA
WADE HAMPTON CENSUS AREA	WADE HAMPTON CENSUS AREA
WRANGELL-PETERSBURG CENSUS AREA	WRANGELL-PETERSBURG CENSUS AREA
YAKUTAT BOROUGH	YAKUTAT BOROUGH
YUKON-KOYUKUK CENSUS AREA	YUKON-KOYUKUK CENSUS AREA
ARIZONA	
APACHE COUNTY	APACHE COUNTY
BULLHEAD CITY	BULLHEAD CITY IN MOHAVE COUNTY
BALANCE OF COCHISE COUNTY	COCHISE COUNTY LESS SIERRA VISTA CITY
BALANCE OF COCONINO COUNTY	COCONINO COUNTY LESS FLAGSTAFF CITY
FLAGSTAFF CITY	FLAGSTAFF CITY IN COCONINO COUNTY
GILA COUNTY	GILA COUNTY
GRAHAM COUNTY	GRAHAM COUNTY
GREENLEE COUNTY	GREENLEE COUNTY
LA PAZ COUNTY	LA PAZ COUNTY
BALANCE OF MOHAVE COUNTY	MOHAVE COUNTY LESS BULLHEAD CITY LAKE HAVASU CITY
NAVAJO COUNTY	NAVAJO COUNTY
SANTA CRUZ COUNTY	SANTA CRUZ COUNTY
SIERRA VISTA CITY	SIERRA VISTA CITY IN COCHISE COUNTY
YUMA CITY	YUMA CITY IN YUMA COUNTY
BALANCE OF YUMA COUNTY	YUMA COUNTY LESS YUMA CITY
ARKANSAS	
ASHLEY COUNTY	ASHLEY COUNTY
BRADLEY COUNTY	BRADLEY COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CHICOT COUNTY	CHICOT COUNTY
CLAY COUNTY	CLAY COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
DALLAS COUNTY	DALLAS COUNTY
DESHA COUNTY	DESHA COUNTY
DREW COUNTY	DREW COUNTY
HEMPSTEAD COUNTY	HEMPSTEAD COUNTY
IZARD COUNTY	IZARD COUNTY
JACKSON COUNTY	JACKSON COUNTY
LAFAYETTE COUNTY	LAFAYETTE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEE COUNTY	LEE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LITTLE RIVER COUNTY	LITTLE RIVER COUNTY
MISSISSIPPI COUNTY	MISSISSIPPI COUNTY
MONROE COUNTY	MONROE COUNTY
NEVADA COUNTY	NEVADA COUNTY
NEWTON COUNTY	NEWTON COUNTY
OUACHITA COUNTY	OUACHITA COUNTY
PERRY COUNTY	PERRY COUNTY
PHILLIPS COUNTY	PHILLIPS COUNTY
PINE BLUFF CITY	PINE BLUFF CITY IN JEFFERSON COUNTY
POINSETT COUNTY	POINSETT COUNTY
PRAIRIE COUNTY	PRAIRIE COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SEARCY COUNTY	SEARCY COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
SHARP COUNTY	SHARP COUNTY
ST. FRANCIS COUNTY	ST. FRANCIS COUNTY
UNION COUNTY	UNION COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
WOODRUFF COUNTY	WOODRUFF COUNTY
CALIFORNIA	
ALPINE COUNTY	ALPINE COUNTY
APPLE VALLEY CITY	APPLE VALLEY CITY IN SAN BERNARDINO COUNTY
AZUSA CITY	AZUSA CITY IN LOS ANGELES COUNTY
BAKERSFIELD CITY	BAKERSFIELD CITY IN KERN COUNTY
BALDWIN PARK CITY	BALDWIN PARK CITY IN LOS ANGELES COUNTY
BANNING CITY	BANNING CITY IN RIVERSIDE COUNTY
BELL CITY	BELL CITY IN LOS ANGELES COUNTY
BELL GARDENS CITY	BELL GARDENS CITY IN LOS ANGELES COUNTY
BALANCE OF BUTTE COUNTY	BUTTE COUNTY LESS CHICO CITY PARADISE CITY
CALAVERAS COUNTY	CALAVERAS COUNTY
CALEXICO CITY	CALEXICO CITY IN IMPERIAL COUNTY
CARSON CITY	CARSON CITY IN LOS ANGELES COUNTY
CATHEDRAL CITY	CATHEDRAL CITY IN RIVERSIDE COUNTY
CERES CITY	CERES CITY IN STANISLAUS COUNTY
CHICO CITY	CHICO CITY IN BUTTE COUNTY
CLOVIS CITY	CLOVIS CITY IN FRESNO COUNTY
COLTON CITY	COLTON CITY IN SAN BERNARDINO COUNTY
COLUSA COUNTY	COLUSA COUNTY
COMPTON CITY	COMPTON CITY IN LOS ANGELES COUNTY
CORONA CITY	CORONA CITY IN RIVERSIDE COUNTY
DEL NORTE COUNTY	DEL NORTE COUNTY
DELANO CITY	DELANO CITY IN KERN COUNTY
EAST PALO ALTO CITY	EAST PALO ALTO CITY IN SAN MATEO COUNTY
EL CENTRO CITY	EL CENTRO CITY IN IMPERIAL COUNTY
EL MONTE CITY	EL MONTE CITY IN LOS ANGELES COUNTY
EUREKA CITY	EUREKA CITY IN HUMBOLDT COUNTY
FAIRFIELD CITY	FAIRFIELD CITY IN SOLANO COUNTY
FONTANA CITY	FONTANA CITY IN SAN BERNARDINO COUNTY
FRESNO CITY	FRESNO CITY IN FRESNO COUNTY
BALANCE OF FRESNO COUNTY	FRESNO COUNTY LESS CLOVIS CITY FRESNO CITY
GLENDALE CITY	GLENDALE CITY IN LOS ANGELES COUNTY
GLENN COUNTY	GLENN COUNTY
HANFORD CITY	HANFORD CITY IN KINGS COUNTY
HAWTHORNE CITY	HAWTHORNE CITY IN LOS ANGELES COUNTY
HEMET CITY	HEMET CITY IN RIVERSIDE COUNTY
HESPERIA CITY	HESPERIA CITY IN SAN BERNARDINO COUNTY
HIGHLAND CITY	HIGHLAND CITY IN SAN BERNARDINO COUNTY
HOLISTER CITY	HOLISTER CITY IN SAN BENITO COUNTY
BALANCE OF HUMBOLDT COUNTY	HUMBOLDT COUNTY LESS EUREKA CITY
HUNTINGTON PARK CITY	HUNTINGTON PARK CITY IN LOS ANGELES COUNTY
IMPERIAL BEACH CITY	IMPERIAL BEACH CITY IN SAN DIEGO COUNTY
BALANCE OF IMPERIAL COUNTY	IMPERIAL COUNTY LESS CALEXICO CITY EL CENTRO CITY
INDIO CITY	INDIO CITY IN RIVERSIDE COUNTY
INGLEWOOD CITY	INGLEWOOD CITY IN LOS ANGELES COUNTY
INYO COUNTY	INYO COUNTY
BALANCE OF KERN COUNTY	KERN COUNTY LESS BAKERSFIELD CITY DELANO CITY RIDGECREST CITY
BALANCE OF KINGS COUNTY	KINGS COUNTY LESS HANFORD CITY
LA PUENTE CITY	LA PUENTE CITY IN LOS ANGELES COUNTY
LAKE COUNTY	LAKE COUNTY
LAKE ELSINORE CITY	LAKE ELSINORE CITY IN RIVERSIDE COUNTY
LANCASTER CITY	LANCASTER CITY IN LOS ANGELES COUNTY
LASSEN COUNTY	LASSEN COUNTY
LAWNDALE CITY	LAWNDALE CITY IN LOS ANGELES COUNTY
LODI CITY	LODI CITY IN SAN JOAQUIN COUNTY
LOMPOC CITY	LOMPOC CITY IN SANTA BARBARA COUNTY
LONG BEACH CITY	LONG BEACH CITY IN LOS ANGELES COUNTY
LOS ANGELES CITY	LOS ANGELES CITY IN LOS ANGELES COUNTY
BALANCE OF LOS ANGELES COUNTY	LOS ANGELES COUNTY LESS AGOURA HILLS CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
	ALHAMBRA CITY
	ARCADIA CITY
	AZUSA CITY
	BALDWIN PARK CITY
	BELL CITY
	BELL GARDENS CITY
	BELLFLOWER CITY
	BEVERLY HILLS CITY
	BURBANK CITY
	CARSON CITY
	CERRITOS CITY
	CLAREMONT CITY
	COMPTON CITY
	COVINA CITY
	CULVER CITY
	DIAMOND BAR CITY
	DOWNEY CITY
	EL MONTE CITY
	GARDENA CITY
	GLENDALE CITY
	GLENDORA CITY
	HAWTHORNE CITY
	HUNTINGTON PARK CITY
	INGLEWOOD CITY
	LA MIRADA CITY
	LA PUENTE CITY
	LA VERNE CITY
	LAKEWOOD CITY
	LANCASTER CITY
	LAWNDALE CITY
	LONG BEACH CITY
	LOS ANGELES CITY
	LYNWOOD CITY
	MANHATTAN BEACH CITY
	MAYWOOD CITY
	MONROVIA CITY
	MONTEBELLO CITY
	MONTEREY PARK CITY
	NORWALK CITY
	PALMDALE CITY
	PARAMOUNT CITY
	PASADENA CITY
	PICO RIVERA CITY
	POMONA CITY
	RANCHO PALOS VERDES CITY
	REDONDO BEACH CITY
	ROSEMEAD CITY
	SAN DIMAS CITY
	SAN GABRIEL CITY
	SANTA CLARITA CITY
	SANTA MONICA CITY
	SOUTH GATE CITY
	TEMPLE CITY
	TORRANCE CITY
	WALNUT CITY
	WEST COVINA CITY
	WEST HOLLYWOOD CITY
	WHITTIER CITY
LYNWOOD CITY	LYNWOOD CITY IN LOS ANGELES COUNTY
MADERA CITY	MADERA CITY IN MADERA COUNTY
BALANCE OF MADERA COUNTY	MADERA COUNTY LESS MADERA CITY
MANTECA CITY	MANTECA CITY IN SAN JOAQUIN COUNTY
MARINA CITY	MARINA CITY IN MONTEREY COUNTY
MARIPOSA COUNTY	MARIPOSA COUNTY
MAYWOOD CITY	MAYWOOD CITY IN LOS ANGELES COUNTY
MENDOCINO COUNTY	MENDOCINO COUNTY
MERCED CITY	MERCED CITY IN MERCED COUNTY
BALANCE OF MERCED COUNTY	MERCED COUNTY LESS MERCED CITY
MODESTO CITY	MODESTO CITY IN STANISLAUS COUNTY
MODOC COUNTY	MODOC COUNTY
MONO COUNTY	MONO COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
MONTCLAIR CITY	MONTCLAIR CITY IN SAN BERNARDINO COUNTY
MONTEBELLO CITY	MONTEBELLO CITY IN LOS ANGELES COUNTY
BALANCE OF MONTEREY COUNTY	MONTEREY COUNTY LESS MARINA CITY
	MONTEREY CITY
	SALINAS CITY
	SEASIDE CITY
MORENO VALLEY CITY	MORENO VALLEY CITY IN RIVERSIDE COUNTY
NAPA CITY	NAPA CITY IN NAPA COUNTY
NATIONAL CITY	NATIONAL CITY IN SAN DIEGO COUNTY
NEVADA COUNTY	NEVADA COUNTY
NORWALK CITY	NORWALK CITY IN LOS ANGELES COUNTY
OAKLAND CITY	OAKLAND CITY IN ALAMEDA COUNTY
ONTARIO CITY	ONTARIO CITY IN SAN BERNARDINO COUNTY
OXNARD CITY	OXNARD CITY IN VENTURA COUNTY
PALMDALE CITY	PALMDALE CITY IN LOS ANGELES COUNTY
PARADISE CITY	PARADISE CITY IN BUTTE COUNTY
PARAMOUNT CITY	PARAMOUNT CITY IN LOS ANGELES COUNTY
PASADENA CITY	PASADENA CITY IN LOS ANGELES COUNTY
PERRIS CITY	PERRIS CITY IN RIVERSIDE COUNTY
PICO RIVERA CITY	PICO RIVERA CITY IN LOS ANGELES COUNTY
PITTSBURG CITY	PITTSBURG CITY IN CONTRA COSTA COUNTY
PLUMAS COUNTY	PLUMAS COUNTY
POMONA CITY	POMONA CITY IN LOS ANGELES COUNTY
PORTERVILLE CITY	PORTERVILLE CITY IN TULARE COUNTY
REDDING CITY	REDDING CITY IN SHASTA COUNTY
RIALTO CITY	RIALTO CITY IN SAN BERNARDINO COUNTY
RICHMOND CITY	RICHMOND CITY IN CONTRA COSTA COUNTY
RIDGECREST CITY	RIDGECREST CITY IN KERN COUNTY
RIVERSIDE CITY	RIVERSIDE CITY IN RIVERSIDE COUNTY
BALANCE OF RIVERSIDE COUNTY	RIVERSIDE COUNTY LESS
	BANNING CITY
	CATHEDRAL CITY
	CORONA CITY
	HEMET CITY
	INDIO CITY
	LAKE ELSINORE CITY
	MORENO VALLEY CITY
	MURRIETA CITY
	NORCO CITY
	PALM DESERT CITY
	PALM SPRINGS CITY
	PERRIS CITY
	RIVERSIDE CITY
	TEMECULA CITY
ROSEMEAD CITY	ROSEMEAD CITY IN LOS ANGELES COUNTY
SACRAMENTO CITY	SACRAMENTO CITY IN SACRAMENTO COUNTY
SALINAS CITY	SALINAS CITY IN MONTEREY COUNTY
BALANCE OF SAN BENITO COUNTY	SAN BENITO COUNTY LESS HOLISTER CITY
SAN BERNARDINO CITY	SAN BERNARDINO CITY IN SAN BERNARDINO COUNTY
BALANCE OF SAN BERNARDINO COUNTY	SAN BERNARDINO COUNTY LESS
	APPLE VALLEY CITY
	CHINO CITY
	CHINO HILLS CITY
	COLTON CITY
	FONTANA CITY
	HESPERIA CITY
	HIGHLAND CITY
	MONTCLAIR CITY
	ONTARIO CITY
	RANCHO CUCAMONGA CITY
	REDLANDS CITY
	RIALTO CITY
	SAN BERNARDINO CITY
	UPLAND CITY
	VICTORVILLE CITY
	YUCAIPA CITY
BALANCE OF SAN JOAQUIN COUNTY	SAN JOAQUIN COUNTY LESS LODI CITY
	MANTECA CITY
	STOCKTON CITY
	TRACEY CITY
SAN PABLO CITY	SAN PABLO CITY IN CONTRA COSTA COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
SANTA ANA CITY	SANTA ANA CITY IN ORANGE COUNTY
SANTA CRUZ CITY	SANTA CRUZ CITY IN SANTA CRUZ COUNTY
BALANCE OF SANTA CRUZ COUNTY	SANTA CRUZ COUNTY LESS SANTA CRUZ CITY
	WATSONVILLE CITY
SANTA MARIA CITY	SANTA MARIA CITY IN SANTA BARBARA COUNTY
SANTA PAULA CITY	SANTA PAULA CITY IN VENTURA COUNTY
SEASIDE CITY	SEASIDE CITY IN MONTEREY COUNTY
BALANCE OF SHASTA COUNTY	SHASTA COUNTY LESS REDDING CITY
SIERRA COUNTY	SIERRA COUNTY
SISKIYOU COUNTY	SISKIYOU COUNTY
BALANCE OF SOLANO COUNTY	SOLANO COUNTY LESS BENICIA CITY
	FAIRFIELD CITY
	SUISON CITY
	VACAVILLE CITY
	VALLEJO CITY
SOUTH GATE CITY	SOUTH GATE CITY IN LOS ANGELES COUNTY
BALANCE OF STANISLAUS COUNTY	STANISLAUS COUNTY LESS CERES CITY
	MODESTO CITY
	TURLOCK CITY
STANTON CITY	STANTON CITY IN ORANGE COUNTY
STOCKTON CITY	STOCKTON CITY IN SAN JOAQUIN COUNTY
SUISON CITY	SUISON CITY IN SOLANO COUNTY
BALANCE OF SUTTER COUNTY	SUTTER COUNTY LESS YUBA CITY
TEHAMA COUNTY	TEHAMA COUNTY
TRACEY CITY	TRACEY CITY IN SAN JOAQUIN COUNTY
TRINITY COUNTY	TRINITY COUNTY
TULARE CITY	TULARE CITY IN TULARE COUNTY
BALANCE OF TULARE COUNTY	TULARE COUNTY LESS PORTERVILLE CITY
	TULARE CITY
	VISALIA CITY
TUOLUMNE COUNTY	TUOLUMNE COUNTY
TURLOCK CITY	TURLOCK CITY IN STANISLAUS COUNTY
VALLEJO CITY	VALLEJO CITY IN SOLANO COUNTY
BALANCE OF VENTURA COUNTY	VENTURA COUNTY LESS CAMARILLO CITY
	MOORPARK CITY
	OXNARD CITY
	SANTA PAULA CITY
	SIMI VALLEY CITY
	THOUSAND OAKS CITY
	VENTURA CITY
VICTORVILLE CITY	VICTORVILLE CITY IN SAN BERNARDINO COUNTY
VISALIA CITY	VISALIA CITY IN TULARE COUNTY
WATSONVILLE CITY	WATSONVILLE CITY IN SANTA CRUZ COUNTY
WEST HOLLYWOOD CITY	WEST HOLLYWOOD CITY IN LOS ANGELES COUNTY
WEST SACRAMENTO CITY	WEST SACRAMENTO CITY IN YOLO COUNTY
WOODLAND CITY	WOODLAND CITY IN YOLO COUNTY
YUBA CITY	YUBA CITY IN SUTTER COUNTY
YUBA COUNTY	YUBA COUNTY
COLORADO	
CONEJOS COUNTY	CONEJOS COUNTY
COSTILLA COUNTY	COSTILLA COUNTY
DOLORES COUNTY	DOLORES COUNTY
JACKSON COUNTY	JACKSON COUNTY
LAS ANIMAS COUNTY	LAS ANIMAS COUNTY
MONTEZUMA COUNTY	MONTEZUMA COUNTY
RIO GRANDE COUNTY	RIO GRANDE COUNTY
SAGUACHE COUNTY	SAGUACHE COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
CONNECTICUT	
ANSONIA TOWN	ANSONIA TOWN
BRIDGEPORT CITY	BRIDGEPORT CITY
DERBY TOWN	DERBY TOWN
EAST HARTFORD CITY	EAST HARTFORD CITY
EAST HAVEN TOWN	EAST HAVEN TOWN
HARTFORD CITY	HARTFORD CITY
KILLINGLY TOWN	KILLINGLY TOWN
MERIDEN CITY	MERIDEN CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
MIDDLETOWN CITY	MIDDLETOWN CITY
NEW BRITAIN CITY	NEW BRITAIN CITY
NEW HAVEN CITY	NEW HAVEN CITY
NEW LONDON CITY	NEW LONDON CITY
NORWICH CITY	NORWICH CITY
PLAINFIELD TOWN	PLAINFIELD TOWN
PUTNAM TOWN	PUTNAM TOWN
SPRAGUE TOWN	SPRAGUE TOWN
STERLING TOWN	STERLING TOWN
VOLUNTOWN TOWN	VOLUNTOWN TOWN
WATERBURY CITY	WATERBURY CITY
WINCHESTER TOWN	WINCHESTER TOWN
WINDHAM TOWN	WINDHAM TOWN
DISTRICT OF COLUMBIA	
WASHINGTON DC CITY	WASHINGTON DC CITY IN DISTRICT OF COLUMBIA
FLORIDA	
BOYNTON BEACH CITY	BOYNTON BEACH CITY IN PALM BEACH COUNTY
DE SOTO COUNTY	DE SOTO COUNTY
DELRAY BEACH CITY	DELRAY BEACH CITY IN PALM BEACH COUNTY
DIXIE COUNTY	DIXIE COUNTY
FORT PIERCE CITY	FORT PIERCE CITY IN ST. LUCIE COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GLADES COUNTY	GLADES COUNTY
GULF COUNTY	GULF COUNTY
HALLANDALE CITY	HALLANDALE CITY IN BROWARD COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HARDEE COUNTY	HARDEE COUNTY
HENDRY COUNTY	HENDRY COUNTY
HIALEAH CITY	HIALEAH CITY IN DADE COUNTY
HIGHLANDS COUNTY	HIGHLANDS COUNTY
HOLMES COUNTY	HOLMES COUNTY
HOMESTEAD CITY	HOMESTEAD CITY IN DADE COUNTY
INDIAN RIVER COUNTY	INDIAN RIVER COUNTY
LAKE WORTH CITY	LAKE WORTH CITY IN PALM BEACH COUNTY
LAUDERDALE LAKES CITY	LAUDERDALE LAKES CITY IN BROWARD COUNTY
MARTIN COUNTY	MARTIN COUNTY
MIAMI BEACH CITY	MIAMI BEACH CITY IN DADE COUNTY
MIAMI CITY	MIAMI CITY MIAMI CITY IN DADE COUNTY
NORTH MIAMI CITY	NORTH MIAMI CITY IN DADE COUNTY
OKEECHOBEE COUNTY	OKEECHOBEE COUNTY
PANAMA CITY	PANAMA CITY IN BAY COUNTY
BALANCE OF POLK COUNTY	POLK COUNTY LESS LAKELAND CITY WINTER HAVEN CITY
PORT ST. LUCIE CITY	PORT ST. LUCIE CITY IN ST. LUCIE COUNTY
RIVIERA BEACH CITY	RIVIERA BEACH CITY IN PALM BEACH COUNTY
BALANCE OF ST. LUCIE COUNTY	ST. LUCIE COUNTY LESS FORT PIERCE CITY PORT ST. LUCIE CITY
TAYLOR COUNTY	TAYLOR COUNTY
WEST PALM BEACH CITY	WEST PALM BEACH CITY IN PALM BEACH COUNTY
GEORGIA	
ALBANY CITY	ALBANY CITY IN DOUGHERTY COUNTY
APPLING COUNTY	APPLING COUNTY
ATKINSON COUNTY	ATKINSON COUNTY
ATLANTA CITY	ATLANTA CITY IN DE KALB COUNTY FULTON COUNTY
AUGUSTA CITY	AUGUSTA CITY IN RICHMOND COUNTY
BACON COUNTY	BACON COUNTY
BAKER COUNTY	BAKER COUNTY
BEN HILL COUNTY	BEN HILL COUNTY
BRANTLEY COUNTY	BRANTLEY COUNTY
BURKE COUNTY	BURKE COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CHATTAHOOCHEE COUNTY	CHATTAHOOCHEE COUNTY
CLAY COUNTY	CLAY COUNTY
CRISP COUNTY	CRISP COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
DODGE COUNTY	DODGE COUNTY
DOOLY COUNTY	DOOLY COUNTY
EARLY COUNTY	EARLY COUNTY
ELBERT COUNTY	ELBERT COUNTY
EMANUEL COUNTY	EMANUEL COUNTY
FANNIN COUNTY	FANNIN COUNTY
GLASCOCK COUNTY	GLASCOCK COUNTY
GRADY COUNTY	GRADY COUNTY
GREENE COUNTY	GREENE COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARALSON COUNTY	HARALSON COUNTY
HART COUNTY	HART COUNTY
HEARD COUNTY	HEARD COUNTY
HINESVILLE CITY	HINESVILLE CITY IN LIBERTY COUNTY
JEFF DAVIS COUNTY	JEFF DAVIS COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
LA GRANGE CITY	LA GRANGE CITY IN TROUP COUNTY
BALANCE OF LIBERTY COUNTY	LIBERTY COUNTY LESS HINESVILLE CITY
LINCOLN COUNTY	LINCOLN COUNTY
MACON COUNTY	MACON COUNTY
MC DUFFIE COUNTY	MC DUFFIE COUNTY
MITCHELL COUNTY	MITCHELL COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
PEACH COUNTY	PEACH COUNTY
POLK COUNTY	POLK COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
ROME CITY	ROME CITY IN FLOYD COUNTY
SCREVEN COUNTY	SCREVEN COUNTY
SUMTER COUNTY	SUMTER COUNTY
TALBOT COUNTY	TALBOT COUNTY
TALIAFERRO COUNTY	TALIAFERRO COUNTY
TAYLOR COUNTY	TAYLOR COUNTY
TELFAIR COUNTY	TELFAIR COUNTY
TERRELL COUNTY	TERRELL COUNTY
TOOMBS COUNTY	TOOMBS COUNTY
TOWNS COUNTY	TOWNS COUNTY
TREUTLEN COUNTY	TREUTLEN COUNTY
TURNER COUNTY	TURNER COUNTY
WARREN COUNTY	WARREN COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WAYNE COUNTY	WAYNE COUNTY
WHEELER COUNTY	WHEELER COUNTY
WILCOX COUNTY	WILCOX COUNTY
WORTH COUNTY	WORTH COUNTY
HAWAII	
HAWAII COUNTY	HAWAII COUNTY
KAUAI COUNTY	KAUAI COUNTY
MAUI COUNTY	MAUI COUNTY
IDAHO	
ADAMS COUNTY	ADAMS COUNTY
BENEWAH COUNTY	BENEWAH COUNTY
BONNER COUNTY	BONNER COUNTY
BOUNDARY COUNTY	BOUNDARY COUNTY
CASSIA COUNTY	CASSIA COUNTY
CLEARWATER COUNTY	CLEARWATER COUNTY
CUSTER COUNTY	CUSTER COUNTY
FREMONT COUNTY	FREMONT COUNTY
GEM COUNTY	GEM COUNTY
IDAHO COUNTY	IDAHO COUNTY
BALANCE OF KOOTENAI COUNTY	KOOTENAI COUNTY LESS COEUR D ALENE CITY
LEMHI COUNTY	LEMHI COUNTY
LEWIS COUNTY	LEWIS COUNTY
MINIDOKA COUNTY	MINIDOKA COUNTY
PAYETTE COUNTY	PAYETTE COUNTY
SHOSHONE COUNTY	SHOSHONE COUNTY
VALLEY COUNTY	VALLEY COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
WASHINGTON COUNTY	WASHINGTON COUNTY
ILLINOIS	
ALEXANDER COUNTY	ALEXANDER COUNTY
ALTON CITY	ALTON CITY IN MADISON COUNTY
BELLEVILLE CITY	BELLEVILLE CITY IN ST. CLAIR COUNTY
CARPENTERSVILLE CITY	CARPENTERSVILLE CITY IN KANE COUNTY
CHICAGO CITY	CHICAGO CITY IN COOK COUNTY
CHICAGO HEIGHTS CITY	CHICAGO HEIGHTS CITY IN COOK COUNTY
CICERO CITY	CICERO CITY IN COOK COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DANVILLE CITY	DANVILLE CITY IN VERMILION COUNTY
DECATUR CITY	DECATUR CITY IN MACON COUNTY
DOLTON VILLAGE	DOLTON VILLAGE IN COOK COUNTY
EAST ST. LOUIS CITY	EAST ST. LOUIS CITY IN ST. CLAIR COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FREEPORT CITY	FREEPORT CITY IN STEPHENSON COUNTY
FULTON COUNTY	FULTON COUNTY
GALLATIN COUNTY	GALLATIN COUNTY
GRANITE CITY	GRANITE CITY IN MADISON COUNTY
GREENE COUNTY	GREENE COUNTY
GRUNDY COUNTY	GRUNDY COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HARDIN COUNTY	HARDIN COUNTY
HARVEY CITY	HARVEY CITY IN COOK COUNTY
JASPER COUNTY	JASPER COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
JOLIET CITY	JOLIET CITY IN WILL COUNTY
KANKAKEE CITY	KANKAKEE CITY IN KANKAKEE COUNTY
LA SALLE COUNTY	LA SALLE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
MARION COUNTY	MARION COUNTY
MASON COUNTY	MASON COUNTY
MAYWOOD VILLAGE	MAYWOOD VILLAGE IN COOK COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NORTH CHICAGO CITY	NORTH CHICAGO CITY IN LAKE COUNTY
PEKIN CITY	PEKIN CITY IN TAZEWELL COUNTY
PEORIA CITY	PEORIA CITY IN PEORIA COUNTY
PERRY COUNTY	PERRY COUNTY
POPE COUNTY	POPE COUNTY
PULASKI COUNTY	PULASKI COUNTY
PUTNAM COUNTY	PUTNAM COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
ROCKFORD CITY	ROCKFORD CITY IN WINNEBAGO COUNTY
SALINE COUNTY	SALINE COUNTY
SCOTT COUNTY	SCOTT COUNTY
STARK COUNTY	STARK COUNTY
UNION COUNTY	UNION COUNTY
WABASH COUNTY	WABASH COUNTY
WAUKEGAN CITY	WAUKEGAN CITY IN LAKE COUNTY
WHITE COUNTY	WHITE COUNTY
WILLIAMSON COUNTY	WILLIAMSON COUNTY
INDIANA	
CRAWFORD COUNTY	CRAWFORD COUNTY
EAST CHICAGO CITY	EAST CHICAGO CITY IN LAKE COUNTY
GARY CITY	GARY CITY IN LAKE COUNTY
GREENE COUNTY	GREENE COUNTY
MARION CITY	MARION CITY IN GRANT COUNTY
ORANGE COUNTY	ORANGE COUNTY
PERRY COUNTY	PERRY COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
SULLIVAN COUNTY	SULLIVAN COUNTY
TERRE HAUTE CITY	TERRE HAUTE CITY IN VIGO COUNTY
VERMILLION COUNTY	VERMILLION COUNTY
WHITE COUNTY	WHITE COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
IOWA	
ADAMS COUNTY	ADAMS COUNTY
KANSAS	
ATCHISON COUNTY	ATCHISON COUNTY
CHAUTAUQUA COUNTY	CHAUTAUQUA COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
COFFEY COUNTY	COFFEY COUNTY
DONIPHAN COUNTY	DONIPHAN COUNTY
GEARY COUNTY	GEARY COUNTY
KANSAS CITY KN	KANSAS CITY KN IN WYANDOTTE COUNTY
LINN COUNTY	LINN COUNTY
OSAGE COUNTY	OSAGE COUNTY
KENTUCKY	
ADAIR COUNTY	ADAIR COUNTY
ALLEN COUNTY	ALLEN COUNTY
BALLARD COUNTY	BALLARD COUNTY
BATH COUNTY	BATH COUNTY
BELL COUNTY	BELL COUNTY
BOYD COUNTY	BOYD COUNTY
BREATHITT COUNTY	BREATHITT COUNTY
BRECKINRIDGE COUNTY	BRECKINRIDGE COUNTY
BUTLER COUNTY	BUTLER COUNTY
CALDWELL COUNTY	CALDWELL COUNTY
CARLISLE COUNTY	CARLISLE COUNTY
CARTER COUNTY	CARTER COUNTY
CASEY COUNTY	CASEY COUNTY
CLAY COUNTY	CLAY COUNTY
CLINTON COUNTY	CLINTON COUNTY
CRITTENDEN COUNTY	CRITTENDEN COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
EDMONSON COUNTY	EDMONSON COUNTY
ELLIOTT COUNTY	ELLIOTT COUNTY
FLEMING COUNTY	FLEMING COUNTY
FLOYD COUNTY	FLOYD COUNTY
FULTON COUNTY	FULTON COUNTY
GRAVES COUNTY	GRAVES COUNTY
GRAYSON COUNTY	GRAYSON COUNTY
GREEN COUNTY	GREEN COUNTY
GREENUP COUNTY	GREENUP COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARLAN COUNTY	HARLAN COUNTY
HART COUNTY	HART COUNTY
HENDERSON CITY	HENDERSON CITY IN HENDERSON COUNTY
HICKMAN COUNTY	HICKMAN COUNTY
HOPKINS COUNTY	HOPKINS COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
KNOTT COUNTY	KNOTT COUNTY
KNOX COUNTY	KNOX COUNTY
LAUREL COUNTY	LAUREL COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LESLIE COUNTY	LESLIE COUNTY
LETCHER COUNTY	LETCHER COUNTY
LEWIS COUNTY	LEWIS COUNTY
LIVINGSTON COUNTY	LIVINGSTON COUNTY
LYON COUNTY	LYON COUNTY
MAGOFFIN COUNTY	MAGOFFIN COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MARTIN COUNTY	MARTIN COUNTY
MC CREARY COUNTY	MC CREARY COUNTY
MC LEAN COUNTY	MC LEAN COUNTY
MENIFEE COUNTY	MENIFEE COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
MUHLENBERG COUNTY	MUHLENBERG COUNTY
NELSON COUNTY	NELSON COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
OHIO COUNTY	OHIO COUNTY
OWENSBORO CITY	OWENSBORO CITY IN DAVIESS COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
POWELL COUNTY	POWELL COUNTY
ROCKCASTLE COUNTY	ROCKCASTLE COUNTY
RUSSELL COUNTY	RUSSELL COUNTY
TAYLOR COUNTY	TAYLOR COUNTY
UNION COUNTY	UNION COUNTY
BALANCE OF WARREN COUNTY	WARREN COUNTY LESS BOWLING GREEN CITY
WAYNE COUNTY	WAYNE COUNTY
WEBSTER COUNTY	WEBSTER COUNTY
WHITLEY COUNTY	WHITLEY COUNTY
WOLFE COUNTY	WOLFE COUNTY
LOUISIANA	
ACADIA PARISH	ACADIA PARISH
ALEXANDRIA CITY	ALEXANDRIA CITY IN RAPIDES PARISH
ALLEN PARISH	ALLEN PARISH
ASSUMPTION PARISH	ASSUMPTION PARISH
AVOYELLES PARISH	AVOYELLES PARISH
BEAUREGARD PARISH	BEAUREGARD PARISH
BIENVILLE PARISH	BIENVILLE PARISH
BOSSIER CITY	BOSSIER CITY IN
BOSSIER PARISH	
BALANCE OF BOSSIER PARISH	BOSSIER PARISH LESS BOSSIER CITY
	SHREVEPORT CITY
CALDWELL PARISH	CALDWELL PARISH
CATAHOULA PARISH	CATAHOULA PARISH
CLAIBORNE PARISH	CLAIBORNE PARISH
CONCORDIA PARISH	CONCORDIA PARISH
DE SOTO PARISH	DE SOTO PARISH
EAST CARROLL PARISH	EAST CARROLL PARISH
EAST FELICIANA PARISH	EAST FELICIANA PARISH
EVANGELINE PARISH	EVANGELINE PARISH
FRANKLIN PARISH	FRANKLIN PARISH
GRANT PARISH	GRANT PARISH
IBERVILLE PARISH	IBERVILLE PARISH
JACKSON PARISH	JACKSON PARISH
JEFFERSON DAVIS PARISH	JEFFERSON DAVIS PARISH
LAKE CHARLES CITY	LAKE CHARLES CITY IN CALCASIEU PARISH
LIVINGSTON PARISH	LIVINGSTON PARISH
MADISON PARISH	MADISON PARISH
MONROE CITY	MONROE CITY IN OUACHITA PARISH
MOREHOUSE PARISH	MOREHOUSE PARISH
NATCHITOCHES PARISH	NATCHITOCHES PARISH
NEW IBERIA CITY	NEW IBERIA CITY IN IBERIA PARISH
NEW ORLEANS CITY	NEW ORLEANS CITY IN ORLEANS PARISH
POINTE COUPEE PARISH	POINTE COUPEE PARISH
RED RIVER PARISH	RED RIVER PARISH
RICHLAND PARISH	RICHLAND PARISH
SABINE PARISH	SABINE PARISH
SHREVEPORT CITY	SHREVEPORT CITY IN BOSSIER PARISH
	CADDO PARISH
ST. BERNARD PARISH	ST. BERNARD PARISH
ST. HELENA PARISH	ST. HELENA PARISH
ST. JAMES PARISH	ST. JAMES PARISH
ST. JOHN BAPTIST PARISH	ST. JOHN BAPTIST PARISH
ST. LANDRY PARISH	ST. LANDRY PARISH
ST. MARTIN PARISH	ST. MARTIN PARISH
ST. MARY PARISH	ST. MARY PARISH
TANGIPAHOA PARISH	TANGIPAHOA PARISH
TENSAS PARISH	TENSAS PARISH
VERNON PARISH	VERNON PARISH
WASHINGTON PARISH	WASHINGTON PARISH
WEBSTER PARISH	WEBSTER PARISH
WEST CARROLL PARISH	WEST CARROLL PARISH
WEST FELICIANA PARISH	WEST FELICIANA PARISH
WINN PARISH	WINN PARISH

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
MAINE	
AROOSTOOK COUNTY	AROOSTOOK COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
OXFORD COUNTY	OXFORD COUNTY
PISCATAQUIS COUNTY	PISCATAQUIS COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
MARYLAND	
ALLEGANY COUNTY	ALLEGANY COUNTY
ANNAPOLIS CITY	ANNAPOLIS CITY IN ANNE ARUNDEL COUNTY
BALTIMORE CITY	BALTIMORE CITY
CECIL COUNTY	CECIL COUNTY
DORCHESTER COUNTY	DORCHESTER COUNTY
GARRETT COUNTY	GARRETT COUNTY
KENT COUNTY	KENT COUNTY
SOMERSET COUNTY	SOMERSET COUNTY
WORCESTER COUNTY	WORCESTER COUNTY
MASSACHUSETTS	
ACUSHNET TOWN	ACUSHNET TOWN IN BRISTOL COUNTY
ADAMS TOWN	ADAMS TOWN IN BERKSHIRE COUNTY
ATHOL TOWN	ATHOL TOWN IN WORCESTER COUNTY
CHESTER TOWN	CHESTER TOWN IN HAMPDEN COUNTY
DARTMOUTH TOWN	DARTMOUTH TOWN IN BRISTOL COUNTY
FAIRHAVEN TOWN	FAIRHAVEN TOWN IN BRISTOL COUNTY
FALL RIVER CITY	FALL RIVER CITY IN BRISTOL COUNTY
FLORIDA TOWN	FLORIDA TOWN IN BERKSHIRE COUNTY
GAY HEAD TOWN	GAY HEAD TOWN IN DUKES COUNTY
HINSDALE TOWN	HINSDALE TOWN IN BERKSHIRE COUNTY
HUBBARDSTON TOWN	HUBBARDSTON TOWN IN WORCESTER COUNTY
LAWRENCE CITY	LAWRENCE CITY IN ESSEX COUNTY
MASHPEE TOWN	MASHPEE TOWN IN BARNSTABLE COUNTY
NEW BEDFORD CITY	NEW BEDFORD CITY IN BRISTOL COUNTY
PHILLIPSTON TOWN	PHILLIPSTON TOWN IN WORCESTER COUNTY
PROVINCETOWN TOWN	PROVINCETOWN TOWN IN BARNSTABLE COUNTY
SANDISFIELD TOWN	SANDISFIELD TOWN IN BERKSHIRE COUNTY
SHELBURNE TOWN	SHELBURNE TOWN IN FRANKLIN COUNTY
TISBURY TOWN	TISBURY TOWN IN DUKES COUNTY
TOLLAND TOWN	TOLLAND TOWN IN HAMPDEN COUNTY
TRURO TOWN	TRURO TOWN IN BARNSTABLE COUNTY
WAREHAM TOWN	WAREHAM TOWN IN PLYMOUTH COUNTY
WELLFLEET TOWN	WELLFLEET TOWN IN BARNSTABLE COUNTY
WESTPORT TOWN	WESTPORT TOWN IN BRISTOL COUNTY
MICHIGAN	
ALCONA COUNTY	ALCONA COUNTY
ALGER COUNTY	ALGER COUNTY
ALPENA COUNTY	ALPENA COUNTY
ANTRIM COUNTY	ANTRIM COUNTY
ARENAC COUNTY	ARENAC COUNTY
BARAGA COUNTY	BARAGA COUNTY
BAY CITY	BAY CITY IN BAY COUNTY
BENZIE COUNTY	BENZIE COUNTY
BURTON CITY	BURTON CITY IN GENESEE COUNTY
CHEBOYGAN COUNTY	CHEBOYGAN COUNTY
CHIPPEWA COUNTY	CHIPPEWA COUNTY
CLARE COUNTY	CLARE COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DELTA COUNTY	DELTA COUNTY
DETROIT CITY	DETROIT CITY IN WAYNE COUNTY
EMMET COUNTY	EMMET COUNTY
FLINT CITY	FLINT CITY IN GENESEE COUNTY
GLADWIN COUNTY	GLADWIN COUNTY
GOGEBIC COUNTY	GOGEBIC COUNTY
HIGHLAND PARK CITY	HIGHLAND PARK CITY IN WAYNE COUNTY
IOSCO COUNTY	IOSCO COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
IRON COUNTY	IRON COUNTY
JACKSON CITY	JACKSON CITY IN JACKSON COUNTY
KALKASKA COUNTY	KALKASKA COUNTY
KEWEENAW COUNTY	KEWEENAW COUNTY
LAKE COUNTY	LAKE COUNTY
LUCE COUNTY	LUCE COUNTY
MACKINAC COUNTY	MACKINAC COUNTY
MANISTEE COUNTY	MANISTEE COUNTY
MASON COUNTY	MASON COUNTY
MISSAUKEE COUNTY	MISSAUKEE COUNTY
MONTCALM COUNTY	MONTCALM COUNTY
MONTMORENCY COUNTY	MONTMORENCY COUNTY
MOUNT MORRIS TOWNSHIP	MOUNT MORRIS TOWNSHIP IN GENESEE COUNTY
MUSKEGON CITY	MUSKEGON CITY IN MUSKEGON COUNTY
NEWAYGO COUNTY	NEWAYGO COUNTY
OCEANA COUNTY	OCEANA COUNTY
OGEMAW COUNTY	OGEMAW COUNTY
ONTONAGON COUNTY	ONTONAGON COUNTY
OSCEOLA COUNTY	OSCEOLA COUNTY
OSCODA COUNTY	OSCODA COUNTY
PONTIAC CITY	PONTIAC CITY IN OAKLAND COUNTY
PORT HURON CITY	PORT HURON CITY IN ST. CLAIR COUNTY
PRESQUE ISLE COUNTY	PRESQUE ISLE COUNTY
ROSCOMMON COUNTY	ROSCOMMON COUNTY
SAGINAW CITY	SAGINAW CITY IN SAGINAW COUNTY
SANILAC COUNTY	SANILAC COUNTY
SCHOOLCRAFT COUNTY	SCHOOLCRAFT COUNTY
WEXFORD COUNTY	WEXFORD COUNTY
MINNESOTA	
AITKIN COUNTY	AITKIN COUNTY
BECKER COUNTY	BECKER COUNTY
BELTRAMI COUNTY	BELTRAMI COUNTY
CARLTON COUNTY	CARLTON COUNTY
CASS COUNTY	CASS COUNTY
CLEARWATER COUNTY	CLEARWATER COUNTY
HUBBARD COUNTY	HUBBARD COUNTY
ITASCA COUNTY	ITASCA COUNTY
KANABEC COUNTY	KANABEC COUNTY
KITTSON COUNTY	KITTSON COUNTY
KOOCHICHING COUNTY	KOOCHICHING COUNTY
MAHNOMEN COUNTY	MAHNOMEN COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MILLE LACS COUNTY	MILLE LACS COUNTY
MORRISON COUNTY	MORRISON COUNTY
NORMAN COUNTY	NORMAN COUNTY
PINE COUNTY	PINE COUNTY
RED LAKE COUNTY	RED LAKE COUNTY
TODD COUNTY	TODD COUNTY
WADENA COUNTY	WADENA COUNTY
MISSISSIPPI	
ADAMS COUNTY	ADAMS COUNTY
ALCORN COUNTY	ALCORN COUNTY
ATTALA COUNTY	ATTALA COUNTY
BENTON COUNTY	BENTON COUNTY
BOLIVAR COUNTY	BOLIVAR COUNTY
CHICKASAW COUNTY	CHICKASAW COUNTY
CHOCTAW COUNTY	CHOCTAW COUNTY
CLAIBORNE COUNTY	CLAIBORNE COUNTY
CLARKE COUNTY	CLARKE COUNTY
CLAY COUNTY	CLAY COUNTY
COAHOMA COUNTY	COAHOMA COUNTY
COLUMBUS CITY	COLUMBUS CITY IN LOWNDES COUNTY
COPIAH COUNTY	COPIAH COUNTY
GEORGE COUNTY	GEORGE COUNTY
GREENE COUNTY	GREENE COUNTY
GREENVILLE CITY	GREENVILLE CITY IN WASHINGTON COUNTY
GRENADA COUNTY	GRENADA COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
HOLMES COUNTY	HOLMES COUNTY
HUMPHREYS COUNTY	HUMPHREYS COUNTY
ISSAQUENA COUNTY	ISSAQUENA COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JEFFERSON DAVIS COUNTY	JEFFERSON DAVIS COUNTY
KEMPER COUNTY	KEMPER COUNTY
LEFLORE COUNTY	LEFLORE COUNTY
MARION COUNTY	MARION COUNTY
MARSHALL COUNTY	MARSHALL COUNTY
MONROE COUNTY	MONROE COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NOXUBEE COUNTY	NOXUBEE COUNTY
PANOLA COUNTY	PANOLA COUNTY
PASCAGOULA CITY	PASCAGOULA CITY IN JACKSON COUNTY
PERRY COUNTY	PERRY COUNTY
PRENTISS COUNTY	PRENTISS COUNTY
QUITMAN COUNTY	QUITMAN COUNTY
SHARKEY COUNTY	SHARKEY COUNTY
SUNFLOWER COUNTY	SUNFLOWER COUNTY
TALLAHATCHIE COUNTY	TALLAHATCHIE COUNTY
TISHOMINGO COUNTY	TISHOMINGO COUNTY
TUNICA COUNTY	TUNICA COUNTY
BALANCE OF WASHINGTON COUNTY	WASHINGTON COUNTY LESS GREENVILLE CITY
WAYNE COUNTY	WAYNE COUNTY
WILKINSON COUNTY	WILKINSON COUNTY
WINSTON COUNTY	WINSTON COUNTY
YALOBUSHA COUNTY	YALOBUSHA COUNTY
YAZOO COUNTY	YAZOO COUNTY
MISSOURI	
BOLLINGER COUNTY	BOLLINGER COUNTY
CALDWELL COUNTY	CALDWELL COUNTY
CAMDEN COUNTY	CAMDEN COUNTY
CARTER COUNTY	CARTER COUNTY
CRAWFORD COUNTY	CRAWFORD COUNTY
DOUGLAS COUNTY	DOUGLAS COUNTY
DUNKLIN COUNTY	DUNKLIN COUNTY
HICKORY COUNTY	HICKORY COUNTY
IRON COUNTY	IRON COUNTY
LACLEDE COUNTY	LACLEDE COUNTY
LINN COUNTY	LINN COUNTY
MADISON COUNTY	MADISON COUNTY
MILLER COUNTY	MILLER COUNTY
MISSISSIPPI COUNTY	MISSISSIPPI COUNTY
NEW MADRID COUNTY	NEW MADRID COUNTY
OZARK COUNTY	OZARK COUNTY
PEMISCOT COUNTY	PEMISCOT COUNTY
RIPLEY COUNTY	RIPLEY COUNTY
SHANNON COUNTY	SHANNON COUNTY
ST. JOSEPH CITY	ST. JOSEPH CITY IN BUCHANAN COUNTY
ST. LOUIS CITY	ST. LOUIS CITY
ST. FRANCOIS COUNTY	ST. FRANCOIS COUNTY
STODDARD COUNTY	STODDARD COUNTY
STONE COUNTY	STONE COUNTY
TANEY COUNTY	TANEY COUNTY
TEXAS COUNTY	TEXAS COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WAYNE COUNTY	WAYNE COUNTY
WRIGHT COUNTY	WRIGHT COUNTY
MONTANA	
ANACONDA-DEER LODGE COUNTY	ANACONDA-DEER LODGE COUNTY
BIG HORN COUNTY	BIG HORN COUNTY
BLAINE COUNTY	BLAINE COUNTY
FLATHEAD COUNTY	FLATHEAD COUNTY
GLACIER COUNTY	GLACIER COUNTY
LAKE COUNTY	LAKE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
MINERAL COUNTY	MINERAL COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
MUSSELSHELL COUNTY	MUSSELSHELL COUNTY
PHILLIPS COUNTY	PHILLIPS COUNTY
ROOSEVELT COUNTY	ROOSEVELT COUNTY
ROSEBUD COUNTY	ROSEBUD COUNTY
SANDERS COUNTY	SANDERS COUNTY
NEBRASKA	
THOMAS COUNTY	THOMAS COUNTY
THURSTON COUNTY	THURSTON COUNTY
NEVADA	
CARSON CITY	CARSON CITY
EUREKA COUNTY	EUREKA COUNTY
LANDER COUNTY	LANDER COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LYON COUNTY	LYON COUNTY
MINERAL COUNTY	MINERAL COUNTY
NORTH LAS VEGAS CITY	NORTH LAS VEGAS CITY IN CLARK COUNTY
WHITE PINE COUNTY	WHITE PINE COUNTY
NEW JERSEY	
ATLANTIC CITY	ATLANTIC CITY IN ATLANTIC COUNTY
BALANCE OF ATLANTIC COUNTY	ATLANTIC COUNTY LESS ATLANTIC CITY EGG HARBOR TOWNSHIP
BERKELEY TOWNSHIP	BERKELEY TOWNSHIP IN OCEAN COUNTY
CAMDEN CITY	CAMDEN CITY IN CAMDEN COUNTY
CAPE MAY COUNTY	CAPE MAY COUNTY
CITY OF ORANGE TOWNSHIP	CITY OF ORANGE TOWNSHIP IN ESSEX COUNTY
BALANCE OF CUMBERLAND COUNTY	CUMBERLAND COUNTY LESS MILLVILLE CITY VINELAND CITY
EAST ORANGE CITY	EAST ORANGE CITY IN ESSEX COUNTY
EGG HARBOR TOWNSHIP	EGG HARBOR TOWNSHIP IN ATLANTIC COUNTY
ELIZABETH CITY	ELIZABETH CITY IN UNION COUNTY
GARFIELD CITY	GARFIELD CITY IN BERGEN COUNTY
IRVINGTON TOWNSHIP	IRVINGTON TOWNSHIP IN ESSEX COUNTY
JERSEY CITY	JERSEY CITY IN HUDSON COUNTY
LAKEWOOD TOWNSHIP	LAKEWOOD TOWNSHIP IN OCEAN COUNTY
LINDEN CITY	LINDEN CITY IN UNION COUNTY
LONG BRANCH CITY	LONG BRANCH CITY IN MONMOUTH COUNTY
MANCHESTER TOWNSHIP	MANCHESTER TOWNSHIP IN OCEAN COUNTY
MILLVILLE CITY	MILLVILLE CITY IN CUMBERLAND COUNTY
NEW BRUNSWICK CITY	NEW BRUNSWICK CITY IN MIDDLESEX COUNTY
NEWARK CITY	NEWARK CITY IN ESSEX COUNTY
NORTH BERGEN TOWNSHIP	NORTH BERGEN TOWNSHIP IN HUDSON COUNTY
PASSAIC CITY	PASSAIC CITY IN PASSAIC COUNTY
PATERSON CITY	PATERSON CITY IN PASSAIC COUNTY
PERTH AMBOY CITY	PERTH AMBOY CITY IN MIDDLESEX COUNTY
PLAINFIELD CITY	PLAINFIELD CITY IN UNION COUNTY
TRENTON CITY	TRENTON CITY IN MERCER COUNTY
UNION CITY	UNION CITY IN HUDSON COUNTY
VINELAND CITY	VINELAND CITY IN CUMBERLAND COUNTY
WEST NEW YORK TOWN	WEST NEW YORK TOWN IN HUDSON COUNTY
NEW MEXICO	
ALAMOGORDO CITY	ALAMOGORDO CITY IN OTERO COUNTY
CARLSBAD CITY	CARLSBAD CITY IN EDDY COUNTY
CATRON COUNTY	CATRON COUNTY
BALANCE OF CHAVES COUNTY	CHAVES COUNTY LESS ROSWELL CITY
CIBOLA COUNTY	CIBOLA COUNTY
COLFAX COUNTY	COLFAX COUNTY
BALANCE OF DONA ANA COUNTY	DONA ANA COUNTY LESS LAS CRUCES CITY
FARMINGTON CITY	FARMINGTON CITY IN SAN JUAN COUNTY
GRANT COUNTY	GRANT COUNTY
GUADALUPE COUNTY	GUADALUPE COUNTY
LAS CRUCES CITY	LAS CRUCES CITY IN DONA ANA COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LUNA COUNTY	LUNA COUNTY
MC KINLEY COUNTY	MC KINLEY COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
MORA COUNTY	MORA COUNTY
BALANCE OF OTERO COUNTY	OTERO COUNTY LESS ALAMOGORDO CITY
RIO ARRIBA COUNTY	RIO ARRIBA COUNTY
ROSWELL CITY	ROSWELL CITY IN CHAVES COUNTY
BALANCE OF SAN JUAN COUNTY	SAN JUAN COUNTY LESS FARMINGTON CITY
SAN MIGUEL COUNTY	SAN MIGUEL COUNTY
BALANCE OF SANDOVAL COUNTY	SANDOVAL COUNTY LESS RIO RANCHO CITY
SOCORRO COUNTY	SOCORRO COUNTY
TAOS COUNTY	TAOS COUNTY
TORRANCE COUNTY	TORRANCE COUNTY
NEW YORK	
ALLEGANY COUNTY	ALLEGANY COUNTY
AUBURN CITY	AUBURN CITY IN CAYUGA COUNTY
BRONX COUNTY	BRONX COUNTY
BUFFALO CITY	BUFFALO CITY IN ERIE COUNTY
CATTARAUGUS COUNTY	CATTARAUGUS COUNTY
CHENANGO COUNTY	CHENANGO COUNTY
CLINTON COUNTY	CLINTON COUNTY
CORTLAND COUNTY	CORTLAND COUNTY
ELMIRA CITY	ELMIRA CITY IN CHEMUNG COUNTY
ESSEX COUNTY	ESSEX COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
FULTON COUNTY	FULTON COUNTY
GREENE COUNTY	GREENE COUNTY
HAMILTON COUNTY	HAMILTON COUNTY
HERKIMER COUNTY	HERKIMER COUNTY
BALANCE OF JEFFERSON COUNTY	JEFFERSON COUNTY LESS WATERTOWN CITY
KINGS COUNTY	KINGS COUNTY
LEWIS COUNTY	LEWIS COUNTY
LOCKPORT CITY	LOCKPORT CITY IN NIAGARA COUNTY
MONTGOMERY COUNTY	MONTGOMERY COUNTY
NEW YORK COUNTY	NEW YORK COUNTY
NEWBURGH CITY	NEWBURGH CITY IN ORANGE COUNTY
NIAGARA FALLS CITY	NIAGARA FALLS CITY IN NIAGARA COUNTY
OSWEGO COUNTY	OSWEGO COUNTY
POUGHKEEPSIE CITY	POUGHKEEPSIE CITY IN DUTCHESS COUNTY
QUEENS COUNTY	QUEENS COUNTY
RICHMOND COUNTY	RICHMOND COUNTY
ROCHESTER CITY	ROCHESTER CITY IN MONROE COUNTY
SCHENECTADY CITY	SCHENECTADY CITY IN SCHENECTADY COUNTY
ST. LAWRENCE COUNTY	ST. LAWRENCE COUNTY
SULLIVAN COUNTY	SULLIVAN COUNTY
SYRACUSE CITY	SYRACUSE CITY IN ONONDAGA COUNTY
TROY CITY	TROY CITY IN RENSSELAER COUNTY
UTICA CITY	UTICA CITY IN ONEIDA COUNTY
BALANCE OF WARREN COUNTY	WARREN COUNTY LESS QUEENSBURY TOWN
WATERTOWN CITY	WATERTOWN CITY IN JEFFERSON COUNTY
WYOMING COUNTY	WYOMING COUNTY
NORTH CAROLINA	
ALLEGHANY COUNTY	ALLEGHANY COUNTY
ANSON COUNTY	ANSON COUNTY
ASHE COUNTY	ASHE COUNTY
BEAUFORT COUNTY	BEAUFORT COUNTY
CHEROKEE COUNTY	CHEROKEE COUNTY
CLAY COUNTY	CLAY COUNTY
COLUMBUS COUNTY	COLUMBUS COUNTY
BALANCE OF EDGECOMBE COUNTY	EDGECOMBE COUNTY LESS ROCKY MOUNT CITY
GRAHAM COUNTY	GRAHAM COUNTY
HALIFAX COUNTY	HALIFAX COUNTY
HYDE COUNTY	HYDE COUNTY
KINSTON CITY	KINSTON CITY IN LENOIR COUNTY
MARTIN COUNTY	MARTIN COUNTY
NORTHAMPTON COUNTY	NORTHAMPTON COUNTY
RICHMOND COUNTY	RICHMOND COUNTY
ROBESON COUNTY	ROBESON COUNTY
ROCKY MOUNT CITY	ROCKY MOUNT CITY IN EDGECOMBE COUNTY
	NASH COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
SCOTLAND COUNTY	SCOTLAND COUNTY
SWAIN COUNTY	SWAIN COUNTY
TYRRELL COUNTY	TYRRELL COUNTY
VANCE COUNTY	VANCE COUNTY
WARREN COUNTY	WARREN COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WILSON CITY	WILSON CITY IN WILSON COUNTY
NORTH DAKOTA	
BENSON COUNTY	BENSON COUNTY
ROLETTE COUNTY	ROLETTE COUNTY
OHIO	
ADAMS COUNTY	ADAMS COUNTY
ASHTABULA COUNTY	ASHTABULA COUNTY
BELMONT COUNTY	BELMONT COUNTY
CANTON CITY	CANTON CITY IN STARK COUNTY
CLEVELAND CITY	CLEVELAND CITY IN CUYAHOGA COUNTY
DAYTON CITY	DAYTON CITY IN MONTGOMERY COUNTY
EAST CLEVELAND CITY	EAST CLEVELAND CITY IN CUYAHOGA COUNTY
ELYRIA CITY	ELYRIA CITY IN LORAIN COUNTY
GALLIA COUNTY	GALLIA COUNTY
GUERNSEY COUNTY	GUERNSEY COUNTY
HARRISON COUNTY	HARRISON COUNTY
HOCKING COUNTY	HOCKING COUNTY
HURON COUNTY	HURON COUNTY
JACKSON COUNTY	JACKSON COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LIMA CITY	LIMA CITY IN ALLEN COUNTY
LORAIN CITY	LORAIN CITY IN LORAIN COUNTY
MANSFIELD CITY	MANSFIELD CITY IN RICHLAND COUNTY
MARION CITY	MARION CITY IN MARION COUNTY
MASSILLON CITY	MASSILLON CITY IN STARK COUNTY
MEIGS COUNTY	MEIGS COUNTY
MERCER COUNTY	MERCER COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
MORROW COUNTY	MORROW COUNTY
NOBLE COUNTY	NOBLE COUNTY
OTTAWA COUNTY	OTTAWA COUNTY
PERRY COUNTY	PERRY COUNTY
PIKE COUNTY	PIKE COUNTY
SANDUSKY CITY	SANDUSKY CITY IN ERIE COUNTY
SANDUSKY COUNTY	SANDUSKY COUNTY
SCIOTO COUNTY	SCIOTO COUNTY
SPRINGFIELD CITY	SPRINGFIELD CITY IN CLARK COUNTY
VINTON COUNTY	VINTON COUNTY
WARREN CITY	WARREN CITY IN TRUMBULL COUNTY
YOUNGSTOWN CITY	YOUNGSTOWN CITY IN MAHONING COUNTY
ZANESVILLE CITY	ZANESVILLE CITY IN MUSKINGUM COUNTY
OKLAHOMA	
CHOCTAW COUNTY	CHOCTAW COUNTY
COAL COUNTY	COAL COUNTY
HASKELL COUNTY	HASKELL COUNTY
HUGHES COUNTY	HUGHES COUNTY
JOHNSTON COUNTY	JOHNSTON COUNTY
BALANCE OF KAY COUNTY	KAY COUNTY LESS PONCA CITY
LATIMER COUNTY	LATIMER COUNTY
LE FLORE COUNTY	LE FLORE COUNTY
MC CURTAIN COUNTY	MC CURTAIN COUNTY
MC INTOSH COUNTY	MC INTOSH COUNTY
MURRAY COUNTY	MURRAY COUNTY
BALANCE OF MUSKOGEE COUNTY	MUSKOGEE COUNTY LESS MUSKOGEE CITY
OKMULGEE COUNTY	OKMULGEE COUNTY
OTTAWA COUNTY	OTTAWA COUNTY
PAWNEE COUNTY	PAWNEE COUNTY
PITTSBURG COUNTY	PITTSBURG COUNTY
SEMINOLE COUNTY	SEMINOLE COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
SEQUOYAH COUNTY	SEQUOYAH COUNTY
OREGON	
BAKER COUNTY	BAKER COUNTY
BEND CITY	BEND CITY IN DESCHUTES COUNTY
CLATSOP COUNTY	CLATSOP COUNTY
COOS COUNTY	COOS COUNTY
CROOK COUNTY	CROOK COUNTY
CURRY COUNTY	CURRY COUNTY
BALANCE OF DESCHUTES COUNTY	DESCHUTES COUNTY LESS BEND CITY
DOUGLAS COUNTY	DOUGLAS COUNTY
GRANT COUNTY	GRANT COUNTY
HARNEY COUNTY	HARNEY COUNTY
HOOD RIVER COUNTY	HOOD RIVER COUNTY
BALANCE OF JACKSON COUNTY	JACKSON COUNTY LESS MEDFORD CITY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOSEPHINE COUNTY	JOSEPHINE COUNTY
KLAMATH COUNTY	KLAMATH COUNTY
LAKE COUNTY	LAKE COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
BALANCE OF LINN COUNTY	LINN COUNTY LESS ALBANY CITY
MALHEUR COUNTY	MALHEUR COUNTY
MEDFORD CITY	MEDFORD CITY IN JACKSON COUNTY
MORROW COUNTY	MORROW COUNTY
SHERMAN COUNTY	SHERMAN COUNTY
SPRINGFIELD CITY	SPRINGFIELD CITY IN LANE COUNTY
UMATILLA COUNTY	UMATILLA COUNTY
UNION COUNTY	UNION COUNTY
WALLOWA COUNTY	WALLOWA COUNTY
WASCO COUNTY	WASCO COUNTY
WHEELER COUNTY	WHEELER COUNTY
PENNSYLVANIA	
ALLENTOWN CITY	ALLENTOWN CITY IN LEHIGH COUNTY
ALTOONA CITY	ALTOONA CITY IN BLAIR COUNTY
ARMSTRONG COUNTY	ARMSTRONG COUNTY
BEDFORD COUNTY	BEDFORD COUNTY
BALANCE OF CAMBRIA COUNTY	CAMBRIA COUNTY LESS JOHNSTOWN CITY
CAMERON COUNTY	CAMERON COUNTY
CARBON COUNTY	CARBON COUNTY
CHESTER CITY	CHESTER CITY IN DELAWARE COUNTY
CLARION COUNTY	CLARION COUNTY
CLEARFIELD COUNTY	CLEARFIELD COUNTY
CLINTON COUNTY	CLINTON COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
ERIE CITY	ERIE CITY IN ERIE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
FOREST COUNTY	FOREST COUNTY
FULTON COUNTY	FULTON COUNTY
GREENE COUNTY	GREENE COUNTY
HAZLETON CITY	HAZLETON CITY IN LUZERNE COUNTY
HUNTINGDON COUNTY	HUNTINGDON COUNTY
INDIANA COUNTY	INDIANA COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
JOHNSTOWN CITY	JOHNSTOWN CITY IN CAMBRIA COUNTY
JUNIATA COUNTY	JUNIATA COUNTY
BALANCE OF LACKAWANNA COUNTY	LACKAWANNA COUNTY LESS SCRANTON CITY
BALANCE OF LUZERNE COUNTY	LUZERNE COUNTY LESS HAZLETON CITY WILKES-BARRE CITY
MCKEESPORT CITY	MCKEESPORT CITY IN ALLEGHENY COUNTY
MIFFLIN COUNTY	MIFFLIN COUNTY
MONROE COUNTY	MONROE COUNTY
NEW CASTLE CITY	NEW CASTLE CITY IN LAWRENCE COUNTY
NORTHUMBERLAND COUNTY	NORTHUMBERLAND COUNTY
PHILADELPHIA CITY	PHILADELPHIA CITY IN PHILADELPHIA COUNTY
POTTER COUNTY	POTTER COUNTY
READING CITY	READING CITY IN BERKS COUNTY
SCHUYLKILL COUNTY	SCHUYLKILL COUNTY
SCRANTON CITY	SCRANTON CITY IN LACKAWANNA COUNTY
SOMERSET COUNTY	SOMERSET COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
SULLIVAN COUNTY	SULLIVAN COUNTY
SUSQUEHANNA COUNTY	SUSQUEHANNA COUNTY
TIOGA COUNTY	TIOGA COUNTY
VENANGO COUNTY	VENANGO COUNTY
WAYNE COUNTY	WAYNE COUNTY
WILKES-BARRE CITY	WILKES-BARRE CITY IN LUZERNE COUNTY
WILLIAMSPORT CITY	WILLIAMSPORT CITY IN LYCOMING COUNTY
WYOMING COUNTY	WYOMING COUNTY
YORK CITY	YORK CITY IN YORK COUNTY
PUERTO RICO	
ADJUNTAS MUNICIPIO	ADJUNTAS MUNICIPIO
AGUADA MUNICIPIO	AGUADA MUNICIPIO
AGUADILLA MUNICIPIO	AGUADILLA MUNICIPIO
AGUAS BUENAS MUNICIPIO	AGUAS BUENAS MUNICIPIO
AIBONITO MUNICIPIO	AIBONITO MUNICIPIO
ANASCO MUNICIPIO	ANASCO MUNICIPIO
ARECIBO MUNICIPIO	ARECIBO MUNICIPIO
ARROYO MUNICIPIO	ARROYO MUNICIPIO
BARCELONETA MUNICIPIO	BARCELONETA MUNICIPIO
BARRANQUITAS MUNICIPIO	BARRANQUITAS MUNICIPIO
BAYAMON MUNICIPIO	BAYAMON MUNICIPIO
CABO ROJO MUNICIPIO	CABO ROJO MUNICIPIO
CAGUAS MUNICIPIO	CAGUAS MUNICIPIO
CAMUY MUNICIPIO	CAMUY MUNICIPIO
CANOVANAS MUNICIPIO	CANOVANAS MUNICIPIO
CAROLINA MUNICIPIO	CAROLINA MUNICIPIO
CATANO MUNICIPIO	CATANO MUNICIPIO
CAYEY MUNICIPIO	CAYEY MUNICIPIO
CEIBA MUNICIPIO	CEIBA MUNICIPIO
CIALES MUNICIPIO	CIALES MUNICIPIO
CIDRA MUNICIPIO	CIDRA MUNICIPIO
COAMO MUNICIPIO	COAMO MUNICIPIO
COMERIO MUNICIPIO	COMERIO MUNICIPIO
COROZAL MUNICIPIO	COROZAL MUNICIPIO
CULEBRA MUNICIPIO	CULEBRA MUNICIPIO
DORADO MUNICIPIO	DORADO MUNICIPIO
FAJARDO MUNICIPIO	FAJARDO MUNICIPIO
FLORIDA MUNICIPIO	FLORIDA MUNICIPIO
GUANICA MUNICIPIO	GUANICA MUNICIPIO
GUAYAMA MUNICIPIO	GUAYAMA MUNICIPIO
GUAYANILLA MUNICIPIO	GUAYANILLA MUNICIPIO
GURABO MUNICIPIO	GURABO MUNICIPIO
HATILLO MUNICIPIO	HATILLO MUNICIPIO
HORMIGUEROS MUNICIPIO	HORMIGUEROS MUNICIPIO
HUMACAO MUNICIPIO	HUMACAO MUNICIPIO
ISABELA MUNICIPIO	ISABELA MUNICIPIO
JAYUYA MUNICIPIO	JAYUYA MUNICIPIO
JUANA DIAZ MUNICIPIO	JUANA DIAZ MUNICIPIO
JUNCOS MUNICIPIO	JUNCOS MUNICIPIO
LAJAS MUNICIPIO	LAJAS MUNICIPIO
LARES MUNICIPIO	LARES MUNICIPIO
LAS MARIAS MUNICIPIO	LAS MARIAS MUNICIPIO
LAS PIEDRAS MUNICIPIO	LAS PIEDRAS MUNICIPIO
LOIZA MUNICIPIO	LOIZA MUNICIPIO
LUQUILLO MUNICIPIO	LUQUILLO MUNICIPIO
MANATI MUNICIPIO	MANATI MUNICIPIO
MARICAO MUNICIPIO	MARICAO MUNICIPIO
MAUNABO MUNICIPIO	MAUNABO MUNICIPIO
MAYAGUEZ MUNICIPIO	MAYAGUEZ MUNICIPIO
MOCA MUNICIPIO	MOCA MUNICIPIO
MOROVIS MUNICIPIO	MOROVIS MUNICIPIO
NAGUABO MUNICIPIO	NAGUABO MUNICIPIO
NARANJITO MUNICIPIO	NARANJITO MUNICIPIO
OROCOVIS MUNICIPIO	OROCOVIS MUNICIPIO
PATILLAS MUNICIPIO	PATILLAS MUNICIPIO
PENUELAS MUNICIPIO	PENUELAS MUNICIPIO
PONCE MUNICIPIO	PONCE MUNICIPIO
QUEBRADILLAS MUNICIPIO	QUEBRADILLAS MUNICIPIO
RINCON MUNICIPIO	RINCON MUNICIPIO

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
RIO GRANDE MUNICIPIO	RIO GRANDE MUNICIPIO
SABANA GRANDE MUNICIPIO	SABANA GRANDE MUNICIPIO
SALINAS MUNICIPIO	SALINAS MUNICIPIO
SAN GERMAN MUNICIPIO	SAN GERMAN MUNICIPIO
SAN JUAN MUNICIPIO	SAN JUAN MUNICIPIO
SAN LORENZO MUNICIPIO	SAN LORENZO MUNICIPIO
SAN SEBASTIAN MUNICIPIO	SAN SEBASTIAN MUNICIPIO
SANTA ISABEL MUNICIPIO	SANTA ISABEL MUNICIPIO
TOA ALTA MUNICIPIO	TOA ALTA MUNICIPIO
TOA BAJA MUNICIPIO	TOA BAJA MUNICIPIO
TRUJILLO ALTO MUNICIPIO	TRUJILLO ALTO MUNICIPIO
UTUADO MUNICIPIO	UTUADO MUNICIPIO
VEGA ALTA MUNICIPIO	VEGA ALTA MUNICIPIO
VEGA BAJA MUNICIPIO	VEGA BAJA MUNICIPIO
VIEQUES MUNICIPIO	VIEQUES MUNICIPIO
VILLALBA MUNICIPIO	VILLALBA MUNICIPIO
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YAUCO MUNICIPIO	YAUCO MUNICIPIO
RHODE ISLAND	
CENTRAL FALLS CITY	CENTRAL FALLS CITY
CHARLESTOWN TOWN	CHARLESTOWN TOWN
NEW SHOREHAM TOWN	NEW SHOREHAM TOWN
PROVIDENCE CITY	PROVIDENCE CITY
SOUTH CAROLINA	
ABBEVILLE COUNTY	ABBEVILLE COUNTY
AIKEN COUNTY	AIKEN COUNTY
ALLENDALE COUNTY	ALLENDALE COUNTY
ANDERSON CITY	ANDERSON CITY IN ANDERSON COUNTY
BAMBERG COUNTY	BAMBERG COUNTY
BARNWELL COUNTY	BARNWELL COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CHESTER COUNTY	CHESTER COUNTY
CHESTERFIELD COUNTY	CHESTERFIELD COUNTY
CLARENDON COUNTY	CLARENDON COUNTY
DARLINGTON COUNTY	DARLINGTON COUNTY
DILLON COUNTY	DILLON COUNTY
FAIRFIELD COUNTY	FAIRFIELD COUNTY
FLORENCE CITY	FLORENCE CITY IN FLORENCE COUNTY
BALANCE OF FLORENCE COUNTY	FLORENCE COUNTY LESS FLORENCE CITY
GEORGETOWN COUNTY	GEORGETOWN COUNTY
HAMPTON COUNTY	HAMPTON COUNTY
LEE COUNTY	LEE COUNTY
MARION COUNTY	MARION COUNTY
MARLBORO COUNTY	MARLBORO COUNTY
MC CORMICK COUNTY	MC CORMICK COUNTY
NORTH CHARLESTON CITY	NORTH CHARLESTON CITY IN CHARLESTON COUNTY
ORANGEBURG COUNTY	ORANGEBURG COUNTY
UNION COUNTY	UNION COUNTY
WILLIAMSBURG COUNTY	WILLIAMSBURG COUNTY
SOUTH DAKOTA	
BUFFALO COUNTY	BUFFALO COUNTY
CORSON COUNTY	CORSON COUNTY
DEWEY COUNTY	DEWEY COUNTY
MELLETTE COUNTY	MELLETTE COUNTY
SHANNON COUNTY	SHANNON COUNTY
TODD COUNTY	TODD COUNTY
ZIEBACH COUNTY	ZIEBACH COUNTY
TENNESSEE	
BENTON COUNTY	BENTON COUNTY
CAMPBELL COUNTY	CAMPBELL COUNTY
CANNON COUNTY	CANNON COUNTY
CARROLL COUNTY	CARROLL COUNTY
BALANCE OF CARTER COUNTY	CARTER COUNTY LESS JOHNSON CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
CLAY COUNTY	CLAY COUNTY
COCKE COUNTY	COCKE COUNTY
CROCKETT COUNTY	CROCKETT COUNTY
CUMBERLAND COUNTY	CUMBERLAND COUNTY
DE KALB COUNTY	DE KALB COUNTY
DECATUR COUNTY	DECATUR COUNTY
DYER COUNTY	DYER COUNTY
FENTRESS COUNTY	FENTRESS COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GIBSON COUNTY	GIBSON COUNTY
GREENE COUNTY	GREENE COUNTY
GRUNDY COUNTY	GRUNDY COUNTY
HARDEMAN COUNTY	HARDEMAN COUNTY
HARDIN COUNTY	HARDIN COUNTY
HAYWOOD COUNTY	HAYWOOD COUNTY
HENDERSON COUNTY	HENDERSON COUNTY
HENRY COUNTY	HENRY COUNTY
HOUSTON COUNTY	HOUSTON COUNTY
HUMPHREYS COUNTY	HUMPHREYS COUNTY
JACKSON COUNTY	JACKSON COUNTY
JOHNSON COUNTY	JOHNSON COUNTY
LAKE COUNTY	LAKE COUNTY
LAUDERDALE COUNTY	LAUDERDALE COUNTY
LAWRENCE COUNTY	LAWRENCE COUNTY
LEWIS COUNTY	LEWIS COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
MACON COUNTY	MACON COUNTY
MARION COUNTY	MARION COUNTY
MC MINN COUNTY	MC MINN COUNTY
MC NAIRY COUNTY	MC NAIRY COUNTY
MEIGS COUNTY	MEIGS COUNTY
MONROE COUNTY	MONROE COUNTY
MORGAN COUNTY	MORGAN COUNTY
OBION COUNTY	OBION COUNTY
OVERTON COUNTY	OVERTON COUNTY
PICKETT COUNTY	PICKETT COUNTY
POLK COUNTY	POLK COUNTY
RHEA COUNTY	RHEA COUNTY
BALANCE OF ROANE COUNTY	ROANE COUNTY LESS OAK RIDGE CITY
SCOTT COUNTY	SCOTT COUNTY
SEQUATCHIE COUNTY	SEQUATCHIE COUNTY
SEVIER COUNTY	SEVIER COUNTY
STEWART COUNTY	STEWART COUNTY
TROUSDALE COUNTY	TROUSDALE COUNTY
UNICOI COUNTY	UNICOI COUNTY
VAN BUREN COUNTY	VAN BUREN COUNTY
WARREN COUNTY	WARREN COUNTY
WAYNE COUNTY	WAYNE COUNTY
WHITE COUNTY	WHITE COUNTY
TEXAS	
BEAUMONT CITY	BEAUMONT CITY IN JEFFERSON COUNTY
BALANCE OF BOWIE COUNTY	BOWIE COUNTY LESS TEXARKANA CITY TEX
BALANCE OF BRAZORIA COUNTY	BRAZORIA COUNTY LESS LAKE JACKSON CITY
BROOKS COUNTY	BROOKS COUNTY
BROWNSVILLE CITY	BROWNSVILLE CITY IN CAMERON COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
BALANCE OF CAMERON COUNTY	CAMERON COUNTY LESS BROWNSVILLE CITY HARLINGEN CITY
CAMP COUNTY	CAMP COUNTY
CASS COUNTY	CASS COUNTY
COLEMAN COUNTY	COLEMAN COUNTY
CORPUS CHRISTI CITY	CORPUS CHRISTI CITY IN NUECES COUNTY
COTTLE COUNTY	COTTLE COUNTY
CROSBY COUNTY	CROSBY COUNTY
CULBERSON COUNTY	CULBERSON COUNTY
DAWSON COUNTY	DAWSON COUNTY
DEAF SMITH COUNTY	DEAF SMITH COUNTY
DEL RIO CITY	DEL RIO CITY IN VAL VERDE COUNTY
DIMMIT COUNTY	DIMMIT COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
DUVAL COUNTY	DUVAL COUNTY
BALANCE OF ECTOR COUNTY	ECTOR COUNTY LESS ODESSA CITY
EDINBURG CITY	EDINBURG CITY IN HIDALGO COUNTY
EL PASO CITY	EL PASO CITY IN EL PASO COUNTY
BALANCE OF EL PASO COUNTY	EL PASO COUNTY LESS EL PASO CITY
	SOCORRO CITY
FLOYD COUNTY	FLOYD COUNTY
FRIO COUNTY	FRIO COUNTY
GALVESTON CITY	GALVESTON CITY IN GALVESTON COUNTY
BALANCE OF GALVESTON COUNTY	GALVESTON COUNTY LESS FRIENDSWOOD CITY
	GALVESTON CITY
	LEAGUE CITY
	TEXAS CITY
BALANCE OF GREGG COUNTY	GREGG COUNTY LESS LONGVIEW CITY
HALE COUNTY	HALE COUNTY
HALL COUNTY	HALL COUNTY
HARDIN COUNTY	HARDIN COUNTY
HARLINGEN CITY	HARLINGEN CITY IN CAMERON COUNTY
BALANCE OF HARRISON COUNTY	HARRISON COUNTY LESS LONGVIEW CITY
BALANCE OF HIDALGO COUNTY	HIDALGO COUNTY LESS EDINBURG CITY
	MC ALLEN CITY
	MISSION CITY
	PHARR CITY
HUTCHINSON COUNTY	HUTCHINSON COUNTY
JASPER COUNTY	JASPER COUNTY
JIM HOGG COUNTY	JIM HOGG COUNTY
JIM WELLS COUNTY	JIM WELLS COUNTY
KILLEEN CITY	KILLEEN CITY IN BELL COUNTY
KINGSVILLE CITY	KINGSVILLE CITY IN KLEBERG COUNTY
KINNEY COUNTY	KINNEY COUNTY
LA SALLE COUNTY	LA SALLE COUNTY
LAREDO CITY	LAREDO CITY IN WEBB COUNTY
LEON COUNTY	LEON COUNTY
LIBERTY COUNTY	LIBERTY COUNTY
LONGVIEW CITY	LONGVIEW CITY IN GREGG COUNTY
	HARRISON COUNTY
LOVING COUNTY	LOVING COUNTY
MARION COUNTY	MARION COUNTY
MATAGORDA COUNTY	MATAGORDA COUNTY
MAVERICK COUNTY	MAVERICK COUNTY
MC ALLEN CITY	MC ALLEN CITY IN HIDALGO COUNTY
MISSION CITY	MISSION CITY IN HIDALGO COUNTY
MORRIS COUNTY	MORRIS COUNTY
NEWTON COUNTY	NEWTON COUNTY
NOLAN COUNTY	NOLAN COUNTY
BALANCE OF NUECES COUNTY	NUECES COUNTY LESS CORPUS CHRISTI CITY
ODESSA CITY	ODESSA CITY IN ECTOR COUNTY
ORANGE COUNTY	ORANGE COUNTY
PALO PINTO COUNTY	PALO PINTO COUNTY
PANOLA COUNTY	PANOLA COUNTY
PHARR CITY	PHARR CITY IN HIDALGO COUNTY
PORT ARTHUR CITY	PORT ARTHUR CITY IN JEFFERSON COUNTY
PRESIDIO COUNTY	PRESIDIO COUNTY
RED RIVER COUNTY	RED RIVER COUNTY
REEVES COUNTY	REEVES COUNTY
RUSK COUNTY	RUSK COUNTY
SABINE COUNTY	SABINE COUNTY
SAN AUGUSTINE COUNTY	SAN AUGUSTINE COUNTY
SAN PATRICIO COUNTY	SAN PATRICIO COUNTY
SHELBY COUNTY	SHELBY COUNTY
SOCORRO CITY	SOCORRO CITY IN EL PASO COUNTY
SOMERVELL COUNTY	SOMERVELL COUNTY
STARR COUNTY	STARR COUNTY
TEXARKANA CITY	TEXARKANA CITY TEX IN BOWIE COUNTY
TEXAS CITY	TEXAS CITY IN GALVESTON COUNTY
TITUS COUNTY	TITUS COUNTY
TYLER CITY	TYLER CITY IN SMITH COUNTY
TYLER COUNTY	TYLER COUNTY
UPSHUR COUNTY	UPSHUR COUNTY
UVALDE COUNTY	UVALDE COUNTY
BALANCE OF VAL VERDE COUNTY	VAL VERDE COUNTY LESS DEL RIO CITY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
WARD COUNTY	WARD COUNTY
BALANCE OF WEBB COUNTRY	WEBB COUNTY LESS LAREDO CITY
WILLACY COUNTY	WILLACY COUNTY
WINKLER COUNTY	WINKLER COUNTY
YOUNG COUNTY	YOUNG COUNTY
ZAPATA COUNTY	ZAPATA COUNTY
ZAVALA COUNTY	ZAVALA COUNTY
UTAH	
DUCHESNE COUNTY	DUCHESNE COUNTY
EMERY COUNTY	EMERY COUNTY
GARFIELD COUNTY	GARFIELD COUNTY
GRAND COUNTY	GRAND COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
UINTAH COUNTY	UINTAH COUNTY
VERMONT	
ESSEX COUNTY	ESSEX COUNTY
GRAND ISLE COUNTY	GRAND ISLE COUNTY
ORLEANS COUNTY	ORLEANS COUNTY
VIRGINIA	
ACCOMACK COUNTY	ACCOMACK COUNTY
BATH COUNTY	BATH COUNTY
BLAND COUNTY	BLAND COUNTY
BRUNSWICK COUNTY	BRUNSWICK COUNTY
BUCHANAN COUNTY	BUCHANAN COUNTY
CAROLINE COUNTY	CAROLINE COUNTY
CHARLOTTE COUNTY	CHARLOTTE COUNTY
COVINGTON CITY	COVINGTON CITY
DANVILLE CITY	DANVILLE CITY
DICKENSON COUNTY	DICKENSON COUNTY
ESSEX COUNTY	ESSEX COUNTY
GILES COUNTY	GILES COUNTY
HALIFAX COUNTY	HALIFAX COUNTY
HIGHLAND COUNTY	HIGHLAND COUNTY
LANCASTER COUNTY	LANCASTER COUNTY
LEE COUNTY	LEE COUNTY
LOUISA COUNTY	LOUISA COUNTY
LUNENBURG COUNTY	LUNENBURG COUNTY
MARTINSVILLE CITY	MARTINSVILLE CITY
MECKLENBURG COUNTY	MECKLENBURG COUNTY
NORFOLK CITY	NORFOLK CITY
NORTHAMPTON COUNTY	NORTHAMPTON COUNTY
NORTHUMBERLAND COUNTY	NORTHUMBERLAND COUNTY
NORTON CITY	NORTON CITY
NOTTOWAY COUNTY	NOTTOWAY COUNTY
PAGE COUNTY	PAGE COUNTY
PETERSBURG CITY	PETERSBURG CITY
PITTSYLVANIA COUNTY	PITTSYLVANIA COUNTY
PORTSMOUTH CITY	PORTSMOUTH CITY
PRINCE EDWARD COUNTY	PRINCE EDWARD COUNTY
PULASKI COUNTY	PULASKI COUNTY
RICHMOND COUNTY	RICHMOND COUNTY
RUSSELL COUNTY	RUSSELL COUNTY
SCOTT COUNTY	SCOTT COUNTY
SMYTH COUNTY	SMYTH COUNTY
SURRY COUNTY	SURRY COUNTY
SUSSEX COUNTY	SUSSEX COUNTY
TAZEWELL COUNTY	TAZEWELL COUNTY
WASHINGTON COUNTY	WASHINGTON COUNTY
WESTMORELAND COUNTY	WESTMORELAND COUNTY
WILLIAMSBURG CITY	WILLIAMSBURG CITY
WISE COUNTY	WISE COUNTY
WYTHE COUNTY	WYTHE COUNTY
WASHINGTON	
ADAMS COUNTY	ADAMS COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

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Eligible Labor Surplus Areas	Civil Jurisdictions Included
BELLINGHAM CITY	BELLINGHAM CITY IN WHATCOM COUNTY
BALANCE OF BENTON COUNTY	BENTON COUNTY LESS KENNEWICK CITY RICHLAND CITY
BREMERTON CITY	BREMERTON CITY IN KITSAP COUNTY
CHELAN COUNTY	CHELAN COUNTY
CLALLAM COUNTY	CLALLAM COUNTY
COLUMBIA COUNTY	COLUMBIA COUNTY
BALANCE OF COWLITZ COUNTY	COWLITZ COUNTY LESS LONGVIEW CITY
DOUGLAS COUNTY	DOUGLAS COUNTY
EVERETT CITY	EVERETT CITY IN SNOHOMISH COUNTY
FERRY COUNTY	FERRY COUNTY
FRANKLIN COUNTY	FRANKLIN COUNTY
GRANT COUNTY	GRANT COUNTY
GRAYS HARBOR COUNTY	GRAYS HARBOR COUNTY
JEFFERSON COUNTY	JEFFERSON COUNTY
KENNEWICK CITY	KENNEWICK CITY IN BENTON COUNTY
KITTITAS COUNTY	KITTITAS COUNTY
KLICKITAT COUNTY	KLICKITAT COUNTY
LAKEWOOD CITY	LAKEWOOD CITY IN PIERCE COUNTY
LEWIS COUNTY	LEWIS COUNTY
LONGVIEW CITY	LONGVIEW CITY IN COWLITZ COUNTY
MASON COUNTY	MASON COUNTY
OKANOGAN COUNTY	OKANOGAN COUNTY
PACIFIC COUNTY	PACIFIC COUNTY
PEND OREILLE COUNTY	PEND OREILLE COUNTY
SAN JUAN COUNTY	SAN JUAN COUNTY
SKAGIT COUNTY	SKAGIT COUNTY
SKAMANIA COUNTY	SKAMANIA COUNTY
STEVENS COUNTY	STEVENS COUNTY
WAHKIAKUM COUNTY	WAHKIAKUM COUNTY
WALLA WALLA CITY	WALLA WALLA CITY IN WALLA WALLA COUNTY
BALANCE OF WHATCOM COUNTY	WHATCOM COUNTY LESS BELLINGHAM CITY
YAKIMA CITY	YAKIMA CITY IN YAKIMA COUNTY
BALANCE OF YAKIMA COUNTY	YAKIMA COUNTY LESS YAKIMA CITY
WEST VIRGINIA	
BARBOUR COUNTY	BARBOUR COUNTY
BOONE COUNTY	BOONE COUNTY
BRAXTON COUNTY	BRAXTON COUNTY
BROOKE COUNTY	BROOKE COUNTY
CALHOUN COUNTY	CALHOUN COUNTY
CLAY COUNTY	CLAY COUNTY
DODDRIDGE COUNTY	DODDRIDGE COUNTY
FAYETTE COUNTY	FAYETTE COUNTY
GILMER COUNTY	GILMER COUNTY
GRANT COUNTY	GRANT COUNTY
GREENBRIER COUNTY	GREENBRIER COUNTY
HANCOCK COUNTY	HANCOCK COUNTY
HARRISON COUNTY	HARRISON COUNTY
HUNTINGTON CITY	HUNTINGTON CITY IN CABELL COUNTY WAYNE COUNTY
JACKSON COUNTY	JACKSON COUNTY
LEWIS COUNTY	LEWIS COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
LOGAN COUNTY	LOGAN COUNTY
MARION COUNTY	MARION COUNTY
BALANCE OF MARSHALL COUNTY	MARSHALL COUNTY LESS WHEELING CITY
MASON COUNTY	MASON COUNTY
MC DOWELL COUNTY	MC DOWELL COUNTY
MINGO COUNTY	MINGO COUNTY
NICHOLAS COUNTY	NICHOLAS COUNTY
PARKERSBURG CITY	PARKERSBURG CITY IN WOOD COUNTY
PLEASANTS COUNTY	PLEASANTS COUNTY
POCAHONTAS COUNTY	POCAHONTAS COUNTY
PRESTON COUNTY	PRESTON COUNTY
RALEIGH COUNTY	RALEIGH COUNTY
RANDOLPH COUNTY	RANDOLPH COUNTY
RITCHIE COUNTY	RITCHIE COUNTY
ROANE COUNTY	ROANE COUNTY
SUMMERS COUNTY	SUMMERS COUNTY

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE—Continued

[October 1, 1998 through September 30, 1999]

Eligible Labor Surplus Areas	Civil Jurisdictions Included
TAYLOR COUNTY	TAYLOR COUNTY
TUCKER COUNTY	TUCKER COUNTY
TYLER COUNTY	TYLER COUNTY
UPSHUR COUNTY	UPSHUR COUNTY
BALANCE OF WAYNE COUNTY	WAYNE COUNTY LESS HUNTINGTON CITY
WEBSTER COUNTY	WEBSTER COUNTY
WETZEL COUNTY	WETZEL COUNTY
WIRT COUNTY	WIRT COUNTY
WYOMING COUNTY	WYOMING COUNTY
WISCONSIN	
ASHLAND COUNTY	ASHLAND COUNTY
FLORENCE COUNTY	FLORENCE COUNTY
IRON COUNTY	IRON COUNTY
JUNEAU COUNTY	JUNEAU COUNTY
MENOMINEE COUNTY	MENOMINEE COUNTY
RACINE CITY	RACINE CITY IN RACINE COUNTY
RUSK COUNTY	RUSK COUNTY
SAWYER COUNTY	SAWYER COUNTY
WYOMING	
FREMONT COUNTY	FREMONT COUNTY
LINCOLN COUNTY	LINCOLN COUNTY
BALANCE OF NATRONA COUNTY	NATRONA COUNTY LESS CASPER CITY
UINTA COUNTY	UINTA COUNTY

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.J. Res. 136/P.L. 105–260

Making further continuing appropriations for the fiscal year 1999, and for other purposes. (Oct. 16, 1998; 112 Stat. 1919)

H.R. 3616/P.L. 105–261

Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Oct. 17, 1998; 112 Stat. 1920)

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