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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 1 and 11

National Appeals Division Rules of Procedure

AGENCY: National Appeals Division, Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: On December 29, 1995, the National Appeals Division (NAD) in the Office of the Secretary published an interim final rule to implement Title II, Subtitle H, of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, by setting forth procedures for program participant appeals of adverse decisions by United States Department of Agriculture (USDA) agency officials to NAD. The deadline for receipt of comments was March 28, 1996. Nineteen timely public comments were received in response to the interim final rulemaking.

The Secretary now issues a final rule for the rules of procedure of NAD and for the technical change regarding authentication of NAD records by the NAD Director. The interim final rulemaking document also included conforming changes to the former appeal rules of USDA agencies whose adverse decisions are now subject to NAD review. This final rulemaking document does not contain final rules for the conforming changes. Those final rules will be issued by the respective agencies at a later date.

DATES: *Effective Date:* This final rule is effective July 23, 1999.

Applicability Date: This rule applies to all agency adverse decisions issued after July 23, 1999, all agency adverse decisions on which timely NAD appeals have not yet been taken, and pending NAD appeals.

FOR FURTHER INFORMATION CONTACT: L. Benjamin Young, Jr., General Law Division, Office of the General Counsel, United States Department of Agriculture, STOP 1415, 1400 Independence Avenue SW, Washington, DC 20250–1415; 202/720–4076; e-mail: benjamin.young@usda.gov.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under E.O. 12866, and it has been determined that it is not a ''significant regulatory action'' rule because it will not have an annual effect on the economy of $100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, of State, local, or tribal governments or communities. This final rule will not create any serious inconsistencies or otherwise interfere with actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof, and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in E.O. 12866.

Regulatory Flexibility Act

USDA certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534, as amended (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

USDA has determined that the provisions of the Paperwork Reduction Act, as amended, 44 U.S.C., chapter 35, do not apply to any collections of information contained in this rule because any such collections of information are made during the conduct of administrative action taken by an agency against specific individuals or entities. 5 CFR 1320.4(a)(2).

Background and Purpose

On December 27, 1994 (*see* 59 FR 66517), the Secretary of Agriculture noticed that the NAD was established pursuant to Title II, Subtitle H of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. No. 103–354, 7 U.S.C. 6991 *et seq.* (''the Reorganization Act''). NAD was assigned responsibility for all administrative appeals formerly handled by the National Appeals Division of the former Agriculture Stabilization and Conservation Service (ASCS) and by the National Appeals Staff of the former Farmers Home Administration (FmHA), appeals arising from decisions of the former Rural Development Administration (RDA) and the former Soil Conservation Service (SCS), appeals arising from decisions of the successor agencies to the foregoing agencies established by the Secretary, appeals arising from decisions of the Commodity Credit Corporation (CCC) and the Federal Crop Insurance Corporation (FCIC), and such other administrative appeals arising from decisions of agencies and offices of USDA as may in the future be assigned by the Secretary.

This final rule sets for the jurisdiction of the NAD, and the procedures appellants and agencies must follow upon appeal of adverse decisions by covered USDA program ''participants'' as defined in detail in 7 CFR part 11.

Response to Comments and Changes to Interim Final Rule

Nineteen comments were received by March 28, 1996 in response to the request for comments on the interim final NAD rule. In response to these comments, minor changes have been made to the interim final rule. Additionally, a few other changes to the interim final rule have been made to reflect subsequent Congressional and USDA action established in the Risk Management Agency and to clarify some aspects of the rule as a result of the application of the interim final rule since it was promulgated.

The following explanation is given for those sections of the interim final rule that have been changed. Responses to comments not addressed in the explanation of changes follow.

Effective Date

The provisions of the interim final rule applicable to NAD Director review (7 CFR 11.9) were made effective retroactively to October 20, 1994, the date on which the Secretary established NAD. The purpose of the retroactive application of that section was to provide an administrative mechanism

for reconsideration of Director reviews during the transition from the old to the new appeals system where appellants had not received notice or copies or agency requests for review of hearing officer decisions. At this point, USDA has determined that any difficulties with prior decisions should have been resolved. In order to remove any ambiguity regarding the finality of Director review decisions, USDA accordingly is not making § 11.9 of this final rule retroactive.

Section 11.1 Definitions

Agency. Section 194 of the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104–127, amended the Reorganization Act by adding a new section 226A (7 U.S.C. 6933) authorizing the Secretary to establish an Office of Risk Management to supervise the Federal Crop Insurance Corporation (FCIC) and other crop insurance-related programs. The Secretary implemented this provision with Secretary's Memorandum 1010–2 issued on May 3, 1996, which established the Risk Management Agency (RMA). Since the RMA has taken over FCIC supervisory functions formerly assigned to the Farm Service Agency (FSA), USDA has added RMA to the definition of ''agency'' in this final rule.

Given that the Reorganization Act was enacted more than four years ago, USDA has deleted obsolete references to the former Agricultural Stabilization and Conservation Service (ASCS), Farmers Home Administration (FmHA), and Soil Conservation Service (SCS) from the definition of ''agency.'' However, to ensure any matters that may arise from those former agencies remain within the jurisdiction of NAD, appropriate reference has been made to include a ''predecessor'' of a named agency within the definition of ''agency.''

USDA has deleted the Rural Development Agency (RDA) from the definition of ''agency'' as that agency no longer exists.

In many States and at the national office level, decisions relating to programs of the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), and Rural Utilities Service (RUS) may be issued under the auspices of ''Rural Development.'' Accordingly, USDA adds Rural Development (RD) to the definition of ''agency'' to avoid any confusion as to whether such decisions are subject to appeal to NAD.

Participant. For USDA response to comments and amendments regarding the participation of parties in NAD proceedings other than the agency and the appellant, see the preamble text below addressing new § 11.15 of the rule.

USDA also amends this section to clarify that participants in proceedings before State Tobacco Marketing Quota Review Committees (''Tobacco Committees) under section 361, *et seq.*, of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1361, *et seq.*) are excluded from the definition of ''participant'' in § 11.1. In creating the NAD, Congress repealed several statutory appeal processes in section 273 of the Reorganization Act, but did not repeal these statutory appeal and judicial review provisions for decisions of the Tobacco Committees. Accordingly, in order to construe the statutes harmoniously, USDA concludes Congress did not intend for NAD review to supersede the specific statutory review process for decisions of the Tobacco Committees, and amends the NAD rule to give effect to this interpretation.

Section 11.4 Inapplicability of Other Laws and Regulations

Three comments were received from the same commenter concerning the applicability of the provisions of the Administrative Procedure Act (APA) regarding formal adjudicative proceedings (5 U.S.C. 554–57, 3105) and the Equal Access to Justice Act (EAJA) (5 U.S.C. 504) to NAD proceedings. The commenter suggests that 5 U.S.C. 559 requires that the formal adjudication provisions of the APA apply to NAD proceedings, and therefore, by its terms, EAJA also applies to NAD proceedings.

For the reasons set forth in the preamble to the interim final rule, it is the position of USDA that Congress did not intend for either the APA or the EAJA to apply to NAD proceedings. This is the same position that USDA took with respect to the applicability of the APA and EAJA when it was addressed in the regulations applicable to appeals before the former Farmers Home Administration National Appeals Staff. *See* 53 FR 26401 (July 12, 1988).

In *Lane* v. *U.S. Dept. of Agriculture,* 120 F.3d 106 (8th Cir. 1997), the court disagreed with the USDA position regarding the applicability of the APA and EAJA, holding that 5 U.S.C. 559 required application of both Acts to NAD proceedings. Consequently, USDA will apply the holding in *Lane* to NAD appeals which arise within the 8th Circuit. For adverse decisions arising outside of the 8th Circuit, USDA will continue to assert the inapplicability of NAD and EAJA, and NAD will not process EAJA applications filed in such appeals.

By definition, USDA EAJA regulations at 7 CFR part 1, subpart J, apply to any adjudication that USDA is required to conduct under the formal adjudication provisions of the APA. 7 CFR 1.183(a)(1)(i). Accordingly, EAJA applications on 8th Circuit NAD appeals have been processed by USDA in accordance with the USDA EAJA regulations at 7 CFR part 1, subpart J, and will continue to be processed in accordance with those regulations with one change.

Under EAJA, it is the agency, not the adjudicative officer, that is the final agency decisionmaker on an administrative EAJA application. 5 U.S.C. 504(a)(3). A NAD Hearing Officer clearly falls within the definition of ''adjudicative officer'' under the USDA EAJA regulations (7 CFR 1.180(b)); however, the Secretary has delegated to the Judicial Officer (with the exception of covered proceedings arising before the Board of Contract Appeals) his authority to review decisions of adjudicative officers as the final agency decisionmaker under EAJA (7 CFR 1.189). Concurrently with the promulgation of this final rule, the Secretary by separate memorandum will reassign, from the Judicial Officer to the NAD Director, his authority to make final agency determinations under EAJA for initial EAJA determinations rendered by NAD Hearing Officers. This delegation will apply prospectively to initial EAJA determinations issued by NAD Hearing Officers after the date the memorandum is signed.

As the holding of the 8th Circuit in *Lane* makes apparent, the right of a NAD appellant under EAJA to recover attorneys fees incurred in NAD proceedings will not rise or fall on the basis of whether or not USDA promulgates a regulation accepting or denying the applicability of the APA and EAJA. Further, as a result of *Lane,* the statement in the interim final rule regarding the inapplicability of the APA and EAJA no longer has universal application.

Accordingly, USDA has determined to remove any references to the APA or EAJA from the final rule in order to eliminate the issue of rulemaking from what is a pure matter of statutory construction involving the relationship of the Reorganization Act, the APA, and EAJA. The removal of references to the APA and EAJA, however, does not mean that USDA now finds the APA and EAJA applicable to NAD proceedings. As indicated above, USDA will continue to assert that the APA and EAJA do *not* apply to NAD appeals except where required by judicial ruling.

Section 11.5 Informal Review of Adverse Decisions

Section 11.5(a) of the interim final rule provides that a participant first must seek county or area committee review of any adverse decision issued at the field service office level by an officer or employee of FSA, or any employee of such county or area committee. In the context of the USDA reorganization with the combination of the former Farmers Home Administration and the Agricultural Stabilization and Conservation Service into FSA, confusion has surrounded this provision with respect to its applicability to the former FmHA farm credit programs. As a result of reorganization, very few farm credit decisions would come within the scope of this requirement in any case. Accordingly, to clarify the scope of the provision, language has been added excepting farm credit programs from its coverage. Any inconsistency with the interim final rule at 7 CFR part 780 will be corrected when that rule is finalized but in the meantime NAD will apply these rules in determining the acceptability of an appeal to NAD of a farm credit decision by FSA.

Section 11.6 Director Review of Agency Determinations of Appealability and Right of Participants to Division Hearing

Paragraph (a)(1) of § 11.6 is amended to correct an omission in the interim final rule that led to a discrepancy between the statement in the preamble to that rule and the text of that rule. The preamble of the interim final rule provided that a request for Director review of an agency determination that a decision is not appealable must be personally signed by the participant, just as the case with a participant request for a hearing and request for Director review of a Hearing Officer determination. However, the language of section 11.6(a)(1) did not expressly state that such requests must be personally signed. Section 11.6(a)(1) now makes clear that the participant must personally sign the request for Director review of an agency determination of non-appealability.

Further, with respect to the need for personal signature for certain actions, USDA clarifies that the reasonable interpretation of this requirement is vested in the NAD Hearing Officers or Director in individual cases. While it is not a statutory jurisdictional prerequisite for perfecting a timely appeal, it is reasonable to expect that authorized representatives seeking to file appeals before NAD would check the rules of the forum for filing requirements. Even though the requirement is expressed using the term ''personally,'' it also is reasonable to interpret that term as applying to a responsible officer or employee of an entity where the definition of ''participant'' in § 11.1 encompasses an ''entity'' as well as an ''individual.''

Section 11.8 Division Hearings

Section 11.8(b)(6) is ambiguous with respect to the options of a NAD hearing officer when a party fails to show up at a hearing. Section 11.8(b)(6)(i)(B) states that if the hearing officer elects to cancel the hearing, he can accept evidence into the record from any party present and then issue a determination, whereas § 11.8(b)(6)(ii) suggests that the hearing officer must allow the absent party an opportunity to respond to any such evidence admitted prior to rendering a determination. USDA has modified the language of § 11.8(b)(6)(i)(B) to make the acceptance of evidence clearly subject to § 11.8(b)(6)(ii) prior to issuing a determination.

Section 11.9 Director Review of Determinations of Hearing Officers

The word ''Associate'' in § 11.9(d)(3) is changed to ''Assistant'' to reflect the curent organization of NAD.

Section 11.15 Participation of Third Parties and Interested Parties in Division Proceedings

Several commenters, either reinsurance companies or organizations commenting on behalf of reinsurance companies, requested that reinsurance companies be notified of and allowed to participate in NAD proceedings on participant appeals of FCIC decisions where the outcome of the NAD proceeding would affect policies held by reinsurance companies. For example, if FCIC declares an insured ineligible for crop insurance, a reinsurance company may cancel a previously existing policy as a result of that decision; however, if the insured then successfully appeals to NAD and the FCIC decision is overturned, the reinsurance company now will have a policy on its books that it had thought removed and it may not have received any notice of the NAD appeal or decision.

One commenter also objected to the change from the proposed rule in the interim final rule that required a bank holding a guaranteed loan to jointly appeal with the borrower any adverse decision. The commenter argued that the borrower was the individual directly affected and thus should be able to appeal an adverse decision related to a guaranteed loan independently from the lender.

In addition to the concerns raised by these commenters, NAD also has experienced difficulties in the appeal process where the interests of parties other than the appellant and the agency are involved.

Accordingly, a new § 11.15 has been added to the rule to provide procedures for handling these types of situations involving the interests of other parties in a NAD appeal.

The new § 11.15 recognizes that there are two types of situations where parties other than the appellant or the agency may be interested in participating in NAD proceedings. In the first situation, a NAD proceeding may in fact result in the adjudication of the rights of a third party, e.g., an appeal of a tenant involving a payment shared with a landlord, an appeal by one recipient of a share of a payment shared by multiple parties, or an appeal by one heir of an estate. In the second situation, there may be an interested party that desires to receive notice of and perhaps participate in an appeal because of the derivative impact the appeal determination will have on that party, e.g., guaranteed lenders and reinsurance companies.

These two different types of situations require separate procedures. Thus, in the first type where the actual rights of a third party are being adjudicated, USDA has termed such a party a ''third party'' and provided a new § 11.15(a) to provide for the participation of a ''third party.'' After an appellant files an appeal, if the agency, appellant, of NAD itself identifies a third party whose rights will be adjudicated in an appeal, NAD will issue a notice of the appeal to the third party and provide such party with an opportunity to participate fully as a party in the NAD proceeding. Participation will include the right to seek Director review of the determination of the Hearing Officer. USDA believes the participation of a third party under § 11.15 also gives the third party the right to seek judicial review of the final NAD determination. If the third party receiving notice declines to participate, he will be bound by the final NAD determination as if he had participated. The intent of this provision is to include all parties in the initial NAD appeal and prevent a secondary appeal by a third party who did not receive notice of the appeal, but who is adversely affected by the agency implementation of the NAD determination of appeal, and who thus would then be entitled to an appeal of his own that could lead to a contradictory result.

For example, the agency determines a recipient sharing in a payment with two

other parties is entitled to 25% of the payment, and the recipient appeals. NAD determines that the agency decision was erroneous, and the agency implements by according the appellant 50% of the payment. The first NAD determination would not be binding as to the other two recipients, thus giving rise to secondary appeals, unless the other two recipients had notice and opportunity to participate in the first appeal.

In the second type of situation, new § 11.15(b) provides for the participation of guaranteed lenders and crop reinsurers as ''interested parties'' in an appeal where the actual rights of such interested parties under a USDA program are not being adjudicated (i.e., the appeal would not lead to an agency implementation decision that would give rise to NAD appeal rights for them), but such parties would be impacted by the outcome. Interested parties are not entitled under this new provision to request Director review of a hearing officer determination. It also is the position of USDA that such participation of an ''interested party'' does not give rise to a right by such ''interested party'' to judicial review of the final NAD determination.

In light of these changes, USDA is striking the requirement in the definition of ''participant'' in § 11.1 of the interim final rule that guaranteed lenders jointly appeal to NAD with borrowers.

With respect to the comments suggesting that reinsurers should be notified of NAD appeals taken by insureds, that topic should be addressed in agency rules and not the rules pertaining to NAD itself. NAD does not have the resources, capability, or function to carry out that mission.

Other Comments

As indicated above, the other CFR sections amended by the interim final rule and that are not a part of this final rule will be issued as final rules at a later date. Comments received on those rules are not addressed below except to the extent that they are related to a provision of 7 CFR part 11. Comments related to other parts of the interim final rule, or other agency rules (such as those for mediation), will be referred to the appropriate parties for further consideration.

Crop Insurance Issues

One commenter expressed concern that the revision of 7 CFR part 400, subpart J, in the interim final rule eliminated the rights of appeal previously contained in 7 CFR 400.92. The commenter questioned whether the more general language of the interim final rule provided for appeal rights coextensive to those in 7 CFR 400.92.

Except with respect to the provision for notification to the reinsurance company in 7 CFR 400.92(f), USDA believes that the specified rights of appeal outlined in 7 CFR 400.92 are covered by the NAD appeal regulations contained in this final rule. Further, the notification issue has been dealt with partially in this final rule by providing reinsurance companies the right to participate in NAD appeals as detailed above.

One reinsurance commenter also expressed the view that if allowed to participate in a NAD appeal it also should be allowed to request Director review of a hearing officer's decision. The comment reflected a concern that the agency would not timely request Director review of a hearing officer's decision and thus leave the reinsurer at risk. USDA does not adopt this recommendation because only program participants receiving adverse decisions from an agency have a statutory right to appeal under the NAD statute; since a reinsurer is not the recipient of the adverse decision, it may not be a NAD appellant able to request hearings and Director review. However, as interested parties, USDA is allowing reinsurers to participate in the hearing and Director review process.

One commenter on behalf of crop insurers suggested that the interim final rule be revised to allow reinsurance companies to appeal to NAD where a matter would not be subject to appeal to the Agriculture Board of Contract Appeals (AGBCA). The NAD process was established as a forum primarily for producer appeals, not as a forum for contractual and quasi-contractual matters. USDA at this time does not perceive a gap between a reinsurance company's right of appeal to the AGBCA and the availability of participant appeals to NAD by recipients of FCIC or RMA adverse decisions; therefore, a safety provision in this NAD final rule to cover appeals not taken by the AGBCA is neither required nor appropriate.

Mediation

Several commenters addressed issues regarding mediation. The mediation process between participants and agencies is not the subject of this final rule. Mediation is relevant to this rule only with respect to the determination of when a participant's right to appeal to NAD begins to toll. Comments regarding the length of time agencies allow for mediation to be requested and the length of time they permit for mediation to continue therefore are outside the scope of this rule and are not addressed herein.

Section 11.5(c)(1) of the interim final rule provides that a participant request for mediation or alternative dispute resolution (ADR) stops the running of the 30-day period after an adverse decision in which a participant may appeal that decision. Once mediation or ADR has concluded, this provision provides that the participant then has the remaining balance of the 30 days to appeal. Finding this process prone to confusion, four commenters suggested that the termination of mediation without settlement should in some way be construed as a new adverse decision with a full 30 days to seek NAD review of the decision. This suggestion does not comport with the concept of mediation. First of all, the mediator is not an agency decisionmaker and the results of the mediator's work is not therefore an agency decision. Second, mediation does not result in decisions; it results either in a mutually acceptable solution to all parties or a termination of the mediation with no resolution of the dispute. The NAD statute does not provide for a new 30-day period for a NAD appeal to begin at the conclusion of the mediation process.

One of the commenters, however, suggested that agencies issue a new adverse decision at the conclusion of mediation, with a notice of appeal rights. This adverse decision would replace the initial adverse determination and start the 30-day clock running anew for a NAD appeal. Such a mandate on USDA program agencies is beyond the scope of this final rule.

Three commenters suggested that § 11.5 of the rule provide that agencies notify participants of the balance of time remaining for appeal at the conclusion of mediation. Two commenters suggested that it would be inappropriate for the mediator to perform this task for reasons of liability and impartiality.

USDA agrees that it would be inappropriate to require the mediator to provide such notice; however, USDA does not adopt the suggestion that agencies should be required to give such notice. Agency notices to participants of appeal rights are beyond the scope of this final rule.

One commenter suggested that participants be billed for their share of the costs of medication. That subject is beyond the scope of this final rule.

Required Informal Agency Review

One commenter suggested that the required informal review by a county or area committee as a prerequisite to a NAD appeal, as set forth in § 11.5(a),

should be dropped because it results in additional costs and delays for participants. USDA declines to remove this provision.

Notification of Appeal Rights for Adverse Decisions Determined Non-Appealable

One commenter suggested that agencies be required to provide participants with notice of appeal rights to NAD under § 11.6(a) of agency determinations that an adverse decision is not appealable. USDA agrees that information on such appeal rights should be given by agencies when a decision is issued with a statement that it is not appealable. As with other notice requirements, however, USDA does not mandate this requirement on agencies in this final rule.

''Reasonably Should Have Known''

One commenter objected to the requirement in § 11.6(b)(1) that a participant must request an appeal within 30 days after ''the participant reasonably should have known that the agency had not acted within the timeframes specified by agency program regulations''. The commenter suggested that the agency should have specified timeframes to respond to participant requests, application, or inquiries; that participants should be notified of agency deadlines so that they can monitor them and know when to appeal; and that, alternatively, that if an agency fails to respond by deadlines, participant requests or applications should be automatically approved.

The purpose of the above-quoted phrase in § 11.6(b)(1) is to bring finality to agency decisions and programs by requiring appellants to appeal within 30 days of an agency missing a deadline specified in published agency regulations. Participants are deemed to have knowledge of published laws and regulations. If a regulation states that the agency will act on a given application in 60 days, a participant may not rest on his or her rights for a year before appealing to NAD because the agency never acted on the applications. Requiring an agency to specify timeframes for all actions in regulations, or to notify participants of such timeframes, is beyond the scope of this rule and the mission of NAD. Finally, USDA by general rule cannot establish automatic award of applications for failure to act on them where contrary to statute or principles of sovereign immunity.

''Adverse Decision''

Two commenters suggested that § 11.8(b) should be revised to allow participants 30 days to appeal upon receiving a *written* decision from the agency including: a clear statement of the adverse decision, a citation of the regulatory basis for the adverse decision, a notification of appeal rights, notification of the proper agency from which to appeal the adverse decision, notification of the proper reviewing officer to whom the appeal must be sent, and notification of mediation rights. One of the commenters further suggested that the definition of ''adverse decision'' be changed to ''adverse final decision'' so that preliminary adverse letters to participants—which a given agency may not regard as starting the 30-day clock—will not start the 30-day clock until the adverse decision is made officially by the agency.

These suggestions by the commenters appear to reflect several concerns. First, one commenter takes issue with our view, stated in the preamble to the interim final rule, that the requirement fro notice of an agency adverse decision in § 274 of the Reorganization Act is not a prerequisite for NAD jurisdiction. Placing the requirement for a written decision in § 11.8(b)(1), as suggested, implicitly would provide that notice and allow the participant a fair amount of time to develop his or her appeal. Second, there is a concern that agencies will seek to trigger the 30-day clock with oral decisions that participants will not understand as triggering their appeal rights. Third, agencies often do not view some actions as the adverse decisions for which appeal rights run and thus participants may prematurely appeal. Fourth, the suggested required content for an adverse decision is needed for the written determinations so that participants understand all their rights and clearly understand what the adverse decision is and the basis therefor.

USDA declines to adopt these suggestions for several reasons. While well-intentioned, these suggestions would be a triumph of form over substance spawning unnecessary litigation over who got what notice when. First and foremost, USDA interprets the statute to provide a clear intent on the part of Congress to afford participants the right to appeal *de facto* decisions rendered by an agency failure to act. The definition of ''adverse decision'' in section 271(1) of the Reorganization Act expressly includes ''the failure of an agency to issue a decision or otherwise act on the request or right of the participant.'' To require a written decision from the agency before a participant may appeal essentially stops a participant's ability to appeal agency inaction, contrary to Congressional intent.

Second, if an administrative decision adversely affects a participant, it is an adverse decision subject to appeal under the statute regardless of whether the agency has sent out the formal letter with formal appeal rights. Each agency subject to NAD jurisdiction handles decisions in various ways and to attempt to specify that only ''final'' adverse decisions will count does not provide for an efficient NAD appeals process. (This, of course, does not mean that an agency may not recall and re-issue an earlier decision, in which case the 30-day clock begins to run anew).

Finally, with respect to the fairness of the appeal by providing the basis therefore, USDA sees no intent on the part of Congress to allow agencies to hold up the processing of appeals by failing to provide the basis for the decision. Section 11.8(c)(ii) in fact is written to require the agency to provide NAD with a copy of the adverse decision and a written explanation, including regulatory and statutory citation, once an appeal is filed in the event the participant was unable to get that information beforehand. If the agency does not furnish the information at that point, it merely runs the danger of losing the appeal for lack of information. At least, however, the participant has gotten his appeal before NAD whereas requiring the agency to provide that information to the participant before he or she may appeal to NAD effectively would prevent the participant from even filing an appeal.

Copies of Agency Record

Two commenters suggested changes to §§ 11.8(a) and 11.8(b)(1) to require agencies to notify an appellant of the appellant's right to an agency record after the appellant has filed an appeal, to require the agency to provide the hearing officer with a copy of the agency file to be placed automatically in the record, to require the agency to provide a copy of the agency record upon request, and to provide specific procedures for how an appellant could obtain the agency record. One commenter also suggested adding language to § 11.8(c)(5)(ii) to require the agency to present similar information, as well as additional information on the basis of the decision, at the hearing itself.

USDA declines to adopt these comments. They are either already covered specifically in the cited sections of the rule or else are covered within the language of the rule in a way that allows flexibility for agency and NAD response. Appellants are placed on notice of their

right to request and receive copies of the agency record by this final rule itself and a further requirement for agencies to provide such notice is beyond the scope of this rule. Further, requiring the agency to present such information at the hearing runs contrary to the statutory requirement that the appellant must prove the agency decision erroneous. This places the burden of going forward in the appeal on the appellant. If the agency fails to provide an adequate response to the appellant by failing to provide informataton, it runs the risk of losing the appeal.

Notice of Director Review

Section 11.9(b) requires the Director to notify all parties of receipt of a request for Director review and section 11.9(c) requires a party to submit responses to a request for Director review within 5 business days of receiving a copy of the request for Director review.

One commenter suggested clarifying how the Director is to provide notification under § 11.9(b), and suggested inserting the word ''their'' in § 11.9(c) presumably to distinguish the running of the 5 business days from the receipt of the Director review itself by the Division from the 5 business days from receipt of a *copy* by the other parties. USDA declines to adopt either of these comments. The method of notification should remain within the discretion of the Director and § 11.9(c) is clear without further amendment.

Basis for Determinations

Three commenters suggested removal or revision of the phrase ''and with the generally applicable interpretations of such laws and regulations'' in § 11.10(b) to reflect that generally applicable interpretations of laws and regulations should not be the sole basis for agency adverse decisions. These commenters were concerned that § 11.10(b) is inconsistent with the principle that adverse decisions must be based on regulations promulgated in accordance with notice-and-comment rulemaking procedures. For the reasons set forth in explanation of § 11.10(b) in the preamble to the interim final rule, USDA finds this language appropriate and declines to remove it as requested in the comments. Further, USDA notes that inclusion of this language does not reflect an intent to bind NAD to arbitrary interpretations of statutes or regulations by agency officials. Any unpublished, generally applicable interpretations of laws and regulations may be relied upon only to the extent permitted by the APA and interpretations thereof by relevant caselaw. NAD is bound to decide appeals in accordance with law; therefore, if an interpretation is not permissible under the APA, then NAD cannot rely upon that interpretation to sustain an agency decision.

Reconsideration

One commenter suggested that appellants be given 15 days, instead of 10 days, to request the Director to reconsider his determination under § 11.11. USDA declines to change this provision.

Section 11.11 was added to the interim final rule to reflect the inherent authority of a decisionmaker under general principles of law to review his or her decisions to correct *errors*. These are errors (such as citation to the wrong dates, wrong amounts, wrong regulations, or wrong statutes), not changes of interpretations or opinions, and as such should be quickly detectable upon reading the determination and reviewing the record. A request for reconsideration under this provision should not require a great deal of time for research, and rarely should require additional time for gathering information and evidence since this is not another step in the appeal process.

Implementation

One commenter suggested that § 11.12(a) was vague about how implementation would occur, thus allowing agencies to obstruct the implementation process. The commenter suggested amending § 11.12(a) to incorporate the implementation language from the old National Appeals Staff rules of procedure (7 CFR 1900.59(d) (1–1–95)) that provided that implementation meant the taking of the next step by the agency that would be required by agency regulations if no adverse action had occurred.

USDA indicated in the preamble to the interim final rule its position that implementation meant taking the next step. However, that interpretation of implementation comes from the farm credit appeals system that is now under the auspices of NAD. NAD also reviews decisions related to farm programs, disaster assistance, soil and water conservation programs, and crop insurance. Given the variety of programs now covered by NAD that were not subject to the ''next step'' rule, USDA declines to adopt any express guidance regarding implementation at this time until experience with a unified appeals process provides a clear picture of what uniform implementation rule would work for all agencies under the jurisdiction of NAD.

Discrimination Complaints

One commenter suggested that NAD develop a process for consolidating program appeals with related civil rights complaints. USDA declines to adopt this suggestion. The rights and remedies available to NAD appellants under USDA statutes and regulations are much different than those available to individuals asserting discrimination claims against USDA under civil rights laws of governmentwide applicability. USDA already has a separate administrative process for review of discrimination complaints. NAD does not have the ability or capacity to undertake consolidated civil rights appeals that exceed the scope of the purpose for which it was established.

List of Subjects

7 CFR Part 1

Administrative practice and procedure, Agriculture, Reporting and recordkeeping requirements.

7 CFR Part 11

Administrative practice and procedure, Agriculture, Agricultural commodities, Crop insurance, Ex parte communications, Farmers, Federal aid programs, Guaranteed loans, Insured loans, Loan programs, Price support programs, Soil conservation.

For the reasons set out in the preamble, Title 7 of the Code of Federal Regulations is amended as set forth below.

PART 1—ADMINISTRATIVE REGULATIONS

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

Authority: 5 U.S.C. 301 and 552. Appendix A also issued under 7 U.S.C. 2244; 31 U.S.C. 9701, and 7 CFR 2.75(a)(6)(xiii).

2. Section 1.20 is revised to read as follows:

§ 1.20 Authentication.

When a request is received for an authenticated copy of a document which the agency determines to make available to the requesting party, the agency shall cause a correct copy to be prepared and sent to the Office of the General Counsel which shall certify the same and cause the seal of the Department to be affixed, except that the Hearing Clerk in the Office of Administrative Law Judges may authenticate copies of documents in the records of the Hearing Clerk and that the Director of the National Appeals Division may authenticate copies of documents in the records of the National Appeals Division.

PART 11—NATIONAL APPEALS DIVISION RULES OF PROCEDURE

Part 11 is revised to read as follows:

PART 11—NATIONAL APPEALS DIVISION RULES OF PROCEDURE

Sec.
11.1 Definitions.
11.2 General statement.
11.3 Applicability.
11.4 Inapplicability of other laws and regulations.
11.5 Informal review of adverse decisions.
11.6 Director review of agency determination of appealability and right of participants to Division hearing.
11.7 *Ex parte* communications.
11.8 Division hearings.
11.9 Director review of determinations of Hearings Officers.
11.10 Basis for determinations.
11.11 Reconsideration of Director determinations.
11.12 Effective date and implementation of final determinations of the Division.
11.13 Judicial review.
11.14 Filing of appeals and computation of time.
11.15 Participation of third parties and interested parties in Division proceedings.

Authority: 5 U.S.C. 301; Title II, Subtitle H, Pub. L. 103–354, 108 Stat. 3228 (7 U.S.C. 6991 *et seq.*); Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

§ 11.1 Definitions.

For purposes of this part:

Adverse decision means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant within timeframes specified by agency program statutes or regulations or within a reasonable time if timeframes are not specified in such statutes or regulations. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

Agency means:

(1) The Commodity Credit Corporation (CCC);

(2) The Farm Service Agency (FSA);

(3) The Federal Crop Insurance Corporation (FCIC);

(4) The Natural Resources Conservation Service (NRCS);

(5) The Risk Management Agency (RMA);

(6) The Rural Business-Cooperative Service (RBS);

(7) Rural Development (RD);

(8) The Rural Housing Service (RHS);

(9) The Rural Utilities Service (RUS) (but not for programs authorized by the Rural Electrification Act of 1936 or the Rural Telephone Bank Act, 7 U.S.C. 901 *et seq.*);

(10) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h (b)(5)); and

(11) Any predecessor or successor agency to the above-named agencies, and any other agency or office of the Department which the Secretary may designate.

Agency record means all the materials maintained by an agency related to an adverse decision which are submitted to the Division by an agency for consideration in connection with an appeal under this part, including all materials prepared or reviewed by the agency during its consideration and decisionmaking process, but shall not include records or information not related to the adverse decision at issue. All materials contained in the agency record submitted to the Division shall be deemed admitted as evidence for purposes of a hearing or a record review under § 11.8.

Agency representative means any person, whether or not an attorney, who is authorized to represent the agency in an administrative appeal under this part.

Appeal means a written request by a participant asking for review by the National Appeals Division of an adverse decision under this part.

Appellant means any participant who appeals an adverse decision in accordance with this part. Unless separately set forth in this part, the term ''appellant'' includes an authorized representative.

Authorized representative means any person, whether or not an attorney, who is authorized in writing by a participant, consistent with § 11.6(c), to act for the participant in an administrative appeal under this part. The authorized representative may act on behalf of the participant except when the provisions of this part require action by the participant or appellant personally.

Case record means all the materials maintained by the Secretary related to an adverse decision: The case record includes both the agency record and the hearing record.

Days means calendar days unless otherwise specified.

Department means the United States Department of Agriculture (USDA).

Director means the Director of the Division or a designee of the Director.

Division means the National Appeals Division established by this part.

Equitable relief means relief which is authorized under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws administered by the agency.

Ex parte communication means an oral or written communication to any officer or employee of the Division with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports, or inquiries on Division procedure, in reference to any matter or proceeding connected with the appeal involved.

Hearing, except with respect to § 11.5, means a proceeding before the Division to afford a participant the opportunity to present testimony or documentary evidence or both in order to have a previous determination reversed and to show why an adverse determination was in error.

Hearing Officer means an individual employed by the Division who conducts the hearing and determines appeals of adverse decisions by any agency.

Hearing record means all documents, evidence, and other materials generated in relation to a hearing under $11.8.

Implement means the taking of action by an agency of the Department in order fully and promptly to effectuate a final determination of the Division.

Participant means any individual or entity who has applied for, or whose right to participate in or receive, a payment, loan, loan guarantee, or other benefit in accordance with any program of an agency to which the regulations in this part apply is affected by a decision of such agency. The term does not include persons whose claim(s) arise under:

(1) Programs subject to various proceedings provided for in 7 CFR part 1;

(2) Programs governed by Federal contracting laws and regulations (appealable under other rules and to other forums, including to the Department's Board of Contract Appeals under 7 CFR part 24);

(3) The Freedom of Information Act (appealable under 7 CFR part 1, subpart A);

(4) Suspension and debarment disputes, including, but not limited to, those falling within the scope of 7 CFR parts 1407 and 3017;

(5) Export programs administered by the Commodity Credit Corporation;

(6) Disputes between reinsured companies and the Federal Crop Insurance Corporation;

(7) Tenant grievances or appeals prosecutable under the provisions of 7 CFR part 1944, subpart L, under the multi-family housing program carried out by RHS;

(8) Personnel, equal employment opportunity, and other similar disputes

with any agency or office of the Department which arise out of the employment relationship;

(9) The Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, or the Military Personnel and Civilian Employees Claims Act of 1964, 31 U.S.C. 3721;

(10) Discrimination complaints prosecutable under the nondiscrimination regulations at 7 CFR parts 15, 15a, 15b, 15e, and 15f; or

(11) Section 361, *et seq.*, of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1361, *et seq.*) involving Tobacco Marketing Quota Review Committees.

Record review means an appeal considered by the Hearing Officer in which the Hearing Officer's determination is based on the agency record and other information submitted by the appellant and the agency, including information submitted by affidavit or declaration.

Secretary means the Secretary of Agriculture.

§ 11.2 General statement.

(a) This part sets forth procedures for proceedings before the National Appeals Division within the Department. The Division is an organization within the Department, subject to the general supervision of and policy direction by the Secretary, which is independent from all other agencies and offices of the Department, including Department officials at the state and local level. The Director of the Division reports directly to the Secretary of Agriculture. The authority of the Hearing Officers and the Director of the Division, and the administrative appeal procedures which must be followed by program participants who desire to appeal an adverse decision and by the agency which issued the adverse decision, are included in this part.

(b) Pursuant to section 212(e) of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. 103–354 (the Act), 7 U.S.C. 6912(e), program participants shall seek review of an adverse decision before a Hearing Officer of the Division, and may seek further review by the Director, under the provisions of this part prior to seeking judicial review.

§ 11.3 Applicability.

(a) *Subject matter.* The regulations contained in this part are applicable to adverse decisions made by an agency, including, for example, those with respect to:

(1) Denial of participation in, or receipt of benefits under, any program of an agency;

(2) Compliance with program requirements;

(3) The making or amount of payments or other program benefits to a participant in any program of an agency; and

(4) A determination that a parcel of land is a wetland or highly erodible land.

(b) *Limitation.* The procedures contained in this part may not be used to seek review of statutes or USDA regulations issued under Federal Law.

§ 11.4 Inapplicability of other laws and regulations.

(a) Reserved.

(b) The Federal Rules of Evidence, 28 U.S.C. App., shall not apply to proceedings under this part.

§ 11.5 Informal review of adverse decisions.

(a) *Required informal review of FSA adverse decisions.* Except with respect to farm credit programs, a participant must seek an informal review of an adverse decision issued at the field service office level by an officer or employee of FSA, or by any employee of a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590h(b)(5), before NAD will accept an appeal of a FSA adverse decision. Such informal review shall be done by the county or area committee with responsibility for the adverse decision at issue. The procedures for requesting such an informal review before FSA are found in 7 CFR part 780. After receiving a decision upon review by a county or area committee, a participant may seek further informal review by the State FSA committee or may appeal directly to NAD under § 11.6(b).

(b) *Optional informal review.* With respect to adverse decisions issued at the State office level of FSA and adverse decisions of all other agencies, a participant may request an agency informal review of an adverse decision of that agency prior to appealing to NAD. Procedures for requesting such an informal review are found at 7 CFR part 780 (FSA), 7 CFR part 614 (NRCS), 7 CFR part 1900, subpart B (RUS), 7 CFR part 1900, subpart B (RBS), and 7 CFR part 1900, subpart B (RHS).

(c) *Mediation.* A participant also shall have the right to utilize any available alternative dispute resolution (ADR) or mediation program, including any mediation program available under title V of the Agricultural Credit Act of 1987, 7 U.S.C. 5101 *et seq.*, in order to attempt to seek resolution of an adverse decision of an agency prior to a NAD hearing. If a participant:

(1) Requests mediation or ADR prior to filing an appeal with NAD, the participant stops the running of the 30-day period during which a participant may appeal to NAD under § 11.6(b)(1), and will have the balance of days remaining in that period to appeal to NAD once mediation or ADR has concluded.

(2) Requests mediation or ADR after having filed an appeal to NAD under § 11.6(b), but before the hearing, the participant will be deemed to have waived his right to have a hearing within 45 days under § 11.8(c)(1) but shall have a right to have a hearing within 45 days after conclusion of mediation or ADR.

§ 11.6 Director review of agency determination of appealability and right of participants to Division hearing.

(a) *Director review of agency determination of appealability.* (1) Not later than 30 days after the date on which a participant receives a determination from an agency that an agency decision is not appealable, the participant must submit a written request personally signed by the participant to the Director to review the determination in order to obtain such review by the Director.

(2) The Director shall determined whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal, and will issue a final determination notice that upholds or reverses the determination of the agency. This final determination is not appealable. If the Director reverses the determination of the agency, the Director will notify the participant and the agency of that decision and inform the participant of his or her right to proceed with an appeal.

(3) The Director may delegate his or her authority to conduct a review under this paragraph to any subordinate official of the Division other than a Hearing Officer. In any case in which such review is conducted by such a subordinate official, the subordinate official's determination shall be considered to be the determination of the Director and shall be final and not appealable.

(b) *Appeals of adverse decisions.* (1) To obtain a hearing under § 11.8, a participant personally must request such hearing not later than 30 days after the date on which the participant first received notice of the adverse decision or after the date on which the participant receives notice of the Director's determination that a decision is appealable. In the case of the failure

of an agency to act on the request or right of a recipient, a participant personally must request such hearing not later than 30 days after the participant knew or reasonably should have known that the agency had not acted within the timeframes specified by agency program regulations, or, where such regulations specify no timeframes, not later than 30 days after the participant reasonably should have known of the agency's failure to act.

(2) A request for a hearing shall be in writing and personally signed by the participant, and shall include a copy of the adverse decision to be reviewed, if available, along with a brief statement of the participant's reasons for believing that the decision, or the agency's failure to act, was wrong. The participant also shall send a copy of the request for a hearing to the agency, and may send a copy of the adverse decision to be reviewed to the agency, but failure to do either will not constitute grounds for dismissal of the appeal. Instead of a hearing, the participant may request a record review.

(c) If a participant is represented by an authorized representative, the authorized representative must file a declaration with NAD, executed in accordance with 28 U.S.C. 1746, stating that the participant has duly authorized the declarant in writing to represent the participant for purposes of a specified adverse decision or decisions, and attach a copy of the written authorization to the declaration.

§ 11.7 Ex parte communications.

(a)(1) At no time between the filing of an appeal and the issuance of a final determination under this part shall any officer or employee of the Division engage in *ex parte* communications regarding the merits of the appeal with any person having any interest in the appeal pending before the Division, including any person in an advocacy or investigative capacity. This prohibition does not apply to:

(i) Discussions of procedural matters related to an appeal; or

(ii) Discussions of the merits of the appeal where all parties to the appeal have been given notice and an opportunity to participate.

(2) In the case of a communication described in paragraph (a)(1)(ii) of this section, a memorandum of any such discussion shall be included in the hearing record.

(b) No interested person shall make or knowingly cause to be made to any officer or employee of the Division an *ex parte* communication relevant to the merits of the appeal.

(c) If any officer or employee of the Division receives an *ex parte* communication in violation of this section, the one who receives the communication shall place in the hearing record:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses to such communications, and memoranda stating the substance of any oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section the Hearing Officer or Director may, to the extent consistent with the interests of justice and the policy of the underlying program, require the party to show cause why such party's claim or interest in the appeal should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

§ 11.8 Division hearings.

(a) *General rules.* (1) The Director, the Hearing Officer, and the appellant shall have access to the agency record of any adverse decision appealed to the Division for a hearing. Upon request by the appellant, the agency shall provide the appellant a copy of the agency record.

(2) The Director and Hearing Officer shall have the authority to administer oaths and affirmations, and to require, by subpoena, the attendance of witnesses and the production of evidence. A Hearing Officer shall obtain the concurrence of the Director prior to issuing a subpoena.

(i) A subpoena requiring the production of evidence may be requested and issued at any time while the case is pending before the Division.

(ii) An appellant or an agency, acting through any appropriate official, may request the issuance of a subpoena requiring the attendance of a witness by submitting such a request in writing at least 14 days before the scheduled date of a hearing. The Director or Hearing Officer shall issue a subpoena at least 7 days prior to the scheduled date of a hearing.

(iii) A subpoena shall be issued only if the Director or a Hearing Officer determined that:

(A) For a subpoena of documents, the appellant or the agency has established that production of documentary evidence is necessary and is reasonably calculated to lead to information which would affect the final determination or is necessary to fully present the case before the Division; or

(B) For a subpoena of a witness, the appellant or the agency has established that either a representative of the Department or a private individual possesses information that is pertinent and necessary for disclosure of all relevant facts which could impact the final determination, that the information cannot be obtained except through testimony of the person, and that the testimony cannot be obtained absent issuance of a subpoena.

(iv) The party requesting issuance of a subpoena shall arrange for service. Service of a subpoena upon a person named therein may be made by registered or certified mail, or in person. Personal service shall be made by personal delivery of a copy of the subpoena to the person named therein by any person who is not a party and who is not less than 18 years of age. Proof of service shall be made by filing with the Hearing Officer or Director who issued the subpoena a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service in person or by return receipts for certified or registered mail.

(v) A party who requests that a subpoena be issued shall be responsible for the payment of any reasonable travel and subsistence costs incurred by the witness in connection with his or her appearance and any fees of a person who serves the subpoena in person. The Department shall pay the costs associated with the appearance of a Department employee whose role as a witness arises out of his or her performance of official duties, regardless of which party requested the subpoena. The failure to make payment of such charges on demand may be deemed by the Hearing Officer or Director as sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(vi) If a person refuses to obey a subpoena, the Director, acting through the Office of the General Counsel of the Department and the Department of Justice, may apply to the United States District Court in the jurisdiction where that person resides to have the subpoena enforced as provided in the Federal Rules of Civil Procedure (28 U.S.C. App.).

(3) Testimony required by subpoena pursuant to paragraph (a)(2) of this section may, at the discretion of the Director or a Hearing Officer, be presented at the hearing either in person or telephonically.

(b) *Hearing procedures applicable to both record review and hearings.* (1) Upon the filing of an appeal under this part of an adverse decision by any

agency, the agency promptly shall provide the Division with a copy of the agency record. If requested by the applicant prior to the hearing, a copy of such agency record shall be provided to the appellant by the agency within 10 days of receipt of the request by the agency.

(2) The Director shall assign the appeal to a Hearing Officer and shall notify the appellant and agency of such assignment. The notice also shall advise the appellant and the agency of the documents required to be submitted under paragraph (c)(2) of this section, and notify the appellant of the option of having a hearing by telephone.

(3) The Hearing Officer will receive evidence into the hearing record without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made.

(c) *Procedures applicable only to hearings.* (1) Upon a timely request for a hearing under § 11.6(b), an appellant has the right to have a hearing by the Division on any adverse decision within 45 days after the date of receipt of the request for the hearing by the Division.

(2) The Hearing Officer shall set a reasonable deadline for submission of the following documents:

(i) By the appellant;

(A) A short statement of why the decision is wrong;

(B) A copy of any document not in the agency record that the appellant anticipates introducing at the hearing; and

(C) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(ii) By the agency:

(A) A copy of the adverse decision challenged by the appellant;

(B) A written explanation of the agency's position, including the regulatory or statutory basis therefor;

(C) A copy of any document not in the agency record that the agency anticipates introducing at the hearing; and

(D) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(3) Not less than 14 days prior to the hearing, the Division must provide the appellant, the authorized representative, and the agency a notice of hearing specifying the date, time, and place of the hearing. The hearing will be held in the State of residence of the appellant, as determined by the Hearing Officer, or at a location that is otherwise convenient to the appellant, the agency, and the Division. The notice also shall notify all parties of the right to obtain an official record of the hearing.

(4) Pre-hearing conference. Whenever appropriate, the Hearing Officer shall hold a pre-hearing conference in order to attempt to resolve the dispute or to narrow the issues involved. Such pre-hearing conference shall be held by telephone unless the Hearing Officer and all parties agree to hold such conference in person.

(5) Conduct of the hearing. (i) A hearing before a Hearing Officer will be in person unless the appellant agrees to a hearing by telephone.

(ii) The hearing will be conducted by the Hearing Officer in the manner determined by the Division most likely to obtain the facts relevant to the matter or matters at issue. The Hearing Officer will allow the presentation of evidence at the hearing by any party without regard to whether the evidence was known to the officer, employee, or committee of the agency making the adverse decision at the time the adverse decision was made. The Hearing Officer may confine the presentation of facts and evidence to pertinent matters and exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions. Any party shall have the opportunity to present oral and documentary evidence, oral testimony of witnesses, and arguments in support of the party's position; controvert evidence relied on by any other party; and question all witnesses. When appropriate, agency witnesses requested by the appellant will be made available at the hearing. Any evidence may be received by the Hearing Officer without regard to whether that evidence could be admitted in judicial proceedings.

(iii) An official record shall be made of the proceedings of every hearing. This record will be made by an official tape recording by the Division. In addition, either party may request that a verbatim transcript be made of the hearing proceedings and that such transcript shall be made the official record of the hearing. The party requesting a verbatim transcript shall pay for the transcription service, shall provide a certified copy of the transcript to the Hearing Officer free of charge, and shall allow any other party desiring to purchase a copy of the transcript to order it from the transcription service.

(6) Absence of parties. (i) If at the time scheduled for the hearing either the appellant or the agency representative is absent, and no appearance is made on behalf of such absent party, or no arrangements have been made for rescheduling the hearing, the Hearing Officer has the option to cancel the hearing unless the absent party has good cause for the failure to appear. If the Hearing Officer elects to cancel the hearing, the Hearing Officer may:

(A) Treat the appeal as a record review and issue a determination based on the agency record as submitted by the agency and the hearing record developed prior to the hearing date;

(B) Accept evidence into the hearing record submitted by any party present at the hearing (subject to paragraph (c)(6)(ii) of this section), and then issue a determination; or

(C) Dismiss the appeal.

(ii) When a hearing is cancelled due to the absence of a party, the Hearing Officer will add to the hearing record any additional evidence submitted by any party present, provide a copy of such evidence to the absent party or parties, and allow the absent party or parties 10 days to provide a response to such additional evidence for inclusion in the hearing record

(iii) Where an absent party has demonstrated good cause for the failure to appear, the Hearing Officer shall reschedule the hearing unless all parties agree to proceed without a hearing.

(7) Post-hearing procedure. The Hearing Officer will leave the hearing record open after the hearing for 10 days, or for such other period of time as the Hearing Officer shall establish, to allow the submission of information by the appellant or the agency, to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised at the hearing. Any such new information will be added by the Hearing Office to the hearing record and sent to the other party or parties by the submitter of the information. The Hearing Officer, in his or her discretion, may permit the other party or parties to respond to this post-hearing submission.

(d) *Interlocutory review*. Interlocutory review by the Director of rulings of a Hearing Officer are not permitted under the procedures of this part.

(e) *Burden of proof.* The appellant has the burden of proving that the adverse decision of the agency was erroneous by a preponderance of the evidence.

(f) *Timing of issuance of determination.* The Hearing Officer will issue a notice of the determination on the appeal to the named appellant, the authorized representative, and the agency not later than 30 days after a hearing or the closing date of the hearing record in cases in which the Hearing Officer receives additional evidence from the agency or appellant after a hearing. In the case of a record review, the Hearing Officer will issue a notice of determination within 45 days

of receipt of the appellant's request for a record review. Upon the Hearing Officer's request, the Director may establish an earlier or later deadline. A notice of determination shall be accompanied by a copy of the procedures for filing a request for Director review under § 11.9. If the determination is not appealed to the Director for review under § 11.9, the notice provided by the Hearing Officer shall be considered to be a notice of a final determination under this part.

§ 11.9 Director review of determinations of Hearing Officers.

(a) *Requests for Director review.* (1) Not later than 30 days after the date on which an appellant receives the determination of a Hearing Officer under § 11.8, the appellant must submit a written request, signed personally by the named appellant, to the Director to review the determination in order to be entitled to such review by the Director. Such request shall include specific reasons why the appellant believes the determination is wrong.

(2) Not later than 15 business days after the date on which an agency receives the determination of a Hearing Officer under § 11.8, the head of the agency may make a written request that the Director review the determination. Such request shall include specific reasons why the agency believes the determination is wrong, including citations of statutes or regulations that the agency believes the determination violates. Any such request may be made by the head of an agency only, or by a person acting in such capacity, but not by any subordinate officer of such agency.

(3) A copy of a request for Director review submitted under this paragraph shall be provided simultaneously by the submitter to each party to the appeal.

(b) *Notification of parties.* The Director promptly shall notify all parties of receipt of a request for review.

(c) *Responses to request for Director review.* Other parties to an appeal may submit written responses to a request for Director review within 5 business days from the date of receipt of a copy of the request for review.

(d) *Determination of Director.* (1) The Director will conduct a review of the determination of the Hearing Officer using the agency record, the hearing record, the request for review, any responses submitted under paragraph (c) of this section, and such other arguments or information as may be accepted by the Director, in order to determine whether the decision of the Hearing Officer is supported by substantial evidence. Based on such review, the Director will issue a final determination notice that upholds, reverses, or modifies the determination of the Hearing Officer. The Director's determination upon review of a Hearing Officer's decision shall be considered to be the final determination under this part and shall not be appealable. However, if the Director determines that the hearing record is inadequate or that new evidence has been submitted, the Director may remand all or a portion of the determination to the Hearing Officer for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing.

(2) The Director will complete the review and either issue a final determination or remand the determination not later than—

(i) 10 business days after receipt of the request for review, in the case of a request by the head of an agency; or

(ii) 30 business days after receipt of the request for review, in the case of a request by an appellant.

(3) In any case or any category of cases, the Director may delegate his or her authority to conduct a review under this section to any Deputy or Assistant Directors of the Division. In any case in which such review is conducted by a Deputy or Assistant Director under authority delegated by the Director, the Deputy or Assistant Director's determination shall be considered to be the determination of the Director under this part and shall be final and not appealable.

(e) *Equitable relief.* In reaching a decision on an appeal, the Director shall have the authority to grant equitable relief under this part in the same manner and to the same extent as such authority is provided an agency under applicable laws and regulations.

§ 11.10 Basis for determinations.

(a) In making a determination, the Hearing Officers and the Director are not bound by previous findings of facts on which the agency's adverse decision was based.

(b) In making a determination on the appeal, Hearing Officers and the Director shall ensure that the decision is consistent with the laws and regulations of the agency, and with the generally applicable interpretations of such laws and regulations.

(c) All determinations of the Hearing Officers and the Director must be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the **Federal Register** and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate under the applicable agency program laws and regulations.

§ 11.11 Reconsideration of Director determinations.

(a) Reconsideration of a determination of the Director may be requested by the appellant or the agency within 10 days of receipt of the determination. The Director will not consider any request for reconsideration that does not contain a detailed statement of a material error of fact made in the determination, or a detailed explanation of how the determination is contrary to statute or regulation, which would justify reversal or modification of the determination.

(b) The Director shall issue a notice to all parties as to whether a request for reconsideration meets the criteria in paragraph (a) of this section. If the request for reconsideration meets such criteria, the Director shall include a copy of the request for reconsideration in the notice to the non-requesting parties to the appeal. The non-requesting parties shall have 5 days from receipt of such notice from the Director to file a response to the request for reconsideration with the Director.

(c) The Director shall issue a decision on the request for reconsideration within 5 days of receipt of responses from the non-requesting parties. If the Director's decision upon reconsideration reverses or modifies the final determination of the Director rendered under § 11.9(d), the Director's decision on reconsideration will become the final determination of the Director under § 11.9(d) for purposes of this part.

§ 11.12 Effective date and implementation of final determinations of the Division.

(a) On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

(b) A final determination will be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable under the applicable agency program statutes or regulations.

§ 11.13 Judicial review.

(a) A final determination of the Division shall be reviewable and enforceable by any United States District Court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

(b) An appellant may not seek judicial review of any agency adverse decision appealable under this part without

receiving a final determination from the Division pursuant to the procedures of this part.

§ 11.14 Filing of appeals and computation of time.

(a) An appeal, a request for Director Review, or any other document will be considered ''filed'' when delivered in writing to the Division, when postmarked, or when a complete facsimile copy is received by the Division.

(b) Whenever the final date for any requirement of this part falls on a Saturday, Sunday, Federal holiday, or other day on which the Division is not open for the transaction of business during normal working hours, the time for filing will be extended to the close of business on the next working day.

(c) The time for filing an appeal, a request for Director review, or any other document expires at 5:00 p.m. local time at the office of the Division to which the filing is submitted on the last day on which such filing may be made.

§ 11.15 Participation of third parties and interested parties in Division proceedings.

In two situations, parties other than the appellant or the agency may be interested in participating in Division proceedings. In the first situation, a Division proceeding may in fact result in the adjudication of the rights of a third party, e.g., an appeal of a tenant involving a payment shared with a landlord, an appeal by one recipient of a portion of a payment shared by multiple parties, an appeal by one heir of an estate. In the second situation, a party may desire to receive notice of and perhaps participate in an appeal because of the derivative impact the appeal determination will have on that party, e.g., guaranteed lenders and reinsurance companies. The provisions in this section set forth rules for the participation of such third and interested parties.

(a) *Third parties.* When an appeal is filed, the Division shall notify any potential third party whose rights may be adjudicated of its right to participate as an appellant in the appeal. This includes the right to seek Director review of the Hearing Officer determination. Such third parties may be identified by the Division itself, by an agency, or by the original appellant. The Division shall issue one notice to the third party of its right to participate, and if such party declines to participate, the Division determination will be binding as to that third party as if it had participated. For purposes of this part, a third party includes any party for which a determination of the Division could lead to an agency action on implementation that would be adverse to the party thus giving such party a right to a Division appeal.

(b) *Interested parties.* With respect to a participant who is a borrower under a guaranteed loan or an insured under a crop insurance program, the respective guaranteed lender or reinsurance company having an interest in a participant's appeal under this part may participate in the appeal as an interested party, but such participation does not confer the status of an appellant upon the guaranteed lender or reinsurance company such that it may request Director review of a final determination of the Division.

Done at Washington, D.C., this 14th day of June 1999.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 99–15624 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AA85

Peanut Crop Insurance Regulations; and Common Crop Insurance Regulations, Peanut Crop Insurance Provisions; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; Correcting amendment.

SUMMARY: This document is a correction to the final rule which was published Tuesday, June 9, 1998 (63 FR 31331–31337). The regulation pertains to the insurance of peanuts.

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The regulation subject to this correction provided policy changes to better meet the needs of the insured and include the current Peanut Crop Insurance Regulations with the Common Crop Insurance Policy for ease of use and consistency of policy terms and conditions.

Need For Correction

As published, the final regulation contained an error which may prove to be misleading and is in need of clarification. Section 9(a)(3) of the Basic Provisions (§ 457.8) states that acreage which is not replanted in accordance with that subsection is not insurable. Section 9(a) of the crop provisions contained in § 457.134 provides that acreage of the insured crop damaged before the final planting date must be replanted unless FCIC agrees replanting is not practical. Section 14(d) states that total production to count from all insurable acreage on the unit will include all appraised and harvested production. Subsection (e)(1)(v) of that section, in turn, provides that appraised production will include acreage which is not replanted in accordance with the policy. The latter provision may cause confusion because it implies that such acreage is insurable in direct conflict with section 9(a). Furthermore, it is unnecessary because production to count is only calculated based on insurable acreage under section 14(d). This correction is consistent with other crop provisions providing for replanting payments.

List of Subjects in 7 CFR Part 457

Crop insurance, Peanut.

Accordingly, 7 CFR part 457 is corrected by making the following correcting amendment:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

§ 457.134 [Corrected]

2. Amend the crop provisions in § 457.134 to remove section 14(e)(1)(v) and revise section 14(e)(1)(iv) to read as follows:

14. Settlement of Claim.

* * * * *

(e) * * *

(1) * * *

(iv) For which you fail to provide production records that are acceptable to us.

* * * * *

Signed in Washington, DC, on June 16, 1999.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 99–15940 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Onion Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of onions. The intended effect of this action is to provide policy changes to better meet the needs of the insured by adding provisions that allow flexibility in setting stage guarantees, allow optional units by section, section equivalent or farm serial numbers, modify the termination date for one county in Oregon and one county in Washington, and reduce the production to count for ''damaged onions'' that are subsequently sold. The changes will be effective for the 2000 and subsequent crop years.

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: William Klein, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO, 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0053 through April 30, 2001.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of the insurance companies will not increase because the information used to determine eligibility must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. Additionally, the regulation does not require any action on the part of small entities than is required on the part of large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicate regulations and improve those that remain in force.

Background

On Thursday, February 18, 1999, FCIC published a notice of proposed rulemaking in the **Federal Register** at 63 FR 46706–46708 to revise 7 CFR 457.135, Onion Crop Insurance Provisions, effective for the 2000 and succeeding crop years.

Following publication of the proposed rule on February 18, 1999, the public was afforded 45 days to submit written comments and opinions. A total of 28 comments were received from 2 reinsured companies, an insurance service organization, a producer association, a county cooperative association, and an onion producer. The comments received and FCIC's responses are as follows:

Comment: A reinsured company expressed concern the proposed language for ''production guarantee'' states in part ''unless otherwise specified in the Special Provisions'' and likewise the language in the definition of ''unit division'' references type '' if the type is designated in the Special Provisions.'' The company stated that these references make it difficult to fully evaluate the proposed program. The commenter suggests FCIC take steps to make its intent known on the specifics of these issues.

Response: An important purpose of the Special Provisions is to allow modification of certain terms of the policy when such terms are not appropriate in certain counties because of farming practices used, the topography, soil conditions, climate, or other factors that may affect producers of the crop. This is especially important when a single policy is used nationwide. In this case, the stages included in the Crop Provisions are generally applicable to all areas but there may be a location where such amounts are not appropriate. This is the same for units by type. There are locations where such units are not appropriate.

Comment: A reinsured company and an insurance service organization

expressed concern that the proposed language for the definition of ''Production Guarantee'' and the description of stages in Section 3 do not provide enough stages for the crop. They recommend at least one to two additional stages be added. They state that this would better reflect the costs incurred by the producer and the applicable liability in effect. Specifically, they propose a first stage of 20 percent for seed onions and 40 percent for transplanted onions through the second leaf. They point out that additional stages will result in more gradual changes in the production guarantee. They also questioned why there is a 10 percent difference between seeded onions (70 percent) and transplanted onions (60 percent) in the second stage.

Response: FCIC believes that adding additional stages will not benefit the onion program. When establishing stages and stage guarantees, FCIC requested production costs from regions throughout the country. The production cost data and other agronomic and insurance considerations led FCIC to establish 3 stages rather than 2 or 4 stages, which were also considered. For seeded onions, data indicates a 20 percent production guarantee would probably be too low for most regions of the country. The proposed stage structure in this rule most accurately reflects the appropriate guarantees for most regions. By allowing flexibility in stage percentage guarantees in the Special Provisions, the percentage guarantee will take into account any regional differences. The primary reason for distinguishing between seeded and transplanted onions in the second stage (70 percent versus 60 percent) is that all transplanted onions are hand harvested. Hand harvesting is more expensive than machine harvesting. Onion data in budgets provided by agricultural colleges and our field offices consistently show harvest and harvest related expenses are approximately 40 percent for hand harvested production. With approximately 60 percent of the production costs incurred through the second stage, a 60 percent guarantee for onions that are hand harvested is appropriate. Therefore, no change has been made.

Comment: A reinsured company and an insurance service organization acknowledged providing for stage guarantees to be increased through the Special Provisions is intended to allow for regional differences, however, they expressed concern that allowing the stage percentages to be increased in this manner may backfire. They contend that probably no area will reduce the guarantee below 35 percent but they believe second stages might be significantly increased, perhaps to as high as 90 percent for the Northeast. The reinsured company contended even percentage guarantees as high as 70 percent in the second stage seem excessive when considering the lower input costs a producer has when the crop is lost early in that stage. In addition, the company stated that these high percentages could render CAT coverage more attractive and make it difficult to justify the purchase of buy-up coverage.

Response: While FCIC acknowledges the company's concern, allowing flexibility in stage guarantees through the Special Provisions enables FCIC to manage a diverse national program without creating multiple crop insurance policies on the same crop. Changes will only be made if justified by the cost data. The existing stages are also based on the best available cost data. It is possible that such cost will be incurred at different times during the stage depending on the producer but it is impossible to tailor the program so narrowly. Therefore no change has been made.

Comment: A grower association recommended that the definition of ''damaged onion production in section 1 include storage type onions that do not grade 85 percent U.S. No. 1 Jumbo or Colossal. They provided 5 years of data for a 5 county area that shows a pack out and shipping percentage of over 80 percent for Jumbo and larger onions. They claim that since the larger onions are much more profitable for them than smaller onions, the latter should be considered ''damaged onion production.'' Additionally, they recommended that the Special Provision statements for both damaged onion production and stage production guarantee percentages apply to only the five county area because this area is a unique onion producing area with the ability to track production.

Response: FCIC made a major improvement in the onion policy in 1998 when it went from ''field run'' to insuring only No. 1 onions. FCIC will consider the 5 county area recommended by the commenter. If sufficient data exists to justify a change, the Special Provisions in any applicable area(s) can be revised accordingly. While the policy definition of damaged production will not be changed based on the recommendation covering a limited area of the country, this provision could, as recommended by the onion grower's association, be modified in the Special Provisions. When FCIC considers areas for modification of the term ''damaged onion production'' through the Special Provisions, it will evaluate all areas with the ability to provide complete production and marketing data.

Comment: A reinsured company expressed concern with adding optional units by section, section equivalent or FSA number to the onion crop provisions due to the way the crop is handled, *ie.* when onions enter the pack shed, the production is often commingled during the sorting and packing process causing the production in many cases to lose its identity after it leaves the field. The commenter expressed concern that insureds may not maintain accurate production records making the addition of optional units harder to administer and, therefore it may not be in the long term best interest of the program.

Response: FCIC recognizes the concerns expressed. However, the additional effort that is required of producers to keep the damaged onion production separate does not warrant not allowing optional units by section, section equivalent, or FSA number. All onion production is routinely weighed prior to going into the pack shed and appraisals can be made at that time. FCIC insures a number of crops, including fresh market vegetables and sugar beets, that are delivered to a processor or packer and are insured on an optional unit basis and have not experienced significant problems with inability to determine production to count on a unit basis. Optional units by section, section equivalent or FSN is consistent with most other crops FCIC insures and provides opportunities for producers who only grow one type and have not previously qualified for optional units to now qualify for optional units on a section basis. Therefore, no change has been made.

Comment: A reinsured company suggested rates will need to increase substantially to address the accuracy of loss records that will result from adding optional units. They believe any inaccuracy will likely benefit the producer.

Response: FCIC disagrees the rates will need to increase substantially due to the addition of optional units by section, section equivalent or FSA number. As with other insurance policies, there will be a modest increase in rates due to additional unit exposure. It remains the insured's responsibility to timely report losses and maintain records of production on a unit basis. When the program is administered in a manner consistent with the crop policy and loss procedures, which require timely loss adjustment, the greatest

potential for risk due to commingling of unit production will be mitigated. In the event that commingling does occur, the optional units will be combined into the basic unit from which they came. There will be no benefit to the producer and therefore no change has been made.

Comment: A New York county cooperative association suggests that while the addition of optional units by section, section equivalent or FSN is a step in the right direction, in reality few if any onion producers will be able to take advantage of the change because a section is 640 acres and the average size onion farm in his county is a little over 100 acres and no one in the entire State of New York farms 1280 acres of yellow onions. The association recommends that producers be able to separately insure noncontiguous acreage that is 1 or more miles apart.

Response: Based on producer and company requests, FCIC included optional units by section in the proposed rule. It is not necessary to have a full 1,280 acres (two 640 acre sections) to be eligible for two optional units. To qualify for two optional units, the acreage planted to onions simply needs to be located in two separate sections, section equivalents or FSNs and meet the other unit division requirements. There are no minimum acreage requirements for optional units. Allowing optional units by section, section equivalent or FSN accomplishes the same thing as if optional units based on non contiguous land more than 1 mile apart were allowed. Therefore, no change has been made.

Comment: A western onion growers' association recommended that units be added for individual fields in addition to ownership, and color (yellow, red, and white). They claim that most producers in their association grow more than one field and could sustain significant damage to a field in one area and be ineligible for compensation if onions in another field offset the damage. The commenter states that since premium is being paid over all the acres, compensation should be based on the smallest feasible definable division, which would be an individual field, ie. each field should stand on its own and premium and loss compensation paid accordingly.

Response: This rule provides for optional units by section, section equivalent or FSN, which will benefit producers represented by this growers' association and others. Premium rates are established taking into account the unit structure for a crop. Field-by-field insurance would substantially increase rates, and could adversely affect program integrity. Therefore no change has been made.

Comment: A New York county cooperative association expressed dissatisfaction with the presence of stages in the onion crop policy. The comment contends that stage percentage guarantees exist in only 6 other crop insurance policies. While New York stages were set higher than the remainder of the country for this past crop year, the commenter was concerned that FCIC could always revert to the lower policy levels in the future. The commenter ''fundamentally rejects a Staged Production Guarantee as being arbitrary and unfair * * * it should either be in all policies or removed from all policies. * * *'' The commenter acknowledges that no other onion growing area has voiced opposition to the stage guarantees, but believes this is the result of onion producers in these areas not realizing how bad the MPCI policy is and that, in general, the onion industry does not have a cohesive and well financed lobby as do the program crops.

Response: Stages would not be appropriate for most row crops where a majority of the costs are incurred early in the growing season. Stages are generally utilized for high liability crops that have varied production costs throughout the season, particularly late in the season. Onions in most regions of the country have extensive production costs during mid-season and high harvest costs. Removal of stages that reflect cumulative production costs at various points during the season would result in significant premium rate increases. Flexibility in modifying stage guarantees through the Special Provisions is designed to allow the onion program to fit regional differences. FCIC will not lower the stage guarantee percentages unless they have cost of production evidence that supports lower stage percentage guarantees. Therefore, no change has been made.

Comment: A New York county cooperative association expressed concern that a staged production guarantee increases the loss threshold. The commenter believes that the statute requires a 50 percent production loss to qualify for CAT coverage. However, the commenter argues that with a staged guarantee the loss deductible for stage 1 is 82.5 percent and for stage 2, 65 percent and questions how this is legally justified.

Response: Section 508(b)(2)(B) of the Federal Crop Insurance Act specifically authorizes FCIC to reduce the indemnity paid that is proportional to the out-of-pocket costs not incurred by the producer. To accomplish this, the guarantees are adjusted to reflect costs not incurred. Therefore, no change has been made.

Comment: A New York county cooperative association expressed concern over the change in language in section 3(b)(1)(i), which the commenter believes has extended the stage 1 to the 4th leaf with the percentage of coverage remaining the same. The commenter believes that this change ignores the realities of the New York onion producers who have heavy front-end loaded production costs. Stage guarantees, the commenter maintains, are totally inappropriate for onions in New York and this change worsens an already bad provision in the policy.

Response: This rule did not affect when the second stage begins. The second stage begins under both the current provisions and for the proposed provisions with the emergence of the fourth leaf. The language in the current provisions regarding the first stage reads * * * through the emergence of the third leaf and the second stage begins with the emergence of the fourth leaf. The proposed rule language regarding the first stage reads * * * until the emergence of the fourth leaf and the second stage thus begins with the emergence of the fourth leaf. The only difference is between the words ''through'' and ''until'' which were changed as a result of comments that this would make the provision clearer. If the cost of production evidence is available to support an even higher first stage for New York producers, FCIC will make that percentage of coverage available for onion producers via the Special Provisions.

Comment: A New York county cooperative association cites section 3(b)(2) which reads ''the second stage extends, for all onions, from the end of the first stage until the acreage has been subjected to topping and lifting.'' The association contends that the final stage is of little value to New York onion producers, since ''this stage only exists for 3 to 4 days in August when the onions are drying in the field. The commenter states that since no farmer lifts and tops his onions when it looks like rain storm, it is safe to assume New York onion farmers will not collect 100 percent of this policy.'' The commenter states this circumstance violates the statutory language and intent of the program.

Response: FCIC disagrees that the third stage exists only for the 3–4 days while the onions are drying. Due to insurable damage, a significant percentage of harvested onions may not grade number 1 and consequently the

loss will result in an indemnity based on the final stage guarantee. FCIC acknowledges New York onions are normally dried for a shorter period of time than onions in other regions of the country. FCIC has significantly increased New York's second stage production guarantee in part to recognize the costs they have incurred up to harvesting the onions. FCIC is unaware of any provision in this proposed rule that violates either statutory language or the intent of the program.

Comment: A New York onion producer stated that as late as January, 1999, the New York onion producers were promised that stages, which they consider to be outrageous and fraudulent, would be removed when the Onion Crop Insurance Provisions proposed rule was published in the **Federal Register**. They were ''shocked'' to learn stage guarantees remained and that another key issue for them, production to count was even worse than before. In their opinion, the proposed rule will even further decrease the value of the MPCI onion policy. The commenter states that this will only weaken the ''safety net,'' which Secretary Glickman has repeatedly stated needs to be ''stitched stronger.''

Response: Stage guarantees are necessary in this policy in order to protect the integrity of the program and allow for affordable premium rates. Furthermore, there were no comments to the proposed rule from outside New York requesting that stages be removed. Adding provisions in section 1 to specify a different stage guarantee in the Special Provisions clearly benefits New York onion producers who have provided FCIC with cost data to justify higher first and second stage guarantees than contained in the policy. Further, as stated above, the production to count provisions have been greatly improved by allowing for quality adjustments that will reduce the production to count when ''damaged production'' as described in section 13(d) is subsequently sold. This change will benefit all onion producers. Units by section, section equivalent or FSN will also benefit New York onion producers who farm in more than one section or FSN. On balance, the producer safety net will be stronger under the amended onion policy than under the existing policy.

Comment: An onion growers' association maintains the price election is too low for their counties since outside of a loss year most of their onions grade Jumbo or Colossal. They claim the 5 year Jumbo price averaged $13.22 per cwt which translates to $8.22 for the producer. They state that the Colossals typically command an even higher price. The commenter argues that their price election for the 1999 crop year is $5.00, thus the price election needs to be raised.

Response: FCIC establishes the price for onions through the actuarial documents rather than in a regulation such as this. FCIC will consider this information for the 2000 and future crop years. Any change to the established price election for onion will be stated in the actuarial documents.

Comment: A grower's association recommended the percentage stage guarantees be raised in a five county area of the western United States to better reflect the producer's cost of production and that supporting stage language be slightly modified. They recommended that Stage 1 should be through the third leaf, and should have a guarantee of 60 percent. Further, the commenter suggested that the second stage should be ''up to topping and lifting'' and should have a guarantee of 90 percent. They provided a Yellow Onion Data Sheet and pointed out their stage guarantee recommendations are based on the land charge, management, general overhead, and one-half of the operating capital interest shifted into the first stage.

Response: FCIC welcomes producer data that helps establish the appropriate stage guarantee percentages for the various areas. This rule allows for stage percentage guarantees in the Special Provisions to modify the Crop Provisions in cases where this is warranted and FCIC will consider this information for future changes.

Comment: A western onion growers' association requested a more timely disclosure of their options once a loss has occurred. They do not believe that their agents and adjusters understand the policy sufficiently to advise them on all of their options, particularly as to whether to continue on with a damaged crop or to destroy the crop in the present stage. The association contends extensive producer investment requires the producer to be informed of all options.

Response: Producers, in an event of a loss, must be timely informed of all their options. FCIC requires companies to train their agents and loss adjusters and to provide a copy of the crop insurance provisions to each insured. Section 3(c) of the Crop Provisions now specifies when onions damaged in the first or second stage are deemed to be destroyed. FCIC also intends to provide additional guidelines in the loss procedures to further clarify when onions are deemed to have been destroyed. This should assist producers with their decision whether to continue to care for the crop.

Comment: A western onion growers' association asked for clarification of the provisions in section 3(c) that address onions damaged in the first or second stage to the extent that producers in the area would not normally further care for the crop. They would like to know how to determine when onions are ''deemed to be destroyed.''

Response: There are a number of criteria to be applied when determining whether producers in the area would normally continue to care for the crop. Such criteria includes whether the Extension Service considers continued care to be a good farming practice, whether the insured would make the same decision in the absence of insurance, etc. This criteria will be included in the loss adjustment procedure.

Comment: A reinsured company expressed concern over how to handle a peril that transcends stages, such as dry conditions that persist through the growing season. The commenter stated that such perils cause producer concern that they can never insure for the full value of the crop.

Response: Section 3(c) of the Onion Crop Provisions addresses this issue and states ''any acreage of onions damaged in the first or second stage, to the extent that producers in the area would not normally further care for the onions, will be deemed to have been destroyed even though you may continue to care for the onions.'' It further reads that the production guarantee for the acreage will not exceed the production guarantee for the stage in which the damage occurred. This language prevents insureds from continuing to care for a crop when it is not practical to do so, simply to advance the stage guarantee. The intent of the staged production guarantee is to generally cover the costs of production up to the time the onions are lost and not provide an indemnity for costs that have not been incurred. FCIC has routinely used stage guarantees for those crops that normally incur significant costs later in the growing season. Onions are another such crop and the use of stages makes the onion policy more affordable and results in a more manageable program. Therefore, no change has been made.

Comment: An insurance service organization expressed concern about moving the termination date one month later for one county in Oregon and one county in Washington. They claim that this results in different cancellation and termination dates for these counties. The commenter believes that this will

lead to difficulties. For example, transfers must be requested by the cancellation date, but if the previous carrier terminates the policy for non-payment of premium, the new carrier will have done a month's work on the policy only to have it terminated. The commenter states that the program is easier to administer when the cancellation and termination dates are the same. They suggested that the solution to avoid different cancellation and termination dates in these counties is to move the spring acreage reporting date to mid-May instead of June 30, allowing 60 days between billing and termination.

Response: While it is easier to administer the program when the cancellation and termination dates are the same, it is not always feasible. Several options were considered to provide insureds with a period of time greater than the current 30 days between billing and termination in these counties. Changing the termination date was the least disruptive. Several years ago the acreage reporting dates varied for spring crops in these counties. At the request of the companies operating in this area, a common acreage reporting date of June 30 was established for spring crops in these counties. Currently no crops with either a November 30 or December 31 cancellation date have an acreage reporting date earlier than June 30. It would be more disruptive and generate more work if there are separate acreage reporting dates. Therefore, no change has been made.

Comment: An insurance service organization recommended changing one of the criteria for replanting onions in section 11 from 7 percent of the final stage production guarantee to perhaps 10 or 20 percent because this would be easier to remember and easier for the loss adjuster to figure. The commenter would also like to see the same percentage for all or most crops. They also recommended minor language changes in this section to avoid repetition.

Response: The percentage of the final stage production guarantee (production guarantee in many crops) is based on the approximate cost of replanting. Seven percent of the final stage production guarantee is appropriate for onions. For lower liability crops, 10 or 20 percent may be more appropriate. Standardizing these percentages for all crops could result in a replant payment that is either too high or too low. The provisions in section 11 were expanded to cover all the criteria that must be considered when determining a replant payment. Previously, field personnel were confused because part of the criteria for replant payments was in the Basic Provisions and part in the Crop Provisions. FCIC believes this language makes the onion replant provisions clear. Therefore, no change has been made.

Comment: A New York county cooperative association takes exception with the language in section 13(d) that reads when ''damage to harvested or unharvested onion production exceeds the percentage shown in the Special Provisions for the type, no production will be counted for the unit or portion of a unit unless such damaged onion production from that acreage is sold. The association expressed concern that, if sold, the damaged onion production will be counted on a pound-per-pound basis regardless of the quality. The commenter points out that based on this language, any production grading less than number 1 including undersized onions, if sold, are counted on a pound-per-pound basis. The commenter suggests it would be more advantageous for the producer to dump these onions than to sell them at a substantially lower price. The commenter's short term solution is to either count number 1 onions only, or if the onions were sold at less than the price election, reduce the onion production to count by a quality adjustment factor which would be derived by dividing the dollar per hundred weight sold by the established market price.

Response: FCIC originally established this provision in response to producers who stated that onions from fields that sustained damage exceeding 50 percent that could not be separated in a cost effective manner and consequently could not be sold. They stated the normal practice is to destroy the onions in the field. Producers made the case that under these circumstances no onion production should be counted against them even though there were some undamaged onions in the field. In implementing this concept, FCIC must not pay a full crop insurance indemnity when producers harvest, sort, and sell the damaged onions. Therefore, the first sentence of section 13(d) will not be changed. However, FCIC accepts the commenter's recommendation to adjust the production to count based on the price received for the damaged onion production and has amended the second sentence in 13(d) as follows ''* * * If sold, the hundred weight of production to be counted will be adjusted by dividing the price received for the damaged onions by the price election and multiplying the resulting factor times the hundred weight sold.''

Comment: A New York county cooperative association contends ''production to count'' is a fundamental problem with this policy as well as other MPCI policies. The association contends it violates the statuary language and ''eviscerates'' the value of the indemnities. The commenter further maintains no other policies, whether private crop insurance or insurance for home, property, etc. contain a feature like production to count, which subtracts what the policy is not covering from what it is covering. They argue that the proposed onion policy actually makes the production to count provision worse than it was in the previous policy.

Response: FCIC has statutory requirements with respect to what percent of the value it can insure. Section 508(c)(4) of the Federal Crop Insurance Act (Act) authorizes FCIC to offer up to an 85 percent coverage level. At this time FCIC limits onions to a 75 percent coverage level. This results in a minimum deductible of 25 percent. If there were no production-to-count provisions, the legally-required deductible could be breached, resulting in the combined indemnity and producer-sold production exceeding the total value of the crop. This situation is called overinsurance. Even with homeowners and automobile insurance, there is usually a deductible that must be met before an indemnity is paid. In addition, a set value is placed on the home to prevent overinsurance. FCIC has revised section 13(d) of the policy to permit reduction of production to count for quality adjustment. This process is used in many other crop policies.

Comment: A New York county cooperative association recommended a modification to the way FCIC considers production-to-count. The commenter suggested that FCIC only count the percentage of producer ''salvaged production'' that exceeds the deductible. Under this plan, the production guarantee plus salvaged production could not exceed 100 percent of the approved actual production history (APH). The commenter states that the advantage is that this would enable a producer to reach 100 percent of their APH approved yield in a disaster year. They state that with expenses for growing onions consuming up to 60 percent of the farmer's gross income, the crop insurance policy must count damage towards the ''insured portion'' of the crop first. Further they claim that, this way, a producer can be assured in the event of loss that he will be able to at least cover all or a portion of his expenses, and then assess how much risk he is willing to accept. The

commenter maintains the current crop insurance policy ''guarantees a minimum loss'' if the producer collects on his insurance, because salvaged production counts as production to count. They state that with high production costs, producers do not need a ''guaranteed loss'' from the government. The producer does acknowledge this concept might make higher levels of coverage too expensive to offer but the commenter believes that producers would be more willing to accept the possibility of a loss from the weather rather than a guarantee of a loss from the government.

Response: There is no authority to adopt this recommendation. Under the Act, crop insurance only covers the loss in excess of the producer's deductible. Therefore, the guarantee can not exceed more than the coverage level times the APH. To operate a sound insurance program all production that is sold must be included as production to count. Under the policy as revised, all undamaged onions are included as production to count and the total production of damaged onions as defined in section 13(d), that are subsequently sold, are reduced by a factor determined by dividing the price received by the price they elected. Under the previous policy, such hundredweight of production was counted on a pound-per-pound basis. This is certainly a benefit to the producer.

Comment: A western onion growers' association recommended that the provisions in section 13(d) be modified because it is unfair to count all onions sold equally with no regard to reduction in price of the damaged onions.

Response: As discussed above and as the comment recommended, FCIC has amended the second sentence in 13(d) to allow adjustment of the production to count based on the reduced price for damaged onions.

Comment: An insurance service organization expressed concern about the language in section 13(d) that refers to ''* * * the percentage shown in the Special Provisions for the type.'' The commenter recognizes the language provides flexibility by type for geographical areas, but believes it would be simpler if the factor for ''damaged onions'' was standardized. In addition, the comment stated that loss adjusters would be able to use the factors more correctly and effectively if they were included in the crop's loss adjustment standards. The commenter suggested the following language ''* * * no production will be counted for that unit or portion of a unit if the production is destroyed in a manner acceptable to us.'' The comment stated that if the damaged production is sold, it would be counted on a pound-per-pound basis.

Response: It is not practical to include a single factor for all onions. The onion policy is used nationwide for different kinds of onions. The percentage that applies for any area and type is based on the percent of damage below which the onions normally cannot be sorted and sold. The percentage shown in the Special Provisions must be flexible to accommodate different situations. As stated above, FCIC has revised the provision regarding sold damaged production to permit a quality adjustment.

Comment: An insurance service organization recommended the prevented planting guarantee be changed to 30 percent of the final stage production guarantee for timely planted acreage instead of the current 45 percent. They contend that since the first stage guarantee for a loss is 35 percent, it doesn't seem appropriate to pay more than that for not planting. The commenter also questions whether the last sentence ''Additional prevented planting coverage levels are not available for onions'' is necessary. Instead, they recommend removing the current sentence that increased levels may be allowed in the actuarial documents. The commenter further recommends that the prevented planting guarantee should be based on a set dollar amount shown in the Special Provisions for all crops with prevented planting coverage. They contend that eligibility would be determined by subtracting this year's actual prevented planted acres for all insurable crops from the highest number of all insurable planted acres by crop year in the four prior Actual Production History (APH) years.

Response: When the prevented planting provisions were revised for the 1998 crop year, all preventing planting levels were raised 10 percent for the applicable crops including onions, which was raised from 35 percent to 45 percent. FCIC determined not to reduce the basic prevented planting coverage for onions, but determined that buy-up prevented planting (up to 55 percent of the final stage production guarantee) was not appropriate based on the economics of onions. Since other crops allow buy-up prevented planting, the last sentence in section 14 makes it clear that buy-up prevented planting is not available for onions. The commenter's recommendation to modify the way eligible prevented planting acreage is determined will be considered. However, not all crops are based on APH and basing a prevented planting payment on all insured crops, verses a single crop, would meet producer opposition. Therefore, no change has been made.

Comment: A New York county cooperative association cites the proposed rule language that reads in part ''the intended effect of this action (Onion Crop Insurance Provisions Proposed Rule) is to modify the existing policy so that it is actuarially sound and better meets the needs of the insureds.'' The association contends that the President and lawmakers have used the ''actuarially sound'' requirement as a justification to write valueless policies, and as a result the proposed onion policy changes do not meet the needs of insured onion producers.

Response: Foremost, the Federal Crop Insurance program is an insurance program. Therefore, the premium charged must cover the anticipated losses. FCIC must balance the need to create an affordable program with the need to provide meaningful coverage. This rule makes major strides toward meeting the needs of New York and other onion producers, by allowing flexibility in setting stage guarantees, adding optional units by section, section equivalent or FSN, and reducing the production to count by allowing a quality adjustment for ''damaged onions'' that are subsequently sold. We note that an actuarially sound policy includes a government subsidy approaching 50 percent. Since, overall indemnities paid by the Corporation exceed the premium paid by the producer, the program is hardly valueless.

Comment: A New York county cooperative association recommended an adjustment to the approved APH yield process. They recommended that if a county has been officially declared a disaster area, producers should be allowed to use the county average instead of their actual yield. They also suggested that with the disaster designation, the drop in the county yield should be cupped at 10 percent. They claim that this would lessen the effect of successive disaster years. The commenter states that under the current APH rules the producer's APH continues to drop drastically resulting in producers being unable to purchase an adequate amount of insurance.

Response: Actual Production History (APH) regulations are published at 7 C.F.R. Subpart G. Changes to APH cannot be considered in this regulation. Therefore, no change has been made in the Onion Crop Insurance Provisions.

In addition to the changes described above, FCIC has made minor editorial changes.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule must be effective prior to the June 30 contract change date to be effective for the 2000 crop year. Therefore, public interest requires the agency to act immediately to make these provisions available.

List of Subjects in 7 CFR Part 457

Crop insurance, Onion.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends the Common Crop Insurance Regulations (7 CFR part 457) by amending 7 CFR 457, for the 2000 and succeeding crop years, to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Revise the introductory text to section 457.135 to read as follows:

§ 457.135 Onion Crop Insurance Provisions.

The onion crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

§ 457.135 Onion Crop Insurance Provisions.

a. Amend section 1 of the Onion Crop Provisions to add definitions for ''direct seeded'' and ''transplanted'' and to revise the definition of ''production guarantee (per acre)'' as follows:

1. Definitions.

* * * * *

Direct seeded. Placing onion seed by machine or by hand at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

* * * * *

Production Guarantee (per acre):

(a) First stage production guarantee—Thirty-five percent (35%) of the final stage production guarantee for direct seeded storage and non-storage onions and 45 percent of the final stage production guarantee for transplanted storage and non-storage onions, unless otherwise specified in the Special Provisions.

(b) Second stage production guarantee—Seventy percent (70%) of the final stage production guarantee for direct seeded storage onions and 60 percent of the final stage production guarantee for transplanted storage onions and all non-storage onions, unless otherwise specified in the Special Provisions.

* * * * *

Transplanted. Placing of the onion plant or bulb, by machine or by hand at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

* * * * *

b. Revise Section 2 of the Onion Crop Provisions to read as follows:

2. Unit Division.

In addition to, or instead of, establishing optional units as provided in section 34 of the Basic Provisions, optional units may be established by type, if the type is designated in the Special Provisions.

* * * * *

c. Revise sections 3(b)(1) and (2) of the Onion Crop Provisions to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

* * * * *

(b) * * *

(1) First stage extends:

(i) For direct seeded storage and non-storage onions, from planting until the emergence of the fourth leaf; and

(ii) For transplanted storage and non-storage onions, from transplanting of onion plants or sets through the 30th day after transplanting.

(2) Second stage extends:

(i) For direct seeded storage and non-storage onions, from the emergence of the fourth leaf; and

(ii) For transplanted storage and non-storage onions, from the 31st day after transplanting.

* * * * *

d. Revise section 5 of the Onion Crop Provisions to read as follows:

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State & County	Termination Date	Cancellation Date
All Georgia Counties; Kinney, Uvalde, Medina, Bexar, Wilson, Karnes, Bee, and San Patrico Counties, Texas, and all Texas Counties lying south thereof.	August 31	August 31.
Umatilla County, Oregon; and Walla Walla County, Washington.	August 31	September 30.
All other states and counties.	February 1	February 1.

e. Revise section 11(b) of the Onion Crop Provisions to read as follows:

11. Replanting Payment.

* * * * *

(b) The maximum amount of the replanting payment per acre will be your actual cost for replanting, but will not exceed the lesser of:

(1) 7 percent of the final stage production guarantee multiplied by your price election for the type originally planted and by your insured share; or

(2) 18 hundredweight multiplied by your price election for the type originally planted and by your insured share.

* * * * *

f. Revise section 13(d) of the Onion Crop Provisions to read as follows:

13. Settlement of Claim.

* * * * *

(d) If the damage to harvested or unharvested onion production exceeds the percentage shown in the Special Provisions for the type, no production will be counted for that unit or portion of a unit unless such damaged onion production from that acreage is sold. If sold, the hundredweight of production to be counted will be adjusted by dividing the price received for the damaged onion production by the price election and multiplying the resulting factor times the hundredweight sold.

* * * * *

g. Revise section 14 of the Onion Crop Provisions to read as follows:

14. Prevented planting.

Your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. Additional prevented planting coverage levels are not available for onions.

Signed in Washington, D.C., on June 18, 1999.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 99–15941 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 208, 240, 246, 274a and 299

[INS No. 1915–98; AG Order No. 2224–99]

RIN 1115–AF14

Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries

AGENCY: Immigration and Naturalization Service and Executive Office for Immigration Review, Justice.

ACTION: Correction to interim rule.

SUMMARY: This document contains corrections to the interim regulation, published Friday, May 21, 1999 at 64 FR 27856, relating to section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA).

EFFECTIVE DATE: June 21, 1999.

FOR FURTHER INFORMATION CONTACT: For matters relating to the Immigration and Naturalization Service; Joanna Ruppel, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, ULLICO Bldg., third floor, Washington, DC 20536, telephone number (202) 305–2663. For matters relating to the Executive Office for Immigration Review: Chuck Adkins-Blanch, Acting General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone number (703) 305–0470.

SUPPLEMENTARY INFORMATION:

Background

The interim rule that is the subject of this correction implements section 203 of NACARA. It amends the Department of Justice regulations by offering certain beneficiaries of section 203 of NACARA who currently have asylum applications pending with the Immigration and Naturalization Service (Service), and their qualified dependents, the option of applying to the Service for suspension of deportation or cancellation of removal under the statutory requirements set forth in NACARA (''special rule cancellation of removal'').

Need for Correction

As published, the interim rule contains an omission in § 240.64(d)(1) and must be amended. Section 240.64(d)(1) provides that ''[a]n applicant described in paragraphs (a)(1) or (a)(2) of § 240.61 who has submitted a completed Form I–881 to either the Service or the Immigration Court shall be presumed to have established that deportation or removal from the United States would result in extreme hardship to the applicant or to his or her spouse, parent, or child, who is a United States citizen or an alien lawfully admitted for a permanent residence.'' Certain applicants who are entitled to the presumption may already have filed with EOIR an application for relief under section 203 of NACARA using EOIR Form-40. Under § 240.63(a) of the interim rule, certain applicants who submitted to EOIR a completed Form EOIR–40, Application for Suspension of Deportation, before the effective date of the Form I–881 may apply with the Service by submitting the completed Form EOIR–40 attached to a completed first page of the Form I–881. Furthermore, § 240.63(b) of the interim rule provides that if jurisdiction rests with the Immigration Court under § 260.62(b) of the interim rule, applications for suspension of deportation or special rule cancellation of removal filed prior to June 21, 1999 shall be filed on form EOIR–40. Accordingly, the language of § 240.64(d)(1) mut be amended to include the Form EOIR–40.

Corrections

§ 240.64(d) [Corrected]

1. On page 27878, in the second column, in § 240.64(d)(1), the phrase ''who has submitted a completed Form I–881 to either the Service or the Immigration Court'' is corrected to read ''who has submitted a completed Form I–881 or Form EOIR–40 to either the Service or the Immigration Court, in accordance with § 240.63.''

Dated: June 17, 1999.

Rosemary Hart,

Federal Register Liaison Officer.

[FR Doc. 99–15881 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–11–AD; Amendment 39–11202; AD 99–13–08]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that currently requires inspections to detect cracking and other discrepancies of certain web-to-cap fasteners of the rear spar between inner wing stations 310 and 343, and of the web area around those fasteners; and various follow-on actions. That AD also provides for an optional modification, which, if accomplished, would defer the initiation of the inspections for a certain period of time. This amendment requires accomplishment of the previously optional modification. This amendment is prompted by an FAA determination that the optional terminating modification specified in the existing AD must be accomplished within a specified period of time to ensure an acceptable level of safety of the affected fleet. The actions specified by this AD are intended to prevent fatigue cracking in the web of the rear spar of the wing, which could result in failure of the rear spar of the wing and consequent fuel spillage.

DATES: Effective July 28, 1999.

The incorporation by reference of Lockheed L–1011 Service Bulletin 093–57–218, dated April 11, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 27, 1996 (61 FR 29642, June 12, 1996).

The incorporation by reference of certain other publications, as listed in the regulations, is approved by the Director of the Federal Register as of July 28, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) by superseding AD 96–12–24, amendment 39–9667 (61 FR 29642, June 12, 1996), which is applicable to all Lockheed Model L–1011–385 series airplanes, was published in the **Federal Register** on November 25, 1997 (62 FR 62728). The action proposed to continue to require inspections to detect cracking and other discrepancies of certain web-to-cap fasteners of the rear spar between inner wing stations 310 and 343, and of the web area around those fasteners; and various follow-on actions. That action also proposed to require accomplishment of a previously optional modification.

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Clarify the Inspection Requirements

One commenter requests clarification of the subsequent inspections required by the proposed AD. The commenter states that the proposed AD does not clearly address the subsequent inspection program for Model L–1011–385–3 series airplanes that have accomplished the rear spar modification for extensive cracking ''after June 27, 1996,'' because paragraph (a)(2) of the proposed AD only addresses spar replacements accomplished ''prior to June 27, 1996.''

The FAA points out that the inspection thresholds in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996 (which is referenced in the final rule as the appropriate source of service information), are calculated from the date of accomplishment of Lockheed Service Bulletin 093–57–215, dated April 11, 1996. In addition, the FAA considers that paragraph (e)(2) of the final rule adequately addresses the inspection requirements for operators that have accomplished the modification in accordance with Service Bulletin 093–57–215. No change has been made to paragraph (a)(2) of the final rule.

Request for Additional Inspections and a Reduced Inspection Threshold

One commenter requests revising the proposed AD to include additional inspections for detecting cracks that originate in the fastener holes, and to shorten the inspection thresholds after accomplishment of the cold working modification. The commenter adds that it recommends accomplishment of the modification as required by the proposed AD; however, the commenter does not consider that the modification should be used for complete reliance for crack prevention. Following accomplishment of the modification, the commenter recommends that certain other inspections of the wing rear spar web and upper cap be added to the inspection requirements of the proposed AD. The commenter suggests adding surface scan inspections using high frequency eddy current techniques, and ring probe inspections using low frequency eddy current techniques. The commenter also recommends that, instead of accomplishing the inspections at 5,000 landings, the inspections be accomplished at 500 flight cycles following the cold working modification.

The commenter states that its recommendations are based on its service experience and a damage tolerance assessment (DTA). The commenter also states that, after modifying its entire fleet of Model L–1011–385–3 series airplanes in accordance with paragraph (d) of the proposed AD, subsequent cracking was found before 5,000 landings. The commenter adds that its service experience indicates that new or recurring cracks occur within 500 to 1,000 flight cycles after repair of the upper spar cap. In addition, half-crack lengths of approximately 0.25 inch were found during subsequent inspections, and a DTA of the area indicates that inspections at 500 flight cycles are required to ensure aircraft safety, regardless of the cold working condition.

The FAA does not concur that additional inspections should be included in the final rule, or that the inspection threshold of 5,000 landings, as required by paragraphs (d) and (e)(1) of the proposed AD, should be reduced to 500 landings. The FAA considers it is likely that other factors induced the early cracking found in the operator's airplane, and that the 5,000-flight-cycle threshold required by the proposed AD is an adequate inspection threshold after accomplishment of the fastener hole cold working. The FAA points out that it will continue to monitor service findings of modified airplanes and may revise the inspection requirements in the future, if necessary. However, no changes were made to the inspection thresholds required by paragraph (d) or (e)(1) of the final rule.

Explanation of Changes Made to This Final Rule

The notice of proposed rulemaking (NPRM) references Lockheed Service Bulletin 093–57–212, dated November 14, 1994, as amended by Change Notification CN1, dated September 27, 1995, as an appropriate source of service information for accomplishment of the modifications specified in paragraphs (f)(1) and (f)(2) of the NPRM. The FAA finds that the procedures in Service Bulletin 093–57–212 are no longer necessary because the procedures included in the other service bulletins cited in those paragraphs are adequate for accomplishment of the actions required by this AD. The references to that service bulletin have been removed from the final rule.

Although the NPRM includes references to certain Change Notifications for a number of service bulletins, the FAA has determined that it is unnecessary to include those references in the final rule. The FAA points out that the Change Notifications did not include any substantive changes to the service bulletins, and that such change notifications included only minor editorial changes or clarification of certain data. The FAA has determined that the service bulletins referenced in the final rule include all of the procedures necessary for accomplishment of the actions required by this AD. In light of this, references to the Change Notifications were deleted from the final rule.

Although the NPRM did not include references to certain earlier revision levels of Lockheed Service Bulletins 093–57–184, 093–57–196, and 093–57–203, the FAA has determined that references to those earlier revision levels should be included in the final rule to give credit to any operator that may have accomplished the modification previously in accordance with those service bulletins. In light of this, the FAA has included references to those earlier service bulletins in NOTE 2, NOTE 3, and NOTE 4 of this AD. The FAA considers that the service bulletins referenced in those notes are adequate for specifying the procedures necessary for accomplishment of the actions required by this AD.

The FAA has added Lockheed Service Bulletin 093–57–203, Revision 4, dated March 27, 1995, to paragraph (e)(1) of this AD as an additional reference for the accomplishment of the rear spar modification.

In paragraph (g) of this AD, the FAA has added the word ''discrepant'' preceding the word ''fasteners'' in the parenthetical phrase. This word was

added to clarify that one of the conditions to be identified during the required modification is for ''discrepant fasteners'' rather than just ''fasteners.''

Conclusion

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

Cost Impact

There are approximately 235 Lockheed Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 96–12–24, and retained in this AD, take approximately 13 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $91,260, or $780 per airplane.

The actions that are required by this new AD will take approximately 100 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $702,000, or $6,000 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9667 (61 FR 29642, June 12, 1996), and by adding a new airworthiness directive (AD), amendment 39–11202, to read as follows:

99–13–08 Lockheed: Amendment 39–11202. Docket 97–NM–11–AD. Supersedes AD 96–12–24, Amendment 39–9667.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h)(1) 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 fatigue cracking on the web of the rear spar of the wing, which could result in failure of the rear spar of the wing and consequent fuel spillage, accomplish the following:

Restatement of Actions Required by AD 96–12–24, Amendment 39–9667

(a) Perform a visual inspection to detect signs of cracking and other discrepancies (i.e., corrosion, fastener looseness, nicks, scratches, or other surface damage) of the web-to-cap fasteners of the rear spar between inner wing stations (IWS) 310 and 343, as specified in Figure 2 of Lockheed Service Bulletin 093–57–218, dated April 11, 1996, or Revision 1, dated September 9, 1996; and of the web area around those fasteners; in accordance with Part I of the Accomplishment Instructions of that service bulletin. Perform the inspection at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(1) Except as provided by paragraph (a)(2) of this AD: Perform the initial inspection prior to the accumulation of the number of landings specified as the ''inspection threshold'' in Table I of Lockheed Service Bulletin 093–57–218, dated April 11, 1996, or Revision 1, dated September 9, 1996, or within 10 days after June 27, 1996 (the effective date of AD 96–12–24, amendment 39–9667), whichever occurs later.

(2) For airplanes on which the wing rear spar has been modified prior to June 27, 1996, in accordance with one of the Lockheed service bulletins listed in paragraph (a)(2)(ii) of this AD, accomplish the inspection as follows:

(i) Perform the initial inspection prior to the accumulation of the number of landings specified as the ''inspection threshold'' in Table I of Lockheed Service Bulletin 093–57–218, dated April 11, 1996, or Revision 1, dated September 9, 1996, calculated from the time the wing rear spar was modified (rather than from the date of manufacture of the airplane), or within 10 days after June 27, 1996, whichever occurs later.

(ii) This paragraph applies to airplanes on which the wing rear spar has been modified in accordance with one of the following service bulletins:

- Lockheed Service Bulletin 093–57–184, Revision 6, dated October 28, 1991, or Revision 7, dated December 6, 1994; or
- Lockheed Service Bulletin 093–57–196, Revision 5, dated October 28, 1991, or Revision 6, dated December 6, 1994; or
- Lockheed Service Bulletin 093–57–203, Revision 3, dated October 28, 1991, or Revision 4, dated March 27, 1995; or
- Lockheed Service Bulletin 093–57–215, dated April 11, 1996.

(b) If no sign of cracking or other discrepancy is found during the inspection required by paragraph (a) of this AD, repeat that inspection thereafter at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of Lockheed Service Bulletin 093–57–218, dated April 11, 1996, or Revision 1, dated September 9, 1996.

(c) If any sign of cracking is found during an inspection required by paragraph (a) or (b) of this AD, prior to further flight, perform either eddy current surface scan inspections, or bolt hole eddy current inspections, as appropriate, to confirm cracking, in accordance with Lockheed Service Bulletin 093–57–218, dated April 11, 1996, or Revision 1, dated September 9, 1996.

(1) If no cracking is confirmed, repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of the service bulletin.

(2) If any cracking is confirmed, prior to further flight, repair it in accordance with the service bulletin.

New Requirements of This AD

Modification

(d) Except as provided by paragraph (e) or (f) of this AD, as applicable: Within 12 months after the effective date of this AD, modify the web-to-cap fastener holes of the rear spar between IWS 299 and IWS 343 in accordance with Part II of the Accomplishment Instructions of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996. Within 5,000 landings following accomplishment of the modification, perform the visual inspection required by paragraph (a) of this AD. Thereafter, repeat that inspection at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996.

(e) For Model L–1011–385–3 series airplanes: Accomplishment of the modification specified in paragraph (e)(1) or (e)(2) of this AD, within 12 months after the effective date of this AD, constitutes an acceptable alternative to the modification specified in paragraph (d) of this AD.

(1) Modify the upper and lower caps of the rear spar between IWS 228 and IWS 346 in accordance with Part I of the Accomplishment Instructions of Lockheed Service Bulletin 093–57–203, Revision 3, dated October 28, 1991; or Revision 4, dated March 27, 1995. Within 5,000 landings following accomplishment of the modification, perform the visual inspection required by paragraph (a) of this AD. Thereafter, repeat that inspection at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996. Or

(2) Modify the left and right wing rear spars in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–215, dated April 11, 1996. Within the thresholds specified in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996 (calculated from the date of installation of Lockheed Service Bulletin 093–57–215, dated April 11, 1996), perform the visual inspection required by paragraph (a) of this AD. Thereafter, repeat that inspection at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996.

Note 2: Accomplishment of the modification of the upper and lower caps of the rear spar between IWS 228 and IWS 346, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–203, dated July 25, 1988, Revision 1, dated August 11, 1989, or Revision 2, dated January 25, 1991, is considered acceptable for compliance with the modification specified in paragraph (e)(1) of this amendment.

(f) For Model L–1011–385–1 series airplanes: Accomplishment of the modification specified in paragraph (f)(1) or (f)(2) of this AD, within 12 months after the effective date of this AD, constitutes an acceptable alternative to the modification specified in paragraph (d) of this AD.

(1) Modify the inboard and outboard rear spars in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–184, Revision 6, dated October 28, 1991; or Revision 7, dated December 6, 1994. Within the thresholds specified in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996 (calculated from the date of installation of Lockheed Service Bulletin 093–57–184, Revision 6, dated October 28, 1991, or Revision 7, dated December 6, 1994), perform the visual inspection required by paragraph (a) of this AD. Thereafter, repeat that inspection at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996. Or

(2) Modify the inboard and outboard rear spars in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–196, Revision 5, dated October 28, 1991; or Revision 6, dated December 6, 1994. Within the thresholds specified in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996 (calculated from the date of installation of Lockheed Service Bulletin 093–57–196, Revision 5, dated October 28, 1991, or Revision 6, dated December 6, 1994), perform the visual inspection required by paragraph (a) of this AD. Thereafter, repeat that inspection at intervals not to exceed the number of landings specified as the ''repeat visual inspection interval'' in Table I of Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996.

Note 3: Accomplishment of the modification of the inboard and outboard rear spars, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–184, Revision 2, dated October 12, 1988; Revision 3, dated August 11, 1989, Revision 4, dated May 16, 1990; or Revision 5, dated May 23, 1990, is considered acceptable for compliance with the modification specified in paragraph (f)(1) of this amendment.

Note 4: Accomplishment of the modification of the inboard and outboard rear spars, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–196, Revision 1, dated October 25, 1988; Revision 2, dated July 31, 1989; Revision 3, dated March 7, 1990; or Revision 4, dated July 1, 1991, is considered acceptable for compliance with the modification specified in paragraph (f)(2) of this amendment.

(g) If any condition (i.e., number of discrepant fasteners per stiffener bay, or cracking) is identified during the accomplishment of the modification specified in Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996, and that condition exceeds the limits specified in paragraph B.(3) of Part II of the Accomplishment Instructions of the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

Alternative Method of Compliance

(h)(1) 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, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(h)(2) Alternative methods of compliance, approved previously in accordance with AD 96–12–24, amendment 39–9667, are approved as alternative methods of compliance with paragraph (d) of this AD.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

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

Incorporation by Reference

(j) Except as provided by paragraph (g) of this AD, the actions shall be done in accordance with the following service bulletins, as applicable:

- Lockheed Service Bulletin 093–57–184, Revision 6, dated October 28, 1991; or Lockheed Service Bulletin 093–57–184, Revision 7, dated December 6, 1994;
- Lockheed Service Bulletin 093–57–196, Revision 5, dated October 28, 1991; or Lockheed Service Bulletin 093–57–196, Revision 6, dated December 6, 1994;
- Lockheed Service Bulletin 093–57–203, Revision 3, dated October 28, 1991; or Lockheed Service Bulletin 093–57–203, Revision 4, dated March 27, 1995;
- Lockheed Service Bulletin 093–57–215, dated April 11, 1996; and
- Lockheed Service Bulletin 093–57–218, dated April 11, 1996; or Lockheed Service Bulletin 093–57–218, Revision 1, dated September 9, 1996.

Revision 1 of Lockheed Service Bulletin 093–57–218 contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 2, 4–9, 13–18.	1	Sept. 9, 1996.
3, 10–12, 19 ..	Original ..	Apr. 11, 1996.

(1) The incorporation by reference of Lockheed Service Bulletin 093–57–218, dated April 11, 1996, was approved previously by the Director of the Federal

Register as of June 27, 1996 (61 FR 29642, June 12, 1996).

(2) The incorporation by reference of the remainder of the service bulletins listed above is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Copies may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment becomes effective on July 28, 1999.

Issued in Renton, Washington, on June 15, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15779 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–116–AD; Amendment 39–11198; AD 99–13–05]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 777 series airplanes. This action requires repetitive inspections to detect cracking of the upper cutout and lower flange of the outboard support assembly of the flaperons on the wings; and corrective actions, if necessary. This amendment also provides an optional terminating action for the repetitive inspections. This amendment is prompted by results of flight testing conducted by the manufacturer indicating that high engine thrust conditions during takeoff cause excessive cyclic loads and could lead to fatigue cracking of the outboard support of the flaperon. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in fracture of the flaperon support structure, loss of the flaperon, and consequent reduced controllability of the airplane.

DATES: Effective July 8, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 8, 1999.

Comments for inclusion in the Rules Docket must be received on or before August 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–116–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: Results of flight testing of the Boeing Model 777 series airplane indicate that high engine thrust conditions during takeoff cause excessive cyclic loads on the flaperon support structure of the flaperons on the left and right wings. Based on engineering analysis of the flaperon support structure, it was determined that due to the reduced fatigue life of the affected parts, fatigue cracks could develop on the outboard support of the flaperons. For airplanes powered by Rolls-Royce engines, it was determined that fatigue cracks could occur prior to the accumulation of 4,000 total flight cycles; and for airplanes powered by General Electric and Pratt & Whitney engines, fatigue cracks could occur prior to the accumulation of 10,000 total flight cycles. Such fatigue cracking of the outboard support of the flaperons, if not detected and corrected, could result in fracture of the flaperon support structure, loss of the flaperon, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999, which describes procedures for accomplishment of repetitive high frequency eddy current (HFEC) inspections to detect cracking of the upper cutout and lower flange of the outboard support assembly of the flaperons on the left and right wings; and corrective actions, if necessary. The corrective actions include modification of the fairings of the outboard flaperon; modification of the lower panels of the fixed trailing edge of the outboard flaperon; replacement of the existing outboard support, the outboard support bearing block, and the upper panel bracket of the fixed trailing edge of the flaperons on each wing with new components; and an operational test to detect fuel leakage.

In addition, the service bulletin describes procedures for accomplishment of modification of the inboard aft fairing assembly of the flaperons to be accomplished concurrently with the modification of the outboard support assemblies. These procedures include modification of the aft fairing of the inboard support and replacement of the existing inboard support bearing block with a new block.

Accomplishment of the modifications described previously eliminates the need for the repetitive inspections.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking of the outboard support assembly of the flaperons on each wing, which could result in fracture of the flaperon support structure, loss of the flaperon, and consequent reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below. In addition, this AD provides an optional terminating action for the repetitive inspections.

Differences Between This Rule and Alert Service Bulletin

The alert service bulletin specifies that the manufacturer may be contacted for disposition of certain cracking conditions, in lieu of accomplishment of the terminating action. However, if any cracking is detected, this AD requires accomplishment of the terminating action prior to further flight.

The alert service bulletin specifies that certain corrective actions required by this AD may be accomplished in accordance with the Airplane Maintenance Manual or an operator's ''equivalent procedure.'' However, this AD requires that any such actions be

accomplished only in accordance with the procedures specified in the Airplane Maintenance Manual. An ''operator's equivalent procedure'' may be used only if approved as an alternative method of compliance in accordance with the provisions of this AD.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring modification of the outboard and inboard support assemblies of the flaperons, as described in the alert service bulletin, which would constitute terminating action for the repetitive inspections required by this AD. However, the planned compliance time for these actions is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–116–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–13–05 Boeing: Amendment 39–11198. Docket 99–NM–116–AD.

Applicability: Model 777 series airplanes, as listed in Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999; 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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the outboard support of the flaperon, which could result in fracture of the flaperon support structure, loss of the flaperon, and consequent reduced controllability of the airplane; accomplish the following:

Repetitive Inspections

(a) Perform high frequency eddy current (HFEC) inspections to detect fatigue cracking of the upper cutout and lower flange of the outboard support assembly of the flaperons on the left and right wings, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes identified as Group 1 in the alert service bulletin: Perform HFEC inspections prior to the accumulation of 10,000 total flight cycles, or within 225 flight cycles after the effective date of this AD, whichever occurs later. Repeat the inspections thereafter at intervals not to exceed 225 flight cycles.

(2) For airplanes identified as Group 2 in the alert service bulletin: Perform HFEC inspections prior to the accumulation of 4,000 total flight cycles, or within 70 flight cycles after the effective date of this AD, whichever occurs later. Repeat the inspections thereafter at intervals not to exceed 70 flight cycles.

Corrective Action

(b) If any fatigue cracking is detected during any inspection required by paragraph (a) of this AD: Prior to further flight, concurrently accomplish the modifications specified in Parts 2 and 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999. Accomplishment of the modifications constitutes terminating action for the repetitive inspection requirements of this AD.

(c) If any fatigue cracking is detected, and Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999, specifies that corrective actions may be accomplished in accordance with an operator's ''equivalent procedure:'' The actions must be accomplished in accordance with the chapter of the Boeing 777 Airplane Maintenance Manual (AMM) specified in the alert service bulletin.

Optional Terminating Action

(d) Concurrent accomplishment of the modifications specified in Parts 2 and 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999, constitutes terminating action for the repetitive inspections required by this AD.

Spares

(e) As of the effective date of this AD, no person shall install any part identified in the ''Existing Part Number'' column of Section 2.E. of Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999, on any airplane.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 777–57A0008, dated March 25, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on July 8, 1999.

Issued in Renton, Washington, on June 10, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15778 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–109–AD; Amendment 39–11201; AD 99–13–07]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes, Model MD–88 Airplanes, and Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD); applicable to certain McDonnell Douglas Model DC–9–80 series airplanes, Model MD–88 airplanes, and Model MD–90–30 airplanes; that requires repetitive inspections to detect cracking of the main landing gear (MLG) shock strut pistons, and replacement of a cracked piston with a new or serviceable part. This amendment is prompted by reports indicating that, while an airplane was positioned on the taxiway, the right MLG shock strut piston failed due to fatigue cracking. The actions specified by this AD are intended to detect and correct such fatigue cracking, which could result in failure of the piston, and consequent damage to the airplane structure or injury to the passengers and flightcrew.

DATES: Effective July 28, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 28, 1999.

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

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5237; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes, Model MD–88 airplanes, and Model MD–90–30 airplanes was published in the **Federal Register** on September 8, 1998 (63 FR 47443). That action proposed to require repetitive inspections to detect cracking of the main landing gear (MLG) shock strut pistons, and replacement of a cracked piston with a new or serviceable part.

Comments

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

Support for the Proposal

Three commenters support the proposal, and three commenters have no objection to the proposal.

Request To Revise Applicability

One commenter requests that the proposed rule be revised to provide for airplanes on which an existing piston is replaced with a modified piston having certain part numbers. The commenter provides no justification for its request.

The FAA concurs with the commenter's request to include a provision for operators who replace an existing piston with a modified piston. The FAA has determined that Boeing will produce modified pistons having the part numbers referenced by the commenter. The FAA finds that an airplane on which a modified piston, having part number 5935347–517 or 5935347–519, is installed is not subject to the requirements of this AD. Therefore, the applicability statement of this final rule has been revised to include only airplanes that are equipped with a MLG shock strut piston having part number 5935347–1 through 509 inclusive, 5935347–511, or 5935347–513.

Request To Revise Cost Impact Information

Two commenters request that the cost impact information in the proposed rule be revised to more accurately represent the number of work hours necessary to accomplish the inspection. One commenter estimates that it will take 14 work hours to accomplish the initial inspection and 12 work hours to

accomplish each repetitive inspection. The other commenter states that the work hours should reflect the estimates provided in the service bulletin.

The FAA does not concur with the commenters' request to revise the cost impact information. The cost impact information, which is restated below, describes only the ''direct'' costs of the specific actions required by this AD. The estimated number of work hours represents the time necessary to perform only the actions actually required by this AD. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur ''incidental'' costs in addition to the ''direct'' costs. However, the cost analysis in AD rulemaking actions typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. No change to the final rule is necessary in this regard.

Request To Reference Specific Chapters of Component Maintenance Manual

One commenter requests that paragraph (a)(2) of the proposed AD be revised to reference McDonnell Douglas Component Maintenance Manual (CMM) Chapter 32–17–01 or 32–17–02, instead of All Operator Letter (AOL) 9–2153, dated June 27, 1991, as the appropriate source of service information for initial inspection of the MLG shock strut piston accomplished prior to the effective date of this AD on McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes. The commenter also requests that the proposed rule be revised to provide credit for airplanes on which major overhaul is accomplished in accordance with CMM Chapter 32–17–01 or 32–17–02, so that such airplanes are subject to a repetitive inspection interval of 2,500 flight cycles after overhaul. The commenter justifies its requests by stating that AOL 9–2153 does not describe inspection procedures, but specifies only that inspection methods will be added to the CMM.

The FAA does not concur with the commenter's request to reference specific chapters of the CMM instead of AOL 9–2153. The FAA cannot reference appropriate revision levels of CMM sections by citing specific dates, as it can with service bulletins and AOL's. Therefore, as stated in the proposal, the FAA intends the compliance time stated in paragraph (a)(2) to apply only to Model DC–9–80 series airplanes and Model MD–88 airplanes that are inspected or overhauled prior to the effective date of this AD in accordance with the instructions incorporated into the CMM per AOL 9–2153. With regard to the commenter's request for credit for airplanes overhauled in accordance with the applicable chapters of the CMM, the FAA finds that paragraph (a)(2) clearly states that inspection is required within 2,500 landings after major overhaul in accordance with AOL 9–2153. No change to the final rule is necessary in this regard.

Explanation of Change to Final Rule

Paragraph (b) of the final rule has been revised to provide clarification. The FAA finds that the last sentence of paragraph (b) in the proposal did not make it clear that replacement of a cracked MLG shock strut piston with a new or serviceable piston allows the compliance threshold for the inspection to be ''reset'' to 10,000 total landings on the piston. Therefore, the last sentence of paragraph (b) of the final rule has been revised to read, ''Thereafter, repeat the inspections required by paragraph (a) of this AD prior to the accumulation of 10,000 total landings on the MLG shock strut piston.''

Conclusion

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

Cost Impact

There are approximately 1,250 airplanes of the affected design in the worldwide fleet. The FAA estimates that 828 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $198,720, or $240 per airplane, per inspection cycle.

Should an operator be required to accomplish the replacement of an MLG shock strut piston, it will take approximately 16 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $107,070 per airplane. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $108,030 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–13–07 McDonnell Douglas: Amendment 39–11201. Docket 98–NM–109–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and

DC–9–87 (MD–87) series airplanes, Model MD–88 airplanes, and Model MD–90–30 airplanes; equipped with a main landing gear (MLG) shock strut piston having part number 5935347–1 through –3509 inclusive, 5935347–511, or 5935347–513; 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 detect and correct fatigue cracking of the MLG shock strut pistons, which could result in failure of the piston, and consequent damage to the airplane structure or injury to the passengers and flightcrew, accomplish the following:

Initial Inspection

(a) Perform fluorescent dye penetrant and fluorescent magnetic particle inspections to detect cracking of an MLG shock strut piston, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A308, dated March 5, 1998, or MD80–32A308, Revision 01, dated May 12, 1998 [for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes]; or MD90–32A030, dated March 26, 1998, or MD90–32A030, Revision 01, dated May 11, 1998 (for Model MD–90–30 airplanes); as applicable. Perform the inspections at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of 10,000 total landings on an MLG shock strut piston, or within 6 months after the effective date of this AD, whichever occurs later.

(2) Within 2,500 landings after a major overhaul and initial inspection of the MLG shock strut piston accomplished prior to the effective date of this AD, in accordance with McDonnell Douglas All Operator Letter 9–2153 [for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes], or McDonnell Douglas Component Maintenance Manual, Chapter 32–17–01 (for Model MD–90–30 airplanes).

Corrective Actions

(b) Condition 1. If any cracking is detected, prior to further flight, replace any cracked MLG shock strut piston with a new or serviceable piston, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A308, dated March 5, 1998, or MD80–32A308, Revision 01, dated May 12, 1998 [for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes]; or MD90–32A030, dated March 26, 1998, or MD90–32A030, Revision 01, dated May 11, 1998 (for Model MD–90–30 airplanes); as applicable. Thereafter, repeat the inspections required by paragraph (a) of this AD prior to the accumulation of 10,000 total landings on the MLG shock strut piston.

(c) Condition 2. If no cracking is detected, repeat the fluorescent dye penetrant and fluorescent magnetic particle inspections thereafter at intervals not to exceed 2,500 landings, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A308, dated March 5, 1998, or MD80–32A308, Revision 01, dated May 12, 1998 [for Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes]; or MD90–32A030, dated March 26, 1998, or MD90–32A030, Revision 01, dated May 11, 1998 (for Model MD–90–30 airplanes); as applicable.

Spares

(d) As of the effective date of this AD, no person shall install on any airplane a replacement MLG shock strut piston, part number 5935347–509, –511, or –513, or an MLG assembly from an operator's spares inventory, unless those components have been inspected in accordance with the requirements specified by paragraph (a) of this AD.

Alternative Methods of Compliance

(e) 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.

Special Flight Permits

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

Incorporation by Reference

(g) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A308, dated March 5, 1998; McDonnell Douglas Alert Service Bulletin MD80–32A308, Revision 01, dated May 12, 1998; McDonnell Douglas Alert Service Bulletin MD90–32A030, dated March 26, 1998; or McDonnell Douglas Alert Service Bulletin MD90–32A030, Revision 01, dated May 11, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on July 28, 1999.

Issued in Renton, Washington, on June 15, 1999.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15777 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–121–AD; Amendment 39–11199; AD 99–12–52]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T99–12–52 that was sent previously to all known U.S. owners and operators of all Boeing Model 727 series airplanes by individual telegrams. This AD requires a boost pump dry bay inspection to detect leakage of fuel through an arced-through conduit, and corrective action, as necessary. This AD also requires repetitive detailed visual inspections of the in-tank fuel boost pump wiring to detect chafing of the wire insulation, evidence of electrical arcing, or arc-through of the conduit wall on Model 727 series airplanes, and applicable corrective action; and installation of sleeving over the in-tank fuel boost pump wires as a method to protect the wiring from chafing. This action is prompted by reports of severe wear of in-tank fuel boost pump wiring, and arc-through of the surrounding conduit on two Model 727 series airplanes. The actions specified by this AD are intended to prevent fuel tank explosion resulting from arc-through of the fuel boost pump wiring conduits.

DATES: Effective June 28, 1999, to all persons except those persons to whom

it was made immediately effective by telegraphic AD T99–12–52, issued May 24, 1999, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 28, 1999.

Comments for inclusion in the Rules Docket must be received on or before August 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–121–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2687; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Issuance of Telegraphic AD T99–12–51

On May 21, 1999, the FAA issued telegraphic AD T99–12–51, which is applicable to all Boeing Model 727 series airplanes, to require a boost pump dry bay inspection to detect leakage of fuel through an arced-through conduit, and corrective action, as necessary.

Telegraphic AD T99–12–51 was prompted by reports of severe wear of the in-tank fuel boost pump wiring, and arc-through of the surrounding conduit on two Model 727 series airplanes that had accumulated in excess of 50,000 total flight hours. The wear and arc-through condition of the conduit surrounding the in-tank fuel boost pump wiring has been attributed to chafing between the in-tank fuel boost pump wiring and the wall of the surrounding conduit, exposing the electrical conductor of the boost pump power wire and placing it in contact with the aluminum wall of the conduit, resulting in arc-through of the conduit wall. Arc-through of the conduit presents an ignition source inside the fuel tank. In addition, the resultant hole in the conduit provides a path for fuel to leak from the fuel tank. The actions required by telegraphic AD T99–12–51 were intended to detect and correct fuel boost pump wiring conduits which have experienced severe chafing and electrical arcing, resulting in burn-through of the conduit. This condition, if not corrected, could result in ignition of fuel vapors in a fuel tank, and a fuel tank explosion.

Issuance of Telegraphic AD T99–12–52

On May 24, 1999, the FAA issued telegraphic AD T99–12–52, applicable to all Model 727 series airplanes, which superseded telegraphic AD T99–12–51 to continue to require a boost pump dry bay inspection to detect leakage of fuel through an arced-through conduit, and corrective action, as necessary.

Telegraphic AD T99–12–52 adds a requirement for repetitive detailed visual inspections of the in-tank fuel boost pump wiring to detect chafing of the wire insulation, evidence of electrical arcing, or arc-through of the conduit wall on Model 727 series airplanes, and applicable corrective action. In addition, this telegraphic AD requires installation of sleeving over the in-tank fuel boost pump wires as a method to protect the wiring from chafing. If the initial inspection of the wiring is performed before the inspection of the fuel boost pump dry bay for fuel leaks, the inspection of the fuel boost pump dry bay for fuel leaks is not required.

Telegraphic AD T99–12–52 was prompted by the same reports that are described in the Summary of this AD and in telegraphic AD T99–12–51.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999, which describes procedures for performing a boost pump dry bay inspection to detect leakage of fuel through an arced-through conduit. That alert service bulletin also describes procedures for performing detailed inspections of the in-tank fuel boost pump wire bundles, installing wire bundle sleeving, replacing the conduit if fuel leakage is detected, and performing applicable corrective actions. In addition, the alert service bulletin describes procedures for performing leak checks of the replaced conduit and installing the new fuel boost pump wire.

Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued telegraphic AD T99–12–52 to prevent fuel tank explosion resulting from arc-through of the fuel boost pump wiring conduits. This AD supersedes telegraphic AD T99–12–51 to continue to require a boost pump dry bay inspection to detect leakage of fuel through an arced-through conduit, and corrective action, as necessary. This AD adds a requirement for repetitive detailed visual inspections of the in-tank fuel boost pump wiring to detect chafing of the wire insulation, evidence of electrical arcing, or arc-through of the conduit wall on Model 727 series airplanes, and applicable corrective action. In addition, this AD requires installation of sleeving over the in-tank fuel boost pump wires as a method to protect the wiring from chafing. If the initial inspection of the wiring is performed before the inspection of the boost pump dry bay for fuel leaks, the inspection of the fuel boost pump dry bay for fuel leaks is not required.

Except as described in the ''Differences'' paragraph below, the actions are required to be accomplished in accordance with Boeing All Operator Message (AOM) M–7200–99–04035, dated May 21, 1999, (for the boost pump dry bay inspection), and Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999, (for the boost pump dry bay inspection and the wiring inspection).

Differences Between This AD and the Service Information

Although the Boeing AOM describes general procedures for inspecting the fuel boost pump wire bundles and installing new fuel boost pump wire bundles and sleeving, the FAA considers that use of the more specific instructions included in Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999, is necessary to ensure that the wire inspections are performed properly.

However, if the wire bundle inspection or wire bundle replacement has been accomplished in accordance with the Boeing AOM, these actions may provide the basis for an alternative method of compliance as provided in paragraph (l) of this AD.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on May 24, 1999, to all known U.S. owners and operators of all Model 727 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal**

Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Explanation of Changes Made to the Final Rule

The FAA has determined that reference to a certain paragraph that was included in the ''Differences'' paragraph and in NOTE 1 of Telegraph AD T99–12–52 is incorrect. The FAA has revised this AD to correctly reference paragraph (l) instead of paragraph (e).

Interim Action

In the preamble to AD T99–12–51, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this AD follows from that determination.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–121–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–12–52 Boeing: Amendment 39–11199. Docket 99–NM–121–AD. Supersedes Telegraphic AD T99–12–51.

Applicability: All Model 727 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (l) 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 fuel tank explosion resulting from arc-through of the fuel boost pump wiring conduits, accomplish the following:

(a) For airplanes with 50,000 or more total flight hours as of the date of receipt of AD T99–12–51, within 5 days after the effective date of this AD, accomplish the requirements of paragraph (c) of this AD.

(b) For airplanes with less than 50,000 total flight hours as of the date of receipt of AD T99–12–51, prior to the accumulation of 30,000 total flight hours, or within 10 days after receipt of this AD, whichever occurs later, accomplish the requirements of paragraph (c) of this AD.

Initial Inspection and Corrective Action

(c) Except as provided in paragraphs (d) and (e) of this AD, perform a boost pump dry bay inspection and applicable follow-on corrective actions, in accordance with steps 1 through 6 of the ''Boost Pump Dry Bay Inspection,'' specified in Boeing All Operator Message M–7200–99–04035, dated May 21, 1999, or in accordance with Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999.

(d) For airplanes on which the actions specified in step 5–E–<3> of Boeing All Operator Message M–7200–99–04035, dated May 21, 1999, are accomplished, the fuel tank in which the conduit has been replaced must be refueled prior to accomplishing step 6.

(e) Accomplishment of the requirements of paragraph (c) of this AD is not required if the requirements of paragraph (i) of this AD are accomplished within the times specified in paragraph (a) or (b) of this AD, as applicable.

New Requirements of This AD

(f) For airplanes with 50,000 or more total flight hours as of the effective date of this AD, within 20 days after the effective date of this AD, accomplish the requirements of paragraph (i) of this AD.

(g) For airplanes with less than 50,000 total flight hours, but more than 30,000 total flight hours, as of the effective date of this AD, within 30 days after the effective date of this AD, accomplish the requirements of paragraph (i) of this AD.

(h) For airplanes with 30,000 total flight hours or fewer, as of the effective date of this AD, within 90 days after the effective date of this AD, accomplish the requirements of paragraph (i) of this AD.

Detailed Visual Inspection, Corrective Action, and Installation

(i) Perform a detailed visual inspection of the in-tank fuel boost pump wire bundles, and applicable corrective actions; and, except as provided in paragraph (j) of this AD, install sleeving over the wire bundles; in accordance with Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as an intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.

Installation: Possible Deferral

(j) Installation of sleeving over the wire bundles, as required by paragraph (i) of this AD, may be deferred if, within 18 months or 6,000 flight hours, whichever occurs first, after accomplishment of the inspection and applicable corrective actions required by paragraph (i), the following actions are accomplished: Perform a detailed visual inspection of the in-tank fuel boost pump wire bundles, and applicable corrective actions; and install sleeving over the wire bundles; in accordance with Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999.

Repetitive Inspections and Corrective Actions

(k) Repeat the detailed visual inspection and applicable corrective actions required by paragraphs (i) and (j) of this AD at intervals not to exceed 30,000 flight hours.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(n) The actions shall be done in accordance with Boeing All Operator Message (AOM) M–7200–99–04035, dated May 21, 1999, or Boeing Alert Service Bulletin 727–28A0126, dated May 24, 1999, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(o) This amendment becomes effective on June 28, 1999, to all persons except those persons to whom it was made immediately effective by telegraphic AD T99–12–52, issued on May 24, 1999, which contained the requirements of this amendment.

Issued in Renton, Washington, on June 15, 1999.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15775 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29594; Amdt. No. 1935]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination

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

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

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

For Purchase

Individual SIAP copies may be obtained from:

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

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

By Subscription

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

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

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The

provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 11, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective July 15, 1999*

Shelbyville, IN, Shelbyville Muni, GPS RWY 1, Orig
Shelbyville, IN, Shelbyville Muni, GPS RWY 19, Orig
Manchester, NH, Manchester, ILS RWY 17, Amdt 2
Manchester, NH, Manchester, ILS RWY 35, Amdt 20

** * * Effective August 12, 1999*

Grand Junction, CO Walker Field, VOR RWY 11, Amdt 1A, Cancelled
Savanna, IL, Tri-Township, GPS, RWY 13, Orig
Hallock, MN, Hallock Muni, VOR/DME RWY 31, Amdt 7
Hallock, MN, Hallock Muni, GPS RWY 31, Orig
Columbia, SC, Columbia Metropolitan, VOR/DME RNAV RWY 5, Orig-C, Cancelled
New Braunfels, TX, New Braunfels Muni, NDB–B, Amdt 1
New Braunfels, TX, New Braunfels Muni, GPS RWY 31, Amdt 1
New Braunfels, TX, New Braunfels Muni, GPS RWY 35, Amdt 1
Quincy, WA, Quincy Muni, VOR/DME RNAV OR GPS RWY 27, Orig, Cancelled

** * * Effective September 9, 1999*

Fort Yukon, AK, Fort Yukon, GPS RWY 3, Orig
Fort Yukon, AK, Fort Yukon, GPS RWY 21, Orig
Nome, AK, Nome, VOR/DME RWY 9, Amdt 1
Nome, AK, Nome, VOR RWY 27, Amdt 1
Nome, AK, Nome, LOC/DME BC RWY 9, Amdt 1
Nome, AK, Nome, NDB/DME RWY 2, Amdt 1
Nome, AK, Nome, NDB RWY 27, Amdt 1
Marianna, FL, Marianna Muni, VOR OR GPS–A, Amdt 11
Marianna, FL, Marianna Muni, VOR OR GPS–B, Amdt 4
Marianna, FL, Marianna Muni, NDB OR GPS–C, Amdt 3
Marianna, FL, Marianna Muni, GPS RWY 18, Amdt 1
Chicago, IL, Chicago O'Hare Intl, ILS RWY 22R, Amdt 7
Chicago, IL, Chicago O'Hare Intl, GPS RWY 22R, Orig
Decatur, IL, Decatur, VOR RWY 36, Amdt 15
Decatur, IL, Decatur, LOC BC RWY 24, Amdt 10
Decatur, IL, Decatur, NDB RWY 6, Amdt 6
Decatur, IL, Decatur, ILS RWY 6, Amdt 13
Decatur, IL, Decatur, GPS RWY 6, Orig
Decatur, IL, Decatur, GPS RWY 18, Orig
Decatur, IL, Decatur, GPS RWY 30, Amdt 1
Decatur, IL, Decatur, GPS RWY 36, Orig
Frankfort, IN, Frankfort Muni, NDB RWY 9, Amdt 2
Frankfort, IN, Frankfort Muni, GPS RWY 9, Orig
Frankfort, IN, Frankfort Muni, GPS RWY 27, Amdt 1
Lafayette, IN, Aretz, VOR–C, Amdt 1, Cancelled
Lafayette, IN, Aretz, GPS RWY 25, Orig, Cancelled
Topeka, KS, Forbes Field, VOR/DME OR TACAN RWY 3, Amdt 6
Topeka, KS, Forbes Field, VOR/DME OR TACAN RWY 21, Amdt 7
Topeka, KS, Forbes Field, NDB RWY 13, Amdt 6
Topeka, KS, Forbes Field, NDB RWY 31, Amdt 8
Topeka, KS, Forbes Field, ILS RWY 31, Amdt 9
Topeka, KS, Forbes Field, VOR/DME RNAV RWY 13, Amdt 4
Topeka, KS, Forbes Field, GPS RWY 3, Orig
Topeka, KS, Forbes Field, GPS RWY 13, Orig
Topeka, KS, Forbes Field, GPS RWY 21, Orig
Topeka, KS, Forbes Field, GPS RWY 31, Orig
Laurel, MS, Hesler-Noble Field, VOR/DME OR GPS–A, Amdt 3
Laurel, MS, Hesler-Noble Field, NDB RWY 13, Amdt 7
Laurel, MS, Hesler-Noble Field, GPS RWY 13, Orig
Laurel, MS, Hesler-Noble Field, GPS RWY 31, Orig
Wallace, NC, Henderson Field, VOR/DME–A, Amdt 4, Cancelled
Wallace, NC, Henderson Field, NDB RWY 27, Amdt 1
Wallace, NC, Henderson Field, GPS RWY 9, Orig
Wallace, NC, Henderson Field, GPS RWY 27, Orig
Ashtabula, OH, Ashtabula County, GPS RWY 8, Amdt 1
Ashtabula, OH, Ashtabula County, GPS RWY 26, Orig
Ashtabula, OH, Ashtabula County, VOR/DME RNAV OR GPS RWY 26, Amdt 6, Cancelled

Cadiz, OH, Harrison County, VOR–A, Amdt 1
Cadiz, OH, Harrison County, GPS RWY 13, Orig
Cadiz, OH, Harrison County, GPS RWY 31, Orig

[FR Doc. 99–15591 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29595; Amdt. No. 1936]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination

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

For Purchase

Individual SIAP copies may be obtained from:

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

By Subscription

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington DC on June 11, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * * *Effective Upon Publication*

FDC data	State	City	Airport	FDC No.	SIAP
06/01/99	GA	Pine Mountain	Callaway Gardens-Harris County	9/3721	NDB or GPS RWY 9, AMDT 8...
06/02/99	IN	Connersville	Mettel Field	9/3748	ILS RWY 18, Orig...
06/02/99	IN	Connersville	Mettel Field	9/3749	VOR or GPS–A, Orig...
06/02/99	IN	Connersville	Mettel Field	9/3751	NDB or GPS RWY 18, Orig...
06/02/99	KS	Belleville	Belleville Muni	9/3765	VOR/DME–A, AMDT 3...
06/02/99	OR	Portland	Portland-Hillsboro	9/3771	VOR/DME or GPS–A Orig-A...
06/03/99	UT	Provo	Provo Muni	9/3811	ILS RWY 13, Orig...
06/04/99	MA	Worcester	Worcester Regional	9/3831	VOR/DME RWY 33 Orig-A...
06/04/99	ME	Wiscasset	Wiscasset	9/3841	NDB RWY 25 AMDT 5...
06/04/99	NY	New York	La Guardia	9/3843	ILS RWY 13 Orig-A...
06/04/99	VA	Brookneal	Campbell County	9/3833	VOR/DME or GPS–A Orig...
06/04/99	VA	Moneta	Smith Mountain Lake	9/3832	VOR/DME or GPS RWY 23 Orig...
06/04/99	VA	Tangier	Tangier Island	9/3834	VOR/DME or GPS RWY 2 Orig-A...
06/04/99	WV	Martinsburg	Eastern West Virginia Regional/Shepherd Field.	9/3830	LOC/DME BC RWY 8 AMDT 5...
06/07/99	AZ	St Johns	St Johns Industrial Airpark	9/3931	VOR/DME or GPS–A AMDT 1...
06/07/99	CO	Colorado Springs	City of Colorado Springs Muni	9/3925	ILS/DME RWY 17L, Orig-A...
06/07/99	CO	Grand Junction	Walker Field	9/3926	ILS/DME RWY 11, AMDT 14...
06/07/99	MD	Cumberland	Greater Cumberland Regional	9/3903	LOC–A AMDT 3B...
06/07/99	MD	Cumberland	Greater Cumberland Regional	9/3910	LOC/DME RWY 23 AMDT 5B...
06/07/99	MI	Howell	Livingston County	9/3922	NDB RWY 13, AMDT 1...
06/07/99	MI	Howell	Livingston County	9/3923	GPS RWY 13, Orig...
06/07/99	UT	Ogden	Ogden-Hinckley	9/3915	VOR/DME RNAV or GPS RWY 3, Orig...
06/07/99	UT	Ogden	Ogden-Hinckley	9/3916	VOR RWY 7, AMDT 5...
06/07/99	UT	Ogden	Ogden-Hinckley	9/3918	GPS RWY 7, Orig...
06/07/99	UT	Ogden	Ogden-Hinckley	9/3919	ILS RWY 3, AMDT 3A...
06/08/99	NY	White Plains	Westchester County	9/3939	COPTER ILS/DME 162 Orig...

[FR Doc. 99–15590 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 881

Determination of Active Military Service and Discharge for Civilian or Contractual Groups

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising 32 CFR part 881, *Determination of Active Military Service and Discharge for Civilian or Contractual Groups* of the Code of Federal Regulations to reflect current policies. Part 881 establishes procedures for processing discharge applications of civilians or contractors claiming prior active military service with the U.S. Air Force or a predecessor organization.

EFFECTIVE DATES: June 21, 1999.

ADDRESSES: Mr. John C. Wooten, HQ AFPC/DPPRS, 550 C Street West, Suite 11, Randolph, TX 78150–4713, 210–565–3769.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Wooten, HQ AFPC/DPPRS, 210–565–3769.

List of Subjects in 32 CFR Part 881

Military, Personnel, Veterans.

For the reasons set forth in the preamble, the Department of the Air Force is revising 32 CFR Part 881 as follows:

PART 881—DETERMINATION OF ACTIVE MILITARY SERVICE AND DISCHARGE FOR CIVILIAN OR CONTRACTUAL GROUPS

Sec.
881.1 Applying for discharge.
881.2 Screening the application.
881.3 Individual service review board.
881.4 Processing the application.
881.5 If an application is approved.
881.6 If an application is denied.
881.7 Discharge upgrade.
881.8 Disposition of documents.
881.9 Form prescribed.

Authority: 38 U.S.C. 106.

§ 881.1 Applying for discharge.

(a) Who may apply.

(1) You may apply for discharge if you were a member of a recognized group. A spouse, next of kin, or legal representative may apply on behalf of a deceased or mentally incompetent person. Proof of death or mental

incompetency must accompany such an application.

(b) Where to apply.

(1) Send your application for discharge to the Directorate of Personnel Program Management, Separations Branch, HQ AFPC/DPPRS, 550 C Street West, Suite 11, Randolph AFB, TX 78150–4713.

(c) How to apply.

(1) Fill out DD Form 2168, *Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty With the Armed Forces of the U.S.*, or write a letter.

(2) Obtain DD Form 2168 from HQ AFPC/DPRS, 550 C Street West, Suite 11, Randolph AFB, TX 78150–4713 or the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, MO 63132.

(3) Make your application as complete as possible; the burden of proof is on you. Provide all available evidence to document your membership in the group and what services you performed.

(d) Documentation may include:

(1) Flight logbooks.

(2) Separation or discharge certificates.

(3) Mission orders.

(4) Identification cards.

(5) Contracts.

(6) Personnel action forms.

(7) Employment records.

(8) Education certificates and diplomas.

(9) Pay vouchers.

(10) Certificates of awards.

(11) Casualty information.

(e) The Air Force will not under any circumstances provide or pay for legal representation for you.

§ 881.2 Screening the applications.

(a) HQ AFPC/DPPRS reviews your application and does one of the following:

(1) Refers your application to another military department and sends you a written notice or a copy of the referral letter.

(2) Returns your application without prejudice if the Secretary of the Air Force has not determined whether members of your group are certified for discharge. You may resubmit the application after the Secretary determines that your group is certified.

(3) Refers applications made by a group (or individuals on behalf of a group) to the Secretary of the Air Force, Manpower, Reserve Affairs and installations, Personnel Council (AFPC), The Pentagon, Washington, DC 20330 for further review. This Part does not cover such applications.

(4) Returns the application to you if it is complete.

(5) Refers all complete applications to the Individual Service Review Board for further consideration.

§ 881.3 Individual Service Review Board.

(a) The Commander, Headquarters Air Force Personnel Center (HQ AFPC/CC) establishes the Individual Service Review Board as necessary.

(b) The Board consists of military members in grade Lieutenant Colonel or higher, and civilian members, grade GS–12 or higher, appointed by the HQ AFPC/CC. Three members constitute a quorum. The senior member acts as Board chairperson. A nonvoting member keeps a record of the Board's actions on an application.

(c) The Directorate of Personnel Program Management, Separations Branch, HQ AFPC/DPPRS, 550 C Street West, Suite 11, Randolph AFB, TX 78150–4713, provides administrative support to the Board.

§ 881.4 Processing the application.

(a) Individual Service Review Board meets in closed session to consider the application, the evidence submitted, and other relevant information. Applicants or their representatives do not have the right to appear before the Board.

(b) The Board:

(1) Evaluates the evidence.

(2) Decides whether the applicant was a member of a recognized group during dates of its qualification.

(3) Decides whether to approve the application for discharge.

(4) Determines the period and character of the applicant's service.

§ 881.5 If an application is approved.

(a) If the Board approves an application for discharge and determines that it should be honorable, HQ AFPC/DPPRSO issues the applicant a DD Form 256AF, Honorable Discharge, and a DD Form 214, *Certificate of Release or Discharge from Active Duty* under AFI 36–3202, *Separation Documents* (formerly AFR 35–6).

(b) Enter a military grade on the DD Form 214 only if the Administrator of Veterans' Affairs requests it.

(c) Enter a pay grade on the DD Form 214 only for individuals who were killed or received service-related injuries or disease during the approved period of service. For proof of grade criteria, see DoD 1000.20, *Determinations of Active Military Service and Discharge Civilian or Contractual Personnel*, section E, paragraph 3g.

(d) If the Board approves an application for discharge but determines that it should be ''under honorable conditions'' (general discharge), it forwards the case to the Air Force Personnel Council (AFPC) for final decision. HQ AFPC/DPPRSO, 550 C Street West, Suite 20, Randolph AFB, TX 78150–4722, then issues the appropriate discharge certificate and a DD Form 214 to the applicant.

(e) To appeal the characterization of a discharge, submit DD Form 149, *Application for Correction of Military Record Under the Provisions of Title 10, U.S.C., Section 1552*, to the Secretary of the Air Force through the Air Force Review Boards Office (SAF/MIBR).

(f) If the member dies or is declared missing during the period of equivalent active military duty, the Directorate of Casualty Matters (HQ AFPC/DPW) issues DD Form 1300, *Report of Casualty*, including military pay grade, to the next of kin or a designated representative, according to DODI 1300.18, *Military Personnel Casualty Matters, Policies and Procedures*, and AFI 36–3002, *Casualty Services* (formerly AFR 30–25).

§ 881.6 If an application is denied.

(a) Once the Board has decided your case, HQ AFPC/DPPRS notifies you:

(1) If the Board denied your application for discharge because there is insufficient evidence to show that you belonged to a qualifying group.

(2) If the Board determines that your service cannot be characterized as ''under honorable conditions.''

(b) You have 60 days from the date of this notice to submit additional evidence or information to HQ AFPC/DPPRS, 550 C Street West, Suite 11, Randolph AFB, TX 78150–4713.

(c) If after 60 days you have submitted new evidence, the Board reviews the case again. If the Board determines that your application now merits approval, it proceeds according to paragraph (e).

(d) If you do not submit additional evidence or if, after review, the Board determines that your application should be denied, it forwards the case to the AFPC for final decision.

(e) HQ AFPC/DPPRS notifies you of the final decision.

(f) If your application is denied, the Board returns it to you without prejudicing any later consideration.

§ 881.7 Discharge upgrade.

If you are approved for a General Discharge, you may apply to the Air Force Discharge Review Board for discharge upgrade under AFI 36–3201, *Air Force Discharge Review Board* (formerly AFR 20–10) or to the Air Force Board for Correction of Military Records under AFI 36–2603, *Air Force Board for Correction of Military Records*

(formerly AFR 31–3). SAF/MIBR provides copies of these instructions and application forms to individuals who received a General Discharge.

§ 881.8 Disposition of documents.

(a) File a copy of the application, supporting evidence, and DD Form 214 in the Master Personnel Records Groups maintained at the National Personnel Records Center, St. Louis, MO 63132, for approved cases. Send copies of DD Form 214 to:

(1) The applicant.

(2) The Veterans' Administration.

(3) HQ AFPC/DPPRS, 550 C Street West, Suite 11, Randolph AFB, TX 78150–4713.

§ 881.9 Form prescribed.

The following form, DD Form 2168, *Application for Discharge of Member or Survivor of Member of a Group Certified To Have Performed Active Duty With the Armed Forces of the U.S.*, is required for processing the stated claims.

Appendix A to Part 881—Glossary of Terms

Active Military Service—See 38 U.S.C. 106.

Civilian or Contractual Group—An organization whose members rendered service to the U.S. Air Force or a predecessor organization during a period of armed conflict. In that capacity the members were considered civilian employees with the Armed Forces or contractors with the U.S. Government, providing direct support to the Armed Forces. An example of such a group is the Women's Air Force Service Pilots, who were Federal civilian employees attached to the U.S. Army Air Force during World War II.

Discharge—Complete severance from the active military service. The discharge includes a reason and characterization of service.

Recognized Group—A group whose service the Secretary of the Air Force has determined was ''active duty for the purposes of all laws administered by the Department of Veterans' Affairs,'' such as VA benefits under 38 U.S.C. 106.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–15428 Filed 6–22–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–99–037]

RIN 2115–AE47

Special Local Regulations: Skull Creek, Hilton Head, SC.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary Special Local Regulations are being adopted for the Skull Creek July 4th celebration Fireworks Display, Skull Creek, Hilton Head, SC. The event will be held from 9 p.m. to 10 p.m. Eastern Daylight Time (EDT) on July 4, 1999 in Skull Creek, Hilton Head, SC. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: These regulations become effective at 8:30 p.m. and terminate at 10:30 p.m. EDT on July 4, 1999

FOR FURTHER INFORMATION CONTACT: Chief D. Jersey at (843) 724–7616.

SUPPLEMENTARY INFORMATION:

Background and Purpose

These regulations are required to provide for the safety of life on navigable waters because of the inherent danger of the fireworks display during the Skull Creek July 4th celebration, Skull Creek, Hilton Head, SC. In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication, as information concerning the exact time and location of the event were only recently received.

Regulatory Evaluation

This regulation 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)(f) of that order. The Office of Management and Budget has exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT (44 FR 11040, February 26, 1979)). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation under paragraph 10e of the regulated policies and procedures of DOT is unnecessary. The regulated area encompasses only a 500 foot radius around the fireworks barge on Skull Creek.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. Small entities include small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, as the regulations will only be in effect for approximately 2 hours.

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 it has been determined that this 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(h) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Temporary Regulations: In consideration of the foregoing, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[Amended]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46, and 33 CFR 100.35.

2. Add temporary § 100.35T–07–037 to read as follows:

§ 100.35T–07–037 Skull Creek July 4th Celebration, Skull Creek, Hilton Head, SC.

(a) *Regulated area.* A regulated area is established for waters in Skull Creek, Hilton Head, SC, encompassing an area within a 500 foot radius from position 32°13′95″N, 080°45′1″W. All coordinates references use Datum: NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commanding Officer, Group Charleston, SC.

(c) *Special Local Regulations.* Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Patrol Commander.

(d) *Dates.* These regulations become effective at 8:30 p.m. and terminate at 10:30 p.m.

Dated: June 15, 1999.

Norman T. Saunders,

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

[FR Doc. 99–16007 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 09–99–039]

Drawbridge Operating Regulation; Gulf Intracoastal Waterway, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 384 drawbridge across the Gulf Intracoastal Waterway, mile 237.5 west of Harvey Locks, near Black Bayou, Calcasieu Parish, Louisiana. This deviation allows the LDOTD to maintain the bridge in the closed to navigation position from 7 a.m. until 7 p.m. on June 29, 1999 to allow for the replacement of the draw works.

DATES: This deviation is effective from 7 a.m. until 7 p.m. on June 29, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION: Navigation on the Gulf Intracoastal Waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the bridge in 33 CFR 117.5 in order to accommodate the replacement of the draw works. This maintenance is essential for the continued operation of the draw span.

This deviation allows the draw of the SR 384 pontoon bridge across the Gulf Intracoastal Waterway, mile 237.5 west of Harvey Locks, near Black Bayou to remain in the closed-to-navigation position from 7 a.m. until 7 p.m. on June 29, 1999. Presently, the draw opens on signal for the passage of vessels.

Dated: June 4, 1999.

Paul J. Pluta,

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

[FR Doc. 99–16008 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–059]

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Path Railroad vertical lift bridge, mile 3.0, across the Hackensack River in Jersey City, New Jersey. This deviation authorizes the bridge to remain closed for two one-week periods with a twenty-four hour advance notice requirement for bridge openings on the last two days of each closed period. This action is necessary to facilitate mechanical repairs to the bridge.

DATES: This deviation is effective from June 5, 1999 through June 11, 1999 and from June 26, 1999 through July 2, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Yee, First Coast Guard District, Bridge Branch, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Path Railroad vertical lift bridge, mile 3.0, across the Hackensack River has vertical clearances of 40 feet at mean high water, and 45 feet at mean low water in the closed position, and 135 feet and 140 feet in the fully open position. The operating regulations for the bridge require the bridge to open on signal at all times.

The owner, the Port Authority of New York and New Jersey, requested a temporary deviation from the operating regulations for the Path Railroad Bridge in order to conduct necessary repairs to the bridge. This work is essential for public safety. Repairs to the trunnion in the east tower must be done to ensure continued operation of the bridge. In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to operation as soon as possible.

This deviation to the operating regulations will allow the Path Railroad Bridge, mile 3.0, across the Hackensack River in Jersey City, New Jersey, to operate as follows:

(1) The bridge shall remain in the closed position from June 5 through June 9, 1999 and from June 26 through June 30, 1999.

(2) The bridge shall open on signal from 12:01 a.m., June 10, through 12 midnight, June 11, 1999, and 12:01 a.m., July 1, through 12 midnight, July 2, 1999, if at least 24 hour advance notice is given by calling (917) 649–9543.

This deviation from the normal operating regulations is authorized under 33 CFR 117.35.

Dated: May 25, 1999.

Robert F. Duncan,

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

[FR Doc. 99–16009 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–040]

Drawbridge Operation Regulation; Bayou Des Allemands, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Burlington Northern Santa Fe Railroad swing span bridge across Bayou Des Allemands, St. Charles Parish, Louisiana. This deviation allows the draw of the Burlington Northern Santa Fe Railroad swing span drawbridge to remain closed to navigation continuously from 7 a.m. on July 12, 1999 through 6 p.m. on July 16, 1999 and from 7 a.m. on July 19, 1999, through 6 p.m. on July 23, 1999.

DATES: This deviation is effective from 7 a.m. on July 12, 1999 through 6 p.m. on July 23, 1999.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard

District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Burlington Northern Santa Fe Railroad swing span drawbridge across Bayou Des Allemands, mile 14, at Des Allemands, Louisiana has a vertical clearance of three feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels and recreational craft. The Burlington Northern Santa Fe Railroad requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work, involving replacement of the steel truss members, stringers, floor beams and railroad ties and rails, an extensive but necessary maintenance operation. Presently, the draw opens on signal Monday through Friday from 7 a.m. until 3 p.m. At all other times the draw opens on signal if at least 4 hours notice is given. This work is essential for continued safe operation of the bridge.

The District Commander has, therefore, issued a deviation from the regulations in 33 CFR 117.5 authorizing the draw of the Burlington Northern Santa Fe Railroad swing span drawbridge to remain closed to navigation from 7 a.m. on July 12, 1999 through 6 p.m. on July 16, 1999 and from 7 a.m. on July 19, 1999 through 6 p.m. on July 23, 1999.

In event of an approaching tropical storm or hurricane, the draw will return to normal operation with 12 hours notice from the Coast Guard. Presently, the draw opens on signal Monday through Friday from 7 a.m. until 3 p.m. At all other times the draw opens on signal if at least 4 hours notice is given.

Dated: June 4, 1999.

Paul J. Pluta,

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

[FR Doc. 99–16010 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–084]

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Portal Bridge, mile 5.0, across the Hackensack River at Little Snake Hill, New Jersey. This deviation authorizes the bridge owner to keep the bridge in the closed position for six weekends beginning 10 p.m. on Friday evening through 5 a.m. on Monday morning each weekend. This action is necessary to facilitate timber and mitre rail rehabilitation at the bridge.

DATES: This deviation is effective from 10 p.m. on June 11 through 5 a.m. on June 14, 1999; 10 p.m. on June 18 through 5 a.m. on June 21, 1999; 10 p.m. on June 25 through 5 a.m. on June 28, 1999; 10 p.m. on July 9 through 5 a.m. on July 12, 1999; 10 p.m. on July 16 through 5 a.m. on July 19, 1999; 10 p.m. on July 23 through 5 a.m. on July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Yee, First Coast Guard District, Bridge Branch, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Portal Bridge, mile 5.0, across the Hackensack River has vertical clearances of 23 feet at mean high water, and 28 feet at mean low water in the closed position. The current operating regulations listed at 33 CFR 117.723(c) require the bridge to open on signal; except that, from Monday through Friday, except federal holidays, the draw need not open from 7:20 a.m. to 9:20 a.m. and from 4:30 p.m. to 6:50 p.m. At all other times, an opening may not be delayed for more than ten minutes, unless the drawtender and the vessel operator agree to a longer delay.

The bridge owner, AMTRAK, requested a temporary deviation from the operating regulations for the Portal Bridge in order to conduct repairs to the bridge timber and mitre rails. This work will require the bridge to remain in the closed position and not open for vessel traffic during these repairs. Vessels that can pass under the bridge without an opening may do so at all times during the closed periods. This work is essential for public safety and the continued operation of the bridge. In accordance with 33 CFR 117.25(c), this work will be performed with all due speed to return the bridge to normal operation as soon as possible.

This deviation to the operating regulations will allow the Portal Bridge, mile 5.0 across the Hackensack River in Little Snake Hill, New Jersey, to remain in the closed position as follows:

10 p.m. on June 11 through 5 a.m. on June 14, 1999.
10 p.m. on June 18 through 5 a.m. on June 21, 1999.
10 p.m. on June 25 through 5 a.m. on June 28, 1999.
10 p.m. on July 9 through 5 a.m. on July 12, 1999.
10 p.m. on July 16 through 5 a.m. on July 19, 1999.
10 p.m. on July 23 through 5 a.m. on July 26, 1999.

At all other times the draw shall operate as published at 33 CFR 117.723(c). This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 1999.

R.M. Larrabee,

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

[FR Doc. 99–16011 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–1998–4819]

RIN 2115–AF85

Year 2000 (Y2K) Reporting Requirements for Vessels and Marine Facilities

AGENCY: Coast Guard, DOT.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard establishes temporary regulations to require owners and operators of certain vessels and marine facilities to report Year 2000 (Y2K) preparedness information. These reporting requirements are based on vessel and marine facility-specific Y2K questionnaires issued by the International Maritime Organization (IMO) as IMO Circular Letter 2121. Responses to questionnaires will help Coast Guard Captains of the Port (COTPs) assess vessel and marine facility preparedness for potential Y2K-related malfunctions of equipment and systems. This preparedness information will help COTPs identify potentially

hazardous situations during peak Y2K risk periods, enabling them to take appropriate measures to promote port safety and environmental protection.

DATES: This temporary interim rule is effective on July 23, 1999 and expires on March 31, 2000. Comments must reach the Docket Management Facility on or before August 23, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before August 23, 1999.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, [USCG–1998–4819], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and related material, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You can also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this temporary interim rule, call Mr. John Hannon, Project Manager, Office of Compliance, Commandant (G–MOC–2), Coast Guard, telephone 202–267–1464. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [USCG–1998–4819], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they were received, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard encourages you to file any important comments as quickly as possible. We will consider all comments and material received during the comment period and may change this rule, even prior to the effective date, if necessary, in response to the comments.

Discussion of Regulatory Action

Due to the unique nature of the Year 2000 (Y2K) problem, this rule is being published as a temporary interim rule and is being made effective on July 23, 1999. It will have considerable positive impact on marine safety by establishing a reporting requirement for certain vessels and marine facilities on Y2K preparedness. The rule is temporary in nature—it runs for a defined period of time and is tailored to critical Y2K-related dates. This temporary interim rule is both time sensitive and time critical. The first peak risk period begins at midnight on September 7, 1999 and ends at midnight September 9, 1999, and the last peak risk period begins at midnight on February 27, 2000 and ends at midnight February 29, 2000. It is imperative that, on these dates, Captains of the Port (COTPs) have all information reasonably available to make informed decisions regarding the safety of vessels and marine facilities. To ensure timely data collection and analysis, this rule requires most vessel and marine facility representatives to submit Y2K preparedness information to the Coast Guard by August 1, 1999. In addition, although the last Y2K peak risk period ends at midnight on February 29, 2000, this rule is effective through March 31, 2000. This extra ''period of vigilance'' provides the Coast Guard with needed flexibility to quickly address potential emerging Y2K problems. Any delay to this rule could result in a significant increase in avoidable risk.

The Coast Guard has been assessing Y2K-related risks, both internally and externally. On December 4, 1998, the Coast Guard published a request for comments in the **Federal Register** [63 FR 67166] seeking comments on how best to address the Y2K problem aboard vessels, at port facilities, and at marine terminals. In the request for comments, the Coast Guard stated that the focus was not on mandating new industry requirements. Rather, the goal was to use existing authority to address Y2K-related risks. The request for comments was summarized in the Marine Safety Newsletter and posted on the Coast Guard Internet site. Thirty-nine responses to this request were received. In January 1999, a meeting of Coast Guard COTPs was held in which they stressed the need for a Y2K risk assessment tool. Based on the substance of the comments and the COTPs' need for a risk assessment tool, the Coast Guard has decided to issue this rule requiring the submission of information needed to use the risk assessment tool.

Further, the international nature of shipping presents additional challenges. At the behest of the U.S. Coast Guard and the United Kingdom Maritime and Coastguard Agency, a meeting was held at the International Maritime Organization (IMO) Headquarters to consider issues relating to the Y2K problem, promote international awareness and knowledge sharing, identify and refine preparedness actions, and promote contingency planning. On March 5, 1999, IMO issued Circular Letter No. 2121 which established, through unanimous agreement, the Year 2000 Code of Good Practice and Key Elements of Y2K contingency plans for ships, ports, and terminals. IMO Circular Letter No. 2121 is available in the docket at the addresses listed under **ADDRESSES**. Part of the Code of Good Practice is an assessment of vessel and facility Y2K preparedness. The forms contained in IMO Circular Letter No. 2121, which are used to determine the level of Year 2000 preparedness, are the questionnaires used in this rule.

Following the issuance of the IMO Circular, the Coast Guard began an effort to develop a risk assessment matrix, and to evaluate the need for supplemental information to that provided through the questionnaires contained in the Circular. This effort was completed in mid-May 1999. Since its issuance, the Circular has received worldwide acceptance, underscoring its applicability as the basis for Y2K

preparedness for the international maritime community. The Coast Guard is committed to promoting implementation of the IMO Circular to achieve consistency of approach between ships, ports, and facilities, as well as a serious focus on contingency planning, in the global marine transportation system.

Based on all available information and comments, the Coast Guard has determined that this temporary interim rule is necessary to require vessel and marine facility operators to respond to questionnaires regarding their level of preparedness for the Y2K problem. The responses will provide COTPs with information needed to evaluate the level of Y2K-related risk associated with vessel and marine facility operations. Based on these evaluations, COTPs can make informed decisions as to whether operations by particular vessels or facilities present undue risk, and take control actions as appropriate to minimize any risks. This course of action only requires the submission of information and does not require the regulated entities to alter their conduct to conform to a specific government standard. The reporting of the information causes no harm and the time requirements to report the information are minimal. On the other hand, if COTPs don't have the information necessary to evaluate the level of Y2K risk in their ports, significant harm to port safety, the environment, and commerce could occur. Without this information, the Coast Guard would be unable to fully and effectively ensure safety in a Y2K environment.

For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(b)(B), that notice, and public procedure on the notice, before the effective date of this rule is impracticable and contrary to the public interest in marine safety. We still encourage public comments on this temporary interim rule, and we may amend the rule as necessary to respond to comments received during the comment period.

Background and Purpose

Our society's dependence on automation and computer technology is increasing exponentially. The maritime industry incorporates automation and computer technology into almost every aspect of its business operations. Automation is used for many shipboard systems such as main propulsion, boilers, auxiliary systems, power generation, position fixing navigation systems, communications, radar, steering systems, cargo systems, and bilge/ballast controls. Automation is also used at marine facilities on cranes, on shore side equipment, and in loading and unloading operations. Despite current regulations for equipment and systems testing, the potential technological malfunctions associated with the Year 2000 (Y2K) problem could disrupt maritime operations.

What is the Y2K problem? The Y2K problem stems from the widespread computer industry practice of using 2 digits instead of 4 to represent the year in databases, software applications, and hardware microchips. Certain systems will face difficulty in the year 2000 when that year is represented as ''00.'' Unable to differentiate ''00'' from the year 1900, computer programs and systems aboard ships and at port facilities could malfunction or completely shut down.

How might the Y2K problem affect the maritime industry? Computer programs for engine automation systems that send critical operating signals are good examples of the Y2K problem. If these programs misread ''00'' as the year 1900 instead of 2000, they may misinterpret that 100 years have passed and respond with an inappropriate action or a series of inappropriate actions, creating a domino effect, that could shut down systems. Temporary loss of main engine operation or steering at sea on a calm day with no other ships in sight may only prove inconvenient. However, the unexpected loss of a ship's propulsion in a narrow or crowded waterway could result in a serious casualty.

Marine facilities are also at risk from Y2K-related problems. Systems that use time as a function of measurement such as fire detection systems, cargo tracking software, process flow controls (oil, gas, and chemical), temperature controls and alarms are most vulnerable. For example, system sensors could cause an automatic shutdown response that could in turn trigger some other fail-safe response. In such a case, a release of hazardous materials could occur when overpressure safeguards react to the sudden closure of a valve against the flow of gas or liquid.

The risk period for Y2K-related equipment and system failures and malfunctions is not limited to January 1, 2000. Similar problems are associated with the dates September 9, 1999 and February 29, 2000.

Why are September 9, 1999 and February 29, 2000 dates of concern? September 9, 1999 is a date of concern because of the common programming practice of using 9999 or simply 99 to mark the end of a file or a record that should be archived or purged. Both sets of digits could also legitimately represent September 9, 1999, or the year 1999. For instance, a maritime application might prompt someone to enter 99 as a year if they want to delete the corresponding file. Software programs may need revisions to facilitate deletion requests differently.

February 29, 2000 is a date of concern because of how leap years are determined. Our calendars reflect leap years occurring every four years; however, leap years do not adhere to a strict four-year cycle. As a result, century years generally are not leap years (i.e. year 1800 or 1900). However, exceptions apply to century years evenly divisible by 400, such as February 29, 2000. Problems could occur in computers not properly programmed to accept this date. If a microprocessor reads 00 as the year 1900, it will fail to accept the 29th of February because 1900, unlike 2000, was not a leap year. Leap years have already presented a problem. In 1996, the presence of a leap year created a complete loss of process control computers at a large aluminum smelter in New Zealand because the programs failed to accept the 366th day (''Ship 2000''; Lloyd's Register Articles; March 5, 1999).

What existing regulations and authorities address the Y2K problem? Existing Coast Guard regulations include requirements for commercial vessel operators to conduct periodic equipment and systems tests, as well as inspections of safety, navigation and pollution prevention equipment and systems. For example, Title 33 of the Code of Federal Regulations (CFR) part 164 requires certain vessels to conduct arrival and departure tests to ensure the proper operation of vital navigation equipment and systems. In addition, 33 CFR part 156.170(c)(5) requires similar testing for facilities to ensure all systems and equipment properly perform their intended functions. Such tests help detect malfunctions or failures of equipment and systems regardless of the cause; however, the general consensus is that these tests are ineffective at detecting Y2K-related problems.

Other existing regulations give the Coast Guard broad authority to control operations in the event of hazardous situations. For example, 33 CFR part 160, subpart B allows District Commanders and COTPs to control vessel and waterfront facility operations to ensure safety and environmental protection. Under this authority, COTPs can restrict or control vessels and waterfront facilities experiencing equipment or system malfunctions or failures posing safety or environmental hazards.

Did the Coast Guard consider input from the public when developing its Y2K policy and this temporary interim rule? Yes. The Coast Guard published a request for comments in the **Federal Register** on December 4, 1998 entitled ''Vessel and Port Control Measures to Address Year 2000 (Y2K)-related Problems'' [63 FR 67166]. The request for comments focused on possible actions and control measures the Coast Guard might take to minimize the occurrence and effect of potential Y2K-related equipment and system malfunctions aboard vessels and marine facilities. Measures discussed included rigorous equipment and systems testing on vessels and at facilities, Y2K assessments and certifications, and closing or restricting access to U.S. ports.

Summary of Comments. Thirty-nine comment letters were submitted to the docket in response to the request. Most of the respondents indicated that they have implemented or are implementing some type of project or plan to identify and correct Y2K-related problems in critical systems and various equipment and machinery.

Most of the respondents stated that existing regulations do not directly address Y2K issues. However, some stated that existing regulations broadly cover those systems and machinery potentially affected by Y2K, indicating that no additional regulations are necessary. Others stated that existing regulations are ineffective for Y2K because it is difficult to predict the effects of any potential Y2K-related problems. We agree that the Y2K problem is unique and that existing safety and testing requirements may not uncover a Y2K-related problem.

Most of the respondents indicated that they would prefer that the Coast Guard issue Y2K guidance instead of regulations. The guidance should be a national standard that is supplemented by limited local COTP or District Commander authority. Respondents stated that a national standard would minimize confusion for shipping companies that operate in multiple ports. We agree that it is important to have consistent standards. The Coast Guard does not intend to issue new regulations to control vessel movement or facility operations. This temporary interim rule establishes standard Y2K preparedness reporting requirements so COTPs can employ a consistent risk assessment methodology. In addition, we will soon publish Navigation and Vessel Inspection Circular (NVIC) 6–99. NVIC 6–99 sets forth a consistent, nationwide policy that industry and COTPs can use to help assess and reduce Y2K-related risks. The NVIC will be available on the Internet at http://www.uscg.mil/hq/g-m/nvic/.

Most respondents indicated that manufacturers' ''Y2K certifications'' of products and systems are not an acceptable alternative to assessment, testing, and contingency planning. In addition, many respondents indicated that a third party, such as a classification society, would be a reliable Y2K ''certifying entity''; however, no known reliable classification society will make a Y2K certification.

Respondents suggested that the Coast Guard coordinate with a variety of entities to address local Y2K issues and preparedness, including: port authorities; local disaster planning agencies; vessel and terminal operators; harbor communities; harbor safety committees; classification societies; industry associations; and members of the public. We agree. Captains of the Port are actively working with local port communities to address the Y2K problem.

Most respondents indicated that some port control measures might be appropriate with prior notice. However, most respondents stated that those vessels, facilities, and companies that demonstrate adequate Y2K preparedness should receive exemptions from port control measures. In addition, most respondents stated that a blanket suspension of all port operations is not an acceptable preventative measure for potential Y2K-related problems because it would be extremely costly.

We generally agree with these comments. Rather than implementing blanket control measures, the Coast Guard will use a risk assessment-based strategy to promote port safety. The Coast Guard has developed a standardized ''Y2K Risk Assessment Matrix'' that COTPs will use, in tandem with the information collected through questionnaires, as a tool to help assess vessel and marine facility preparedness for Y2K problems. The risk assessment matrix, however, is not meant to be a binding mechanism from which the COTP cannot deviate. It is simply one tool that is designed to assist the COTP in making decisions regarding maritime safety and the marine environment. The matrix assesses several elements, including environmental factors, potential consequences of accidents, and questionnaire responses. A vessel or marine facility that demonstrates some level of Y2K preparedness should receive a better overall risk factor score than a vessel or facility that is not prepared for Y2K. However, preparedness is only one element of the risk assessment. It is not inconceivable that a vessel or facility that takes no Y2K preparedness actions might still be allowed to operate during peak Y2K risk periods because its operations pose little risk (favorable weather, current and tide conditions; low vessel traffic density; non-hazardous cargo; etc.). Of course, we strongly encourage all vessel and marine facility owners and operators to prepare for the Y2K problem.

Finally, some comments urged the Coast Guard to make industry Y2K preparedness information available to the public. Respondents were concerned that, without a central repository for Y2K preparedness information, companies may have to submit multiple Y2K preparedness reports to flag state administrations, local and State government agencies, and other companies. We agree that a central repository for Y2K preparedness information may be a useful tool. We understand that some commercial Internet sites may offer a similar service in the near future; we will provide links to these commercial sites from our Y2K Internet site (http://www.uscg.mil/hq/g-m/y2k.htm).

Why is this temporary interim rule necessary? The *Discussion of Regulatory Action* section of this document discusses in detail why the Coast Guard is issuing these temporary regulations. Responses to questionnaires will help COTPs assess vessel and marine facility preparedness for potential Y2K-related malfunctions of equipment and systems. This preparedness information will help COTPs identify potentially hazardous situations during peak Y2K risk periods so they can take appropriate measures to promote safety and environmental protection.

How will the Coast Guard collect Y2K preparedness information? We will use two separate questionnaires to collect Y2K preparedness information.

- The Vessel Questionnaire includes IMO Year 2000 questionnaire 2 and United States (U.S.) Supplement 1.
- The Marine Facility Questionnaire includes IMO Year 2000 questionnaire 3 and U.S. Supplement 2.

The questionnaires are based on the questionnaires found in the IMO's Year 2000 Code of Good Practice. They have U.S.-specific instructions and include U.S. supplements. More information on these questionnaires, including applicability and submission requirements, can be found in the *Discussion of Interim Rule* section of this document.

How will COTPs assess Y2K-related risks for vessels and marine facilities? With information collected from the

Vessel and Marine Facility Questionnaires, COTPs will use the ''Y2K Risk Assessment Matrix'' as a tool to help them assess potential Y2K risks associated with vessel and marine facility operations during peak risk periods. The risk assessment matrix, however, is not meant to be a binding mechanism from which the COTP cannot deviate. It is simply one tool that is designed to assist the COTP in making decisions regarding maritime safety and the marine environment. The risk assessment matrix is part of NVIC 6–99. NVIC 6–99 will be available in the docket at the addresses under **ADDRESSES** and on the Internet at http://www.uscg.mil/hq/g-m/nvic/.

COTPs will focus their risk assessments on three peak risk periods:

- Between midnight September 7, 1999 and midnight September 9, 1999 (48 hours);
- Between midnight December 30, 1999 and midnight January 1, 2000 (48 hours); and
- Between midnight February 27, 2000 and midnight February 29, 2000 (48 hours).

The risk assessment matrix has two sections, one for vessel movement and one for cargo transfer operations.

- *Vessel Movement.* The vessel movement section identifies vessel and cargo risk factors (inspection status, cargo, vessel history, etc.) and balances these factors with local environmental factors (time of day, weather, etc.) and the potential consequences of accidents (health and safety, environmental, etc.). The matrix considers these risk factors along with mitigating factor information obtained from the questionnaires (equipment testing, contingency planning, etc.) to calculate an overall risk factor.
- *Cargo Transfer.* The cargo transfer section considers cargo risk factors, facility history, and risk mitigating factor information obtained from questionnaires to calculate an overall risk factor.

The Y2K Risk Assessment Matrix is a tool designed to analyze information from a variety of sources. The questionnaires required by this temporary interim rule are only one component of the risk assessment process. It is conceivable, if unlikely, that a vessel or facility representative could reply ''no'' to every question on the applicable questionnaire (indicating that no Y2K preparedness actions have been taken) and the COTP, after conducting a risk assessment and classifying the vessel or facility as low risk, could allow the vessel or facility to operate without restriction during one or more peak risk periods. A vessel or facility not prepared for Y2K could be classified as low risk based on a number of factors such as location, weather conditions, tide and current, type of cargo, vessel traffic density, etc. However, in most cases, a vessel or marine facility that demonstrates some level of Y2K preparedness should receive a better overall risk factor score than a vessel or marine facility that is not prepared for Y2K.

While the Coast Guard's Y2K risk assessment efforts will focus on the specific dates of concern, it is possible that date-sensitive or Y2K-related casualties could occur on dates other than the peak risk periods. Such incidents should be reported to the applicable COTP under existing casualty reporting requirements.

We encourage vessel and marine facility owners and operators to obtain copies NVIC 6–99 so they can use the risk assessment matrix to conduct Y2K preparedness self-assessments.

Why does the Coast Guard need to collect information before and after the peak risk periods? Although the first peak risk period begins at midnight on September 7, 1999, this rule requires most vessel and facility representatives to report Y2K preparedness information by August 1, 1999. There are over 42,000 vessels and 7,000 marine facilities affected by this rule; most of the affected vessels are U.S.-flag vessels. We believe most U.S.-flag vessels and marine facilities will operate during at least one of the Y2K peak risk periods. Given the large number of questionnaire respondents, we will need time to input questionnaire responses into our database, and COTPs will need time to conduct risk assessments, follow-up with vessel and facility representatives, as necessary, and implement appropriate control measures to promote safety and environmental protection. Based on feedback from COTPs, vessel and marine facility owners and operators may use the time after August 1, 1999 to take additional Y2K preparedness actions. Owners and operators who do take additional preparedness actions will be able to update their original questionnaire submissions.

The major exception to the August 1, 1999 questionnaire submission deadline is foreign vessels. Vessel Questionnaires for foreign vessels operating in U.S. waters from August 1, 1999, through March 31, 2000 are not due until at least 24 hours prior to a vessel's first arrival in U.S. waters after August 1, 1999. We do, however, encourage vessel representatives to submit the required information to the Coast Guard as soon as possible after July 1, 1999. We are interested in Y2K preparedness information only for those foreign flag vessels operating in U.S. waters between August 1, 1999 and March 31, 2000.

Although the last peak risk period ends at midnight on February 29, 2000, this rule is effective through March 31, 2000. We believe it is very important to provide an extra ''period of vigilance'' because of the remaining uncertainty about the Y2K problem. It is possible that some Y2K-related problems may be dormant for a period of time before they are discovered. It is also possible that new Y2K-related dates of concern may be identified. Having an effective rule in place gives us the needed flexibility to quickly address emerging Y2K issues.

Discussion of Interim Rule

This rulemaking will prescribe temporary Y2K preparedness reporting requirements by adding a temporary new subpart D to 33 CFR part 160—Year 2000 (Y2K) Preparedness Reporting for Certain Vessels and Marine Facilities. The new subpart D contains—

- applicability for certain vessels and marine facilities;
- new definitions for various terms used throughout the subpart; and
- instructions for submitting the appropriate Y2K preparedness information.

These temporary reporting requirements will help COTPs assess potential Y2K risks associated with vessel movement and cargo transfer during the peak risk periods.

Applicability and exemptions. The Y2K reporting requirements will apply to:

- Vessels owned in the U.S and foreign flag vessels operating on waters subject to the jurisdiction of the U.S., bound for a U.S. port or place of destination between August 1, 1999 and March 31, 2000;
- Vessels owned in the United States and foreign flag vessels engaged in lightering operations under part 156 of this title on the navigable waters of the United States or in the marine environment;
- Vessels inspected under Chapter 33 of Title 46 United States Code; and
- Marine facilities.

Recreational vessels, public vessels, uninspected commercial fishing vessels, uninspected barges, foreign flag vessels engaged in innocent passage, and facilities directly operated by the Department of Defense or under the authority of the Department of the Interior are exempt from this rule.

Definitions. Subpart D contains several definitions that are related to Y2K and these temporary reporting requirements. Some definitions are self-

explanatory and are used in other Coast Guard regulations. The following is a discussion of a few key definitions developed specifically for the Y2K preparedness reporting requirements.

The term *facility representative* is defined to clarify who may complete and submit a Facility Questionnaire on behalf of a marine facility. A facility representative could be the facility owner, operator, person in charge, or other employee of a marine facility who is responsible for the facility's Y2K preparedness.

The term *midnight* is defined to clarify when the peak risk periods begin and end. As used in this rule, midnight means the last moment or end of a calendar day, i.e., 2400 hours local time on a 24-hour clock.

The term *operating* is defined to clarify what vessels and marine facilities must comply with the Y2K preparedness reporting requirements of this rule. Operating vessels include vessels underway, conducting cargo loading/transfer operations, or carrying passengers. Operating marine facilities include facilities conducting cargo loading/transfer operations with vessels. Vessels and marine facilities not operating between August 1, 1999 and March 31, 2000 do not need to meet the Y2K preparedness reporting requirements of this rule.

The term *vessel representative* is defined to clarify who may complete and submit a Vessel Questionnaire on behalf of a vessel or fleet of vessels. A vessel representative could be the vessel owner, agent, master, operator, person in charge, or other person who is responsible for a vessel's or fleet's Y2K preparedness.

Vessel and Marine Facility Questionnaires. As previously discussed, we have developed a Vessel Questionnaire and a Marine Facility Questionnaire to collect information concerning Y2K preparedness. Copies of the questionnaires will be available from Coast Guard Marine Safety Offices or on the Internet at http://www.uscg.mil/hq/g-m/y2k.htm. You can submit questionnaires via mail, fax or an Internet-based form. We recommend that you submit questionnaires via the Internet if possible. Questionnaires submitted on the Internet will be password protected so only you and the Coast Guard can access your vessel's or facility's information. If the status of your Y2K preparedness changes or your operational plans change, you will be able to enter your password and access your original submission, making updates relatively easy.

Vessel Questionnaire. The Vessel Questionnaire consists of four pages.

- Page 1 includes instructions for completing the Vessel Questionnaire. The instructions provide very specific and detailed information on how to use the questionnaire, where to send it, when and how to update information, etc.
- Page 2 is the IMO Year 2000 Questionnaire 2. This questionnaire is designed to collect specific Y2K preparedness information for a vessel or fleet of vessels. (Under IMO Circular 2121, marine facilities may request this information from visiting vessels.)
- Page 3 is the U.S. Supplement 1. The Coast Guard developed U.S. Supplement 1 to collect vessel specific information such as vessel type and cargo. U.S. Supplement 1 also helps identify which Captain of the Port zone(s) a vessel may be operating in between August 1, 1999 and March 31, 2000, as well as which zone(s) the vessel may be operating in during the peak risk periods. It also asks one additional risk assessment-related question concerning Y2K contingency planning.
- Page 4 is a list of Marine Safety Offices/Captains of the Port. It provides contact addresses and fax numbers.

Marine Facility Questionnaire. The Marine Facility Questionnaire consists of four pages.

- Page 1 includes instructions for completing the Marine Facility questionnaire. The instructions provide very specific and detailed information on how to use the questionnaire, where to send it, when and how to update information, etc.
- Page 2 is the IMO Year 2000 Questionnaire 3. It is designed to collect specific Y2K preparedness information for marine facilities. (Under IMO Circular 2121, visiting vessels may request this information from marine facilities.)
- Page 3 is the U.S. Supplement 2. The Coast Guard developed U.S. Supplement 2 to collect facility-specific information such as name and type of facility. It also asks one additional risk assessment-related question concerning Y2K remedial actions.
- Page 4 is a list of Marine Safety Offices/Captains of the Port. It provides contact addresses and fax numbers.

Y2K reporting requirements for vessels owned in the United States. If you are the vessel representative of a vessel owned in the U.S. that will operate during any of the peak risk periods, you must submit a Vessel Questionnaire so it is received by the Coast Guard no later than August 1, 1999.

If you are the vessel representative of a vessel owned in the U.S. that will not operate during any of the peak risk periods, but will operate during the period August 1, 1999, through March 31, 2000, you must submit a U.S. Supplement 1 (page 3 of the Vessel Questionnaire) so it is received by the Coast Guard no later than August 1, 1999. You do not need to submit an IMO Year 2000 Questionnaire 2 (page 2 of the Vessel Questionnaire).

You may submit one copy of the IMO Year 2000 Questionnaire 2 on behalf of an entire fleet of vessels if the same Y2K preparedness information applies to all vessels within the fleet. However, you must submit a U.S. Supplement 1 (page 3 of the Vessel Questionnaire) for each vessel in the fleet. If any vessel(s) in your fleet has a different level of Y2K preparedness, you must submit a separate Vessel Questionnaire for that vessel(s).

If the Y2K preparedness status of your vessel(s) changes, or your operational plans change, you must submit a new or updated Vessel Questionnaire or updated U.S. Supplement 1 as soon as possible. If you submit updated information during any of the peak risk periods, you must instead submit it to the applicable COTP. This process will ensure that the COTP has the most up-to-date information available for your vessel(s).

The Coast Guard is currently putting the final touches on its Y2K questionnaire data processing system and should have the system up and running by July 1, 1999. Please do not submit Vessel Questionnaires or U.S. Supplement 1's to the Coast Guard prior to July 1, 1999.

Y2K reporting requirements for foreign flag vessels. If you are a representative of a foreign flag vessel that will operate on waters subject to the jurisdiction of the U.S. during any of the peak risk periods, you must submit a Vessel Questionnaire so it is received by the Coast Guard no later than 24 hours prior to the vessel's first arrival in a U.S. port or place of destination on or after August 1, 1999.

If you are a representative of a foreign flag vessel that will not operate on waters subject to the jurisdiction of the U.S. during any of the peak risk periods, but will operate on these waters during the period August 1, 1999, through March 31, 2000, you must submit a U.S. Supplement 1 (page 3 of the Vessel Questionnaire) so it is received by the Coast Guard no later than 24 hours prior to the vessel's first arrival in a U.S. port or place of destination on or after August 1, 1999. You do not need to

submit an IMO Year 2000 Questionnaire 2 (page 2 of the Vessel Questionnaire).

You may submit one copy of the IMO Year 2000 Questionnaire 2 on behalf of an entire fleet of vessels if the same Y2K preparedness information applies to all vessels within the fleet. However, you must submit a U.S. Supplement 1 (page 3 of the Vessel Questionnaire) for each vessel in the fleet. If any vessel(s) in your fleet has a different level of Y2K preparedness, you must submit a separate Vessel Questionnaire for that vessel(s).

If the Y2K preparedness status of your vessel(s) changes, or your operational plans change, you must submit a new or updated Vessel Questionnaire or updated U.S. Supplement 1 as soon as possible. If you submit updated information during any of the peak risk periods, you must instead submit it to the applicable COTP. This process will ensure that the COTP has the most up-to-date information available for your vessel(s).

Though these regulations require submission of information at least 24 hours prior to your vessel's arrival in the U.S., you are encouraged to submit information as soon as practicable in case corrective actions become necessary. You do not need to provide Y2K preparedness information for a vessel that will not operate in U.S. waters between August 1, 1999 and March 31, 2000.

The Coast Guard is currently putting the final touches on its Y2K questionnaire data processing system and should have the system up and running by July 1, 1999. Please do not submit Vessel Questionnaires or U.S. Supplement 1's to the Coast Guard prior to July 1, 1999.

Y2K reporting requirements for marine facilities. If you are a representative of a marine facility that will operate during any of the peak risk periods, you must submit a Marine Facility Questionnaire so that it is received by the Coast Guard no later than August 1, 1999.

If you are a representative of a marine facility that will not operate during any of the peak risk periods, but will operate during the period August 1, 1999, through March 31, 2000, you must submit a U.S. Supplement 2 (page 3 of the Marine Facility Questionnaire) so that it is received by the Coast Guard no later than August 1, 1999. You do not need to submit an IMO Year 2000 Questionnaire 3 (page 2 of the Marine Facility Questionnaire).

If your facility's Y2K preparedness or operational plans change, you must submit a new or updated Marine Facility Questionnaire or updated U.S. Supplement 2 as soon possible. If your facility's Y2K status or operational plans change during any of the peak risk periods, you must instead submit the updated information to the applicable COTP. This process will ensure that the COTP has the most up-to-date information available for your facility.

The Coast Guard is currently putting the final touches on its Y2K questionnaire data processing system and should have the system up and running by July 1, 1999. Please do not submit Marine Facility Questionnaires or U.S. Supplement 2's to the Coast Guard prior to July 1, 1999.

Regulatory Evaluation

This temporary interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, l979).

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

Costs

The costs of the rule are the labor costs and Internet, fax, and mail costs required by industry to complete and submit the questionnaires, plus costs to the government. The total cost of the rule to industry and government is $385,262 ($282,262 industry costs plus $103,000 government costs).

Benefits

This rule will provide Coast Guard COTPs with critical Y2K preparedness information on vessels and marine facilities. COTPs will use this information to identify potentially high risk operations during peak risk periods so appropriate measures can be taken to promote safety and environmental protection.

Small Entities

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

Small entities that own or operate marine facilities, certain U.S. vessels, or foreign flag vessels that operate on U.S. waters from August 1, 1999, through March 31, 2000 are affected by this rule. Small entities that own or operate uninspected commercial fishing vessels, uninspected passenger vessels, uninspected barges, recreational vessels, and public vessels are exempted from this rule.

The Marine Facility Questionnaire will take each marine facility representative, on average, 8 minutes to complete and submit. At an average unit labor cost of $45 per hour, we estimate the average labor cost to complete and submit the Marine Facility Questionnaire is $5.85 per facility. Each facility representative can submit the completed questionnaire either by Internet, fax, or mail. Delivery costs range from $0 (Internet) to $1.30 (fax). Thus, the total cost to a marine facility, on average, is expected to range from $5.85 to $7.15.

It is expected to take a vessel representative, on average, 13 minutes to complete a Vessel Questionnaire (includes 8 minutes to complete IMO Year 2000 Questionnaire 2 and 5 minutes to complete U.S. Supplement 1). The total cost for a single vessel, on average, is expected to range from $9.45 to $10.75 (depending on delivery costs). For each additional vessel in a fleet, total labor cost increases by $3.60 per vessel, and total delivery cost increases by $0 to $0.65, depending upon method of delivery.

The smaller a company's fleet, the smaller the hour burden and labor cost to complete and submit the Vessel Questionnaire. Because fleet size is a reasonable measure of entity size, we expect small entities to have relatively small fleets. According to the Coast Guard's database, a U.S. vessel company, on average, has 4 vessels. Thus, the total hour burden and total cost of this rule to an entity with an average fleet is 0.47 hours and from $21.15 to $24.58, respectively. We expect the hour burden and cost of this rule to small entities to be less than this average.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary interim rule would not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement

Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Mr. John Hannon at (202) 267–1464.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

This temporary interim rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Year 2000 (Y2K) Reporting Requirements for Vessels and Marine Facilities

Summary of the Collection of Information: Approximately 7,821 marine facilities, 42,819 vessels (and 22,151 vessel owners/operators) are affected by this temporary interim rule. We expect 50,640 U.S. Supplements and 19,327 IMO Year 2000 Questionnaires will be submitted by vessel and marine facility representatives. The total hour burden of this rule to respondents is 5,939 hours. The total labor cost of this rule to respondents is estimated to be $267,255. The total delivery/submission cost is estimated to be $15,007. Thus, the total cost to respondents is estimated to be $282,262.

Need for Information: At present, there are no regulations that require either vessels or marine facilities to disclose their Y2K preparedness. The Y2K preparedness information required by this rule will help COTPs assess vessel and marine facility preparedness for potential Y2K-related malfunctions of equipment and systems. This preparedness information will help COTPs identify potentially hazardous situations during peak Y2K risk periods, enabling them to take appropriate measures to promote port safety and environmental protection.

Proposed Use of Information: To help COTPs conduct Y2K risk assessments for their ports. Risk assessments will identify potentially hazardous situations during peak risk periods so appropriate measures can be taken to help ensure port safety and environmental protection.

Description of the Respondents: Marine facilities and vessels that arrive in, operate in, and reside in U.S. ports from August 1, 1999, through March 31, 2000.

Number of Respondents: 7,821 marine facilities and 42,819 vessels (22,151 owners/operators)

Frequency of Response: One questionnaire per marine facility and one questionnaire per vessel (or owner/operator), or as needed.

Burden of Response: According to the Coast Guard's MSMS database, there are 7,821 marine facilities and 42,819 certain U.S. and foreign vessels that arrive in, operate in, and reside at U.S. ports during an eight-month time frame.

A Marine Facility Questionnaire (includes an IMO Year 2000 Questionnaire 3 and U.S. Supplement 2) must be submitted for each marine facility by August 1, 1999. The Coast Guard estimates it will take a facility representative, on average, 8 minutes (0.13 hours) to complete and submit the Marine Facility Questionnaire. The total hour burden to marine facilities is 1,017 hours. At an average unit labor cost of $45 per hour, the total labor cost of this rule to marine facilities is $45,765.

A marine facility representative can submit the required information by Internet, fax, or mail. The Coast Guard estimates the average delivery cost to be $0 if sent by Internet, $1.30 if sent by fax, and $0.33 by U.S. mail. Most marine facilities are connected to the Internet, so the Coast Guard expects 75% of facility representatives to submit the required information by Internet, 20% by fax, and the remaining 5% by mail. The total delivery cost to marine facilities is estimated to be $2,162. Thus, the total cost of this information collection to marine facilities is expected to be $47,927.

According to the Coast Guard's MSMS database, 37,171 U.S. vessels and 8,682 U.S. vessel owning or operating companies are affected by this rule. A U.S. vessel owning or operating company owns, on average, 4 vessels.

Each U.S. company will be required to complete U.S. Supplement 1 (part of the Vessel Questionnaire) for every vessel in its fleet that arrives in, operates in, or resides in U.S. ports from August 1, 1999, through March 31, 2000. We expect that 37,171 U.S. Supplement 1's will be submitted for U.S. vessels. Each company that has a vessel arriving in, operating in, or residing at U.S. waters during any of the three peak risk periods must submit IMO Year 2000 Questionnaire 2. We expect all U.S. vessels will operate in U.S. waters during at least one of the peak risk periods; therefore, we expect that 8,682 Questionnaire 2's will be submitted for U.S. vessels. The Coast Guard estimates it will take, on average, 5 minutes (0.08 hours) to complete and submit U.S. Supplement 1 for every vessel and, on average, 8 minutes (0.13 hours) to complete and submit IMO Year 2000 Questionnaire 2. Thus, the total hour burden to U.S. vessel companies is 4,103 hours (2,974 + 1,129). With an average unit labor cost of $45 per hour, we expect the total labor cost to owners/operators of U.S. vessels is $184,635.

The Coast Guard estimates the average delivery cost for the required vessel information is $0 for Internet submission, $0.65 per page by fax, or $0.53 for 5 pages by U.S. mail. Furthermore, the Coast Guard estimates that a third of the vessel representatives will deliver the required information by Internet, a third by fax, and the remaining third by mail. U.S. vessel representatives will submit a total of 45,853 submissions (37,171 U.S. Supplement 1's and 8,682 IMO Year 2000 Questionnaire 2's). Thus, the total delivery cost for Internet submission is $0; to fax is $9,934, and to mail is $1,534. The total delivery cost to owners/agents of U.S. vessels is $11,468.

The total cost of this rule to U.S. vessels is $196,103.

According to the Coast Guard's MSMS database, 8,475 foreign vessels arrived in U.S. ports in 1998. Given that number, we assume an average of 706 foreign flag vessels per month are affected by this rule. Thus, we expect 5,648 foreign vessels to arrive in U.S. ports from August 1, 1999, through March 31, 2000. Thus, we expect that 5,648 U.S. Supplement 1's will be submitted by foreign flag vessel representatives. (5,509 Supplement 1's will be submitted to Coast Guard Headquarters and 139 Supplement 1's will be submitted to Captains of the Port).

The Coast Guard estimates that 50% of the 5,648 foreign flag vessels will operate in U.S. waters during the peak Y2K risk periods. Thus, we expect that a total of 2,824 IMO Year 2000 Questionnaire 2's will be submitted by foreign flag vessel representatives. (69 will be submitted to Captains of the Port, while 2,755 will be submitted to Coast Guard Headquarters).

The Coast Guard estimates it will take, on average, 5 minutes (0.08 hours) to complete and submit U.S. Supplement 1, and 8 minutes (0.13 hours) to complete and submit IMO Year 2000 Questionnaire 2. Consequently, the total hour burden to foreign flag vessels is 819 hours (452 + 367). At a unit labor cost of $45 per hour, the total labor cost is $36,855.

We expect foreign flag vessel representatives to submit a total of 8,472 submissions (2,824 IMO Year 2000 Questionnaires and 5,648 U.S. Supplement 1's). The Coast Guard estimates that 75% (6,354 pages will be submitted by Internet, and the remaining 25% (2,118 pages) by fax. At a cost of $0 per page to Internet, and $0.65 per page to fax, we estimate the total delivery cost to foreign flag vessels is $1,377.

The total cost of this rule to foreign flag vessels is $38,232 (36,855 + 1,377).

The total cost of this rule to industry is $282,262 [$47,927 (marine facilities) plus $196,103 (U.S. vessels) plus $38,232 (foreign vessels)].

Estimate of Total Annual Burden: The temporary interim rule implementing this collection will be effective from July 23, 1999 through March 31, 2000.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this temporary interim rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. The Coast Guard has received emergency approval from OMB on the collection of information requirements (OMB approval number 2115–0639). This emergency OMB approval is effective for six months. Prior to the expiration of the emergency approval, the Coast Guard will submit the requirements to OMB for renewal.

Federalism

We have analyzed this temporary interim rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This temporary interim rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this temporary interim rule and concluded that, under figure 2–1, paragraph (34)(i), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule establishes temporary reporting requirements that will assist the Coast Guard in assessing Y2K-related risks. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects 33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous material transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as set forth below:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

1. The authority citation for part 160 is amended to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46. Subpart D is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

2. Subpart D is added to part 160 effective July 23, 1999 through March 31, 2000, to read as follows:

Subpart D—Year 2000 (Y2K) Preparedness Reporting for Certain Vessels and Marine Facilities

Sec.

160.301 What is the purpose of this subpart?
160.303 When is this subpart effective?
160.305 To which vessels and facilities does this subpart apply?
160.307 Which vessels and facilities are exempt from this subpart?
160.309 What definitions apply to this subpart?
160.311 What are the Year 2000 (Y2K) peak risk periods?
160.313 What are the Year 2000 (Y2K) reporting requirements for vessels owned in the United States?
160.315 What are the Year 2000 (Y2K) reporting requirements for foreign flag vessels?
160.317 What are the Year 2000 (Y2K) reporting requirements for marine facilities?
Appendix A to Subpart D of Part 160—United States Coast Guard Vessel Questionnaire
Appendix B to Subpart D of Part 160—United States Coast Guard Marine Facility Questionnaire

Subpart D—Year 2000 (Y2K) Preparedness Reporting for Certain Vessels and Marine Facilities

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46. Subpart D is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

§ 160.301 What is the purpose of this subpart?

This subpart contains temporary regulations implementing the Ports and Waterways Safety Act (33 U.S.C. 1221 *et seq.*) and related statutes. The information collected as a result of these temporary regulations will help Captains of the Port assess vessel and marine facility preparedness for potential Year 2000-related malfunctions.

§ 160.303 When is this subpart effective?

This subpart is effective from July 23, 1999 through March 31, 2000.

§ 160.305 To which vessels and facilities does this subpart apply?

This subpart applies to:

(a) Vessels owned in the United States and foreign flag vessels operating on waters subject to the jurisdiction of the U.S. between August 1, 1999, and March 31, 2000;

(b) Vessels owned in the United States and foreign flag vessels engaged in lightering operations under part 156 of this title on the navigable waters of the United States or in the marine environment;

(c) Vessels inspected under Chapter 33 of Title 46 United States Code; and

(d) Marine facilities as defined in § 160.309.

§ 160.307 Which vessels and facilities are exempt from this subpart?

The following vessels and facilities are exempt from this subpart:

(a) Recreational vessels under 46 U.S.C. 4301 *et seq.*;

(b) Public vessels;

(c) Uninspected commercial fishing vessels;

(d) Uninspected barges;

(e) Foreign flag vessels engaged in innocent passage;

(f) Uninspected passenger vessels; and

(g) Facilities directly operated by the Department of Defense or under the authority of the Department of the Interior.

§ 160.309 What definitions apply to this subpart?

As used in this subpart:

Agent means any person, partnership, firm, company, or corporation engaged by the owner or charterer of the vessel to act in their behalf in matters concerning the vessel.

Facility Representative means the owner, operator, person in charge, or employee of a marine facility who is responsible for the facility's Y2K preparedness.

Marine facility means any facility designated by the following:

(1) 33 CFR 125.07 or 126.01 as a Waterfront Facility;

(2) 33 CFR 126.05 as a Designated Waterfront Facility;

(3) 33 CFR 127.005 as a Waterfront Facility Handling Liquefied Hazardous Gas (LNG) or Liquefied Natural Gas (LNG);

(4) 33 CFR 148.3 as a Deepwater Port;

(5) 33 CFR 154.105 as a Facility, Mobile Facility, or Offshore Facility; or

(6) 33 CFR 154.1020 as a Marine Transportation-related Facility.

Marine Facility Questionnaire means ''IMO Year 2000 Questionnaire 3 (IMO circular letter 2121, Appendix 3) and U.S. Supplement 2'' for marine facilities.

Midnight means the last moment or end of a calendar day, i.e., 2400 hours local time on a 24-hour clock.

Operating means vessels underway, conducting cargo loading/transfer operations, or carrying passengers, or facilities conducting cargo loading/transfer operations with vessels.

Operator means any person including, but not limited to, an owner, a demise or bareboat charterer, or a contractor who conducts, or is responsible for, the operation of a vessel.

Port or place of departure means any port or place in which a vessel is anchored or moored.

Port or place of destination means any port or place to which a vessel is bound to anchor or moor.

Recreational vessel means a vessel being used only for pleasure as defined in 46 U.S.C. 2101(25).

Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

Vessel owned in the United States means any vessel documented or numbered under the laws of the United States; and, any vessel owned by a citizen of the United States that is not documented or numbered by any nation.

Vessel Questionnaire means ''IMO Year 2000 Questionnaire 2 (IMO circular letter 2121, Appendix 2) and U.S. Supplement 1'' for vessels.

Vessel Representative means the owner, agent, master, operator, person in charge, or other person responsible for a vessel's or fleet's Y2K preparedness.

Year 2000 (Y2K) preparedness means checking for the proper operation of systems that include, but are not limited to, power generation equipment, steering and propulsion, loading and unloading equipment, and alarms into the next century on all potential risk dates; preparing for the Y2K risk dates which may require updating software and hardware and replacing systems, subsystems, or components; and determining that other computer-based systems' data exchanges internal or external to the company's, vessel's, or marine facility's will also correctly function before, into, and during the Year 2000.

§ 160.311 What are the Year 2000 (Y2K) peak risk periods?

The Y2K peak risk periods are:

(a) Between midnight September 7, 1999, and midnight September 9, 1999;

(b) Between midnight December 30, 1999, and midnight January 1, 2000; and

(c) Between midnight February 27, 2000, and midnight February 29, 2000.

§ 160.313 What are the Year 2000 (Y2K) reporting requirements for vessels owned in the United States?

(a) The vessel representative of a vessel owned in the United States must submit the following information—

(1) If your vessel will operate during any of the peak risk periods identified in § 160.311, you must submit a Vessel Questionnaire, as contained in Appendix A to this subpart, so that it is received by the U.S. Coast Guard no later than August 1, 1999.

(2) If your vessel will not operate during any of the peak risk periods identified in § 160.311, but will operate during the period August 1, 1999, through March 31, 2000, you must submit U.S. Supplement 1 (page 3 of the Vessel Questionnaire as contained in Appendix A to this subpart) so that it is received by the U.S. Coast Guard no later than August 1, 1999.

(b) You must submit the information required by paragraph (a) of this section to the U.S. Coast Guard by one of the following means.

(1) By mail to: United States Coast Guard (MOC/Y2K), c/o The Centech Group, 2000 N. 14th Street, Suite 700, Arlington, VA 22201;

(2) By fax to: 1–800–825–4357; or

(3) Electronically via the Internet at: http://www.ucsg.mil/hq/g-m/y2k.htm.

(c) You may submit one copy of the IMO Year 2000 Questionnaire 2 (page 2 of the Vessel Questionnaire contained in Appendix A to this subpart) on behalf of your entire fleet if the same information provided in the IMO Year 2000 Questionnaire 2 applies to all vessels within the fleet, unless circumstances as described in paragraphs (f) or (g) of this section apply. You must still complete a U.S. Supplement 1 for each vessel operating between August 1, 1999, and March 31, 2000.

(d) For vessels described in paragraph (a)(1) of this section, you must notify the U.S. Coast Guard, through the completion of a Vessel Questionnaire

contained in Appendix A to this subpart. The information required to complete the questionnaire includes:

(1) Name of person completing the questionnaire;

(2) Company contact personnel and address, phone number, facsimile number (if available), and electronic mail address (if available);

(3) Vessel's name;

(4) Vessel's type;

(5) Cargo type;

(6) Vessel's gross tonnage;

(7) Vessel's Flag State;

(8) Vessel's IMO or Official Number;

(9) Captain of the Port zone(s) the vessel may be operating in from August 1, 1999, through March 31, 2000.

(10) Status of Y2K preparedness.

(e) For vessels described in paragraph (a)(2) of this section, you must notify the U.S. Coast Guard, through the completion of a U.S. Supplement 1 (page 3 of the Vessel Questionnaire contained in Appendix A to this subpart). The information required to complete the supplement includes:

(1) Name of person completing the questionnaire;

(2) Company contact personnel and address, phone number, facsimile number (if available), and electronic mail address (if available);

(3) Vessel's name;

(4) Vessel's type;

(5) Cargo type;

(6) Vessel's gross tonnage;

(7) Vessel's Flag State;

(8) Vessel's IMO or Official Number;

(9) Captain of the Port zone(s) the vessel may be operating in from August 1, 1999, through March 31, 2000.

(f) If the Y2K preparedness or operational plans of your vessel(s) changes after the initial submission of a Vessel Questionnaire or U.S. Supplement 1, you must submit an updated or new Vessel Questionnaire or updated U.S. Supplement 1 by the means described in paragraph (b) of this section.

(g) If you submit a new or updated Vessel Questionnaire, as contained in Appendix A to this subpart, during any of the peak risk periods identified in § 160.311, you must submit the information to the Captain of the Port for each port or place of destination the vessel will operate in instead of by one of the means described in paragraph (b) of this section.

§ 160.315 What are the Year 2000 (Y2K) reporting requirements for foreign flag vessels?

(a) The vessel representative of a foreign flag vessel must submit the following information—

(1) If your vessel will operate on waters subject to the jurisdiction of the U.S. during any of the peak risk periods identified § 160.311, you must submit a Vessel Questionnaire, as contained in Appendix A to this subpart, so that it is received by the U.S. Coast Guard no later than 24 hours prior to arrival in a U.S. port or U.S. place of destination.

(2) If your vessel will not operate on waters subject to the jurisdiction of the U.S. during any of the peak risk periods identified in § 160.311, but will operate on waters subject to the jurisdiction of the U.S. during the period August 1, 1999, through March 31, 2000, you must submit U.S. Supplement 1 (page 3 of the Vessel Questionnaire as contained in Appendix A to this subpart) so that it is received by the U.S. Coast Guard no later than 24 hours prior to arrival in a U.S. port or U.S. place of destination.

(b) You must submit the information required by paragraph (a) of this section to the U.S. Coast Guard by one of the following means:

(1) By mail to: United States Coast Guard (MOC/Y2K), c/o The Centech Group 2000 N. 14th Street, Suite 700, Arlington, VA 22201;

(2) By fax to: 1–800–825–4357; or

(3) Electronically via the Internet at: http://www.ucsg.mil/hq/g-m/y2k.htm.

(c) You may submit one copy of the IMO Year 2000 Questionnaire 2 (page 2 of the Vessel Questionnaire contained in Appendix A to this subpart) on behalf of your entire fleet if the same information provided in the IMO Year 2000 Questionnaire 2 applies to all vessels within the fleet, unless circumstances as described in paragraphs (f) or (g) of this section apply. You must still complete a U.S. Supplement 1 for each vessel operating on waters subject to the jurisdiction of the U.S. between August 1, 1999, and March 31, 2000.

(d) For vessels described in paragraph (a)(1) of this section, you must notify the U.S. Coast Guard, through the completion of a Vessel Questionnaire contained in Appendix A to this subpart. The information required to complete the questionnaire includes:

(1) Name of person completing the questionnaire;

(2) Company contact personnel and address, phone number, facsimile number (if available), and electronic mail address (if available);

(3) Vessel's name;

(4) Vessel's type;

(5) Cargo type;

(6) Vessel's gross tonnage;

(7) Vessel's Flag State;

(8) Vessel's IMO or Official Number;

(9) Captain of the Port zone(s) the vessel may be operating in from August 1, 1999, through March 31, 2000.

(10) Status of Y2K preparedness.

(e) For vessels described in paragraph (a)(2) of this section, you must notify the U.S. Coast Guard, through the completion of a U.S. Supplement 1 (page 3 of the Vessel Questionnaire contained in Appendix A to this subpart). The information required to complete the supplement includes:

(1) Name of person completing the questionnaire;

(2) Company contact personnel and address, phone number, facsimile number (if available), and electronic mail address (if available);

(3) Vessel's name;

(4) Vessel's type;

(5) Cargo type;

(6) Vessel's gross tonnage;

(7) Vessel's Flag State;

(8) Vessel's IMO or Official Number;

(9) Captain of the Port zone(s) the vessel may be operating in from August 1, 1999, through March 31, 2000.

(f) If the Y2K preparedness or operational plans of your vessel(s) changes after the initial submission of a Vessel Questionnaire or U.S. Supplement 1, you must submit an updated or new Vessel Questionnaire or updated U.S. Supplement 1 by the means described in paragraph (b) of this section.

(g) If you submit a new or updated Vessel Questionnaire, as contained in Appendix A to this subpart, during any of the peak risk periods identified in § 160.311, you must submit the information to the Captain of the Port for each port or place of destination the vessel will operate in instead of by one of the means described in paragraph (b) of this section.

§ 160.317 What are the Year 2000 (Y2K) reporting requirements for marine facilities?

(a) The facility representative of a marine facility must submit the following information—

(1) If your marine facility will operate during any of the peak risk periods identified § 160.311, you must submit a Marine Facility Questionnaire, as contained in Appendix B to this subpart, so that it is received by the U.S. Coast Guard no later than August 1, 1999.

(2) If your marine facility will not operate during any of the peak risk periods identified in § 160.311, but will operate during the period August 1, 1999, through March 31, 2000, you must submit U.S. Supplement 2 (page 3 of the Marine Facility Questionnaire as contained in Appendix B to this subpart) so that it is received by the U.S. Coast Guard no later than August 1, 1999.

(b) You must submit the information required by paragraph (a) of this section

to the U.S. Coast Guard by one of the following means:

(1) By mail to: United States Coast Guard (MOC/Y2K), c/o The Centech Group, 2000 N. 14th Street, Suite 700, Arlington, VA 22201;

(2) By fax to: 1–800–825–4357; or

(3) Electronically via the Internet at: http://www.ucsg.mil/hq/g-m/y2k.htm.

(c) For marine facilities described in paragraph (a)(1) of this section, you must notify the U.S. Coast Guard, through the completion of a Marine Facility Questionnaire contained in Appendix B to this subpart. The information required to complete the questionnaire includes:

(1) Captain of the Port zone the facility is located in;

(2) Name of facility;

(3) Type(s) of facility;

(4) Name of company;

(5) Name and title of person providing Y2K preparedness information;

(6) Company contact personnel and address, phone number, facsimile number (if available), and electronic mail address (if available); and

(7) Status of Y2K preparedness.

(d) For marine facilities described in paragraph (a)(2) of this section, you must notify the U.S. Coast Guard, through the completion of a U.S. Supplement 2 (page 3 of the Marine Facility Questionnaire contained in Appendix B to this subpart). The information required to complete the supplement includes:

(1) Captain of the Port zone the facility is located in;

(2) Name of facility;

(3) Type(s) of facility;

(4) Name of company;

(5) Name and title of person providing Y2K preparedness information; and

(6) Company contact personnel and address, phone number, facsimile number (if available), and electronic mail address (if available).

(f) If the Y2K preparedness or operational plans of your marine facility changes after the initial submission of a Marine Facility Questionnaire or U.S. Supplement 2, you must submit an updated or new Marine Facility Questionnaire or updated U.S. Supplement 2 by the means described in paragraph (b) of this section.

(g) If you submit a new or updated Marine Facility Questionnaire, as contained in Appendix B to this subpart, during any of the peak risk periods identified in § 160.311, you must submit the information to the Captain of the Port for the place the facility operates in instead of by one of the means described in paragraph (b) of this section.

BILLING CODE 4910–15–P

Appendix A to Subpart D of Part 160—United States Coast Guard Vessel Questionnaire

OMB Approval No. 2115-0639

United States Coast Guard Vessel Questionnaire

[IMO Year 2000 Questionnaire 2 and United States Supplement 1]

Instructions

- Please complete this vessel questionnaire as fully as possible and submit to the U.S. Coast Guard via:

Mail: U. S. Coast Guard (G-MOC/Y2K) c/o The Centech Group 2000 N. 14th Street Suite 700 Arlington, VA 22201	**OR**	**Fax:** 1-800-825-4357	**OR**	Complete the questionnaire and supplement on the Coast Guard's Internet web site at: http://www.uscg.mil/hq/g-m/y2k.htm

- You must submit this vessel questionnaire such that it is received by:

U.S. Vessels:	Foreign Vessels arriving in U.S. Waters:
August 1, 1999	24 hours prior to 1st arrival after August 1, 1999

- The peak risk periods are: Midnight (2400) Sept 7, 1999, through midnight (2400) Sept 9, 1999, **AND** Midnight Dec 30, 1999, through midnight Jan 1, 2000 **AND** Midnight Feb 27, 2000 through midnight February 29, 2000.

- If your vessel or fleet of vessels **will** be operating in U.S. waters during any of the peak risk periods, you must submit at least one vessel questionnaire. If you operate a fleet of vessels which all have the same Y2K preparedness status, you may submit one IMO Questionnaire 2 for all vessels in that fleet. However, you must complete a U.S. Supplement 1 for each individual vessel in your fleet. The following examples are provided:

  1. Company A has 5 vessels and the same answers to the questions in IMO Questionnaire 2 apply to all 5 vessels. Company A must submit 5 U.S. Supplements (1 for each vessel) but may submit one IMO questionnaire 2 that covers all 5 vessels.

  2. Company B also has 5 vessels; however, each vessel has different answers to the questions in the IMO questionnaire. Company B must submit 5 U.S Supplements (1 for each vessel) and 5 IMO Questionnaire 2s (1 for each vessel).

- If your vessel **will not** be operating in U.S. waters during any of the peak risk periods, but **will** be operating in U.S. waters from August 1, 1999, through March 31, 2000, you need only complete the U.S. Supplement 1 and submit it to the Coast Guard via one of the methods outlined above by the appropriate date. You do not have to complete the IMO Year 2000 Questionnaire 2.

- If a vessel's Y2K preparedness or its operational plans change, please submit an updated questionnaire and supplement via mail/fax or update the information via the Internet. **Any new or updated vessel questionnaires submitted during the peak risk periods must be submitted directly to the Captain of the Port (COTP) in whose zone the vessel is operating instead of the locations specified above.** A list of COTP addresses and fax numbers is on page 4.

- **Data items on the IMO Questionnaire 2 marked with an asterisk (*) do not need to be filled in if the questionnaire is being submitted to the U.S. Coast Guard since the U.S. Supplement addresses similar information.**

- For the purpose of this questionnaire, operating means a vessel is underway, conducting cargo loading/transfer operations, or carrying passengers.

- Please DO NOT SUBSTITUTE Y2K-related contingency plans, brochures, policy statements or similar documents for this questionnaire and supplement. If you have questions about the questionnaire and/or supplement, contact the Coast Guard Office of Compliance at: Commandant (G-MOC), 2100 2nd Street SW, Washington DC 20593-0001; tel: 202-267-2978; fax: 202-267-4349.

An agency may not conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection is: 2115-0639.

The Coast Guard estimates it will take averages of 8 minutes to complete and submit Questionnaire 2, and 5 minutes to complete and submit Supplement 1. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MOC), U.S. Coast Guard, Washington, DC 20593-001.

IMO YEAR 2000 QUESTIONNAIRE 2

From: (Port Authority/Terminal Operator) United States Coast Guard

To: (Name of Ships) _____

Please answer the following as fully as you can. Your response to this questionnaire will assist the Port Authority/Terminal Operator in deciding whether due care has been exercised in avoiding possible equipment failure caused by Year 2000 electronic date recognition problems, and in putting in place contingency plans to cope with unforeseen failures.

Company: _____

Ship's IMO Number *: _____ **Flag *:** _____

Tonnage (gross) *: _____ **Ship Type (e.g. ro-ro, cargo) *:** _____

Date/time of expected arrival/departure *: _____

	Circle as appropriate	
1) Does your company have a documented Year 2000 policy in place?	YES	NO
2) Has an inventory check to identify and categorize potentially non-compliant equipment been carried out?	YES	NO
3) Has equipment critical to the operational safety of the ship(s) been investigated, and have appropriate remedial actions been carried out with regard to:		
- Navigational Systems?	YES	NO
- Propulsion and Power Generation Systems?	YES	NO
- Cargo Handling Equipment?	YES	NO
- Other Safety Equipment?	YES	NO
4) Are records of Year 2000 compliance, and/or the results of equipment tests/investigations documented?	YES	NO
5) Are the above documents available onboard the ships for inspection by the port authority/terminal operator?	YES	NO
6) Do the ships have a documented Year 2000 specific contingency plan, including competent personnel to implement it?	YES	NO
7) Has the ships' Year 2000 contingency plan been tested and reviewed to confirm its effectiveness?	YES	NO
8) Has the ships' equipment not currently in use, but critical to safe operation of the ship, been checked to establish that its functionality has not been affected?	YES	NO
9) Has all necessary information been exchanged and agreed with the above named port/terminal on any additional Year 2000 specific requirements applicable to ship operations in the port?	YES	NO

Name of the Master *: _____

Signature of the Master *: _____

Date: _____

UNITED STATES SUPPLEMENT 1 TO IMO YEAR 2000 QUESTIONNAIRE 2

In addition to the IMO Year 2000 Questionnaire 2, please answer the following as fully as you can for each individual vessel arriving in, operating in, or residing at U.S. ports from August 1, 1999 through March 31, 2000.

Name of the Person Completing Questionnaire: _____

Address: _____

_____

_____

Phone: _____

Fax: _____

Email: _____

Vessel Name: _____

Vessel Type (check one):

___ Oil Tanker (single hull) ___ Oil Tanker (double hull) ___ Ore/Bulk/Oil (OBO) ___ LPG Carrier ___ LNG Carrier ___ Chemical Tanker

___ Bulk Carrier ___ Containership ___ Ro-Ro Cargo ___ General Cargo ___ Passenger ___ Offshore Supply

___ MODU Other: _____

Cargo (check one):

___ Cargo of Particular Hazard (33 CFR 126) ___ Liquefied Hazardous Gas (LHG) ___ Bulk HAZMAT (liquid or solid) ___ Bulk Oil

___ 150 or more passengers ___ 7 to 149 passengers ___ 1 to 6 passengers ___ Other

Gross Tonnage: _____ **Flag:** _____ **IMO or Official Number:** _____

Captain of the Port zone you may be operating in (check "yes" for the dates that the vessel may be in each COTP zone. If needed, attach a separate sheet to list additional COTP zones. Refer to page 4 for a list of COTP zones):

Captain of the Port Zone:	Sept 7, 1999 – Sept 9, 1999	Dec 30, 1999 – Jan 1, 2000	Feb 27, 2000 – Feb 29, 2000	Any other dates Aug 1, 1999 - Mar 31, 2000
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes

Please answer the following question	Circle as appropriate	
1) If you were required to complete IMO Questionnaire 2 and answered yes to question #6 of that questionnaire, does the contingency plan call for the following when the vessel is underway:		
• Two or more additional trained crew on board during the risk periods?	YES	NO
• Anchor detail set and anchor ready for letting go during the risk periods?	YES	NO
• Manning the engine room with engine and generator alarm systems in manual override mode during the risk periods?	YES	NO
• Setting the steering in manual mode (disengaging automatic pilot) during the risk periods?	YES	NO
• Enabling the ship for mechanical steering at rudder post and manning the steering compartment during the risk periods?	YES	NO

Marine Safety Offices (MSOs)/Captains of the Port

MSO Portland 103 Commercial Street Portland, ME 04101-4726 PHONE: (207) 780-3681 FAX: (207) 780-3567	MSO Boston 455 Commercial Street Boston, MA 02109-1045 PHONE: (617) 223-3435 FAX: (617) 223-3032	MSO Providence 20 Risho Avenue East Providence, RI 02914-1208 PHONE: (401) 435-2350 FAX: (401) 435-2382	Group/MSO Long Island Sound 120 Woodward Avenue New Haven, CT 06512-3698 PHONE: (203) 468-4401 FAX: (203) 468-4445
USCG Activities New York Prevention/Compliance Division 212 Coast Guard Drive Staten Island, NY 10305 PHONE: (718) 354-4207 FAX: (718) 354-4301	Coast Guard Activities Baltimore 2401 Hawkins Point Road Baltimore, MD 21226-1791 PHONE: (410) 576-2693 FAX: (410) 962-0930	MSO Hampton Roads Norfolk Federal Building, 200 Granby Street Norfolk, VA 23510-1888 PHONE: (757) 441-3300 FAX: (757) 441-3262	MSO Wilmington 272 N. Front Street, Suite 500 Wilmington, NC 28401-3907 PHONE: (910) 815-4895 ext. 107 FAX: (910) 815-4523
MSO/Group Philadelphia 1 Washington Avenue Philadelphia, PA 19147-4395 PHONE: (215) 271-4806 FAX: (215) 271-4833	MSO Miami P.O. Box 01-6940 Miami, FL 33101-6940 PHONE: (305) 535-8705 FAX: (305) 535-8742	MSO Jacksonville 7820 Arlington Expressway, Suite 400 Jacksonville, FL 32211-7445 PHONE: (904) 232-2640 ext. 106 FAX: (904) 232-2664	MSO Tampa 155 Columbia Drive Tampa, FL 33606-3598 PHONE: (813) 228-2189 FAX: (813) 228-2399
MSO Savannah 222 W. Ogelthorpe Avenue, Suite 402 Savannah, GA 31401-3606 PHONE: (912) 652-4353 FAX: (912) 652-4180	MSO Charleston 196 Tradd Street Charleston, SC 29401-1899 PHONE: (843) 724-7684 FAX: (843) 720-7750	MSO San Juan P.O. Box 9023666 San Juan, PR 00902-3666 PHONE: (787) 729-6800 ext.303 FAX: (787) 729-6648	MSO New Orleans 1615 Poydras Street New Orleans, LA 70112-1254 PHONE: (504) 589-4256 FAX: (504) 589-7470
MSO Morgan City 800 David Drive Morgan City, LA 70380-1304 PHONE: (504) 380-5312 FAX: (504) 385-1687	MSO Corpus Christi 400 Mann Street, Suite 210 Corpus Christi, TX 78401-2046 PHONE: (512) 888-3162 FAX: (512) 888-3115	MSO Houston-Galveston P.O. Box 446 Galena Park, TX 77547-0446 PHONE: (713) 671-5100 ext. 0 FAX: (713) 671-5177	MSO Mobile P.O. Box 2924 150 N. Royal Street Mobile, AL 36652-2924 PHONE: (334) 441-5121 FAX: (334) 441-6169
MSO Port Arthur Federal Building 2875 Jimmy Johnson Boulevard Port Arthur , TX 77640-2099 PHONE: (409) 723-6509 ext. 251 FAX: (409) 723-6534	MSO St. Louis 1222 Spruce Street, Suite 8.104E St. Louis, MO 63103-2835 PHONE: (314) 539-3091 ext. 281 FAX: (314) 539-2659	MSO Huntington 1415 6th Avenue Huntington, WV 25701-2420 PHONE: (304) 529-5432 FAX: (304) 529-5051	MSO Louisville 600 Martin Luther King, Jr. Pl., Room 360 Louisville, KY 40202-2230 PHONE: (502) 582-5194 ext. 39 FAX: (502) 582-6825
MSO Memphis 200 Jefferson Avenue, Suite 1301 Memphis, TN 38103-2300 PHONE: (901) 544-3941 ext. 226 FAX: (901) 544-3886	MSO Paducah 225 Tully Street Paducah, KY 42003-1582 PHONE: (502) 442-1621 FAX: (502) 442-1633	MSO Pittsburgh Kossman Building, Suite 1150 100 Forbes Avenue Pittsburgh, PA 15222-1371 PHONE: (412) 644-5808 ext. 115 FAX: (412) 644-3479	MSO Buffalo 1 Fuhrman Boulevard Buffalo, NY 14230 PHONE: (716) 843-9570 FAX: (716) 843-9571
MSO Chicago 215 W. 83rd Street, Suite D Burr Ridge, IL 60521 PHONE: (630) 986-2155 FAX: (630) 986-2120/2174	MSO Cleveland 1055 E. 9th Street Cleveland, OH 44114 PHONE: (216) 522-4405 FAX: (216) 522-3290	MSO Detroit 110 Mt. Elliot Avenue Detroit, MI 48207 PHONE: (313) 568-9580 FAX: (313) 568-9581	MSO Duluth 600 S. Lake Avenue, Canal Park Duluth, MN 55802-2352 PHONE: (218) 720-5286 FAX: (218) 720-5258
MSO Milwaukee 2420 S. Lincoln Memorial Drive Milwaukee, WI 53207-1997 PHONE: (414) 747-7155 FAX: (414) 747-7890	MSO Toledo Federal Building 234 Summit Street, Room 501 Toledo, OH 43604 PHONE: (419) 259-6372 FAX: (419) 259-6374	MSO Sault Ste. Marie 337 Water Street Sault Ste. Maire, MI 49783 PHONE: (906) 635-3223 FAX: (906) 635-3321	MSO Long Beach 165 N. Pico Avenue Long Beach, CA 90802-1096 PHONE: (562) 980-4447 FAX: (562) 980-4413
MSO San Diego 2716 N. Harbor Drive San Diego, CA 92101-1064 PHONE: (619) 683-6477 FAX: (619) 683-6504	MSO San Francisco Building 14, Coast Guard Island Alameda, CA 94501-5100 PHONE: (510) 437-3082 FAX: (510) 437-3072	MSO Puget Sound 1519 Alaskan Way South, Building 1 Seattle, WA 98134-1192 PHONE: (206) 217-6232 FAX: (206) 217-6345	MSO Portland 6767 N. Basin Avenue Portland, OR 97217-3992 PHONE: (503) 240-9301 FAX: (503) 240-9302
MSO Honolulu 433 Ala Moana Boulevard Honolulu, HI 96813-4909 PHONE: (808) 522-8252 FAX: (808) 522-8271	MARSEC/MSO Guam PSC 455, Box 176 FPO AP, 95-6540-1056 PHONE: (671) 339-2001 ext.164 FAX: (671) 339-2005	MSO Juneau 2760 Sherwood Lane, Suite 2A Juneau, AK 99801-8545 PHONE: (907) 463-2464 FAX: (907) 463-2445	MSO Anchorage 510 L Street, Suite 100 Anchorage, AK 99501-1946 PHONE: (907) 271-6724 FAX: (907) 271-6751
MSO Valdez P.O. Box 486 105 South Clifton Valdez, AK 99686-0486 PHONE: (907) 835-7205 FAX: (907) 835-7207			

The geographic boundaries for all Captain of the Port Zones are contained in 33 CFR part 3.

Appendix B to Subpart D of Part 160—United States Coast Guard Marine Facility Questionnaire

OMB Approval No. 2115-0639

United States Coast Guard Marine Facilities Questionnaire

[IMO Year 2000 Questionnaire 3 and United States Supplement 2]

Instructions

- Please complete this marine facility questionnaire as fully as possible and submit to the U.S. Coast Guard via:

Mail: U. S. Coast Guard (G-MOC/Y2K) c/o The Centech Group 2000 N. 14th Street Suite 700 Arlington, VA 22201	**OR**	**Fax:** 1-800-825-4357	**OR**	Complete the questionnaire and supplement on the Coast Guard's Internet web site at: **http://www.uscg.mil/hq/g-m/y2k.htm**

- You must submit all portions of this questionnaire required for your facility so that they are received by **August 1, 1999**. If your facility **will not** conduct cargo loading/transfer operations on any of the peak risk periods, but will be operating at any time between August 1, 1999, and March 31, 2000, you need only complete the U.S. Supplement 2 and submit it to the Coast Guard via one of the methods outlined above. You **do not** have to complete the IMO Year 2000 Questionnaire 3.
- If your facility will not be operating at any time between August 1, 1999, and March 31, 2000, you need not submit any portion of this questionnaire.
- The peak risk periods are:
  Midnight (2400) September 7, 1999, through midnight (2400) September 9, 1999; and
  Midnight (2400) December 30, 1999, through midnight (2400) January 1, 2000; and
  Midnight (2400) February 27, 2000, through midnight (2400) February 29, 2000.
- If your Y2K preparedness changes or your operational plans change, you must submit an updated questionnaire(s) as soon as possible.
- Any updated or new questionnaires submitted during the peak risk periods must be submitted to the Captain of the Port of the zone in which the facility is operating instead of the locations specified above. A list of Captain of the Port addresses and fax numbers is provided on page 4.
- **Data items on the IMO Questionnaire 3 marked with an asterisk (*) do not need to be filled in if the questionnaire is being submitted to the U.S. Coast Guard since the U.S. Supplement addresses similar information.**
- Please **DO NOT SUBSTITUTE** Y2K-related contingency plans, brochures, policy statements or similar documents for this questionnaire and supplement.
- If you have questions about this questionnaire, contact the Coast Guard Office of Compliance at Commandant (G-MOC), 2100 2nd Street, SW, Washington, D.C. 20593-0001; tel: 202-267-2978; fax: 202-267-4394.

An agency may not conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection is 2115-0639. The Coast Guard estimates it will take, on average, 8 minutes to complete and submit both Questionnaire 3 and Supplement 2. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MOC), U.S. Coast Guard, Washington, DC 20593-001.

IMO YEAR 2000 QUESTIONNAIRE 3

From: United States Coast Guard

To: (Marine Facility/Terminal Operator) _____

Date/time of expected arrival/departure *: _____

It is anticipated that the above ship will/may require to navigate or handle cargo within your port on or around the above dates. Please complete the following questions concerning the Year 2000 preparations made by the Port Authority/Terminal Operator.

	Circle as appropriate	
1) Does the facility have a documented Year 2000 policy in place?	YES	NO
2) Has an inventory check to identify and categorize non-compliant equipment been carried out?	YES	NO
3) Has all equipment critical to the safety of navigation/cargo handling been assessed for Year 2000 compliance?	YES	NO
4) Has facility personnel investigated potential problems and solutions?	YES	NO
5) Where non-compliant equipment has not been replaced or upgraded, have alternative systems or manual operations been established?	YES	NO
6) Has the facility sought to establish whether its critical suppliers, utilities and external services are Year 2000 compliant?	YES	NO
7) Is there serious doubt as to the availability of any supply, utility or service which is critical to safety?	YES	NO
8) Does the facility have operational contingency plans in place to cope with unforeseen Year 2000 equipment malfunctions?	YES	NO
9) Have these contingency plans been tested and reviewed to confirm their effectiveness?	YES	NO
10) Has all necessary information been exchanged and agreed with ships/shipping company on any additional Year 2000 specific requirements applicable to port/terminal/facility operations?	YES	NO

Name: _____
Position*: _____
Contact Address*: _____
_____

Signature*: _____
Date: _____

UNITED STATES SUPPLEMENT 2 TO IMO YEAR 2000 QUESTIONNAIRE 3

In addition to the IMO Year 2000 Questionnaire3, please answer the following as fully as you can for each Marine Facility operating from August 1, 1999 through March 31, 2000.

Marine Safety Office/Captain of the Port zone located in: _____

Name of Facility: _____

Type(s) of Facility: _____

Name of Company: _____

Name of Person completing questionnaire: _____

Your Title: _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Phone: _____ **FAX:** _____ **E-mail:** _____

Please indicate (by circling) if this is an: Initial/Original Questionnaire Updated Questionnaire

Please answer the following questions.	**Circle as appropriate**
1) Will the facility conduct cargo loading/transfer operations on the following dates of concern?	
• Midnight September 7 – midnight September 9, 1999	YES MAYBE NO
• Midnight December 30, 1999 – midnight January 1, 2000	YES MAYBE NO
• Midnight February 27 – midnight February 29, 2000	YES MAYBE NO
If you answer "yes" or "maybe" for any date, please complete IMO Year 2000 Questionnaire 3. If you answer "no" for all dates, stop here, you are not required to complete the IMO questionnaire, but you must still submit this supplement to the United States Coast Guard per the instructions on page 1. If, in the future, one of your answers changes from "no" to "yes" or "maybe," submit an updated questionnaire.	
2) Where potential problems and solutions have been identified, has the facility carried out appropriate remedial actions?	YES NO

Marine Safety Offices (MSOs)/Captains of the Port

MSO Portland 103 Commercial Street Portland, ME 04101-4726 PHONE: (207) 780-3681 FAX: (207) 780-3567	MSO Boston 455 Commercial Street Boston, MA 02109-1045 PHONE: (617) 223-3435 FAX: (617) 223-3032	MSO Providence 20 Risho Avenue East Providence, RI 02914-1208 PHONE: (401) 435-2350 FAX: (401) 435-2382	Group/MSO Long Island Sound 120 Woodward Avenue New Haven, CT 06512-3698 PHONE: (203) 468-4401 FAX: (203) 468-4445
USCG Activities New York Prevention/Compliance Division 212 Coast Guard Drive Staten Island, NY 10305 PHONE: (718) 354-4207 FAX: (718) 354-4301	Coast Guard Activities Baltimore 2401 Hawkins Point Road Baltimore, MD 21226-1791 PHONE: (410) 576-2693 FAX: (410) 962-0930	MSO Hampton Roads Norfolk Federal Building, 200 Granby Street Norfolk, VA 23510-1888 PHONE: (757) 441-3300 FAX: (757) 441-3262	MSO Wilmington 272 N. Front Street, Suite 500 Wilmington, NC 28401-3907 PHONE: (910) 815-4895 ext. 107 FAX: (910) 815-4523
MSO/Group Philadelphia 1 Washington Avenue Philadelphia, PA 19147-4395 PHONE: (215) 271-4806 FAX: (215) 271-4833	MSO Miami P.O. Box 01-6940 Miami, FL 33101-6940 PHONE: (305) 535-8705 FAX: (305) 535-8742	MSO Jacksonville 7820 Arlington Expressway, Suite 400 Jacksonville, FL 32211-7445 PHONE: (904) 232-2640 ext. 106 FAX: (904) 232-2664	MSO Tampa 155 Columbia Drive Tampa, FL 33606-3598 PHONE: (813) 228-2189 FAX: (813) 228-2399
MSO Savannah 222 W. Ogelthorpe Avenue, Suite 402 Savannah, GA 31401-3606 PHONE: (912) 652-4353 FAX: (912) 652-4180	MSO Charleston 196 Tradd Street Charleston, SC 29401-1899 PHONE: (843) 724-7684 FAX: (843) 720-7750	MSO San Juan P.O. Box 9023666 San Juan, PR 00902-3666 PHONE: (787) 729-6800 ext.303 FAX: (787) 729-6648	MSO New Orleans 1615 Poydras Street New Orleans, LA 70112-1254 PHONE: (504) 589-4256 FAX: (504) 589-7470
MSO Morgan City 800 David Drive Morgan City, LA 70380-1304 PHONE: (504) 380-5312 FAX: (504) 385-1687	MSO Corpus Christi 400 Mann Street, Suite 210 Corpus Christi, TX 78401-2046 PHONE: (512) 888-3162 FAX: (512) 888-3115	MSO Houston-Galveston P.O. Box 446 Galena Park, TX 77547-0446 PHONE: (713) 671-5100 ext. 0 FAX: (713) 671-5177	MSO Mobile P.O. Box 2924 150 N. Royal Street Mobile, AL 36652-2924 PHONE: (334) 441-5121 FAX: (334) 441-6169
MSO Port Arthur Federal Building 2875 Jimmy Johnson Boulevard Port Arthur , TX 77640-2099 PHONE: (409) 723-6509 ext. 251 FAX: (409) 723-6534	MSO St. Louis 1222 Spruce Street, Suite 8.104E St. Louis, MO 63103-2835 PHONE: (314) 539-3091 ext. 281 FAX: (314) 539-2659	MSO Huntington 1415 6th Avenue Huntington, WV 25701-2420 PHONE: (304) 529-5432 FAX: (304) 529-5051	MSO Louisville 600 Martin Luther King, Jr. Pl., Room 360 Louisville, KY 40202-2230 PHONE: (502) 582-5194 ext. 39 FAX: (502) 582-6825
MSO Memphis 200 Jefferson Avenue, Suite 1301 Memphis, TN 38103-2300 PHONE: (901) 544-3941 ext. 226 FAX: (901) 544-3886	MSO Paducah 225 Tully Street Paducah, KY 42003-1582 PHONE: (502) 442-1621 FAX: (502) 442-1633	MSO Pittsburgh Kossman Building, Suite 1150 100 Forbes Avenue Pittsburgh, PA 15222-1371 PHONE: (412) 644-5808 ext. 115 FAX: (412) 644-3479	MSO Buffalo 1 Fuhrman Boulevard Buffalo, NY 14230 PHONE: (716) 843-9570 FAX: (716) 843-9571
MSO Chicago 215 W. 83rd Street, Suite D Burr Ridge, IL 60521 PHONE: (630) 986-2155 FAX: (630) 986-2120/2174	MSO Cleveland 1055 E. 9th Street Cleveland, OH 44114 PHONE: (216) 522-4405 FAX: (216) 522-3290	MSO Detroit 110 Mt. Elliot Avenue Detroit, MI 48207 PHONE: (313) 568-9580 FAX: (313) 568-9581	MSO Duluth 600 S. Lake Avenue, Canal Park Duluth, MN 55802-2352 PHONE: (218) 720-5286 FAX: (218) 720-5258
MSO Milwaukee 2420 S. Lincoln Memorial Drive Milwaukee, WI 53207-1997 PHONE: (414) 747-7155 FAX: (414) 747-7890	MSO Toledo Federal Building 234 Summit Street, Room 501 Toledo, OH 43604 PHONE: (419) 259-6372 FAX: (419) 259-6374	MSO Sault Ste. Marie 337 Water Street Sault Ste. Maire, MI 49783 PHONE: (906) 635-3223 FAX: (906) 635-3321	MSO Long Beach 165 N. Pico Avenue Long Beach, CA 90802-1096 PHONE: (562) 980-4447 FAX: (562) 980-4413
MSO San Diego 2716 N. Harbor Drive San Diego, CA 92101-1064 PHONE: (619) 683-6477 FAX: (619) 683-6504	MSO San Francisco Building 14, Coast Guard Island Alameda, CA 94501-5100 PHONE: (510) 437-3082 FAX: (510) 437-3072	MSO Puget Sound 1519 Alaskan Way South, Building 1 Seattle, WA 98134-1192 PHONE: (206) 217-6232 FAX: (206) 217-6345	MSO Portland 6767 N. Basin Avenue Portland, OR 97217-3992 PHONE: (503) 240-9301 FAX: (503) 240-9302
MSO Honolulu 433 Ala Moana Boulevard Honolulu, HI 96813-4909 PHONE: (808) 522-8252 FAX: (808) 522-8271	MARSEC/MSO Guam PSC 455, Box 176 FPO AP, 95-6540-1056 PHONE: (671) 339-2001 ext.164 FAX: (671) 339-2005	MSO Juneau 2760 Sherwood Lane, Suite 2A Juneau, AK 99801-8545 PHONE: (907) 463-2464 FAX: (907) 463-2445	MSO Anchorage 510 L Street, Suite 100 Anchorage, AK 99501-1946 PHONE: (907) 271-6724 FAX: (907) 271-6751
MSO Valdez P.O. Box 486 105 South Clifton Valdez, AK 99686-0486 PHONE: (907) 835-7205 FAX: (907) 835-7207			

The geographic boundaries for all Captain of the Port Zones are contained in 33 CFR part 3.

Dated: June 15, 1999.

R.C. North,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–15985 Filed 6–18–99; 3:21 pm]

BILLING CODE 4910–15–C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[DA 99–1133]

Closed Captioning and Video Description of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document contains an editorial amendment to the Commission's regulations concerning closed captioning. The amendment eliminates an inadvertent reference to a term used as a trademark.

DATES: Effective June 23, 1999.

FOR FURTHER INFORMATION CONTACT: David S. Senzel, Office of General Counsel (202) 418–1720.

SUPPLEMENTARY INFORMATION: This is the full text of the Order of the Commission's Managing Director, DA 99–1133, adopted on June 8, 1999, and released June 10, 1999.

1. By this order, we correct the language of 47 CFR 79.1, the Commission's closed captioning rule. Paragraph 79.1(e)(3) deals with the acceptability of using a method of captioning referred to in the rule as the: ''so-called 'electronic newsroom' or ENR technique.'' The Commission intended by this term to refer to a generic captioning methodology that generates captions using the output of news script computer or teleprompter systems. See Closed Captioning and Video Description of Video Programming, 13 FCC Rcd 19973, 19989 ¶ 32 (1998), 63 FR 55959 (October 20, 1998). While it appears that the terms ''electronic newsroom'' and ''electronic newsroom captioning'' are indeed generic terms, it has come to our attention that the rule's reference to ''ENR'' may be confused with the term ''ENR'' used by Comprompter, Inc. of La Crosse, Wisconsin as the trademark for one of its products. To eliminate any possible confusion, we will amend the rule accordingly.

2. Accordingly, it is Ordered, Pursuant to the authority delegated under 47 CFR 0.231(b), 47 CFR Part 79 is amended effective June 23, 1999.

List of Subjects in 47 CFR Part 79

Cable television, Closed captioning, Television.

Federal Communications Commission

Mary Beth Richards

Deputy Managing Director

Rule Change

For the reasons discussed in the preamble, Part 79 of the Code of Federal regulations is amended as follows:

PART 79—CLOSED CAPTIONING OF VIDEO PROGRAMMING

1. The authority citation for Part 79 continues to read as follows:

Authority: 47 U.S.C. 613.

2. Section 79.1(e)(3) is revised to read as follows:

§ 79.1 Closed captioning of video programming.

* * * * *

(e)***

(3) Live programming or repeats of programming originally transmitted live that are captioned using the so-called ''electronic newsroom technique'' will be considered captioned, except that effective January 1, 2000, and thereafter, the major national broadcast television networks (i.e., ABC, CBS, Fox and NBC), affiliates of these networks in the top 25 television markets as defined by Nielsen's Designated Market Areas (DMAs) and national nonbroadcast networks serving at least 50% of all homes subscribing to multichannel video programming services shall not count electronic newsroom captioned programming towards compliance with these rules. The live portions of noncommercial broadcasters' fundraising activities that use automated software to create a continuous captioned message will be considered captioned;

* * * * *

[FR Doc. 99–15958 Filed 6–22–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8312–02; I.D. 061699C]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Summer Period

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

ACTION: Commercial quota harvest for Summer period.

SUMMARY: NMFS announces that the scup commercial quota available in the Summer period to the coastal states from Maine to North Carolina has been harvested. Commercial vessels may not land scup in the northeast region for the remainder of the 1999 Summer quota period (through October 31, 1999). Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing scup in these states.

DATES: Effective 0001 hours June 28, 1999, through October 31, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods, based upon percentages of the annual quota. The Summer commercial quota (May through October) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.120.

The initial total commercial quota for scup for the 1999 calendar year was set equal to 2,534,000 lb (1,149,403 kg)(63 FR 72203, December 31, 1998). The Summer period quota, which is equal to 38.95 percent of the annual commercial quota (minus a discard estimate), was set at 986,993 lb (447,692 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period, and based upon dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. The Regional Administrator is further required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the scup commercial quota has been harvested and no commercial quota is available for landing scup for the remainder of the Summer period. The Regional Administrator has determined, based upon dealer reports

and other available information, that the scup commercial quota for the 1999 Summer period has been harvested.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the scup is available. The Regional Administrator has determined that the Summer period for scup no longer has commercial quota available. Therefore, effective 0001 hours June 28, 1999, further landings of scup in coastal states from Maine through North Carolina, by vessels holding Federal scup moratorium permits are prohibited through October 31, 1999. The Winter II period for commercial scup harvest will open on November 1, 1999. Effective 0001 hours June 28, 1999, Federally permitted dealers are also advised that they may not purchase scup from Federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Summer period (through October 31, 1999).

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: June 17, 1999.

George H. Darcy,

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

[FR Doc. 99–15831 Filed 6–17–99; 4:06 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990113011–9011–01; I.D. 010699A]

RIN 0648–AM06

Fisheries of the Exclusive Economic Zone Off Alaska; Observer and Inseason Management Requirements for Pollock Catcher/Processors; Extension of Expiration Date

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

ACTION: Emergency interim rule; extension of expiration date.

SUMMARY: NMFS extends the expiration date of an emergency interim rule that established additional observer coverage requirements for the 20 catcher/processor (C/P) vessels and that established inseason authority to manage the non-pollock harvest limitations required under the American Fisheries Act (AFA) for these 20 vessels. The emergency interim rule that is effective from January 20, 1999, through July 19, 1999, is extended through December 31, 1999. This action is necessary to monitor and manage the harvest of the listed C/Ps and is intended to comply with the statutory provisions promulgated under the AFA for these vessels in 1999.

DATES: Effective June 23, 1999, the expiration date of the emergency interim rule published January 22, 1999 (64 FR 3435), is extended from July 19, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: On October 20, 1998, the President signed the AFA into law. The AFA specifies the manner in which the Bering Sea and Aleutian Islands management area (BSAI) pollock fishery must be managed, as well as measures to limit activity of pollock vessels in non-pollock fisheries. Section 208(e)(1) through (20) of the AFA lists C/Ps that are subject to specific harvest limitations for pollock and non-pollock species starting in 1999. These harvest limitations were established as part of the 1999 groundfish specification process authorized under regulations at 50 CFR 679.20 (64 FR 50, January 4, 1999, and 64 FR 12103, March 11, 1999). NMFS published an emergency interim rule in the **Federal Register** on January 22, 1999 (64 FR 3435), that implemented additional observer coverage and inseason management authority necessary to monitor and manage these harvest limitations at the start of the 1999 fishing season. Specifically, the emergency interim rule implemented the following measures for a 180-day period (through July 19, 1999):

1. A requirement that two NMFS-certified observers must be aboard each of the 20 listed C/Ps at all times the vessel is used to fish for groundfish in Federal waters off Alaska and that at least one of the observers aboard each listed C/P must have successfully completed the additional training necessary to be certified to observe in the multispecies groundfish community development quota program (§ 679.50(h)(1)(i)(D)); and

2. The authority to establish directed fishing allowances for the non-pollock groundfish harvest limitations specified for the listed C/Ps under the AFA and the regulatory authority to close directed fishing for non-pollock groundfish by the listed C/Ps if NMFS determines that these vessels have reached a prohibited species limitation.

Further background and descriptive information is contained in the preamble to the emergency interim rule published on January 22, 1999 (64 FR 3435).

The North Pacific Fishery Management Council (Council) is scheduled to take final action to implement the AFA requirements in 2000 and beyond under amendments to the BSAI Fishery Management Plan (FMP) at its June and October 1999 meetings. Given the statutory review and implementation schedule for FMP amendments set out under sections 303 and 304 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Council requested NMFS to extend the emergency provisions to provide for the monitoring of listed C/P harvest limitations for the remainder of 1999 as authorized under section 305(c)(3)(B) of the Magnuson-Stevens Act. NMFS concurs that this time period is minimally necessary for the development and preparation of FMP amendments to implement management provisions of the AFA.

Details concerning the basis for this action are contained in the initial emergency interim rule and are not repeated here. No comments were received during the comment period for the initial emergency interim rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Extension of the expiration date for this emergency interim rule is necessary to continue to monitor and manage the non-pollock harvest limitations required under the AFA for the listed C/Ps so that the intent of the AFA for these vessels in 1999 is met. Failure to implement an extension of the emergency measures would mean non-compliance with the statutory provisions promulgated under the AFA for the listed C/P vessels. The AA finds good cause to extend the emergency interim rule in accordance with section 305(c)(3)(B) of the Magnuson-Stevens Act. Pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these

reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for public comment, as the delay associated with such procedures would be contrary to the public interest.

Similarly, under 5 U.S.C. 553(d)(3), the AA finds for good cause that a 30-day delay in the effective date of this rule would be contrary to the public interest. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This rule has been determined to be not significant for purposes of E.O. 12866.

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

Dated: June 15, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–15859 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 120
Wednesday, June 23, 1999

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI74

Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule that would redefine Jackson County, South Dakota, from the area of application of the Eastern South Dakota appropriated fund Federal Wage System (FWS) wage area to the area of application of the Wyoming wage area, and redefine Teton County, Wyoming, from the area of application of the Wyoming FWS wage area to the area of application of the Montana wage area. The redefinition of Jackson County would provide equitable pay treatment for all FWS employees at Badlands National Park and the redefinition of Teton County would place employees at Grand Teton National Park on the same wage schedule as employees at Yellowstone National Park.

DATES: Comments must be received by July 23, 1999.

ADDRESSES: Send or deliver comments 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, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins (202) 606–2848, or send an email message to jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is engaged in an ongoing project to review the geographic definitions of selected appropriated fund Federal Wage System (FWS) wage areas. The Federal Prevailing Rate Advisory Committee (FPRAC), the statutory national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has recommended by consensus that we redefine Jackson County, South Dakota, and Teton County, Wyoming. After careful consideration of FPRAC's recommendation, we have found that it is appropriate to redefine Jackson and Teton Counties based on the regulatory criteria for defining FWS wage areas and on agency organizational relationships in the region.

Section 532.211 of title 5, Code of Federal Regulations, lists the following criteria for consideration when OPM defines FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

The Eastern South Dakota wage area continues to meet the regulatory requirements to remain a separate wage area. There are currently about 550 FWS workers in the wage area, the wage area's host activity continues to have the capacity to host local wage surveys, and wage surveys in the area continue to produce adequate wage data to determine local prevailing rates. Based on an analysis of the regulatory criteria for defining FWS wage areas, FPRAC found mixed results for Jackson County. The distance to the closest city criterion favored the Wyoming wage area, while the distance to the closest host installation criterion favored the Eastern South Dakota wage area. All other criteria studied had indeterminate findings. Based on the mixed nature of the regulatory analysis findings, there was no clear indication that Jackson County should be redefined to one wage area more than another; however, Badlands National Park is currently split by the boundary of the Wyoming wage area, with the park headquarters located in the Eastern South Dakota wage area, while most of the park is located in the Wyoming wage area. The redefinition of Jackson County to the Wyoming wage area would place the entire park in one wage area. FPRAC found no compelling reasons to make other changes in the Eastern South Dakota wage area.

The Wyoming wage area also continues to meet the regulatory requirements to remain a separate wage area. There are currently about 1,300 FWS workers in the wage area, the wage area's host activity continues to have the capacity to host local wage surveys, and wage surveys in the area continue to produce adequate wage data to determine local prevailing rates. Based on an analysis of the regulatory criteria for defining FWS wage areas, FPRAC found mixed results for Teton County. The distance to the closest city criterion slightly favored the Montana wage area, while the distance to the closest host installation criterion slightly favored the Wyoming wage area. All other criteria had indeterminate findings. Based on the mixed nature of the regulatory analysis findings, there was no clear indication that Teton County should be redefined to one wage area more than another; however, the two main FWS employers in northwestern Wyoming are Yellowstone National Park and Grand Teton National Park. The parks are connected by the John D. Rockefeller, Jr., Memorial Parkway, with a distance of only about 5 miles (8 kilometers) separating the parks.

Because the parks are located in a region geographically isolated by the Rocky Mountains from both the Montana and Wyoming survey areas, and because the regulatory criteria do not clearly favor defining Teton County to one wage more than another, FPRAC recommended that we place the parks in the same wage area. This change would place all Department of the Interior FWS employees stationed in northwestern Wyoming in the same wage area and would provide equitable pay treatment for FWS employees at Yellowstone National Park and Grand Teton National Park by paying these employees from one wage schedule. FPRAC found no compelling reasons to make other changes in the Wyoming wage area.

Jackson County and Teton County would be redefined on the first day of the first applicable pay period beginning on or after 30 days after the issuance of a final regulation implementing this proposed change.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities

because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix C to subpart B is amended by revising the wage area listings for the Montana, Eastern South Dakota, and Wyoming wage areas to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

MONTANA

Survey Area

Montana:
- Cascade
- Lewis and Clark
- Yellowstone

Area of Application. Survey Area Plus

Montana:
- Beaverhead
- Big Horn
- Blaine
- Broadwater
- Carbon
- Carter
- Chouteau
- Custer
- Daniels
- Dawson
- Deer Lodge
- Fallon
- Fergus
- Flathead
- Gallatin
- Garfield
- Glacier
- Golden Valley
- Granite
- Hill
- Jefferson
- Judith Basin
- Lake
- Liberty
- Lincoln
- McCone
- Madison
- Meagher
- Mineral
- Missoula
- Musselshell
- Park
- Petroleum
- Phillips
- Pondera
- Powder River
- Powell
- Prairie
- Ravalli
- Richland
- Roosevelt
- Rosebud
- Sanders
- Sheridan
- Silver Bow
- Stillwater
- Sweet Grass
- Teton
- Toole
- Treasure
- Valley
- Wheatland
- Wibaux

Wyoming:
- Big Horn
- Park
- Teton

* * * * *

SOUTH DAKOTA

EASTERN SOUTH DAKOTA

Survey Area

South Dakota:
- Minnehaha

Area of Application. Survey Area Plus

South Dakota:
- Aurora
- Beadle
- Bennett
- Bon Homme
- Brookings
- Brown
- Brule
- Buffalo
- Campbell
- Charles Mix
- Clark
- Clay
- Codington
- Corson
- Davison
- Day
- Deuel
- Dewey
- Douglas
- Edmunds
- Faulk
- Grant
- Gregory
- Haakon
- Hamlin
- Hand
- Hanson
- Hughes
- Hutchinson
- Hyde
- Jerauld
- Jones
- Kingsbury
- Lake
- Lincoln
- Lyman
- McCook
- McPherson
- Marshall
- Mellette
- Miner
- Moody
- Potter
- Roberts
- Sanborn
- Spink
- Stanley
- Sully
- Todd
- Tripp
- Turner
- Union
- Walworth
- Washabaugh
- Yankton
- Ziebach

Iowa:
- Dickinson
- Emmet
- Lyon
- Osceola

Minnesota:
- Jackson
- Lincoln
- Lyon
- Murray
- Nobles
- Pipestone
- Rock

* * * * *

WYOMING

Survey Area

Wyoming:
- Albany
- Laramie
- Natrona

South Dakota:
- Pennington

Area of application. Survey Area Plus

Wyoming:
- Campbell
- Carbon
- Converse
- Crook
- Fremont
- Goshen
- Hot Springs
- Johnson
- Lincoln
- Niobrara
- Platte
- Sheridan
- Sublette
- Sweetwater
- Uinta
- Washakie
- Weston

Nebraska:
- Banner
- Box Butte
- Cheyenne
- Dawes
- Deuel
- Garden
- Kimball
- Morrill
- Scotts Bluff
- Sheridan
- Sioux

South Dakota:
- Butte
- Custer

Fall River
Harding
Jackson
Lawrence
Meade
Perkins
Shannon

[FR Doc. 99–15963 Filed 6–22–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 841

RIN 3206–AH62

State Income Tax Withholding and Allotments

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations to permit expansion of the State income tax withholding and the voluntary allotment program under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). These regulations would simplify the current State income tax withholding program, continue the currently-authorized programs established by regulation, and allow OPM to add additional allotment programs for the convenience of annuitants.

DATES: Comments must be received on or before August 23, 1999.

ADDRESSES: Send comments to Mary E. Wilson, Chief, Retirement Policy Division; Retirement and Insurance Service; Office of Personnel Management; PO Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street NW., Washington, DC. Comments may also be submitted by electronic mail to combox@opm.gov.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 606–0299.

SUPPLEMENTARY INFORMATION: We propose to amend Title 5, Code of Federal Regulations, to allow for expansion of our voluntary allotment program. In the past, technological constraints in OPM's automated systems limited the range of allotments offered to annuitants and survivors. Recent improvements in OPM's automated systems now make a broader range of allotments possible. In the future, additional allotments will be considered for inclusion in the program. Key considerations will be needed improvements in banking technology that will assure that allotments are processed and appropriate information provided to the allotees concerning the amount to be credited in each individual case, as well as the allotees' acceptance of responsibility for timely crediting of the allotment to the appropriate account on its records. OPM in its sole discretion, will determine if such allotments will be processed, pursuant to our statutory authority to make such determinations.

There will be an immediate expansion in our program of State income tax withholding and full implementation of our pilot U.S. Savings Bonds allotment program. Participation in these programs will be entirely voluntary.

As we have already stated, these regulations will also allow us to expand our voluntary allotment program to other areas such as allotments to checking and savings accounts. Other types of allotments are also under consideration; however, our ability to make some allotment programs available to annuitants and survivors will be dependent upon advancements in banking technology within the small, independent banking communities. Changes have already been proposed by the National Automated Clearing House Association (NACHA) to require the banking community to accept and pass on addendum information necessary to credit allotments to the proper accounts. As these changes become effective and more financial institutions are able to handle allotment transactions, we will determine which programs we consider appropriate for addition to the allotments program.

1. State Income Tax Withholding

Sections 8345(k) and 8469 of title 5, United States Code, require OPM to provide State income tax withholding from Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) annuities. The statutes provide that the withholding will be made in accordance with an agreement between the State and OPM and require certain conditions in that agreement, including that the withholding be limited to annuitants who voluntarily request such withholding in writing, that the amounts withheld be retained in the Fund and disbursed to the States quarterly, and other administrative items concerning the frequency and timing of State tax changes that an annuitant may request. The current implementing regulations, contained in subpart S of part 831 (CSRS) and subpart J of part 841 (FERS) of Title 5, Code of Federal Regulations, require annuitants who want State income tax withholding to contact the State. The State prepares a list of taxpayers and amounts to be withheld and submits that list monthly to OPM via magnetic tape.

The expanded State income tax withholding program will streamline the current withholding process by allowing our annuitants to communicate directly with OPM (instead of the individual States). Annuitants will be able to initiate or change State income tax withholding by writing or calling OPM. Current participants' State income tax withholdings from annuity will continue without interruption. OPM has already notified annuitants of the availability of the expanded program.

Under the expanded program, States that wish to receive annuitant tax withholdings will no longer have to obtain election forms from annuitants and maintain their accounts. States need only execute an agreement with OPM. OPM will then assume administrative responsibility for the State income tax withholding program and permit annuitants to initiate or change their withholding by specifying a specific dollar amount.

2. Voluntary Allotments

Sections 8345(h) and 8465(b) of title 5, United States Code, authorize an individual entitled to benefits from the Fund to make allotments from an annuity for such purposes as OPM considers appropriate. Under subpart O of part 831 of Title 5, Code of Federal Regulations, we issued regulations limiting the availability of allotments under this authority to payments to large national organizations existing primarily for the purpose of representing employees or annuitants. Using new technology, we are prepared to offer an expanded allotment program without eliminating the program applicable to current participants. The current program will be continued for participating organizations for 3 years from the date of publication of final regulations in order to give the organizations in the current program time to make the adjustments necessary to utilize the expanded program proposed by these regulations.

The Savings Bond allotment program offers annuitants, for the first time, the opportunity to purchase U.S. Savings Bonds in a manner similar to the payroll-savings plan available to employees, except that the full purchase price of the bond must be paid each month. Series EE bonds are currently available in denominations of $100, $200, and $500. We have also added Series I bonds in denominations of $50, $75, $100, $500, $1,000, or $5,000. Other options may be added as they become available.

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 only provides information about the increased responsibility OPM will assume in providing certain allotment services to annuitants, survivors and former spouses.

Lists of Subjects in 5 CFR Parts 831 and 841

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management,

Janice R. LaChance,

Director.

Accordingly, under 5 U.S.C. 8347, 8461, and as discussed in the preamble, OPM proposes to amend Title 5, Code of Federal Regulations Parts 831 and 841, as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp.; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508; 104 Stat. 1388–328.

§§ 831.1501, 831.1511 and 831.1521 (Subpart O) [Removed and reserved]

2. Subpart O of consisting of §§ 831.1501, 831.1511, and 831.1521, of part 831 is removed and reserved.

§§ 831.1901–831.1907 (Subpart S) [Removed and reserved]

3. Subpart S, consisting of §§ 831.1901 through 831.1907, of part 831 is removed and reserved.

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

4. The authority citation for part 841 is revised to read as follows:

Authority: 5 U.S.C. 8461; § 841.108 also issued under 5 U.S.C. 552a; subpart D also issued under 5 U.S.C. 8423; § 841.504 also issued under 5 U.S.C. 8422; § 841.506 also issued under 5 U.S.C. 7701(b)(2); § 841.507 also issued under section 505 of Pub. L. 99–335; § 841.508 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C 8345(k), 8345(h), 8465(b), and 8469.

5. Subpart J of part 841 is revised to read as follows:

Subpart J—Voluntary Allotments for State Income Tax Withholding and for Other Purposes

Sec.
841.1001 Purpose and scope.
841.1002 Definitions.
841.1003 State income tax withholding.
841.1004 Other voluntary allotments.
841.1005 Limitations.

Subpart J—Voluntary Allotments for State Income Tax Withholding and for Other Purposes

§ 841.1001 Purpose and scope.

This subpart consolidates regulations pertaining to the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) on—

(a) The State income tax withholding program required under sections 8345(k) and 8469 of title 5, United States Code; and

(b) The program that OPM uses to honor annuitant requests for such other voluntary allotments as OPM may decide to allow from annuity payments under CSRS and FERS pursuant to sections 8345(h) and 8465(b) of title 5, United States Code.

§ 841.1002 Definitions.

In this subpart—

Allotment means a specified amount an annuitant voluntarily authorizes to be paid to an allottee.

Allottee means the institution, organization or individual to which the allotment is paid. Annuitant means an individual who is a retiree, a former spouse, or a survivor.

Annuity payment means the net monthly annuity payment due an annuitant after all authorized deductions (such as those for health benefits, Federal income tax, overpayment of annuity, indebtedness to the Government) have been made.

Former spouse means an individual who is receiving recurring payments under CSRS or FERS based on a court order under part 838 of this chapter.

Retiree means a former employee or Member who is receiving recurring payments under CSRS or FERS based on his or her service as an employee.

Survivor means a widow, widower, child, former spouse, or person with an insurable interest who is receiving recurring payments under CSRS or FERS based on the death of an employee, Member, or retiree.

§ 841.1003 State income tax withholding.

(a) *Agreements with States.* OPM will maintain a program under which an annuitant may voluntarily request State income tax withholding for a State with which OPM has an agreement for withholding State income taxes from CSRS and FERS annuities.

(b) Agreements between OPM and a State will establish each party's responsibilities in the process of withholding for State income taxes from CSRS and FERS annuities.

(c) Agreements for State income tax withholding may be modified or terminated—

(1) By OPM or the State in accordance with the terms of the agreement; or

(2) By OPM in accordance with appropriate rulemaking procedures pursuant to title 5 of the United States Code.

§ 841.1004 Other voluntary allotments.

(a) *General.* An annuitant may make an allotment from annuity payments for any purpose OPM deems appropriate.

(b) *Effective dates.* A request for an allotment is effective when processed by OPM. OPM will process each request no later than the 1st day of the second month following the month in which it is received, but incurs no liability or indebtedness to the annuitant or allottee by its failure to do so.

(c) *Disputes.* A dispute regarding any authorized allotment properly paid by OPM is a matter between the annuitant and the allotee.

§ 841.1005 Limitations.

(a) The total amount of any allotments may not exceed the annuity payment due.

(b) Allotments—State income tax withholdings excepted— are paid only on the regularly designated paydays of the annuitant.

(c) Payment of an allotment will be discontinued when annuity payments are terminated or suspended by OPM. OPM is not responsible for any interest or penalties incurred when allotments are discontinued due to the termination or suspension of annuity payments.

(d)(1) If annuity payments are made beyond the date the annuitant's entitlement to annuity ceases, the

annuitant must repay any allotments paid after the date annuity payments should have ceased.

(2) If annuity payments are made after the annuitant's death, OPM will recover from—

(i) His or her estate; or,

(ii) In an appropriate case, from any survivor benefits payable based on the annuitant's service; or

(iii) If there is neither an estate nor a survivor annuity payable, from the allottee.

(f) Allotments, except allotments to large organizations under agreements established prior to the effective date of these regulations, may only be made to a valid electronic-funds-transfer address established under part 210 of title 31, Code of Federal Regulations.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 432

[Docket Number EE–TP–98–550]

Energy Conservation Program: Test Procedures for Distribution Transformers

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Notice of availability of documents and limited reopening of the record and opportunity for public comment.

SUMMARY: The Department of Energy previously published a Notice of Proposed Rulemaking to adopt test procedures for measuring the energy efficiency of distribution transformers under the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6317(a). Since the time that Notice appeared, the Department has received documents and comments containing new information concerning National Electrical Manufacturers Association (NEMA) TP 2, the sampling plan, and transformers to be covered by the rulemaking. In addition, DOE has concerns regarding the definition of a basic model. The Department is reopening the record of its rulemaking to provide an opportunity for additional public comment on the validity of this new information and its implications regarding the proposed test procedures and the policy options now under consideration by the Department.

DATES: The Department will accept comments, data, and information regarding the proposed rule and this reopening notice no later than July 23, 1999.

ADDRESSES: Please submit 10 copies (no faxes) to: Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, ''Energy Conservation Program: Test Procedures for Distribution Transformers, Docket No. EE–RM–S–97–700'', EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121. In addition, the Department requests that an electronic copy (3½″ diskette) of the comments on WordPerfect™ 6.1 be provided.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department of Energy will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Copies of the National Electrical Manufacturers Association Standard TP 2–1998, ''Guide for Determining Energy Efficiencies for Distribution Transformers'' (NEMA TP 2), the National Institute of Standards and Technology Technical Note 1427, ''An Analysis of Efficiency Testing under the Energy Policy and Conservation Act: A Case Study with Application to Distribution Transformers'' (NIST TN 1427), and other correspondence related to this rulemaking are available for public inspection and copying at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–43, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0121, (202) 586–7425, email: Kathi.Epping@ee.doe.gov, or Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9507, email: Edward.Levy@hq.doe.gov

SUPPLEMENTARY INFORMATION: Pursuant to section 346(a) of the Energy Policy and Conservation Act, as amended (EPCA), 42 U.S.C. 6317(a), the Department of Energy (DOE or the Department) proposed in a Notice of Proposed Rulemaking (''NOPR'' or ''Notice'') to adopt a new regulation, 10 CFR Part 432. 63 FR 63360 (November 12, 1998). The regulation (the ''proposed rule'') would include test procedures for measuring the energy efficiency of distribution transformers; several definitions regarding the test procedure, including the definition of a distribution transformer and the definition of a basic model; and a sampling plan for minimizing test burden. DOE held a public hearing on January 6, 1999, and received 9 written comments on the proposed rule. After reviewing the hearing transcript and comments, DOE concluded that a number of significant issues had been raised that required additional analysis. These issues include: (1) the adequacy of stakeholder opportunity to review NEMA TP 2; (2) the suitability of NEMA TP 2 to be adopted as the DOE test procedure; (3) transformers covered under the definition of ''distribution transformer''; (4) the appropriateness of proposed sampling plans for demonstrating compliance; and (5) the suitability of the definition of ''basic model'' for the purpose of grouping transformers to limit test burden.

1. Availability of Documents

In the Notice, DOE stated it was proposing incorporation by reference either ANSI/IEEE standards C57.12.90 and C57.12.91 or NEMA standard TP 2. In the Notice, the Department stated its concern over whether TP 2 had undergone broad-based scrutiny, and DOE stated that, in order to accept TP 2, DOE would need sufficient evidence that all users and stakeholders have had an opportunity to review TP 2. In comments on the proposed rule, some stakeholders expressed concern that they had not been given the opportunity to Review NEMA TP 2. (ERMCO, No. 13 at 1; Dynapower, No. 17 at 1; and Howard Industries, No. 18 at 2.)[1] Because the DOE wants to ensure that all stakeholders have an opportunity to review TP 2, the Department has sent copies of NEMA TP 2 to the parties on its Distribution Transformer Stakeholder mailing list. In addition, the National Institute of Standards and Technology (NIST) issued Technical Note 1427 entitled ''An Analysis of Efficiency Testing under the Energy Policy and Conservation Act: A Case Study with

[1] Comments are identified by company name, followed by comment number in the docket at page number. For example, ''ERMCO, No. 13 at 1'' means comment number 13, submitted by ERMCO, at page 1. Also note that comment number ''11 DD'' refers to the hearing transcript.

Application to Distribution Transformers.'' (NIST TN 1427) The Department has also sent this report, which analyzes the sampling plans contained in proposed 10 CFR Part 432 and in NEMA TP 2 and compares them to each other, to the parties on the Department's distribution transformer mailing list. Copies of both NIST TN 1427 and NEMA TP 2 are available for inspection in the DOE Freedom of Information Reading Room. For information and copies of NEMA TP 2, please contact Anthony Balducci of NEMA at (703) 841–3245. For copies or questions on NIST TN 1427, please contact Ken Stricklett of NIST at (301) 975–3955.

2. NEMA TP 2

On the subject of whether NEMA TP 2 is ready to be adopted as the national test procedure, the American Council for an Energy Efficient Economy (ACEEE) has indicated its support of NEMA TP 2, provided that both NEMA and non-NEMA industry representatives have had sufficient opportunity to review the standard, and there is wide support for it among these representatives. (ACEEE, No. 20 at 1.) ACEEE and Dynapower, Inc. both expressed concerns, however, that NEMA TP 2 may not be appropriate for all customers. For example, the loading conditions may not be representative of all applications. For these reasons, Dynapower believes further evaluation is necessary before the final rule is issued, and ACEEE suggested that DOE investigate whether a corollary test procedure to address those transformers that distribute power to industrial or large commercial customers may be necessary in addition to NEMA TP 2. (Dynapower, No. 17 at 1 and ACEEE, No. 20 at 1.)

Howard Industries believes having all the requirements in a single standard is NEMA TP 2's predominant advantage, and therefore Howard Industries tentatively supported the adoption of NEMA TP 2, pending a more thorough review. (Howard Industries, No. 18 at 1.)

At the January hearing, ERMCO stated that it could not comment on NEMA TP 2 at that time, but that it did support the American National Standards Institute (ANSI) approval process. (ERMCO, No. 11 DD at 18–23.) At the same hearing, Edison Electric Institute (EEI) indicated its preference for ANSI standards. (EEI, No. 11 DD at 31.)

In its comments on the NOPR, NEMA indicated that NEMA TP 2 has been submitted to ANSI's accreditation standards committee C57 for approval. NEMA further stated that it anticipated receiving ballots by the end of March 1999 and resolution of comments shortly thereafter, and that it should take approximately sixty days for ANSI to approve NEMA TP 2. (NEMA, No. 21 at 2.)

Because of the controversy over the two options delineated in the proposed rule, the Department invites further comment on whether DOE should choose Option 1 (ANSI/IEEE standards C57.12.90 and C57.12.91) or Option 2 (NEMA TP 2), as described in the NOPR, for the final rule for test procedures. The Department also seeks comment on the subsidiary issue of the appropriateness of tying adoption of NEMA TP 2 to ANSI approval.

In addition, the Department wants to ensure that the test procedures that DOE adopts are suitable for all distribution transformers that are being regulated under the statute. Because DOE is concerned that the loading factor in the test procedure may not be appropriate for all distribution transformers, DOE would consider the adoption of different loading factors for different types of distribution transformers in order to capture the loadings they typically carry and more accurately rate the efficiency level of each. DOE solicits comments on whether this course of action is appropriate. If several loading factors are selected, only the loading factors used in the calculations would change; the test procedure would remain the same. DOE realizes that, in developing the TP 2 loading factors, NEMA considered this issue, and the Department welcomes its comments as well as those of stakeholders not represented by NEMA.

3. Definition of Distribution Transformer

Section 346 of EPCA directs the Department to address the development of energy efficiency requirements for ''distribution transformers.'' The statute provides no definition for ''distribution transformer.'' As part of the Notice, the Department proposed a definition, so as to delineate the transformers that EPCA requires to be evaluated for standards and, therefore, initially subject to the test procedures.

The definition in the proposed rule is as follows: ''a transformer with a primary voltage of 480 V to 35 kV, a secondary voltage of 120 V to 600 V, a frequency of 55–65 Hz, and a capacity of either 10 kVA to 2500 kVA for liquid-immersed transformers or 0.25 kVA to 2500 kVA for dry-type transformers, except for (1) converter and rectifier transformers with more than two windings per phase, and (2) transformers which are not designed to be continuously connected to a power distribution system as a distribution transformer. This second exception includes regulating transformers, machine tool transformers, welding transformers, grounding transformers, testing transformers, and other transformers which are not designed to transfer electrical energy from a primary distribution circuit, to a secondary distribution circuit, or within a secondary distribution circuit, or to a consumer's service circuit.'' 63 FR at 63370.

The following are a list of areas of the definition in which there is disagreement among stakeholders:

a. Low Voltage Transformers

In oral, as well as written, comments on the proposed rule, NEMA stated that the definition of ''distribution transformer'' in the proposed rule was too broad and should not include low voltage (600 Volts and below) transformers. (NEMA, No. 21 at 2 and No. 11 DD at 63.) In NEMA's view, these low voltage transformers are considered ''general purpose transformers,'' which NEMA says are defined as ''specialty transformers,'' not ''distribution transformers.'' NEMA quoted the ANSI/IEEE C57.12.80 definition of ''distribution transformer'' as ''a transformer for transferring electrical energy from a primary distribution circuit to a secondary distribution circuit or consumer's service circuit. NOTE: Distribution transformers are usually rated in the order of 5–500 kVA.'' NEMA also noted that the IEEE Dictionary defines ''primary distribution circuit'' as ''an alternating current circuit that supplies the primary of a distribution transformer from a generator, a substation, or a distribution bus.'' NEMA stated further that the IEEE Power Engineering Society does not consider low voltage transformers to be distribution transformers. However, NEMA acknowledged that in IEEE standard 241, the Industry Application Society (IAS) defines low voltage transformers as indoor distribution transformers, but went on to observe that the IAS consists of transformer installers, not manufacturers. (NEMA, No. 21 at 2–4.) Naval Facilities Engineering Command Atlantic Division (NAVFAC LANTDIV) indicated support of NEMA's comments regarding low voltage transformers. (NAVFAC LANTDIV, No. 22 at 1.)

Howard Industries commented that it suspects the definition of distribution transformer in the NOPR is too broad and suggested DOE perform a further review. (Howard Industries, No. 18 at 2–3.)

Tony Dell'arciprete, an Electrical Engineer for Electrical Design and Construction Projects for GSA, stated that indoor distribution transformers are distribution transformers. He also sited ANSI/IEEE Standard 241 (''the Gray Book''). He stated that he considers a 480 volt primary and a 120/208 volt secondary to be a distribution level voltage. Furthermore, he indicated that excluding these transformers by calling them ''general purpose transformers'' or ''specialty transformers'' is a ''play on words.'' (Dell'arciprete, No. 23 at 1.)

In its comments on the proposed rule, ACEEE noted that ANSI/IEEE Standard 241 defines ''indoor distribution transformer'' as one for which ''both primaries and secondaries are 600 volts and below (the most common ratio is 480–208Y/120V),'' and that these transformers offer the greatest potential energy savings. ACEEE also recommended that, given the ambiguity of the definition of the term ''distribution transformer,'' the Department should ''err on the side of a broader interpretation—particularly at this stage of the process, before standard setting has begun— to ensure energy savings opportunities are not lost.'' (ACEEE, No. 20 at 2.)

The Department is inclined to agree with ACEEE. Furthermore, the Department does not believe the definition of ''distribution transformer'' found in ANSI/IEEE standard C57.12.80 precludes the coverage of low voltage transformers. The Department believes an alternating current circuit that supplies the primary of a distribution transformer from a 277/480 volt distribution bus would fall within the definition of ''primary distribution circuit'' that NEMA provided from the IEEE dictionary. Consequently, the Department believes that these low voltages are covered under the ANSI/IEEE definition of ''distribution transformers.''

The Department also is inclined to disagree with NEMA's interpretation that because low voltage and ''indoor distribution transformers'' are also referred to as ''general purpose transformers'' or ''specialty transformers,'' they are not distribution transformers. In fact, next to the terms ''general purpose transformers'' and ''specialty transformers'' in the IEEE dictionary are the words ''(power and distribution transformers).'' The Department believes these words indicate that the authors of the dictionary consider these transformers to be a subset of distribution transformers. Hence, it appears to the Department that the ''indoor distribution transformers'' defined in ANSI/IEEE standard 241, are merely a subset of ''distribution transformers.'' The Department questions NEMA's implication that the Industry Application Society (IAS) IEEE standard is less valid because the IAS consists of installers of transformers, not manufacturers. In addition, several manufacturers, including Acme Electric Corporation, Jefferson Electric, Cutler-Hammer, Falvo Electrical Supply, and PowerSmiths International Corporation, identified these low voltage transformers as ''distribution transformers'' in their product literature/web pages. Web pages for Delta Transformer and Hammond Manufacturing Transformer Group used the words ''General Purpose Transformers (distribution)'' and ''General purpose distribution transformers,'' respectively, indicating that the terms ''general purpose transformer'' and ''distribution transformer'' are not exclusive. (Product literature, No. 24.)

In the proposed rule's definition of distribution transformer, as well as in the notice announcing its determination as to the distribution transformers for which standards appear to be warranted, 62 FR 54809 (October 27, 1997), (''Determination Notice''), the Department construed the term ''distribution transformer'' in EPCA as including low voltage transformers. The Department does not find persuasive the comments discussed above that advocate a contrary approach. Thus, the Department intends to adopt, in the final rule, the proposed rule's inclusion of low voltage transformers in the definition of distribution transformer, unless it receives information that justifies exclusion of these transformers.

b. Capacity/Power Ratings

NEMA commented that units with fractional power ratings are not defined as distribution transformers, and NEMA recommended a capacity (power rating) limit of 15 kVA for dry-type distribution transformers. NEMA also provided a comment noting that ANSI C57.12.50 identifies a range of 1–500 kVA for dry-type distribution transformers. (NEMA, No. 21 at 4.)

The Department is inclined to agree with NEMA regarding fractional power ratings. Consequently, DOE does not intend to include transformers with kVA ratings less than one in the distribution transformer definition and intends in the final rule to increase the proposed rule's 0.25 kVA lower capacity limit for distribution transformers. However, the Department is undecided as to whether this limit for dry-type distribution transformers should be 1 kVA (consistent with ANSI C57.12.50), 5 kVA (consistent with ANSI C57.12.80), 10 kVA (consistent with the lower limit for liquid-filled transformers), or 15 kVA (consistent with NEMA TP 2). The Department requests further comments on the appropriate lower limit for the power ratings of distribution transformers.

c. Liquid-filled Distribution Transformers

Edison Electric Institute (EEI) requested that liquid-filled transformers be excluded from the rulemaking, because the utility market already drives these transformers to be efficient, within the limits of cost effectiveness. EEI stated that utilities already apply total owning cost methodologies in its purchasing decisions, and, therefore, it is unnecessary and counterproductive for the Department to mandate energy efficiency standards for liquid-filled transformers. However, EEI conceded that it would not object to DOE compiling and comparing test methods approved by standards setting bodies such as IEEE and ANSI. EEI also voiced support for the EPA's voluntary Energy Star program. (EEI, No. 19 at 1–5.)

In the Determination Notice, the Department concluded that standards are warranted for liquid-filled distribution transformers. 62 FR 54816. Thus, they were included in the proposed rule. Because the final rule addresses test procedures only, and not whether efficiency standards are warranted, the Department intends to include liquid-filled transformers as outlined in the proposed rule. During the efficiency standards rulemaking, the Department will reevaluate its determination of the transformers for which standards are warranted. 62 FR 54817.

d. Rectifier and Converter Transformers

NEMA, Mr. Kline, and Howard Industries stated their belief that rectifier and converter transformers are not distribution transformers. (Kline, No. 14 at 1–2; Howard Industries, No. 18 at 3; and NEMA, No. 15 at 1–2 and No. 21 at 4–5.) As a result of these comments and discussion at the public hearing, the Department is inclined to exclude from the ''distribution transformer'' definition all rectifier and converter transformers if they are built and labeled as such.

e. Autotransformers and Transformers with Tap Ranges Greater Than 15%

NEMA and Howard Industries requested that transformers with tap ranges greater than 15 percent and autotransformers be excluded from the

rulemaking. (Howard Industries, No. 18 at 3 and NEMA, No. 15 at 2 and No. 21 at 5.) The Department is inclined to believe few of these transformers exist in the distribution system, little energy would be saved by regulating them, and excluding them would be unlikely to create loopholes in the regulation. Consequently, the Department is inclined to exclude these transformers from this rulemaking.

f. Sealed/Non-Ventilated Transformers and Special Impedance and Harmonic Transformers

NEMA and Howard Industries requested that sealed/non-ventilated transformers and special impedance and harmonic transformers be excluded from the rulemaking. (Howard Industries, No. 18 at 3 and NEMA, No. 15 at 2 and No. 21 at 5.) However, NEMA's justification for their exclusion is the inability of these transformers to meet the TP 1 efficiency levels. NEMA provided no other reasons why these transformers should not be covered by the test procedure.

These transformers were included in the proposed rule's definition of distribution transformer, 63 FR 63370, as well as in the Determination Notice, 62 FR 54811. The Department does not find persuasive the comments discussed above that advocate exclusion of these products. Thus, the Department intends to include sealed/non-ventilated transformers and special impedance and harmonic transformers in the test procedures final rule, unless it receives information that justifies exclusion of these transformers from the test procedures. The appropriate efficiency levels, if any, for these and other classes of distribution transformers will be evaluated during the efficiency standards rulemaking.

g. Retrofit Transformers

NEMA and Howard Industries indicated that while they do not recommend excluding all retrofit transformers, some currently operating transformers fit tightly into their locations or enclosures, making it impossible to replace them with more efficient transformers, which are generally larger or configured differently. (NEMA, No. 21 at 5 and Howard Industries, No. 18 at 3.) The Department is contemplating whether this situation calls for exclusion of these transformers from this rulemaking or for consideration of a separate class in a future standards rulemaking. In either case, the Department needs further information in order to define and treat these transformers appropriately. The Department is therefore soliciting further comments on how to distinguish these from other transformers and on the dimensional restrictions imposed on them.

4. Sampling Plans

In the NOPR, the Department proposed a methodology—a sampling plan—that a manufacturer would be required to use to establish the efficiency of a basic model of distribution transformers based on tests of sample units of that basic model. 63 FR at 63366–67, 63371. In its comments on the proposed rule, Howard Industries expressed concern that a large amount of testing and record-keeping may add unnecessary costs to its products. The company believes that the statistical approaches used in 10 CFR Part 430, upon which the proposed rule was based, are suitable for highly standardized products, while distribution transformers are very specialized products often produced in very low volumes. Howard Industries stated that certain sizes may be produced in quantities of less than five per year, and some may not even be produced at all for a whole year. The company strongly recommended that the approach adopted by DOE minimize the number of units that must be tested to satisfy both compliance and enforcement, and it suggested that basic models of which fewer than 5 units are produced in a 180 day period be exempt from the rule for this period of time and no testing be performed. Howard Industries believes the impact of energy loss due to this small quantity of units is so small it can be neglected. The company also supports the eight percent tolerance used in the NEMA sampling plan. (Howard Industries, No. 18 at 4.)

Southern Transformer Company commented that it will be difficult for small companies to assemble, calibrate, and certify test sets to comply with the proposed rule's testing requirements. Southern Transformer Company suggested that DOE provide a grant to NIST to assist small companies in this effort. (Southern Transformer, No. 12 at 1.)

In its comments on the proposed rule, NEMA urged the Department to use the sampling plan for compliance found in Section 7 of NEMA TP 2. (NEMA, No. 11 DD at 174, No. 15 at 3–4; and No. 21 at 6–8.) NEMA also stated that the 8 percent loss tolerance (throw-away limit) in the TP 2 sampling plan compels manufacturers to design their products to at least the minimum average efficiency standard. NEMA also stated that it would consider adopting, in Section 7 of NEMA TP 2, subdivisions of its globalized aggregation into the following possible categories: Low Voltage Dry, Medium Voltage Dry, Liquid-Filled 500 kVA and below, and Liquid-Filled above 500 kVA. (NEMA, No. 21 at 7.)

ACEEE supports a sampling plan that minimizes the testing burden, provided that a small sample can provide a high degree of confidence that efficiency levels reported by manufacturers are accurate. ACEEE believes the burden of proof is on the industry to prove NEMA TP 2 satisfies these conditions. ACEEE believes the sampling plan in the NOPR is satisfactory. (ACEEE, No. 20 at 3.)

The Department still has concerns regarding the aggregation of basic models used in NEMA TP 2. Nonetheless, the Department recognizes the aggregation and 100% testing method in the NEMA TP 2 sampling plan does have merit, particularly for limited production models. However, the Department doubts that any basic models of which there are at least 50 units produced per 180 days would need to be aggregated with other basic models. The Department is inclined to believe that 100% testing of smaller, limited production models, coupled with the assurance that any individual unit that is 8% below a standard would be eliminated, renders it likely that these units would be designed to meet any applicable minimum standard efficiency.

For the final rule, the Department, however, is considering adoption of one or some combination of the following sampling plan options:

(1) Variation on NEMA TP 2:

(a) Basic models for which all units are tested because the manufacturer chooses to do so, because of customer's specifications, requirements to comply with other standards, or other such reasons: [2]

- Demonstrate the compliance of aggregations of basic models to the aggregate standard as described in TP–2 Section 7.2.1.
- Additionally, demonstrate the compliance of each basic model for which 50 or more units have been manufactured during 180 calendar days.
- Discard all units whose losses exceed 8% of the rated value for that basic model, as required by TP 2.

[2] For basic models that have sufficiently large numbers of units to minimize the statistical likelihood of error, this approach provides evidence, based on direct measurements, that each basic model meets or exceeds the efficiency standard. For basic models with limited production (< 50 per 180 days), the aggregation of both large and small production models reduces the risk of rejecting the limited production models due to the relatively high statistical possibility of erroneously estimating the mean of a population from a small sample.

(b) Basic models which consist of units of identical design and are tested on a sampling basis:

- Per NEMA TP 2 Section 7.2.2, take a sample of at least five units of each basic model per month over a 180 calendar day period and compute from the test results the estimated mean of each basic model from the sample.
- Demonstrate the compliance of the aggregate as in TP 2.
- Additionally, demonstrate the compliance of each basic model for which 50 or more units have been manufactured during 180 calendar days.
- Discard all units whose losses exceed 8% of the rated value for the basic model as required by TP 2.

For small population basic models of fewer than 5 units, all units must be tested.

(2) A sampling plan similar to that in the NOPR, allowing some form of aggregation for small production basic models.

(3) The requirement of a certification of compliance or compliance statement only, in which the manufacturer would provide a written explanation of how it has demonstrated, verified, and certified compliance. In the written material accompanying the certificate, the manufacturer must demonstrate the basic premise for compliance.

A sampling plan would be included in the final test procedures rule primarily for the purpose of demonstrating compliance with possible future standards. The Department acknowledges that a sampling plan is not necessary for the test procedure itself. However, the sampling plan might be used in the evaluation of possible future standards. The Department also recognizes that although some of the sampling plans under consideration may be adequate to demonstrate compliance with a minimum efficiency standard, these plans may not be adequate to address the question of efficiency representations. The Department is deliberating over whether labeling of particular efficiency values is appropriate for this product. The issue of representations will need to be addressed at a future time.

5. Definition of ''Basic Model''

ERMCO, Howard industries, ACEEE, and NEMA supported the definition of ''basic model'' in the proposed rule. (ERMCO, No. 13 at 2; Howard Industries, No. 18 at 3; ACEEE, No. 20 at 2–3; and NEMA, No. 21 at 6.) ACEEE also suggested that industry sources provide guidance for ensuring manufacturers do not intentionally design some high efficiency models to counterbalance other low efficiency models within the same basic model. (ACEEE, No. 20 at 2–3.)

After further examination, the Department believes the definition of basic model in the proposed rule may be problematic. As set forth in the NOPR, a basic model is intended to be a group of models, produced by a given manufacturer, that have performance, design, mechanical, functional, and electrical characteristics that are essentially identical, and do not have refinements that affect energy consumption. 63 FR 63365. The general Part 430 definition of basic model was modified for distribution transformers in the proposed rule (Part 432). 63 FR at 63365–66, 63369. However, the proposed Part 432 definition of basic model may need some further modification.

All products within the same basic model should be in the same product class. (In its standards rulemakings, the Department establishes a separate ''class'' with its own efficiency standard for a product when the record indicates that the product includes a utility or performance-related feature that affects energy efficiency.) The following is an example depicting how the proposed basic model definition may be problematic:

A special impedance distribution transformer model, because of its inherently inferior efficiency, would likely be in a class separate from regular distribution transformers. The proposed basic model definition specifies that the following characteristics must be used to group different models of distribution transformers in a basic model: output power rating, voltage range, insulation type, and number of phases. These features of a special impedance distribution transformer, however, could be the same as for a regular distribution transformer. Consequently, under the proposed definition of basic model, these two transformers could be within the same basic model even though they would have significantly different efficiencies. This example illustrates that the current definition of basic model will likely categorize, within the same basic model, transformers that should be in different classes.

The Department would appreciate comments on how the Department should deal with this problem. The Department realizes that manufacturers would prefer special classes of distribution transformers to be exempted from regulation. However, as previously stated, the Department does not find that solution to be appropriate in this test procedures rulemaking.

In grouping transformers into basic models, we have to look at all the features, and the ones that have widely differing effects on efficiency should not be grouped together. In the final rule, the Department is considering adding some other features that affect efficiency (such as physical material of the windings and core, physical size, and impedance range) to the definition of basic model. The Department is open to suggestions as to what other features should be considered for the basic model definition, so that we do not have the problem outlined above. The Department also is considering adding the words ''and the other features of which have comparable effect on efficiency'' to the proposed definition of ''basic model'' to alleviate this problem.

Issued in Washington, D.C., on June 17, 1999.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–26–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Tay 620–15, Tay 650–15, and Tay 651–54 Series Turbofan Engines

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 Rolls-Royce plc Tay 620–15, Tay 650–15, and Tay 651–54 series turbofan engines. This proposal would require initial and repetitive visual inspections of the emergency fuel shutoff cable for broken strands or failed cables, and, if necessary, replacement with serviceable parts. This proposal is prompted by reports of broken strands and failed emergency fuel shutoff cables. The actions specified by the proposed AD are intended to prevent emergency fuel shutoff cable failure, which could result in the non-operation of the emergency fuel shut-off system in the event of a low pressure shaft failure.

DATES: Comments must be received by August 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–26–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the Rules Docket by using the following Internet address: ''9-ane-adcomment@faa.gov''. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Rolls-Royce plc, Technical Publications Department, PO Box 31, Derby DE24 8BJ England; telephone 1332 242424, fax 1332 37645. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176, fax (781) 238–7199.

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 should 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 99–NE–26–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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–26–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce plc (R-R) Tay 620–15, Tay 650–15, and Tay 651–54 series turbofan engines. The CAA advises that they have received reports of broken strands and failed emergency fuel shutoff cables. This condition, if not corrected, could result in the non-operation of the emergency fuel shutoff system in the event of a low pressure shaft failure.

R–R has issued Service Bulletin (SB) No. Tay 76–1434, Revision 1, dated August 28, 1998, that specifies procedures for visual inspections of emergency fuel shutoff cables for broken strands or failed cables. The CAA classified this SB as mandatory and issued Airworthiness Directive (AD) 003–03-98 in order to assure the airworthiness of these engines in the UK.

This engine model is manufactured in the UK and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the United States, the proposed AD would require initial and repetitive visual inspections of the emergency fuel shutoff cable for broken strands or failed cables, and, if necessary, replacement with serviceable parts. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 900 engines of the affected design in the worldwide fleet. The FAA estimates that 451 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 0.25 work hours to accomplish the inspections, 3 to 28 work hours per engine to remove and replace an unacceptable emergency fuel shutoff cable, depending on engine aircraft installation and position, and that the average labor rate is $60 per work hour. Required parts would cost approximately $86 per engine. The total cost for inspections is estimated to be $6,750. The total cost for replacing parts on the Fokker F70 and Fokker F100 aircraft is estimated to be $75,125. The total cost for replacing parts on the No.1 position engine on Boeing 727 aircraft is estimated to be $14,918. The total cost for replacing parts on the No. 2 and No. 3 position engines on Boeing 727 aircraft, since engine removal is required for these two engine positions, is $197,837. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $294,630.

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:

Rolls-Royce plc: Docket No. 99–NE–26–AD.

Applicability: Rolls-Royce plc (R–R) Tay 620–15, Tay 650–15, and Tay 651–54 series turbofan engines, installed on but not limited to Fokker F.28 Mark 0070 series, Fokker F.28 Mark 0100 series, and Boeing 727 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent emergency fuel shutoff cable failure, which could result in the non-operation of the emergency fuel shut-off system in the event of a low pressure shaft failure, accomplish the following:

(a) Perform initial and repetitive visual inspections of the emergency fuel shutoff cable for broken strands or failed cables as follows:

(1) Initially inspect the emergency fuel shutoff cable within 1,000 hours time-in-service (TIS) after the effective date of this AD.

(i) If the emergency fuel shutoff cable has no strands broken, re-inspect within 1000 hours TIS after the inspection.

(ii) If the emergency fuel shutoff cable has 1, 2, or 3 strands broken, re-inspect within 800 hours TIS after the inspection.

(iii) If the emergency fuel shutoff cable has 4, 5, or 6 strands broken, replace the cable within 100 hours TIS after the inspection.

(iv) If the emergency fuel shutoff cable has 7 or more strands broken, or the cable has failed, replace the cable within 25 hours TIS after the inspection.

(2) Thereafter, perform inspections of the emergency fuel shutoff cable and replace the emergency fuel shutoff cable as provided in paragraph (a)(1) of this AD.

Note 2: Information on inspection of the emergency fuel shutoff cable and replacement of cables may be found in R–R Service Bulletin (SB) No. Tay 76–1434, Revision 1, dated August 28, 1998, and Maintenance Manual 76–23–00.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on June 15, 1999.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–15904 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–72–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires repetitive inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, and follow-on actions, if necessary. That AD also provides optional terminating action for the repetitive inspections. This proposal would require accomplishment of the previously optional terminating action. This proposal is prompted by a report that a fractured diagonal brace lug was found during a routine maintenance inspection. The actions specified by the proposed AD are intended to prevent cracking of the diagonal brace of the nacelle strut, which could result in failure of the diagonal brace, and consequent fatigue failure of a strut secondary load path and separation of the engine and strut.

DATES: Comments must be received by August 9, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–72–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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

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 99–NM–72–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. 99–NM–72–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On March 17, 1999, the FAA issued AD 99–07–06, amendment 39–11091 (64 FR 14578, March 26, 1999), applicable to certain Boeing Model 767 series airplanes, to require repetitive inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, and follow-on actions, if necessary. That action also provides optional terminating action for the repetitive inspections. That action was prompted by a report that a fractured diagonal brace lug was found during a routine maintenance inspection. The requirements of that AD are intended to detect and correct cracking of the diagonal brace of the nacelle strut, which could result in failure of the diagonal brace, and consequent fatigue failure of a strut secondary load path and separation of the engine and strut.

Actions Since Issuance of Previous Rule

In the preamble to AD 99–07–06, the FAA specified that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. The FAA has determined that further rulemaking action is indeed necessary; this proposed AD follows from that determination and would require accomplishment of the previously optional terminating action, in accordance with Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. (That service bulletin was referenced in AD 99–07–06 as the appropriate source of service information for accomplishment of the replacement.)

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 supersede AD 99–07–06 to continue to require repetitive inspections to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, and follow-on actions, if necessary. In addition, this proposed AD would require accomplishment of the previously optional terminating action for the repetitive inspection requirements.

Cost Impact

There are approximately 208 airplanes of the affected design in the worldwide fleet. The FAA estimates that 105 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 99–07–06, and retained in this proposed AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be $6,300, or $60 per airplane, per inspection cycle.

The replacement that is proposed in this AD action would take approximately 8 work hours (4 work hours for each strut) per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $50,000 per airplane.

Based on these figures, the cost impact of the proposed replacement required by this AD on U.S. operators is estimated to be $5,300,400, or $50,480 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or 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 removing amendment 39–11091 (64 FR 14578, March 26, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–72–AD. Supersedes AD 99–07–06, amendment 39–11091.

Applicability: Model 767 series airplanes; as listed in Boeing Alert Service Bulletin 767–54A0094, dated May 22, 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 otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the diagonal brace of the nacelle strut, which could result in failure of the diagonal brace, and consequent fatigue failure of a strut secondary load path and separation of the engine and strut, accomplish the following:

Restatement of Requirements of AD 99–07–06

Initial Inspection

(a) Perform a detailed visual inspection to detect cracking or damage of the forward and aft lugs of the diagonal brace of the nacelle strut, on the left and right sides of the airplane, in accordance with Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. Perform the inspection at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes in Groups 1, 3, and 4: Inspect prior to the accumulation of 12,000 total flight cycles, or within 90 days after April 12, 1999 (the effective date of AD 99–07–06, amendment 39–11091), whichever occurs later.

(2) For airplanes in Group 2: Inspect prior to the accumulation of 24,000 total flight cycles, or within 90 days after April 12, 1999, whichever occurs later.

Follow-On Actions

(b) If no cracking or damage is detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at the interval specified in paragraph (b)(1) or (b)(2) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. Repeat the inspection until the actions specified by paragraph (d) or (e) of this AD have been accomplished.

(1) For airplanes in Groups 1, 3, and 4; and for airplanes in Group 2 on which the diagonal brace has accumulated more than 32,000 total flight cycles: Repeat the inspection at intervals not to exceed 1,000 flight cycles.

(2) For airplanes in Group 2 on which the diagonal brace has accumulated 32,000 or fewer total flight cycles: Repeat the inspection at intervals not to exceed 3,000 flight cycles.

(c) If any cracking or damage is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, remove the diagonal brace and perform additional inspections to detect damage of the strut secondary load paths, in accordance with Part 4 of Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998; and accomplish the requirements of paragraphs (c)(1) and, if applicable, (c)(2) of this AD.

(1) Prior to further flight, replace the one-piece diagonal brace with a new three-piece diagonal brace, in accordance with Part 3 of the Accomplishment Instructions of the alert service bulletin. Such replacement constitutes terminating action for the requirements of this AD.

(2) If any additional damage of the alternate load paths is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

(d) For airplanes on which no cracking is detected during the inspection required by paragraph (a) of this AD, in lieu of accomplishing repetitive inspections in accordance with paragraph (b) of this AD, rework of the forward and aft lugs of the diagonal brace may be accomplished in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. If such rework is accomplished: Within 12,000 flight cycles after the rework, repeat the inspection required by paragraph (a) of this AD; and, prior to the accumulation of 37,500 total flight cycles on the diagonal brace, replace the one-piece diagonal brace with a new three-piece diagonal brace, in accordance with Part 3 of the Accomplishment Instructions of the alert service bulletin. Such replacement constitutes terminating action for the requirements of this AD.

New Requirements of This AD

Terminating Action

(e) Prior to the accumulation of 37,500 total flight cycles, or within 180 days after the effective date of this AD, whichever occurs later: Replace the one-piece diagonal brace with a new three-piece diagonal brace, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0094, dated May 22, 1998. Such replacement constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Issued in Renton, Washington, on June 17, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15931 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–137–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA 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 all Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA series airplanes. This proposal would require a one-time borescope inspection to detect corrosion of the shear decks and ribs of the left and right stub wings, follow-on corrective actions, if necessary; and drilling of new drain holes in the lower shear decks. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent corrosion of the stub wing shear decks and ribs, which could result in cracking or failure of the stub wing structure.

DATES: Comments must be received by July 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–137–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 Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

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–137–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–137–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA series airplanes. The CAA advises that corrosion has been found in the area of the upper and lower shear decks, and on the outer and inner ribs of the left and right stub wings. The corrosion is believed to have been caused by the ingress of water and debris into the area from the main landing gear wheels, and lack of follow-on maintenance in ensuring that the area is dry and clean. Corrosion of the stub wing shear decks and ribs, if not corrected, could result in cracking or failure of the stub wing structure.

Explanation of Relevant Service Information

Shorts has issued the following service bulletins, all dated November 27, 1998:

- SD330–53–68 (for Model SD3–30 series airplanes);
- SD360–53–43, Revision 1 (for Model SD3–60 series airplanes);
- SD3 Sherpa–53–4 (for Model SD3 SHERPA series airplanes); and
- SD360–Sherpa–53–4 (for Model SD3–60 SHERPA series airplanes).

These service bulletins describe procedures for a one-time borescope inspection to detect corrosion of the shear decks and ribs of the left and right stub wings, in the areas of the inner and outer ribs, front and rear web plates, strut support bracket, and upper and lower shear decks; and corrective actions, if necessary. The corrective actions include additional inspections for corrosion in other areas; removal of corrosion within acceptable limits; replacement of certain components with new components; and, follow-on repetitive inspections if corrosion is found. The service bulletins also describe procedures for drilling of new drain holes in the lower shear decks. Additionally, the service bulletins specify that operators are to report the results of the initial inspection to the manufacturer.

Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition. The CAA classified these service bulletins as mandatory and issued British airworthiness directives 006–11–97, 006–11–98, 007–11–98, and 008–11–98 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain corrosion conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the CAA (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the CAA would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 112 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 100 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour.

Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $672,000, or $6,000 per airplane.

The cost impact figure discussed above is 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:

Short Brothers PLC: Docket 98–NM–137–AD.

Applicability: All Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 corrosion of the stub wing shear decks and ribs, which could result in cracking or failure of the stub wing structure, accomplish the following:

Inspection and Corrective Actions

(a) Within 6 months after the effective date of this AD, perform a borescope inspection in the areas of the stub wing shear decks and ribs to detect corrosion, and drill new drain holes in the lower shear decks, in accordance with Part A of the Accomplishment Instructions of the applicable Shorts Service Bulletin specified below, all dated November 27, 1998 (hereinafter referred to as the applicable service bulletin):

- SD330–53–68 (for Model SD3–30 series airplanes);
- SD360–53–43, Revision 1 (for Model SD3–60 series airplanes);
- SD3 Sherpa-53–4 (for Model SD3 SHERPA series airplanes); and
- SD360-Sherpa-53–4 (for Model SD3–60 SHERPA series airplanes).

Note 2: In the case where no corrosion is detected during the inspection described in Part A of the Accomplishment Instructions of the applicable service bulletin, the service bulletin specifies accomplishment of follow-on repetitive inspections of this area as specified in Short Brothers Aircraft Maintenance Programme, Chapter 5–26–57.

(b) Except as provided by paragraph (c) of this AD: If any corrosion is detected during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish corrective actions (i.e., additional inspections, removal of corrosion, replacement of components), as applicable, in accordance with Part B of the Accomplishment Instructions of the applicable service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 12 months.

(c) If any corrosion condition is found for which the applicable service bulletin specifies that Short Brothers is to be contacted for an appropriate repair action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Civil Aviation Authority (CAA) of the United Kingdom (or its delegated agent).

Reporting Requirement

(d) Within 10 days after accomplishment of the initial inspection required by paragraph (a) of this AD, or within 30 days after the effective date of this AD, whichever occurs later, submit a report of the inspection findings (positive or negative) to: Team Leader, Service Engineering-Aerospace Customer Support Short Brothers plc, Belfast, N. Ireland. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(f) 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.

Note 4: The subject of this AD is addressed in British airworthiness directives 006–11–97, 006–11–98, 007–11–98, and 008–11–98.

Issued in Renton, Washington, on June 17, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15930 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–201–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–300 and ATR42–320 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 Aerospatiale Model ATR42–300 and ATR42–320 series airplanes. This proposal would require a one-time inspection for cracking of a fastener hole located on the lower surface of the outer wing, and repair, if necessary; and cold working of the hole and installation of a new fastener in the hole. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue damage on the outer wing and consequent reduced structural integrity of the wing.

DATES: Comments must be received by July 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–201–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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

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–201–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–201–AD, 1601 Lind Avenue, SW, Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR42–300 and ATR42–320 series airplanes. Fatigue testing conducted by the manufacturer on the test airframe revealed damage to several fastener holes located on the lower surface of the outer wing. A service bulletin previously issued by the manufacturer contained procedures for cold working of certain fastener holes where such fatigue damage could occur. However, the service bulletin inadvertently omitted identification of one fastener hole located on the lower surface of the outer wing near the spar/rib 15 junction for cold working. Failure to accomplish cold working of the hole could allow fatigue damage to develop on the lower surface panel of the outer wing. This condition, if not corrected, could result in reduced structural integrity of the wing.

Other Relevant Rulemaking

The FAA has previously issued AD 89–25–12, amendment 39–6414 (54 FR 50343, December 6, 1989), which requires operators to perform cold working of certain fastener holes located on the lower surface of the outer wing, in accordance with Avions de Transport Regional Service Bulletin ATR42–57–0010, Revision 1, dated May 20, 1989.

This proposed AD will not affect the requirements of AD 89–25–12.

Explanation of Relevant Service Information

Aerospatiale has issued Avions de Transport Regional Service Bulletin ATR42–57–0050, dated April 17, 1998, which describes procedures for a one-time high frequency eddy current inspection to detect cracking of a fastener hole located on the lower surface of the outer wing near the spar/rib 15 junction. The service bulletin also describes procedures for cold working of the hole and installation of a new fastener in the hole. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 98–147–075(B), dated April 8, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC (or its delegated agent) would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,720, or $480 per airplane.

The cost impact figure discussed above is 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:

Aerospatiale: Docket 98–NM–201–AD.

Applicability: Model ATR42–300 and ATR42–320 series airplanes, serial numbers 3 through 59 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue damage on the outer wing and consequent reduced structural integrity of the wing, accomplish the following:

Corrective Action

(a) Prior to the accumulation of 33,000 total landings, or within 2,000 landings after the effective date of this AD, whichever occurs later, accomplish paragraphs (a)(1) and (a)(2) of this AD in accordance with Avions de Transport Regional Service Bulletin ATR42–57–0050, dated April 17, 1998.

(1) Perform a high frequency eddy current inspection to detect cracking of the fastener hole located on the lower surface of the outer wing near the spar/rib 15 junction. If any cracking is found, prior to further flight, repair the cracking in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (or its delegated agent).

(2) Perform cold working of the fastener hole located on the lower surface of the outer wing near the spar/rib 15 junction, and install a new fastener in the hole.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 98–147–075(B), dated April 8, 1998.

Issued in Renton, Washington, on June 17, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15929 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–226–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200 Series Airplanes Modified in Accordance With Supplemental Type Certificate (STC) ST00969AT

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 Boeing Model 737–200 series airplanes. This proposal would require removal of the existing emergency floor path lighting system and replacement with an FAA-approved emergency floor path lighting system. This proposal is prompted by information indicating that the existing emergency floor path lighting system does not provide adequate lighting and cueing for safe evacuation of the airplane in the event of an emergency. The actions specified by the proposed AD are intended to prevent such inadequate lighting and cueing, which could delay or impede the flight crew and passengers when exiting the airplane during an emergency.

DATES: Comments must be received by August 9, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–226–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.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia.

FOR FURTHER INFORMATION CONTACT: Angela Compton, Aerospace Engineer, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6070; fax (770) 703–6097.

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 96–NM–226–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96-NM–226–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received information indicating that the photoluminescent emergency floor path lighting system installed on Boeing Model 737–200 series airplanes that have been modified in accordance with Supplemental Type Certificate (STC) ST00969AT does not provide adequate lighting and cueing for safe evacuation of the airplane in the event of an emergency. (This STC entails the installation of a SAF–T–GLO Aerospace Limited emergency floor path lighting system.)

As specified in section 121.310(c)(3) of the Federal Aviation Regulations (14 CFR 121.310), airplanes that are type certificated after January 1, 1958, must, after November 26, 1986, include floor proximity emergency escape path marking requirements which meet the requirements of section 25.812(e) of this chapter that were in effect on November 26, 1994. Investigation revealed that the system does not comply with the certification requirements specified in section 25.812 as of November 26, 1994.

Such inadequate lighting and cueing of the escape path, if not corrected, could impede or delay the flight crew and passengers when exiting the airplane during an emergency.

Issuance of New Design Information

The FAA received an application for a type design change and has issued Supplemental Type Certification (STC) ST01829AT, dated February 11, 1999. The STC describes the installation of SAF–T–GLO Aerospace Limited's photoluminescent floor proximity emergency escape path marking system (FPEEPMS), which is a hybrid photoluminescent system that incorporates both electrical and photoluminescent parts.

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 removal of the existing emergency floor path lighting system and replacement with an FAA-approved emergency floor path lighting system.

Cost Impact

There are approximately 40 Boeing Model 737–200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the removal of the system, and at an average labor rate of $60 per work hour. It would take approximately 40 work hours per airplane to accomplish the proposed replacement with an FAA-approved system. Required parts for the replacement would cost approximately $10,000 for a new system, per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $524,800, or $13,120 per airplane.

The cost impact figure discussed above is 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:

Boeing: Docket 96–NM–226–AD.

Applicability: Model 737–200 series airplanes equipped with SAF–T–GL0 Aerospace Limited emergency floor path lighting systems installed in accordance with Supplemental Type Certificate (STC) ST00969AT, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inadequate lighting and cueing of the emergency floor path lighting system, which could delay or impede the flight crew and passengers when exiting the airplane during an emergency, accomplish the following:

(a) Within 120 days after the effective date of this AD, remove the existing photoluminescent emergency floor path lighting system from the airplane. Replace it with an emergency floor path lighting system in accordance with Supplemental Type Certificate ST01829AT, dated February 11, 1999, or an FAA-approved emergency floor path lighting system that is installed in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

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

Issued in Renton, Washington, on June 17, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15928 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–119–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed AD would require inspecting all flap actuators in the internal gear system to assure that correct end-play and backlash measurements exist, and accomplishing any corrective adjustments as necessary. The proposed AD would also require incorporating a temporary revision into the Pilot's Operating Handbook (POH) in order to update operating procedures for the flap actuators; and would require incorporating temporary revisions to the maintenance manual in order to make the proposed inspection part of the future maintenance program. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent premature wear of the internal gear system caused by excessive backlash in the flight control flap actuators, which could eventually result in loss of actuator output with possible reduced or loss of airplane control.

DATES: Comments must be received on or before July 28, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–119–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 98–CE–119–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–119–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA of Switzerland reports excessive backlash found in the flap actuators of the internal gear system. Excessive backlash will lead to premature wear of the gear.

This condition, if not detected and corrected, could result in internal failure of the internal gear system with loss of actuator output and possible reduced or loss of airplane control.

Relevant Service Information

Pilatus has issued Service Bulletin No. 27–005, November 18, 1998, which specifies procedures for:

—Inspecting all flap actuators in the internal gear system to assure that correct end-play and backlash measurements exist;

—Incorporating both Temporary Revision No. 27–04, and Temporary Revision No. 04–01, both dated November 18, 1998; into the Pilatus PC–12 Maintenance Manual; and

—Incorporating PC–12 Pilot's Operating Handbook, Pilatus Report No. 01973–001, Temporary Revision No. 4, Flap Actuators, dated November 18, 1998.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 98–460, dated November 23, 1998, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus PC–12 and PC–12/45 airplanes of the same type design that incorporate a certain flight control flap actuator and that are registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting all flap actuators in the internal gear system to assure that correct end-play and backlash measurements exist, and accomplishing any corrective adjustments as necessary. The proposed AD would also require incorporating the temporary revision into the POH in order to update operating procedures for the flap actuators; and would require incorporating temporary revisions to the maintenance manual in order to make the proposed inspection part of the future maintenance program.

The affected airplanes could incorporate one of the following flight control flap actuators:

—Pilatus part number (P/N) 978.71.20.302—Actuator, Linear (951D100–5);
—Pilatus P/N 978.71.20.303—Actuator, Linear (951D100–7); and
—Pilatus P/N 978.71.20.304—Actuator, Linear (951D100–9).

Accomplishment of the proposed inspection would be in accordance with Pilatus Service Bulletin No. 27–005, November 18, 1998. The proposed adjustments, if necessary, would be accomplished in accordance with the maintenance manual.

Cost Impact

The FAA estimates that 69 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. The manufacturer will provide parts free-of-charge to the owners/operators of the affected aircraft. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $24,840, or $360 per airplane.

Incorporating the proposed POH and maintenance manual revisions may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact the proposed POH and maintenance manual revision requirements impose is the time it would take each owner/operator of the affected airplanes to incorporate this information into the POH and maintenance manual.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft LtD.: Docket No. 98–CE–119–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, manufacturer serial numbers (MSN) 101 through MSN 236; certificated in any category, that have one of the following flight control flap actuators installed:

—Pilatus part number (P/N) 978.71.20.302—Actuator, Linear (951D100–5);
—Pilatus P/N 978.71.20.303—Actuator, Linear (951D100–7); and
—Pilatus P/N 978.71.20.304— Actuator, Linear (951D100–9).

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent premature wear of the internal gear system caused by excessive backlash in the flight control flap actuators, which could eventually result in loss of actuator output with possible reduced or loss of airplane control, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, inspect all flap actuators in the internal gear system to assure that correct end-play and backlash measurements exist, in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Pilatus Service Bulletin No. 27–005, November 18, 1998. Prior to further flight, perform any corrective adjustments, as necessary, in accordance with the maintenance manual.

(b) As of the effective date of this AD, no person may install, on any airplane, a flap actuator that has not been inspected and adjusted (as necessary) as required by paragraph (a) this AD.

(c) Prior to further flight after the inspection and possible modification required by paragraph (a) of this AD, accomplish the following:

(1) Insert Pilatus Report No. 01973–001, Temporary Revision No. 4, Flap Actuators, dated November 18, 1998, into the Pilot's Operating Handbook (POH).

(2) Insert Temporary Revision No. 27–04, and Temporary Revision No. 04–01, both dated November 18, 1998; into the Pilatus PC–12 Maintenance Manual.

(d) Accomplishment of the POH revision and maintenance manual insertions, as required by paragraph (c) of this AD, may be

performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(e) 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.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to Pilatus Service Bulletin No. 27–005, dated November 18, 1998, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Swiss AD HB 98–460, dated November 23, 1998.

Issued in Kansas City, Missouri, on June 16, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–15927 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–80–AD]

Airworthiness Directives; MD Helicopters Inc. Model 369D, 369E, 369FF, 500N, and 600N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to MD Helicopters Inc. (MDHI) Model 369D, 369E, 369FF, 500N, and 600N helicopters. The AD would require replacing the oil cooler blower bracket (bracket). This proposal is prompted by three reports of cracked brackets. The actions specified by the proposed AD are intended to prevent failure of a bracket, loss of cooling of engine oil and transmission oil, and a subsequent forced landing.

DATES: Comments must be received on or before August 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–80–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bruce Conze, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5261, 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 should 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 No. 98–SW–80–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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–80–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD, applicable to MDHI Model 369D, 369E, 369FF, 500N, and 600N helicopters. The AD would require replacing the bracket, part number (P/N) 369F5190–1 with an airworthy bracket, P/N 369F5194–1. This proposal is prompted by three reports of cracked brackets. The actions specified by the proposed AD are intended to prevent failure of a bracket, loss of cooling of engine oil and transmission oil, and a subsequent forced landing.

The FAA has reviewed Boeing Service Bulletin SB369D–196 SB369E–089 SB369F–076 SB500N–016 SB600N–012, dated April 28, 1998, which describes procedures for removing affected brackets and replacing them with improved-design brackets.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHI Model 369D, 369E, 369FF, 500N, and 600N helicopters of the same type design, the proposed AD would require removing the bracket, P/N 369F5190–1, and replacing it with an airworthy bracket, P/N 369F5194–1.

The FAA estimates that 100 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2.5 work hours per helicopter to replace the bracket, and that the average labor rate is $60 per work hour. Required parts would cost approximately $225 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $37,500.

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 a new airworthiness directive to read as follows:

MD Helicopters Inc. (MDHI): Docket No. 98–SW–80–AD.

Applicability: Model 369D, 369E, 369FF, 500N, and 600N helicopters, with oil cooler blower bracket (bracket), part number (P/N) 369F5190–1, installed, certificated in any category.

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

Compliance: Required within 100 hours time-in-service, unless accomplished previously.

To prevent failure of a bracket, loss of cooling of engine oil and transmission oil, and a subsequent forced landing, accomplish the following:

(a) Remove the bracket, P/N 369F5190–1, and replace it with an airworthy bracket, P/N 369F5194–1.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

Issued in Fort Worth, Texas, on June 17, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–15932 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 876; Ref: Notice Nos. 861 and 867]

RIN 1512–AB70

Net Contents Statement on Wine Labels (95R–054P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this notice of withdrawal to inform interested persons that we are not pursuing rulemaking regarding the net contents statement on wine labels as proposed in Notice No. 861. The majority of commenters believe that allowing the net contents to be expressed in centiliters as an alternative to milliliters is misleading and would result in consumer confusion.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), vests broad authority in the Director of ATF, as the delegate of the Secretary of the Treasury, to prescribe regulations intended to prevent deception of the consumer and to provide the consumer with adequate information as to, among other things, the net contents of the product. Regulations which implement the provisions of section 105(e), as they relate to wine, are set forth in title 27, Code of Federal Regulations (CFR), part 4. Section 4.32(b) provides, in part, that a statement of net contents must appear on the label of all containers of wine in accordance with section 4.37. Section 4.37 provides that the net contents of wine for which a metric standard of fill is prescribed must be stated on the label in the same manner and form as set forth in the standard of fill. The authorized metric standards of fill for American and imported wine, for sale in interstate commerce within the United States, are set forth in section 4.73 as follows:

3 liters
1.5 liters
1 liter
750 milliliters
500 milliliters
375 milliliters
187 milliliters
100 milliliters
50 milliliters

As provided in section 4.37(a), the net contents of wine for which no standard of fill is prescribed, e.g., sake, must be stated in liters and in decimal portions of a liter for quantities larger than one liter, and in milliliters for quantities of less than one liter.

Pursuant to section 4.32(b)(2), if the net contents of the wine is an authorized standard of fill, e.g., 750 milliliters, the net contents statement may appear on any label affixed to the container. If the net contents is a standard of fill other than an authorized standard of fill, e.g., 720 milliliters, the net contents statement must appear on a label affixed to the front of the container. Since the regulations show ''ml'' as an abbreviation for milliliter (section 4.37(a)(2)), that abbreviation may be used in lieu of milliliter, where required.

Finally, section 4.37 provides that the net contents need not be stated on the label if it is legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director on the side, front, or back of the container in an unobscured location.

Notice No. 861

On May 15, 1998, we published a notice in the **Federal Register** soliciting

comments from the public and industry on a proposal to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter may be expressed on the label in centiliters (cl) as an alternative to milliliters (ml) (Notice No. 861, 63 FR 27017). The proposal was based on a petition we received from Banfi Vintners (Banfi) of Old Brookville, New York. Banfi had asked that the regulations be amended to provide that the net contents for wine bottled in a 750 milliliter (750 ml) standard of fill be expressed in centiliters, as ''75 cl,'' as an alternative to ''750 ml.'' The petitioner stated that 75 centiliters is a universally recognized measurement equivalent to 750 milliliters in the metric system. Furthermore, authorizing this alternative net contents statement on wine labels ''would simplify current regulations and allow for an easier flow of wines among Europe, the world markets and the United States.''

The comment period for Notice No. 861, initially scheduled to close on August 13, 1998, was subsequently extended until October 19, 1998 (Notice No. 867, September 18, 1998; 63 FR 49883).

Analysis of Comments

We received 95 comments in response to Notice No. 861. Comments were submitted by consumers, industry members (representing domestic and foreign interests), various organizations and trade associations (e.g., the National Conference on Weights and Measures, the U.S. Metric Association, Inc., the Wine Institute, the National Association of Beverage Importers, and the Scotch Whisky Association), and one Federal agency (U.S. Department of Commerce—National Institute of Standards and Technology).

Of the 93 comments that addressed the proposed regulations, 82 objected to allowing the net contents for wine to be expressed in centiliters as an alternative to milliliters. The commenters contend that the American consumer is not yet fully oriented to the metric system and that the proposed regulations, if adopted, would result in consumer confusion. Furthermore, the current regulations provide consumers with one standard of common measurement for wine bottled in containers of less than 1 liter, i.e., milliliters. The commenters believe that having the net contents expressed in milliliters and centiliters on bottles of the same size may lead consumers to assume the containers do not hold the same amount of wine.

Other commenters expressed similar concerns with the proposed regulations. One commenter, the National Conference on Weights and Measures (NCWM), is a standards-development organization whose members include representatives from Federal, State, and local weights and measures and other government agencies; businesses, trade and professional organizations; consumer and other interested groups. The NCWM stated the following:

> The proposed changes are in direct conflict with the metric provisions of the 'Uniform Packaging and Labeling Regulation' adopted by the NCWM in 1993, the metric regulations adopted by the Federal Trade Commission (1994), and metric labeling regulations proposed by the Food and Drug Administration for foods, drugs and cosmetics (1993). * * * The labeling requirements for packaged goods adopted by the NCWM, other Federal Agencies, and OIML limit quantity declarations on consumer products to either milliliters or liters to reduce the possibility of consumer confusion. The Committee urges ATF to withdraw its proposal to permit centiliters because its adoption would result in a proliferation of net quantity declarations that may mislead consumers * * *

The NCWM explained that the OIML (Organization for Legal Metrology) is a worldwide, intergovernmental organization whose primary aim is to harmonize the regulations and metrological controls applied by its Member States, including the United States, Canada, and the European Union.

Other commenters shared the views of the NCWM, including the National Institute of Standards and Technology, a Federal agency within the Department of Commerce, and the U.S. Metric Association, Inc. The U.S. Metric Association was established in 1916 for the purpose of assisting the U.S. in adopting the metric system and providing guidance for metric system usage to industry, business, education, and consumers.

Eleven commenters supported the proposed regulations. One commenter, a national trade association representing importers of alcohol beverages, stated that ''differences between labeling rules of U.S. and Europe can cause unnecessary expense to an importer without providing the consumer any added protection or information.'' This commenter also argued that the proposed regulations would provide producers with flexibility in labeling their products. In addition, the commenter believed that the proposed regulations should apply to distilled spirits. Other commenters in favor of the proposal expressed similar concerns.

Decision

After careful consideration of the comments received, we have determined that an amendment of the regulations is not justified or warranted. In Notice No. 861 we stated that the metric standards of fill were first prescribed on December 31, 1974, pursuant to T.D. ATF–12, and became mandatory on January 1, 1979. In order to standardize the manner by which metric net contents were to be stated on the label and to avoid confusion among consumers, the final rule required metric net contents to be expressed in liters and decimal portions thereof for quantities larger than one liter and in milliliters for quantities less than one liter. Thus, as one commenter pointed out in the comments received in response to Notice No. 861, for more than 20 years the regulations have provided consumers ''with the advantage of one simple standard of common measurement (milliliters) for wines in quantities less than one liter. The proposed regulation would remove that advantage. Seeing different units of measurement (ml and cl) on wine bottles of the same size may lead the consumer to assume that there is some difference in the contents of these bottles, * * *.''

In addition, as discussed in Notice No. 861, our decision to express the net contents in milliliters for wine in containers of less than one liter was based, in part, on testimony presented at the hearing which preceded T.D. ATF–12. In particular, the American National Metric Council recommended milliliter (ml) as the only submultiple of liter and emphasized that ''[t]he important thing is to avoid the confusion of an excessive variety of submultiples, which may cause errors in communication. These other submultiples, * * * would be a deciliter—dl, a centiliter—cl.'' This concern is still valid more than 20 years later. As the NCWM stated in their comment:

> When the NCWM developed its metric labeling regulations it was the consensus of the organization and FTC and FDA that metric prefixes such as centi, deka, deci, hecto and others were inappropriate for use on consumer packages.

It is clear from the comments received in response to Notice No. 861 that American consumers are not yet completely familiar with all units in the metric system. Based on the information contained in the comments, we believe that the proposed regulations, if adopted, would not be of any value to consumers and would result in confusion. Furthermore, we did not receive any comments from consumers in support of the regulations. We did, however, receive comments from

consumers expressing their objections to the proposed regulations.

Accordingly, for the reasons stated above, we are withdrawing Notice No. 861.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

This document is issued under the authority in 27 U.S.C. 205.

Signed: April 29, 1999.

John W. Magaw,

Director.

Approved: June 4, 1999.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–15944 Filed 6–22–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 178 and 179

[Notice No. 877]

RIN 1512–AB84

Identification Markings Placed on Firearms (98R–341P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to prescribe minimum height and depth requirements for identification markings placed on firearms by licensed importers and licensed manufacturers. Specifically, we are proposing a minimum height of 3⁄32 inch and a minimum depth of .005 inch for serial numbers and a minimum depth of .005 inch for all other required markings. We believe that such minimum standards are necessary to ensure that firearms are properly identified in accordance with the law. In addition, the proposed regulations, if adopted, will facilitate our ability to trace the origin of firearms used in crime.

DATES: Written comments must be received on or before September 21, 1999.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; PO Box 50221; Washington, DC 20091–0221; ATTN: Notice No. 877.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

Section 923(i) of the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44), requires licensed importers and licensed manufacturers to identify, by means of a serial number, each firearm imported or manufactured. The serial number must be engraved, cast, or stamped on the receiver or frame of the weapon in such manner as the Secretary of the Treasury prescribes by regulation. With respect to certain firearms subject to the National Firearms Act (e.g., machine guns), 26 U.S.C. 5842 requires each manufacturer and importer and anyone making a firearm to identify each firearm by a serial number. The serial number may not be readily removed, obliterated, or altered. Section 5842 also requires the firearm to be identified by the name of the manufacturer, importer, or maker, and such other identification as the Secretary may prescribe by regulation.

Regulations that implement section 923(i) are set forth in 27 CFR 178.92. In general, this section requires each licensed manufacturer or licensed importer of firearms to legibly identify each firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing on the frame or receiver an individual serial number. The serial number must be placed in a manner not susceptible of being readily obliterated, altered, or removed.

Section 178.92 also requires licensed importers and manufacturers to conspicuously place the following identification markings on the frame, receiver, or barrel of each firearm imported or manufactured in a manner not susceptible of being readily obliterated, altered, or removed:

1. The model, if such designation has been made;
2. The caliber or gauge;
3. The name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer;
4. In the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) where the licensed manufacturer maintains its place of business; and
5. In the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) where the importer maintains its place of business.

The same marking requirements appear in regulations issued under the National Firearms Act at 27 CFR 179.102.

In the case of any semiautomatic assault weapon manufactured after September 13, 1994, the regulations also require that the frame or receiver be marked ''RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY'' or, in the case of weapons manufactured for export, ''FOR EXPORT ONLY'' (27 CFR 178.92(a)(2)).

Discussion

The GCA requires Federal firearms licensees to maintain records of their acquisitions and dispositions of firearms, including complete and accurate descriptions of the firearms. One of the principal objectives of the GCA is to facilitate the tracing of firearms used in crime ''to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence * * *.'' Gun Control Act of 1968, section 101, 82 Stat. 1213. To accomplish this objective, § 178.92 requires that each manufacturer or importer utilize an individual serial number for each firearm manufactured or imported and prohibits the duplication of any serial number placed by the manufacturer or importer on any other firearm. Furthermore, section 922(k) of the GCA makes it unlawful for any person to transport, ship, possess, or receive, in interstate or foreign commerce, any firearm that has had the importer's or manufacturer's serial number removed, obliterated, or altered.

The serial number, along with other required markings such as caliber, model, name of manufacturer, and city and State of the manufacturer or importer make any given firearm uniquely identifiable and traceable. Thus, firearms tracing is an integral part of any investigation involving the criminal use of firearms. The systematic tracking of firearms from the manufacturer or U.S. importer to the first retail purchaser enables law enforcement agencies to identify suspects involved in criminal violations, determine if the firearm is stolen, and provide other information relevant to an investigation. Our National Tracing Center (NTC) maintains the capability to trace the origin of recovered firearms used in crimes. Over the years, the NTC has experienced a substantial increase in the number of requests received for crime gun traces by Federal, State, and local law enforcement agencies. The total

number of requests for gun traces increased from 77,000 in 1995 to approximately 200,000 in 1997.

Currently, there are no minimum standards concerning size and depth of impression for markings on firearms. The regulations require that the identifying information, including the serial number, be legible, conspicuous, and placed on the firearm ''in a manner not susceptible of being readily obliterated, altered, or removed.'' The lack of specific minimum standards causes problems for licensees in properly recording identifying information in their required records, particularly with respect to serial numbers that are very small or are not applied to a uniform depth. Moreover, worn, hard-to-read markings often result in State and local law enforcement officers forwarding erroneous information to ATF in connection with a trace request. Serial numbers that are stamped very lightly on the frame or receiver of the firearm are more susceptible to being easily obliterated, altered, or removed. These problems often hinder our efforts to trace a particular firearm.

Proposed Regulations

To reduce the problem of incorrect record entries by licensees and to make identification markings less susceptible to being readily obliterated, altered, or removed, we are proposing to amend the regulations to prescribe minimum height and depth requirements for identification markings placed on firearms. Specifically, we are proposing that licensed manufacturers and licensed importers cast, stamp (impress) or engrave serial numbers to a depth of at least .005 inch and in a print size no smaller than 3/32 inch. We are also proposing that all other required markings, including the special markings for semiautomatic assault weapons, be cast, stamped (impressed) or engraved to a depth of at least .005 inch. We are not proposing to require a minimum height requirement of 3/32 inch for all identification markings since such a requirement would make it difficult to fit all the information on a firearm, particularly in the case of handguns.

We believe that the minimum standards proposed in this notice ensure that firearms are properly identified in accordance with the law. In addition, the proposed regulations, if adopted, will facilitate our ability to trace firearms used in crime.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866

We have determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Therefore, a Regulatory Assessment is not required.

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. We hereby certify that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities because the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Accordingly, a regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Chief, Document Services Branch, Room 3110, Bureau of Alcohol, Tobacco and Firearms, at the address previously specified. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Bureau of Alcohol, Tobacco and Firearms, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced; and

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collections of information in this proposed regulation are in 27 CFR 178.92 and 27 CFR 179.102. This information is required to properly identify each firearm that is manufactured or imported. The collections of information are mandatory. The likely respondents are businesses.

Estimated total annual reporting and/or recordkeeping burden: 5,012 hours.

Estimated average burden hours per respondent and/or recordkeeper: 2 hours.

Estimated number of respondents and/or recordkeepers: 2,506.

Estimated annual frequency of responses: one-time requirement to change size and depth.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Public Participation

We are requesting comments on the proposed regulations from all interested persons. In particular, we are soliciting input from the industry as to whether a minimum depth of .007 inch, rather than the .005 inch proposed in this notice, is feasible using existing machinery or if additional costs would be incurred to comply with such a minimum depth. We are also specifically requesting comments on the clarity of this proposed rule and how it may be made easier to understand.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

We will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The

Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Regulation Identification Number

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

Drafting Information: The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Incorporation by reference, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

27 CFR Part 179

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

For the reasons discussed in the preamble, ATF amends 27 CFR parts 178 and 179 as follows:

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1. The authority citation for 27 CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Section 178.92 is amended by revising the section heading and paragraph (a) to read as follows:

§ 178.92 How must licensed manufacturers and licensed importers identify firearms, armor piercing ammunition, and large capacity ammunition feeding devices?

(a)(1) *Firearms.* You, as a licensed manufacturer or licensed importer of firearms, must legibly identify each firearm manufactured or imported as follows:

(i) By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof an individual serial number. The serial number must be placed in a manner not susceptible of being readily obliterated, altered, or removed, and must not duplicate any serial number placed by you on any other firearm. For firearms manufactured on and after [Insert effective date of final rule], the engraving, casting, or stamping (impressing) of the serial number must be to a minimum depth of .005 inch and in a print size no smaller than 3/32 inch; and

(ii) By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof certain additional information. This information must be placed in a manner not susceptible of being readily obliterated, altered, or removed. For firearms manufactured on and after [Insert effective date of final rule], the engraving, casting, or stamping (impressing) of this information must be to a minimum depth of .005 inch. The additional information includes:

(A) The model, if such designation has been made;

(B) The caliber or gauge;

(C) Your name (or recognized abbreviation) and also, when applicable, the name of the foreign manufacturer;

(D) In the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) where you as the manufacturer maintain your place of business; and

(E) In the case of an imported firearm, the name of the country in which it was manufactured and the city and State (or recognized abbreviation thereof) where you as the importer maintain your place of business.

(2) *Firearm frames or receivers.* A firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section.

(3) *Special markings for semiautomatic assault weapons, effective July 5, 1995.* In the case of any semiautomatic assault weapon manufactured after September 13, 1994, you must mark the frame or receiver ''RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY'' or, in the case of weapons manufactured for export, ''FOR EXPORT ONLY,'' in a manner not susceptible of being readily obliterated, altered, or removed. For weapons manufactured on and after [Insert effective date of final rule], the engraving, casting, or stamping (impressing) of the special markings prescribed in this paragraph (a)(3) must be to a minimum depth of .005 inch.

(4) *Exceptions.*—(i) *Alternate means of identification.* The Director may authorize other means of identification upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(ii) *Destructive devices.* In the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of a letter application from you, submitted in duplicate, showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable.

(iii) *Machine guns, silencers, and parts.* Any part defined as a machine gun, firearm muffler, or firearm silencer in § 178.11, that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by you, must be identified as required by this section. The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

* * * * *

PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Par. 3. The authority citation for 27 CFR part 179 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 179.102 is revised to read as follows:

§ 179.102 How must firearms be identified?

(a) You, as a manufacturer, importer, or maker of a firearm, must legibly identify the firearm as follows:

(1) By engraving, casting, stamping (impressing), or otherwise

conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof an individual serial number. The serial number must be placed in a manner not susceptible of being readily obliterated, altered, or removed, and must not duplicate any serial number placed by you on any other firearm. For firearms manufactured on and after [insert effective date of final rule], the engraving, casting, or stamping (impressing) of the serial number must be to a minimum depth of .005 inch and in a print size no smaller than 3/32 inch; and

(2) By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed), or placed on the frame, receiver, or barrel thereof certain additional information. This information must be placed in a manner not susceptible of being readily obliterated, altered or removed. For firearms manufactured on and after [Insert effective date of final rule], the engraving , casting, or stamping (impressing) of this information must be to a minimum depth of .005 inch. The additional information includes:

(i) The model, if such designation has been made;

(ii) The caliber or gauge;

(iii) Your name (or recognized abbreviation) and also, when applicable, the name of the foreign manufacturer or maker;

(iv) In the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) where you as the manufacturer maintain your place of business, or where you, as the maker, made the firearm; and

(v) In the case of an imported firearm, the name of the country in which it was manufactured and the city and State (or recognized abbreviation thereof) where you as the importer maintain your place of business.

(b) The Director may authorize other means of identification upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(c) In the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of a letter application you, submitted in duplicate, showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable.

(d) A firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section.

(e)(1) Any part defined as a machine gun, muffler, or silencer for the purposes of this part that is not a component part of a complete firearm at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section.

(2) The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

Signed: April 12, 1999.

John W. Magaw,

Director.

Approved: June 4, 1999.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–15943 Filed 6–22–99; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[Docket No. A–99–03; FRL–6364–8]

Hazardous Air Pollutants List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of a complete petition to delist methyl ethyl ketone from the list of Hazardous Air Pollutants (HAPs).

SUMMARY: This notice announces the receipt of a complete petition from the Chemical Manufacturers Association's (CMA'S) Ketone Panel requesting EPA to remove the chemical methyl ethyl ketone (MEK, 2-Butanone) (CAS No. 78–93–3) from the list of hazardous air pollutants (HAPs) contained in section 112(b)(1) of the 1990 Clean Air Act (Act). We have determined that the Chemical Manufacturers Association's original petition dated November 27, 1996 and the supplemental materials provided by CMA through August 31, 1998 will support an assessment of the human health impacts associated with people living in the vicinity of facilities emitting methyl ethyl ketone. In addition, the data submitted by CMA will support an assessment of the environmental impacts associated with emissions of methyl ethyl ketone to the ambient air and deposited onto soil or water. Consequently, we have concluded that CMA's petition is complete as of August 31, 1998, the date of the last supplement, and is ready for public comment and the technical review phase of our delisting procedure.

This notice invites the public to comment on the petition and to provide additional data, beyond that filed in the petition, on sources, emissions, exposure, health effects and environmental impacts associated with methyl ethyl ketone that may be relevant to our technical review.

DATES: Written comments on this proposal must be received by July 23, 1999.

ADDRESSES: *Documents.* A copy of the complete petition is contained in a docket available at the Air and Radiation Docket and Information Office, 401 M Street S.W., Room M–1500 (Mail Code 6102), Waterside Mall, Washington DC 20460. The docket number for this action is A–99–03. The docket is an organized file of all the information received and considered in making the decision on the completeness of CMA's petition. The main purpose of the docket is to allow you to readily identify and locate documents that record the process we followed in making our decision. You may inspect the petition and copy it for offsite review between 8:30 a.m. and 4:30 p.m. E.S.T., Monday through Friday. A reasonable fee may be charged for copying. In addition, CMA will make copies of the petition available upon request. You may call Mr. Andrew Jakes at CMA's help line at (703) 741–5627 between 8:30 a.m. and 4:30 p.m. EST, Monday through Friday, for information on how to obtain a copy of the petition. A reasonable fee may be charged for copying.

Data Submissions. Comments and additional data should be submitted (in duplicate if possible) to: The Docket Clerk, Air and Radiation Docket and Information Office, 401 M Street S.W., Room M–1500 (Mail Code 6102), Waterside Mall, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: James B. White, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–0842, electronic mail address: White.James@epa.gov.

SUPPLEMENTARY INFORMATION: *Plain Language.* In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in Government Writing, this package is written using plain language. Therefore,

the use of ''we'' in this package refers to the EPA. The use of ''you'' refers to the reader and may include State, local or tribal government agencies, industry, environmental groups, or other interested individuals.

I. Introduction

A. What Is the List of Hazardous Air Pollutants?

Hazardous air pollutants (HAPs) include a wide variety of organic and inorganic substances released from large and small industrial operations, fossil fuel combustion, gasoline and diesel-powered vehicles, and many other sources. The HAPs have been associated with a wide variety of adverse health effects, including cancer, neurological effects, reproductive effects, and developmental effects. The health effects associated with the various HAPs may differ depending upon the toxicity of the individual HAP and the particular circumstances of exposure, such as the amount of chemical present, the length of time a person is exposed, and the stage in life of the person when the exposure occurs. The list of HAPs, which includes methyl ethyl ketone, can be found in section 112(b)(1) of the Act. The HAPs list provides the basis for research, regulation, and other related EPA activities under the Act.

B. What Is a Delisting Petition?

A delisting petition is a formal request to the EPA from an individual or group to remove a specific HAP from the HAPs list. The removal of a HAP from the list eliminates it from consideration in EPA's program to promulgate national, technology-based emissions control standards. This technology-based standards program is commonly referred to as the MACT (Maximum Achievable Control Technology) program.

Petitions to add or delete chemicals from the HAPs list are allowed under section 112(b)(3)(A) of the Act. The Act specifies that any person may petition the Administrator to modify, by addition or deletion, the list of HAPs. The EPA Administrator is required under section 112(b)(3)(A) of the Act to either grant or deny a petition to delist a specific HAP within 18 months of the receipt of a complete petition.

To delete a substance from the HAPs list, section 112(b)(3)(C) requires that the petitioner must provide adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bio-accumulation or deposition of the substance may not reasonably be anticipated to cause any adverse effects to human health or adverse environmental effects.

C. How Does EPA Review a Petition To Delist a HAP?

The petition review process proceeds in two phases: a completeness determination and a technical review. During the completeness determination, we conduct a broad review of the petition to determine whether or not all the necessary subject areas are addressed. In addition, we determine if adequate data, analyses, and evaluation are included for each subject area. Once the petition is determined to be complete, we place a ''Notice of Receipt of a Complete Petition'' in the **Federal Register**. That **Federal Register** notice announces a public comment period on the petition and starts the technical review phase of our decision making process. The technical review determines whether the petition has satisfied the necessary requirements and can support a decision to delist the HAP. All comments and data submitted during the public comment period are considered during the technical review.

D. How Is the Decision to Delist a HAP Made?

The decision to either grant or deny a petition is made after a comprehensive technical review of both the petition and the information received from the public to determine whether the petition satisfies the requirements of section 112(b)(3)(C) of the Act. If the Administrator decides to grant a petition, a ''Notice of Proposed Rule Making'' is published in the **Federal Register**. That notice proposes a modification of the HAPs list and presents the reasoning for doing so. However, if the Administrator decides to deny a petition, a notice setting forth an explanation of the reasons for denial will be published instead. A notice of denial constitutes final Agency action of nationwide scope and applicability, and is subject to judicial review as provided in section 307(b) of the Act.

II. Completeness Determination and Request for Public Comment

On November 27, 1996, we received a petition from the CMA's Ketone Panel to remove methyl ethyl ketone (MEK, 2-Butanone)(CAS No. 78–93–3) from the HAPs list. The petition was presented on behalf of the producers and consumers of methyl ethyl ketone in the United States. After reviewing the petition, we found that all of the necessary subject areas for a human health and environmental risk assessment had been addressed. However, we determined that there were certain information gaps in the emission modeling and the ecological risk assessment that required supplemental information before being considered complete. To address the modeling issue, we requested specific modeling data for several of the major emitting sources identified in the petition. The CMA returned to the largest emitters and obtained their permission to release the data that had previously been provided to CMA as a part of a private study. To address the issues in the ecological risk assessment, we requested additional modeling to relate emissions of methyl ethyl ketone to ecological effects. The CMA responded with a report on the output from a fugacity model which predicted methyl ethyl ketone tendency to either remain airborne or to collect in soil or water. Fugacity is a thermodynamic quantity that describes the ''escaping tendency'' of a chemical from an environmental compartment such as air, soil, water, or biota. It is used in certain environmental models to describe a chemical's movement between the different compartments.

After reviewing all of the supplemental information, we have determined that the essential subject areas have been addressed. Therefore, the petition is complete and ready for technical review. The CMA's last supplement which occurred August 31, 1998 marked the start of the 18-month technical review and decision period. Today's notice initiates our comprehensive technical review of the petition and invites public comment on the substance of the petition as described above.

III. Description of Petition

The original petition and the supplemental materials provided by CMA contain the following information:

(A) Identification and location of facilities producing or using methyl ethyl ketone.

(B) Background data on methyl ethyl ketone, including chemical and physical properties data and production and use data.

(C) Toxicological data on human heath and environmental effects of methyl ethyl ketone. These data include CMA's proposed recalculation of the air inhalation reference concentration (RfC) currently contained in the EPA's Integrated Risk Information System (IRIS). The RfC is a quantitative estimate of an inhalation exposure to humans that is likely to be without appreciable risk of adverse impacts over a lifetime. The IRIS is an electronic data base prepared and maintained by EPA that contains information on human health

effects that may result from exposure to various chemicals in the environment.

(D) Estimated emissions of methyl ethyl ketone derived from the most recent version of the Toxic Release Inventory (TRI). The TRI is an emissions inventory database developed under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986.

(E) Tiered air dispersion modeling that provides estimates of the ambient concentration of methyl ethyl ketone adjacent to those facilities that use it. Tiered modeling involves the use of successive modeling techniques to move from conservative ''worst case'' estimates of the ambient concentrations of a substance emitted from a source toward more realistic site-specific estimates of the ambient concentrations.

(F) Characterization of the exposures and risks from methyl ethyl ketone to human health and the environment.

(G) Documentation of a literature search on methyl ethyl ketone conducted immediately prior to the filing of the petition. This includes an identification of the data bases searched, the search strategy, and printed results.

(H) Printed copies of all human, animal, in vitro, or other toxicity studies cited in the literature search.

(I) Environmental effects data characterizing the fate of methyl ethyl ketone emitted to the atmosphere. This includes atmospheric residence time, solubility, phase distribution, vapor pressure, octanol/water partition coefficients, particle size, adsorption coefficients, information on atmospheric transformations, potential degradation or transformation products, and bio-accumulation potential.

(J) Other relevant considerations, such as CMA's petition to delist methyl ethyl ketone under EPCRA section 313.

(K) List of all support documents in the petition.

At the time of the petition, only three companies: Exxon Chemical Company, Hoechst Celanese, and Shell Chemical, produced methyl ethyl ketone. The estimated total domestic capacity in 1995 was approximately 595 million pounds. The 1994 Toxic Release Inventory (TRI) shows that over 2,300 facilities reported emissions associated with the use of methyl ethyl ketone and that 85 percent of these facilities reported emissions of less than 25 tons per year.

The petition describes methyl ethyl ketone as being both a solvent and chemical intermediate. When used as a solvent, it is highly efficient for dissolving a wide variety of resins. Therefore, it is widely used in surface coatings, adhesives, inks, and traffic marking paints. Methyl ethyl ketone is also used as a solvent in cleaning fluids and dewaxing agents, and in the extraction of fats, oils, waxes, and resins. It is especially valuable in the formulation of high-solids coatings which are being used to reduce emissions of volatile organic compounds (VOCs) from many types of coatings. Methyl ethyl ketone is reported to occur naturally as an emission from plants such as European firs, junipers, cedars, cypress trees, and ferns. It has also been identified as a natural component of several foods.

Based on an analysis of the TRI, the petition states that inhalation is the only significant route of human exposure to methyl ethyl ketone emissions. Using the most recent TRI data as input in a tiered air dispersion modeling approach, the petition develops estimates of the maximum annual and 24-hour concentrations anticipated to occur at the boundaries of facilities known to emit methyl ethyl ketone. The petition compares the output from the air models and available IRIS health data to conclude that, given the low concentrations anticipated to occur at the facility boundaries, methyl ethyl ketone cannot reasonably be anticipated to cause either acute or chronic adverse health effects to people living nearby these facilities.

This conclusion is based on methyl ethyl ketone's relatively low toxicity, the estimated low ambient concentrations, and a proposed revision of the IRIS RfC for methyl ethyl ketone. The proposed revision increases methyl ethyl ketone's RfC from 1.0 mg/m^3 to 3.3 mg/m^3. The proposal is based on guidelines published by EPA in 1994 (EPA Office of Research and Development, ''Methods for the Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry,'' EPA No. 600/8–90/066F (October 1994)). This proposed RfC and the assumptions underlying its derivation will be evaluated during our technical review.

The petition also uses a fugacity model to demonstrate that methyl ethyl ketone tends to remain in the air rather than to accumulate in water or on soil. Data is provided to support the position that in the concentrations expected to occur in the environment, methyl ethyl ketone is non-toxic to plants and animals. It is readily degradable through natural process and does not tend to accumulate in living organism. Based on the lack of toxicity and the limited persistence in the environment, the petition concludes that methyl ethyl ketone does not pose a significant adverse effect to the environment.

Dated: June 14, 1999.

Robert D. Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 99–15981 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 64, No. 120

Wednesday, June 23, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Crop Revenue Coverage

ACTION: Notice of availability.

SUMMARY: In accordance with section 508(h) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) approved for reinsurance and subsidy the insurance of wheat in select states and counties under the Crop Revenue Coverage (CRC) plan of insurance submitted by American Agrisurance (AmAg). This notice is intended to inform eligible producers and the private insurance industry of the coverage changes for durum wheat under CRC, for the 2000 crop year.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri 64131, telephone (816) 926–7387.

SUPPLEMENTARY INFORMATION: Section 508(h) of the Act allows the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy in accordance with section 508(e) of the Act.

In accordance with section 508(h) of the Act, the Board approved a program of insurance known as CRC, originally submitted by AmAg, a managing general agency for Redland Insurance Company. All terms and conditions of the policy and all premium rates are determined by AmAg. FCIC does not have the authority to modify or waive any terms or conditions. FCIC only has the authority to approve or disapprove the terms and conditions submitted by AmAg.

The CRC program has been approved for reinsurance and premium subsidy, including subsidy for administrative and operating expenses. CRC is designed to protect producers against both price and yield losses.

Beginning with the 1999 crop year, producers could select 95 or 100 percent of the average daily settlement price and a separate price for durum wheat.

AmAg has requested the following changes for durum wheat for the 2000 crop year: (1) To only offer producers 100 percent of the average daily settlement price rather than a choice of 95 or 100 percent; (2) to cap the durum base price basis premium to $1.00 for Arizona and California; and (3) to remove the northern durum Base Price and Harvest Price from the Commodity Exchange Endorsement pending further review and evaluation by the company.

FCIC herewith gives notice that this Commodity Exchange Endorsement for wheat replaces the Commodity Exchange Endorsement published in the **Federal Register** at 63 FR 37845–37847 for CRC wheat for use by private insurance companies.

The CRC Commodity Exchange Endorsement and underwriting rules for wheat will be released electronically to all reinsured companies through FCIC's Reporting Organization Server.

Notice

The Commodity Exchange Endorsement for the 2000 CRC winter wheat program of insurance is as follows.

Crop Revenue Coverage
Commodity Exchange Endorsement

CROP REVENUE COVERAGE

Mandatory Actuarial Document Endorsement

COMMODITY EXCHANGE ENDORSEMENT—WHEAT

(This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Wheat crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Wheat policy are determined.

(III) In lieu of section 4(c) of the Basic Provisions, you may only select 100 percent of Base Price and Harvest Price.

(IV) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by totaling all the daily settlement prices for the contract specified in the applicable Base Price or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price or Harvest Price definition, and dividing that sum by the total number of days included in the total. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(V) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by wheat type and state as follows:

Winter Wheat—(Insured as Winter Wheat), Chicago Board of Trade (CBOT)

Illinois, Indiana, Michigan, Ohio, and Wisconsin

Base Price (CBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (CBOT)—The July 15 to August 14 harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by August 20 of the harvest year.

Winter Wheat—(Insured as Winter Wheat), (CBOT)

Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia

Base Price (CBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (CBOT)—The June harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by July 10 of the harvest year.

Winter Wheat—(Insured as Winter Wheat), Kansas City Board of Trade (KCBOT)

Iowa, Montana, Nebraska, South Dakota, and Wyoming

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (KCBOT)—The July 15 to August 14 harvest year's average daily settlement price for the harvest year's KCBOT September hard red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by August 20 of the harvest year.

Winter Wheat—(Insured as Winter Wheat), (KCBOT)

Arizona, Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (KCBOT)—The June harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by July 10 of the harvest year.

Spring Wheat—(Insured as Spring Wheat in counties with a 3/15 Cancellation Date), Minneapolis Grain Exchange (MGE)

Colorado, Iowa, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming

Base Price (MGE)—The February harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by March 10 of the harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Spring Wheat—(Insured as spring wheat in counties with a 9/30 cancellation date), (KCBOT/MGE)

Colorado, Iowa, Montana, South Dakota and Wyoming

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Wheat—Portland Grain Exchange (PGE)

California, Idaho, Oregon, Utah, and Washington

Base Price (PGE)—The Portland Price equals the August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the current five-year average difference between the August average daily settlement price for the nearby CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) and the August average daily settlement price for the PGE soft white wheat contract (rounded to the nearest whole cent). The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (PGE)—The August harvest year's average daily settlement price for the PGE soft white wheat contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Durum Wheat—(Insured as durum wheat in counties with a 10/31 cancellation date), (MGE)

Arizona and California

Base Price (MGE)—The Southern Durum Price equals the September 15 to October 14 pre-harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the average of the current year nearby basis, determined during the months of May, June, July and August of the current crop year, and the current five-year average difference between the August average daily settlement price for top milling durum wheat as reported by the MGE (rounded to the nearest whole cent) and the August average daily settlement price for the nearby CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) not to exceed $1.00. During the months of May and June the nearby futures contract used to determine the current year nearby basis for top milling durum wheat will be the July contract. During the months of July and August the nearby futures contract used to determine the current year nearby basis for top milling durum wheat will be the September contract. The Base Price will be released as an actuarial document addendum by October 20 of the pre-harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for top milling durum wheat as reported by the MGE rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

All other terms and conditions of the Policy remain unchanged.

Signed in Washington, DC, on June 16, 1999.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 99–15922 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; National Forest Recreation Use

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to extend a previously approved information collection and add a new component to the collection. The Forest

Service uses the currently approved collection to assess customer satisfaction and agency performance in meeting customer needs. The new collection will enable the Forest Service to estimate the amount and type of recreational use that occurs on National Forest System areas. The revised collection also will help the Forest Service meet the requirements of the Government Performance and Results Act of 1993 and the National Forest Management Act of 1976. Information will be collected from people who visit National Forest System lands for recreational activities.

DATES: Comments must be received in writing on or before August 23, 1999.

ADDRESSES: All comments should be addressed to Donald B.K. English, Research Social Scientist, Forestry Sciences Laboratory, Forest Service, USDA, 320 Green St., Athens, GA 30602, or email: denglish/srs__athens@fs.fed.us.

The public may inspect comments at the offices of Donald English, Research Work Unit SRS–4901, Forest Service, USDA, 320 Green St., Athens, GA.

FOR FURTHER INFORMATION CONTACT: Donald B.K. English, Southern Research Station, at (706) 559–4268.

SUPPLEMENTARY INFORMATION:

Background

The Government Performance and Results Act of 1993 requires that Federal agencies establish measurable goals and monitor their success at meeting those goals. Two items the Forest Service has agreed to measure are: (1) the views and satisfaction level of recreational visitors to National Forest System lands about the types and quality of recreational services the agency provides; and (2) the number of visitors who come to National Forest System lands for recreational purposes. The agency is often asked for this kind of information from a variety of organizations that include Congressional Staffs, newspapers, magazines, and recreational trade organizations.

The currently approved information collection is designed to evaluate agency performance in meeting the needs of visitors to individual recreational sites, such as the visitor's level of satisfaction and evaluation of the agency's ability to meet the visitor's recreational needs. However, at present, Forest Service personnel are unable to estimate the number of visitors who visit National Forest System lands for recreational purposes. The current information collection is being revised to meet these agency informational needs.

National Forest System land managers will use the collected information to better understand their recreational customers, to improve recreational opportunities and services, and to identify barriers that prevent the agency from meeting the recreational needs of its customers. Data from this information collection also will be considered when revising land and resource management plans for National Forests, as required by the National Forest Management Act of 1976. The collected information will be shared with all National Forest System land managers and, upon request, with others. Results from this collection will be published in agency reports and various research journals.

Description of Information Collection

The following describes the information collection to be extended:

Title: Customer and Use Survey Techniques for Operations, Management, Evaluation, and Research.

OMB Number: 0596–0110.

Expiration Date of Approval: December 31, 1999.

Type of Request: Extension, with revision, of a previously approved information collection.

Abstract: The data from this information collection provides the agency with information about the characteristics, desires, needs, and opinions of recreational visitors to selected recreational sites on National Forest System lands and other public agency lands.

Agency personnel, contract personnel, and volunteers, trained in conducting face-to-face interviews, will contact people who are visiting public lands for recreational purposes. Survey questions will focus on how well the agency meets visitors' expectations for recreational opportunities, their satisfaction with the recreational site of their choice, and if they have concerns regarding the agency's management of the site.

Agency land managers will use the collected information to better understand their recreational customers, to improve recreational opportunities and services, and to identify barriers that prevent the agency from meeting the recreational needs of its customers.

The collected information will be shared with agency land managers and upon request, with others.

Data gathered in this collection is not available from other sources.

Estimate of Burden: 10 minutes.

Type of Respondents: People who visit National Forest System land for recreational purposes.

Estimated Number of Respondents: 9,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,500 hours.

Description of Information Collection

The following describes the new component of a currently information collection to be extended:

Title: National Forest Recreation Use Survey.

OMB Number: 0596–0110.

Expiration Date of Approval: December 31, 1999.

Type of Request: New information collection.

Abstract: Data from this information collection will be used to estimate the numbers of recreational visitors to National Forest System lands, as well as the types of activities in which they participate. The data also will be used to identify recreational markets and to estimate the economic values and impacts of recreational visits.

Respondents will be asked questions about the activities in which they participate while visiting National Forest System lands, the duration of their visit, how often they visit, what types of items they have purchased during their visit, and the State in which they live.

Forest Service personnel will interview visitors as they exit National Forest System land recreational sites. Surveys will be conducted on about one-fourth of the National Forests each year, so that complete coverage of agency lands will occur over a 4-year cycle. Each National Forest will retain a copy of data collected on its visitors. Results of this study will be published in agency reports and various research journals.

Data gathered in this collection is not available from other sources.

Estimate of Burden: 6 minutes.

Type of Respondents: People who visit the National Forest System lands for recreational purposes.

Estimated Number of Respondents: 80,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 8,000 hours.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: June 17, 1999.

Robert Lewis, Jr.,

Deputy Chief for Research & Development.

[FR Doc. 99–15987 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Swan Flat Proposed Timber Sale; Cache National Forest (Administered by the Caribou National Forest), Bear Lake County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare Environmental Impact Statement.

SUMMARY: The USDA, Forest Service will prepare an Environmental Impact Statement to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in the Swan Flat area of the Cache National Forest in Bear Lake County, Idaho. The proposed project is located in T.16S., R.42E., Section 23, 24, 25, and T.116S., R. 43E., Section 30, Boise Meridian. Implementing the silvicultural prescriptions under the proposed action will bring these timber stands to a healthy and productive condition. This would result in reduction of insect and disease activity, increased growth on regenerated stands, and provide a more uniform age and size distribution of timber stands.

On July 7, 1997, the Montpelier Ranger District released to the public, the Swan Flat Environmental Assessment for a 30 day predecisional review. After reviewing the responses of the predecisional review, the Montpelier Ranger District determined that an Environmental Impact Statement would be needed to address entering the Swan Creek Mountain Roadless Area.

The Montpelier Ranger District of the Caribou National Forest proposes to harvest an estimated 1.5 million board feet of commercial timber in 13 stands on 291 acres. A total of 5 acres would be clear cut. The remaining stands would be partially cut using thinning, sanitation /salvage, group seed tree, shelterwood and improvement cut. All stands would be tractor logged. Approximately 1.3 miles of the Swan Flat Road from the junction of U.S. Highway 89 in Logan Canyon would be graveled. Approximately 1.5 miles of the Swan Flat Road from the junction of the Red Sinks Road would be realigned to enhance log hauling. Four hundred feet of the Swan Flat Road from the Red Sinks Road junction would be spot graveled. Approximately 0.5 miles of road construction would be needed within the area designated as located by the Caribou National Forest Lane and Resource Management Plan. All newly constructed roads within the goaded area would be obligated at the completion of the logging operation. Eight of the proposed cutting units are located in the Swan Creek Mountain Roadless Area. These cutting units are located on the fringe of the roadless area and adjacent to the existing Swan Flat Road and Red Sinks Road. Timber would be skidded to these existing roads. There would be no road construction in the Swan Creek Mountain Inventoried Road less Area.

The following preliminary issues have been identified:

- Regeneration cutting in deer and elk travel routes would compromise security cover.
- Eight of the proposed cutting units are located in the Swan Creek Mountain Roadless Area. Harvest activities would affect roadless characteristics.
- Regenerations cutting could effect the quality of winter recreational activities for cross-country skiers now and in the future.

The following alternatives have been developed:

Alternative 1 is the no action alternative.

Alternative 2 is the proposal. Under this alternative an estimated 1.5 million board feet of sawtimber would be removed from 265 acres.

Alternative 3 would address the winter recreation concerns. Under this alternative 1.1 million board feet of sawtimber would be removed from 307 areas.

Alternative 4 would address the concerns about wildlife corridors. Under this proposal 1.5 million board feet of sawtimber would be removed from 291 acres.

This proposed sale is scheduled to be offered in 2001. For maps of the proposed project area, please contact the Montpelier Range District, 322 North 4th Street, Montpelier, Idaho 83254.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received on or before July 23, 1999. No scoping meetings are planned at this time. Information received will be used in preparation of the draft EIS and final EIS.

ADDRESSES: Send written comments to Caribou National Forest, Montpelier Ranger District, 322 North 4th Street, Montpelier, Idaho 83254.

FOR FURTHER INFORMATION: Questions concerning the proposed action and EIS should be directed to Eric Mattson, Caribou National Forest, Montpelier Ranger District, 322 N. 4th Street, Montpelier, Idaho 83254 (Telephone: (208) 847–0375).

SUPPLEMENTARY INFORMATION: The Forest Service is seeking information and comments from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed.

The responsible official is Jerry B. Reese, Supervisor, Caribou National Forest, 250 South Fourth Avenue, Pocatello, Idaho 83254.

The decision to be made is: Whether the proposed stands shall be brought under management (i.e. change from the management of natural succession to management activities that would achieve multiple-use goals) by cutting the sawtimber in each stand? If so, what cutting methods should be applied to each stand and what mitigation may be necessary?

The tentative date for filing the Draft EIS is October 1, 1999. The tentative date for filing the final EIS is January 5, 2000. The comment period on the draft environmental impact statement will be open for 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give viewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is

meaningful and alert an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435 U.S. 519, (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period of the Draft Environmental Impact Statement so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement. Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality.

Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Dated: June 14, 1999.

Jerry B. Reese,

Forest Supervisor, Caribou National Forest, Intermountain Region, USDA Forest Service.

[FR Doc. 99–15885 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for ''Self-Help Technical Assistance Grants'' (RD Instruction 1944–I).

DATES: Comments on this notice must be received by August 23, 1999 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Lucia A. McKinney, Senior Loan Specialist, Single Family Housing Direct Loan Division, Rural Housing Service, U.S. Department of Agriculture, Ag Box 0783, Washington, DC 20250, Telephone (202) 720–1457.

SUPPLEMENTARY INFORMATION:

Title: Self-Help Technical Assistance Grants.

OMB Number: 0575–0043.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension of a currently approved information collection.

Abstract: This subpart set forth the policies and procedures and delegates authority for providing Technical Assistance funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing, as authorized under Section 523 of the Housing Act of 1949 loan program under 42 U.S.C. 1472. This financial assistance may pay part of all of the cost of developing, administering or coordinating program of technical and supervisory assistance to aid very low- and low-income families in carrying out self-help housing efforts in rural areas. The primary purpose is to fund organizations that are willing to locate and work with families that otherwise do not qualify as homeowners, are below the 50 percent of median incomes, and living in substandard housing.

RHS will be collecting information from non-profit organizations to enter into grant agreements. These non-profit organizations will give technical and supervisory assistance, and in doing so, they must develop a final application for Section 523 grant funds. This application includes Agency forms that contain essential information for making a determination of eligibility.

Estimate of Burden: Public reporting for this collection of information is estimated to average .91 hours per response.

Respondents: Individual or households.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 34.35.

Estimated Total Annual Burden on Respondents: 3,121 hours.

Copies of this information collection can be obtained from Jean Mosley, Regulations and Paperwork Management Branch at (202) 692–0041.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Rural Housing Service, including whether the information will have practical utility; (b) the accuracy of Rural Housing Service's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jean Mosley, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Ag Box 0742, Washington, D.C. 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 7, 1999.

Eileen M. Fitzgerald,

Acting Administrator, Rural Housing Service.

[FR Doc. 99–16015 Filed 6–22–99; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–840]

Initiation of Antidumping Duty Investigation: Acrylonitrile Butadiene Rubber From the Republic of Korea

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

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Marian Wells, Annika O'Hara, or Ryan Langan, Office One, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–6309, 482–3798, and 482–1279, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 as amended (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 351 (1998).

The Petition

On May 27, 1999, the Department of Commerce (''the Department'') received a petition filed in proper form by Zeon Chemicals L.P. and Uniroyal Chemical Company, Inc., hereinafter collectively referred to as ''the petitioners.''

In accordance with section 732(b) of the Act, the petitioners allege that imports of acrylonitrile butadiene rubber from the Republic of Korea (''Korea'') are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are both materially injuring and threatening material injury to an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and because the petitioners have demonstrated that they represent, at a minimum, the required proportion of the United States industry (*see* ''Determination of Industry Support for the Petition'' section, below).

Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (''NBR''). NBR is a synthetic rubber produced by the copolymerization of butadiene and acrylonitrile. NBR is sold in bale, slab, crumb, powder and latex form. NBR in the latex form is excluded from the scope of this investigation. Also excluded from the scope of this investigation is NBR containing additives, NBR containing rubber processing chemicals, and NBR containing other materials used for further processing beyond the copolymerization process. The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheading 4002.59.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope of the investigation with the petitioners to ensure that the scope language accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to our regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of its preliminary determination.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Act defines the ''industry'' as ''the producers as a whole of a domestic like product.'' Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the analysis of the domestic like product begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

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

In this case, the Department has determined that the petition contains evidence of sufficient industry support. Therefore, polling was not necessary. *See* Initiation Checklist dated June 16, 1999 (the public version is on file in the Central Records Unit of the Department of Commerce, Room B–099). Based on the record evidence, the producers who

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

support the petition account for more than 50 percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(9)(C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

On June 15, 1999, the Department received a letter from counsel for the potential respondents who argued that the Department should not initiate this investigation unless it determines, through polling, that the petition is supported by the U.S. industry. The basis for this request was the potential respondents' claim that one of the petitioners, Uniroyal, will cease its production of the subject merchandise in the United States in mid-1999 and move all of its production to Mexico. Thereby, Uniroyal would not be a U.S. producer, according to respondents. This fact was argued as outcome determinative that there was no industry support.

The Department has decided to continue to treat Uniroyal as a petitioner and interested party in this investigation. First, Uniroyal was producing the subject merchandise in the United States at the time the petition was filed and, to the best of our knowledge, the planned move to Mexico had not yet taken place at the time of this initiation of the investigation. Second, if we were to exclude Uniroyal, the companies supporting the petition would still exceed the required 25 percent of total production and more than 50 percent of the production produced by that portion of the industry expressing support for, or opposition to, the petition. If we were to accept the argument that Uniroyal no longer is a U.S. producer, we would exclude its production from both the numerator and the denominator in our calculation of industry support. Thus, it would not change industry support substantially and the Department's determination regarding industry support, mentioned above, would stand.

Export Price and Normal Value

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

The petitioners identified Korea Kumho Petrochemical (''Kumho'') and Hyundai Petrochemical Co., Ltd. (''Hyundai'') as producers and exporters of NBR to the United States. According to the petitioners, Korean producers sold NBR to unaffiliated imports/distributors in the United States and, therefore, U.S. price is calculated using the export price (''EP'') methodology.

For their EP calculation, the petitioners have used multiple offers for sale of the subject merchandise by unaffiliated U.S. importer/distributors to unaffiliated purchasers in the United States between March 1998 and February 1999. In order to approximate the price paid by the U.S. importers/distributors to Korean exporters, the petitioners subtracted the importers/distributors' estimated profit, selling, general, and administrative expenses, and imputed credit expenses. The petitioners also deducted movement charges incurred in bringing the merchandise to the United States.

The Department has made several adjustments to the petitioners' calculation of net U.S. price. First, only two of the several U.S. prices presented by the petitioners are supported by source documentation in the petition. Of these two prices, one is from the anticipated period of investigation (''POI'') whereas the other price dates to a period prior to the POI. Therefore Department has recalculated the U.S. price based on the price which pertained to the POI and for which the petitioners have submitted supporting documentation. Second, based on our understanding of the distribution process of the Korean product in the United States, the price paid by the unaffiliated importer/distributor in the United States can be computed by simply deducting the importers/distributors' markup (as reported in the petition) from the price charged by the importers/distributors to their unaffiliated customers. Therefore, we deducted this markup rather than the alleged expenses and profit of the importers/distributors. In addition, we subtracted Korean inland freight, ocean freight, U.S. inland freight, U.S. warehousing expenses, U.S. merchandise processing fees, and U.S. harbor maintenance fees. The resulting amount is the net U.S. export price which we have compared to normal value. *See* Initiation Checklist.

On June 16, the petitioners submitted to the Department unit import values based on U.S. import statistics for January through March 1999. As an alternative calculation of U.S. price, we have used the import values adjusted for the movement expenses above.

The petitioners have used quoted sales prices in the home market to calculate normal value. They obtained gross unit prices and multiple offers for sale in May and October of 1998 for products which were either identical or similar to those sold to the United States. The petitioners subtracted from the gross unit home market prices the estimated transportation costs to home market customers. They made adjustments for differences in circumstances of sale in the U.S. and home markets (for credit and technical services), and they applied a commission offset (corresponding to their deduction of importers/distributors' expenses and profits in calculating EP). Finally, they deducted estimated home market packing costs and added estimated U.S. (international) packing costs.

The Department has also made several adjustments to the petitioners' calculation of normal value. First, we converted the home market prices to U.S. dollars using exchange rates contemporaneous with the U.S. sales. We then computed an average home market price. Second, we did not include the commission offset computed by the petitioners because, as discussed above, no commission was reflected in the U.S. price. Following the petitioners' methodology, we made the circumstance-of-sale adjustment and adjusted for packing and freight. *See* Initiation Checklist.

Fair Value Comparison

Based on the data provided by the petitioners, there is reason to believe that imports of NBR from Korea are being, or are likely to be, sold at less than fair value. Based on the Department's recalculations of export price and normal value, the comparisons yield dumping margins ranging from 83.81 percent to 102.20 percent.

Allegation and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. The petitioners explained that the industry's injured condition is evident in the declining trends in net operating income, net sales volumes, net selling prices, and U.S., production. The allegation of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and

supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist.

Initiation of Antidumping Investigation

Based upon our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of NBR from Korea are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination by November 3, 1999.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to representatives of the Government of Korea. We will attempt to provide a copy of the public version of the petition to the Korean exporters named in the petition.

International Trade Commission Notification

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

Preliminary Determination by the ITC

The ITC will determine by July 12, 1999, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of NBR from Korea. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

Dated: June 16, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–15997 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–853]

Initiation of Antidumping Duty Investigation: Bulk Aspirin From the People's Republic of China

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

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Craig W. Matney or Alysia Wilson, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1778 or (202) 482–0108, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (1998).

The Petition

On May 28, 1999, the Department received a petition filed in proper form by Rhodia, Inc., referred to hereinafter as ''the petitioner.'' The petitioner filed supplemental information to the petition on June 14, 1999.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of bulk aspirin from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring or threaten to injure an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it represents, at a minimum, the required proportion of the United States industry (*see Determination of Industry Support for the Petition* section below).

Scope of Investigation

For purposes of this investigation, the product covered is bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia (USP) 23. It is classified under the *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 2918.22.1000.

Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of aspirin and active substances as published in the Handbook of Nonprescription Drugs, eighth edition, American Pharmaceutical Association. This product is classified under HTSUS subheading 3003.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets

this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines the domestic like product as ''a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

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

To the best of the Department's knowledge, the petitioner is the sole U.S. producer of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to sections 771(9) (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Thus, the petitioner accounts for more than 50 percent of the production of the domestic like product. Accordingly, in accordance with section 732(c)(4) of the Act, we determine that the petition has been filed on behalf of the domestic industry. *See* Initiation Checklist dated May 17, 1999 (public version on file in the Central Records Unit of the Department of Commerce, Room B–099) (Initiation Checklist).

Export Price and Normal Value

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

The petitioner identified four potential PRC exporters and producers of bulk aspirin. The petitioner based export price (EP) on (1) an offer for sale of the subject merchandise to a U.S. purchaser by a PRC exporter during the first quarter of 1999; (2) the market prices of the subject merchandise paid by a U.S. purchaser; (3) U.S. import statistics for 1998; (4) U.S. import statistics for the first quarter of 1999; and (5) export statistics from the PRC. From these starting prices, the petitioner deducted international freight and marine insurance, when the terms of the sale were delivered, and import duties, where appropriate. The petitioner based international freight and marine insurance fees on the difference between the FAS and the CIF values stated in the U.S. Bureau of the Census import statistics for 1998 imports of subject merchandise from China. Additionally, the petitioner deducted U.S. import duties of 8.7 percent from the dutiable value to obtain the net export price.

Because the PRC is considered a nonmarket economy (NME) country under section 771(18) of the Act, the petitioner based normal value (NV) on the factors of production valued in a surrogate country, in accordance with section 773(c)(3) of the Act. The petitioner selected India as the most appropriate surrogate market economy. For the factors of production, the petitioner used its own factor inputs and consumption data for materials, labor and energy, based on the production processes that the petitioner uses in its plant which is most comparable in level of technology to production processes utilized by several of the major PRC producers of bulk aspirin. The petitioner presented two alternative methods for calculating NV: The first assumes that the primary material input is purchased, and the second assumes that this input is produced in-house.

Materials, utilities, and recovered by-products were valued based on Indian prices obtained from public information contained in an affidavit supplied by the petitioner on Indian domestic market prices, international publications containing the prices applicable to India, Indian import statistics, and U.S. export statistics. Labor was valued using the regression-based wage rate for the PRC provided by the Department, in accordance with 19 CFR 351.408(c)(3). The petitioner reduced the total cost of production (COP) by the value of by-products recovered. For factory overhead; selling, general and administrative expenses; and profit, the petitioner applied rates derived from information gathered from the financial statements of a publicly-traded Indian producer of aspirin. The petitioner added one percent of COP to account for packing factor costs, consistent with Department practice in certain previous cases. (For further information on the EP and NV calculation methodology, *see Initiation Checklist* and *Calculation Adjustments Memorandum*, both dated June 17, 1999.)

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of bulk aspirin from the PRC are being, or are likely to be, sold at less than fair value. Based on a comparison of EP to NV, the petitioner's calculated dumping margins range from 8.28 percent to 144.02 percent.

Allegations and Evidence of Material Injury and Causation

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

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

Initiation of Antidumping Investigation

Based on our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of bulk aspirin from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination by November 4, 1999.

Distribution of Copies of the Petition

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

International Trade Commission Notification

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

Preliminary Determination by the ITC

The ITC will determine by July 12, 1999, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of bulk aspirin from the PRC. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

Dated: June 17, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–16000 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–506]

Oil Country Tubular Goods From Canada; Notice of Extension of Time Limit for New Shipper Administrative Review

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

ACTION: Notice of extension of time limit for new shipper administrative review.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the new shipper administrative review of the antidumping duty order on oil country tubular goods from Canada. The review covers Atlas Tube, Inc. (Atlas), a new shipper of the subject merchandise to the United States and the period of review is June 1, 1998, through November 30, 1998. This extension is made pursuant to section 751(a)(2)(B)(iv) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994 (19 U.S.C. 1675(a)(3)(A)).

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Jack Dulberger, AD/CVD Enforcement, Group II, Office 4, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4114, or (202) 482–5505, respectively.

Postponement of Preliminary Results of New Shipper Administrative Review

On January 28, 1999, the Department of Commerce (the Department) initiated this new shipper review of the antidumping duty order on oil country tubular goods from Canada. *See Oil Country Tubular Goods From Canada: Notice of Initiation of New Shipper Antidumping Duty Administrative Review,* 64 FR 5265 (February 3, 1999). We have determined that this review is extraordinarily complicated, and that we are unable to complete it within the original timeframe. *See* the Memorandum from Bernard T. Carreau to Robert S. LaRussa, dated June 9, 1999, on file in the Central Records Unit located in room B–099 of the main Department of Commerce building. Therefore, the Department is extending the time limit for issuing the preliminary results from July 27, 1999, for an additional 120 days, to November 24, 1999.

Accordingly, the deadline for issuing the preliminary results is now due no later than November 24, 1999. The deadline for issuing the final results will be no later than 90 days from the issuance of the preliminary results.

This notice is in accordance with section 751(a)(2)(B)(iv) of the Trade and Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(2)(B)(iv)).

Dated: June 16, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–15999 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–826]

Certain Paper Clips From the People's Republic of China; Notice of Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On December 23, 1998, the Department of Commerce published in the **Federal Register** (63 FR 71091) a notice announcing the initiation of an administrative review of the antidumping duty order on certain paper clips from the People's Republic of China. This review covered the period from November 1, 1997, through October 31, 1998. The Department of Commerce has now rescinded this review as a result of the withdrawal of requests by respondents for administrative review.

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Robin Gray, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published in the **Federal Register** on November 12, 1998 (63 FR 63287), a ''Notice of Opportunity to Request Administrative Review'' of the antidumping duty order on certain paper clips from the People's Republic of China (59 FR 60606, November 25, 1994). On November 30, 1998, Zhejiang Light Industrial Products Import and Export Corporation (ZLIP), a respondent, requested an administrative review of imports of its merchandise into the United States. On December 1, 1998, Direct Source International Inc., an importer of record, requested an administrative review of imports of merchandise from a manufacturer/exporter, Hui Zhou Shi Da Wing Plastic Metal Factory (Zhou), into the United States. The Department initiated the review on December 23, 1998 (63 FR 71091).

On February 12, 1999, ZLIP withdrew its request for an administrative review. On May 24, 1999, Direct Source

International Inc. also withdrew its request for an administrative review. Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. There were two requests for administrative review and both have been withdrawn. Although Direct Source International Inc. withdrew its request after the 90-day deadline, given that the review has not progressed substantially and there would be no undue burden on the parties or the Department, we have determined that it is reasonable to grant the request to withdraw the original review requests. Therefore, we are rescinding this review. This rescission of the administrative review and notice are in accordance with section 751 of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(d).

The cash-deposit rates will remain at 46.01 percent for ZLIP and 126.94 percent for Zhou, the rates established in the most recently completed segment of this proceeding (59 FR 51168, October 7, 1994). This notice is in accordance with section 777(i) of the Act.

Dated: June 9, 1999.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–15998 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061699A]

Endangered and Threatened Species; Revision of Candidate Species List Under the Endangered Species Act

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

ACTION: Notice of modification of list of candidate species.

SUMMARY: NMFS identifies marine and anadromous species as candidates for possible addition to the List of Endangered and Threatened Species. NMFS is soliciting information concerning the status of these species. This notice is not a proposal for listing, and the involved species do not receive substantive or procedural protection under the Endangered Species Act of 1973 (ESA). The candidate species list serves to notify the public that NMFS has concerns regarding these species/vertebrate populations that may warrant listing in the future, and it facilitates voluntary conservation efforts. NMFS encourages Federal agencies and other appropriate parties to take these species into account in project planning.

DATES: This updated list is effective on June 23, 1999.

ADDRESSES: Reliable documentation for these additions to the candidate species list should be sent to the Chief of Endangered Species, NMFS, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Marta Nammack or Terri Jordan at (301)713–1401.

SUPPLEMENTARY INFORMATION: The ESA requires determinations of whether species of wildlife and plants are endangered or threatened, based on the best available scientific and commercial data. ''Species'' includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any vertebrate species that interbreeds when mature (vertebrate population). NMFS and the U.S. Fish and Wildlife Service share responsibilities under the ESA. With some exceptions, NMFS is responsible for species that reside all or the major portion of their lifetimes in marine or estuarine waters. The regulations implementing Section 4 of the ESA (49 FR 38900, October 1, 1984) define ''candidate'' as ''any species being considered by the Secretary for listing as an endangered or a threatened species, but not yet the subject of a proposed rule.'' As resources permit, NMFS conducts a review of the status of each candidate species to determine if it warrants listing as endangered or threatened under the ESA.

Species/vertebrate populations may be added to the candidate species list based on consideration of their biological status. Biological status is determined by both demography and genetic composition of the species/vertebrate population. If there is evidence of demographic or genetic concerns that would indicate that listing may be warranted, the species/vertebrate population should be added to the candidate species list.

Demographic concerns would occur when there is a significant decline in abundance or range from historical levels that would indicate that listing may be warranted. This could result from overharvest, habitat degradation, disease outbreaks, predation, natural climatic conditions, and hatchery practices that lead to competition with natural stocks or depletion of natural fish for use as hatchery broodstock.

Genetic concerns that would indicate that listing may be warranted include outbreeding and inbreeding depression resulting from poor hatchery practices or substantially reduced numbers of natural individuals.

On July 14, 1997, NMFS revised its candidate species list (62 FR 37561). On January 15, 1999, NMFS published notification soliciting comments and reliable documentation on species it was considering to add to the candidate species list (64 FR 2629). NMFS considered all comments received and all available information in updating the candidate species list.

This document adds 14 new species to the list of candidate species for which reliable information is available to NMFS meeting the previously stated criteria (Table 1). As resources permit, NMFS intends to conduct status reviews on candidate species, collect further documentation on them, and make appropriate amendments to the accompanying table during the next revision.

In addition to these new species, changes to the candidate status of Pacific salmon as a result of status reviews have been noted in Table 1 to this document. In some cases, even when NMFS determines that listing a species under the ESA is not warranted, it may add the species to the candidate species list because some concerns about its status still remain. Chum, sockeye, and chinook salmon are no longer candidate species, though the Hood Canal summer-run and Columbia River chum salmon evolutionarily significant units (ESU), the Ozette Lake sockeye salmon ESU, and the Upper Columbia River spring-run, Puget Sound, Lower Columbia River, and Upper Willamette River chinook salmon ESUs were listed as threatened or endangered (64 FR 14308, March 24, 1999; 64 FR 14508, March 25, 1999; 64 FR 14517, March 25, 1999; 64 FR 14528, March 25, 1999). NMFS designated three more steelhead ESUs (Northern California, Klamath Mountains Province, and Oregon Coast) as candidate species (63 FR 13347, March 19, 1998) and listed the former candidate species, Middle Columbia River steelhead ESU, and the Upper Willamette River steelhead ESU, as threatened (64 FR 14517; March 25, 1999). NMFS also listed the former candidate species, Oregon Coast coho salmon ESU, as threatened in August 1998 (63 FR 42587; August 10, 1998), leaving only two coho salmon ESUs on

the candidate species list. After conducting a coastwide status review of sea-run cutthroat, NMFS proposed to list the Southwestern Washington/Columbia River ESU as threatened and designated the Oregon Coastal sea-run cutthroat trout ESU as a candidate species (64 FR 16397; April 5, 1999).

In addition, though NMFS determined that the Gulf of Maine population of harbor porpoise's status did not warrant listing under the ESA, the population has been added to the candidate species list because concerns on its status still remain.

It is important to note that the candidate species list is limited by the information available. Therefore, it does not encompass all declining marine and anadromous species that may warrant listing in the future. Moreover, inclusion of a species on the candidate list does not create a higher listing priority for that species. As appropriate, NMFS may initiate a status review for any species or vertebrate population of concern, regardless of whether it is a candidate species, and the public may petition to list any species or vertebrate population. Inclusion in the candidate species list is intended to stimulate voluntary conservation efforts, which, if effective, can result in a lower likelihood of an ESA listing.

In Table 1, Revised list of candidate species, the common name appears as the first entry followed by the scientific name, the family name, and the area of concern. This area denotes the general geographic boundaries of the species or the vertebrate population for which concern has been expressed. Ongoing or future biological status reviews may narrow the geographic area or population of concern in the future.

Dated: June 15, 1999.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

Table 1 - Revised list of candidate species

Common Name	Scientific Name	Family	Area of Concern [3]
Marine Mammals			
beluga whale	*Delphinapterus leucas*	Monodontidae	AK (Cook Inlet population).
harbor porpoise	*Phocoena phocoena*	Phocoenidae	ME - NC (Gulf of Maine population).
Fishes			
dusky shark	*Carcharhinus obscurus*	Carcharhinidae	Atlantic; Gulf of Mexico; Pacific.
sand tiger shark	*Odontaspis taurus*	Odontaspididae	Atlantic; Gulf of Mexico.
night shark	*Carcharinus signatus*	Carcharhinidae	Atlantic; Gulf of Mexico.
smalltooth sawfish*	*Pristis pectinata*	Pristidae	Atlantic; NC to Gulf of Mexico.
largetooth sawfish*	*Pristis pristis*	Pristidae	Atlantic; TX, FL.
barndoor skate*	*Raja laevis*	Rajidae	Atlantic; Cape Hatteras, NC to Newfoundland, Canada.
Atlantic sturgeon	*Acipenser oxyrhynchus oxyrhynchus*	Acipenseridae	Atlantic, anadromous.
Pacific herring*	*Clupea pallasi*	Clupeidae	Puget Sound.
Alabama shad	*Alosa alabamae*	Clupeidae	AL, FL, anadromous.
searun cutthroat trout	*Oncorhynchus clarki clarki*	Salmonidae	Pacific, anadromous. Oregon Coastal ESU.
coho salmon	*Oncorhynchus kisutch*	Salmonidae	Pacific, anadromous. Puget Sound/Strait of Georgia and Southwest WA/Lower Columbia River ESUs[1]
steelhead trout	*Oncorhynchus mykiss*	Salmonidae	Pacific, anadromous. Northern CA, Klamath Mountains Province, and OR Coast ESUs.
Atlantic salmon	*Salmo salar*	Salmonidae	Atlantic, anadromous. Gulf of Maine DPS[2]
Pacific cod*	*Gadus macrocephalus*	Gadidae	Puget Sound.
Pacific hake*	*Merluccius productus*	Gadidae	Puget Sound.
walleye pollock*	*Theragra chalcogramma*	Gadidae	Puget Sound.
mangrove rivulus	*Rivulus marmoratus*	Aplocheilidae	FL, estuarine.
saltmarsh topminnow	*Fundulus jenkinsi*	Cyprinodontidae	TX, LA, MS, AL, FL.
Key silverside	*Menidia conchorum*	Atherinidae	Florida Keys.
opposum pipefish	*Microphis brachyurus lineatus*	Syngnathidae	Florida, Indian River Lagoon.
brown rockfish*	*Sebastes auriculatus*	Scorpaenidae	Puget Sound.
copper rockfish*	*Sebastes caurinus*	Scorpaenidae	Puget Sound.
quillback rockfish*	*Sebastes maliger*	Scorpaenidae	Puget Sound.
bocaccio*	*Sebastes paucispinis*	Scorpaenidae	Pacific, CA to OR.
speckled hind	*Epinephelus drummondhayi*	Serranidae	NC to Gulf of Mexico.
jewfish	*ephinephelus itijara*	Serranidae	NC southward to Gulf of Mexico.
warsaw grouper	*Epinephelus nigritus*	Serranidae	MA southward to Gulf of Mexico.
Nassau grouper	*Epinephelus striatus*	Serranidae	NC southward to Gulf of Mexico.
Mollusks			
white abalone	*Haliotes sorenseni*	Haliotidae	CA, Baja CA.
black abalone*	*Haliotis cracherodii*	Haliotidae	OR, CA, Baja CA.
Anthozoans (Corals)			
elkhorn coral*	*Acropora palmata*	Acroporidae	western Atlantic; Caribbean.
staghorn coral*	*Acropora cervicornis*	Acroporidae	western Atlantic; Caribbean.

*addition to list

[1] ESU = evolutionarily significant unit. Pacific salmon populations can only be listed under the ESA if they are ''evolutionarily significant'', per NMFS policy (56 FR 58612).

[2] DPS = distinct population segment

[3] Defines the general geographic area or populations of concern for the species.

[FR Doc. 99–15863 Filed 6–22–99; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

I.D. 061699E

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fisheries for Dolphin and Wahoo

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

ACTION: Notice of agency action.

SUMMARY: NMFS, under the procedures of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), has designated the South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils (Councils) as joint preparers of a new fishery management plan for the fisheries for dolphin, *Coryphaena hippurus*, and wahoo, *Acanthocybium solandri* (FMP), throughout their range in the exclusive economic zone (EEZ) of the Atlantic, Gulf of Mexico, and Caribbean Sea. NMFS has further designated the South Atlantic Fishery Management Council (South Atlantic Council) as the Council with the administrative lead in preparing and amending this new FMP. Under the new FMP, the three Councils would jointly set the population parameters (e.g., maximum sustainable yield (MSY)) for dolphin and wahoo. NMFS has encouraged the Councils to develop an FMP framework regulatory adjustment procedure that would provide authority for each of the three Councils to establish independently regulatory measures in its respective area of jurisdiction. The Mid-Atlantic and New England Fishery Management Councils indicated a preference not to manage the stocks directly, but to serve in an advisory capacity to the other Councils with joint FMP preparation and amendment responsibility.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 727–570–5305.

SUPPLEMENTARY INFORMATION: Currently, dolphin in the EEZ of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea is managed under the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Coastal Pelagics FMP). Wahoo in the EEZ is currently not managed under any Federal FMP. The Gulf and South Atlantic Councils have joint responsibility for developing and amending the Coastal Pelagics FMP (managed species include king mackerel, Spanish mackerel, cero, cobia, dolphin, little tunny, and, in the Gulf of Mexico only, bluefish). The Coastal Pelagics FMP is implemented under authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. Presently, those regulations specify authorized and unauthorized fishing gears for dolphin and corresponding dolphin possession limits for those gears.

Given the increasing fishing pressure on dolphin and wahoo, and the sparse information available on stock structure and status, the South Atlantic Council perceives a need to provide management for dolphin and wahoo throughout their ranges. The South Atlantic Council believes that present fishery conditions require timely action to prevent overfishing and serious user group conflicts before they occur off the southern Atlantic states or elsewhere in the Atlantic EEZ. Consequently, the South Atlantic Council requested authorization under the Magnuson-Stevens Act to develop an FMP that would provide comprehensive management and protection of dolphin and wahoo in the EEZ of the Atlantic, Gulf of Mexico, and Caribbean Sea. Inclusion of dolphin in the proposed dolphin/wahoo FMP would have required its removal from the Coastal Pelagics FMP by an amendment to that FMP.

Under its request, the South Atlantic Council would have prepared the dolphin/wahoo FMP and subsequent amendments for submission to NMFS for review, approval, and implementation (as provided under section 302(h) of the Magnuson-Stevens Act). This proposed scenario would have required Council adoption of the final FMP/amendment only by majority vote of the South Atlantic Council.

On March 9, 1998 (63 FR 11422), and May 5, 1998 (63 FR 24774), NMFS published documents in the **Federal Register** affording opportunity for public comment on the South Atlantic Council's proposal. NMFS published the second document at the Gulf Council's request to allow more time for its membership to consider more fully the issues and impacts of the proposal.

After considering the South Atlantic Council's request, and the public comment received, NMFS, acting on behalf of the Secretary of Commerce (Secretary) under the procedures of the Magnuson-Stevens Act, has designated the South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils as joint preparers of a new FMP for the fisheries for dolphin and wahoo throughout their range in the EEZ of the Atlantic, Gulf of Mexico, and Caribbean Sea. NMFS has further designated the South Atlantic Council as the Council with the administrative lead in preparing and amending this new dolphin/wahoo FMP. Authority to designate a Council or Councils to prepare an FMP for fisheries that extend beyond one Council's geographical area of authority is granted to the Secretary under section 304(f) of the Magnuson-Stevens Act. That section further states that no jointly prepared FMP or amendment may be submitted to NMFS for review, approval, and implementation unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

Under this joint designation, the Gulf, Caribbean, and South Atlantic Councils will jointly set the population parameters for dolphin and wahoo, such as MSY, optimum yield, minimum stock size threshold, and maximum fishing mortality threshold; the South Atlantic Council will have the administrative lead in establishing these parameters. NMFS will encourage the Councils to develop jointly an FMP framework regulatory adjustment procedure that will provide authority for each Council to establish independently the regulatory measures in its respective area of jurisdiction. The Mid-Atlantic and New England Fishery Management Councils have indicated a preference not to manage directly, but to serve in an advisory capacity to the other Councils. It would be the responsibility of the South Atlantic Council to coordinate matters of international concern with the other Councils.

Once completed, the dolphin/wahoo FMP or its amendments will be submitted for agency review, approval, and implementation, but only after approval by a majority of the voting members, present and voting, of the South Atlantic, Gulf, and Caribbean Councils. NMFS believes that this approach is the most expedient and practicable method to manage dolphin and wahoo effectively and equitably throughout their ranges. Managing these species throughout their ranges should facilitate maintaining populations at levels sufficient to produce MSY on a continuing basis, and ultimately optimize the socioeconomic benefits of the resource.

NMFS' approval of the dolphin/wahoo FMP would require removal of dolphin from the Coastal Pelagics FMP.

Comments and Responses

In total, 49 comments were received on the South Atlantic Council's original proposal to develop a dolphin/wahoo

FMP. Comments were received from 9 recreational fishing organizations with 1 organization commenting twice; 4 commercial organizations or associations; 7 commercial businesses with 3 businesses commenting twice; 13 other individuals with one individual commenting twice; 3 environmental organizations; 3 state agencies; and 3 Regional Fishery Management Councils with 2 Councils responding twice.

Comments were diverse. Five commenters believed that no management was needed for dolphin and wahoo, and seven commenters suggested management options for dolphin and wahoo without indicating who should assume responsibility for that management. Designation of the South Atlantic Council as the lead council to develop the FMP was supported by 14 commenters, whereas 22 commenters suggested that management of dolphin and wahoo by NMFS Highly Migratory Species Division or through joint activities of the affected Regional Fishery Management Councils would be more appropriate.

Commercial Sector

Comments: The majority of the commenters did not support the proposed designation of the South Atlantic Council as the lead Council to develop the dolphin/wahoo FMP and subsequent amendments, preferring management by NMFS' Highly Migratory Species Division (NMFS/HMSD) with the involvement of the International Commission for the Conservation of Atlantic Tunas (ICCAT) or, alternatively, a multi-Council dolphin/wahoo FMP with NMFS/HMSD and ICCAT involvement. A few commenters from the commercial sector recommended continued management of dolphin, with the inclusion of wahoo, under the Coastal Pelagics FMP. Most of the commercial sector commenters stated that the composition of the South Atlantic Council was unbalanced, with a membership that gave preference to the recreational sector. Thus, they were concerned that the commercial sector, especially pelagic longliners, would not be fairly represented during Council deliberations. Additionally, comments expressed concern about a lack of scientific data on which to base management decisions and urged NMFS or other management agencies, such as ICCAT, to begin collecting biological information on these species prior to developing an arguably unnecessary FMP.

Response: NMFS agrees that only limited biological information exists for dolphin or wahoo and, thus, the status of the stocks are poorly known. However, this does not preclude NMFS and the Councils from taking necessary action to manage and conserve these resources, especially given the increasing fishing effort and landings for these species.

NMFS disagrees with the comments alleging bias in the composition of the South Atlantic Council membership. In approving candidates for Council membership, the Secretary and his designees endeavor to balance equitably the representation of diverse user groups and resource managers. Any management measures developed under the dolphin/wahoo FMP and its amendments that NMFS approves would have to comply fully with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable law.

Councils and States

Comments: Both the Gulf and Caribbean Councils commented that they support development of a joint dolphin/wahoo FMP where the South Atlantic Council acts in an administrative lead capacity. The Gulf and Caribbean Councils requested the authority to manage unilaterally the dolphin and wahoo stocks occurring in their jurisdictional areas. Three South Atlantic states (North Carolina, Georgia, and Florida) submitted comments that supported the South Atlantic Council's FMP proposal. All of these commenters agreed that management is needed, particularly as a precautionary approach in the absence of definitive scientific information on the status of the stocks, to maintain healthy dolphin and wahoo stocks and to address fishery problems in a timely manner.

Response: NMFS believes that a joint Council dolphin/wahoo FMP, with the South Atlantic Council assuming an administrative lead, is the most expedient and practicable method to manage dolphin and wahoo effectively and equitably throughout their ranges. Managing these species throughout their ranges should facilitate maintaining populations at levels sufficient to produce MSY on a continuing basis and optimize the socioeconomic benefits of the resource. NMFS encourages the development of an FMP framework procedure for regulatory adjustments that would grant authority to the Gulf, Caribbean, and South Atlantic Councils to develop and adopt management measures for dolphin and wahoo in their respective jurisdictional areas. Ultimately, the implementation of the dolphin/wahoo FMP is contingent upon NMFS' review and approval of the submitted proposed measures.

Conservation Organizations and Private Citizens

Comments: Three conservation organizations supported the development of a dolphin/wahoo FMP by the South Atlantic Council because of concerns about significant increases in the fishing mortality on these species, thus threatening both the resource (localized depletions) and the fishery (user conflicts).

Five commenters indicated that the responsibility to preserve dolphin and wahoo fisheries should be shared equitably by both recreational and commercial fishermen. Two individuals commented that both commercial harvest and fishing tournaments that target the largest fish, which usually are the most prolific spawners, should be controlled. These commenters recommended a variety of harvest restrictions (size limits, bag limits, and closed spawning seasons/areas) to be equitably applied to both sectors.

Response: Dolphin and wahoo may become depleted by intensive fishing pressure from all fishing sectors. NMFS believes that the most equitable approach to addressing these issues is through a new dolphin/wahoo FMP developed jointly by the three Councils, with an administrative lead role for the South Atlantic Council. NMFS has encouraged the development of an FMP framework procedure that allows each Council to manage the fisheries in its respective jurisdictional area, consistent with the overall population parameters approved by all three Councils.

Recreational Sector

Comments: All recreational fishing organizations supported the management of dolphin and wahoo resources, and several commented that, in the absence of reliable stock assessment information, a management program is needed as a precautionary approach to preserve and protect dolphin and wahoo stocks. One commenter preferred the development of separate FMPs for the Gulf of Mexico and Atlantic areas because of the differing fisheries between the regions and the differences in abundance of the stocks between regions.

Some commenters expressed concern about commercial longline vessels turning to dolphin harvest to offset economic losses sustained from decreasing swordfish catches.

Response: NMFS agrees that only limited biological information exists for dolphin or wahoo and, thus, the status of the stocks is poorly known. Therefore, NMFS encourages the development of a joint dolphin/wahoo

FMP where the Councils would provide equitable management that complies with the national standards and other applicable laws in their respective jurisdictional areas, while maintaining the regionwide population at levels sufficient to produce MSY on a continuing basis.

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

Dated: June 17, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 99–15875 Filed 6–17–99; 4:06 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061699B]

Marine Mammals; File No. 376–1520

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. James H.W. Hain, Associated Scientists at Woods Hole, Box 721, 3 Water Street, Woods Hole, MA 02543, has applied in due form for a permit to take various cetacean and sea turtle species for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before July 23, 1999.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281–9250); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5312).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 222–226).

The Applicant proposes to take various cetacean species, including Northern right whales, loggerhead, leatherback and kemp's ridley sea turtles, and to collect samples from stranded dead endangered species. Activities will occur in the North Atlantic Ocean and Caribbean Sea.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 16, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–16012 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052599A]

Marine Mammals

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that on May 25, 1999, Permit No. 966 (P586), issued to Continental Shelf Associates, Inc., 759 Parkway Street, Jupiter, FL 33477–9596, was amended.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Region, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive North, St. Petersburg, FL 33704–2432 (727/570–5301).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson (301/713–2289).

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the regulations of the governing the taking and importing (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The amendment authorizes the continuation of research under Permit No. 966 (P586D) for an additional year. The permit will now expire June 30, 2000.

Issuance of this permit amendment, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 16, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–16013 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052499H]

Marine Mammals; File No. 881–1443–03

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Alaska SeaLife Center, P.O. Box 1329, Seward, AK 99664 has been issued an amendment to scientific research Permit No. 881–1443.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On April 8, 1999, notice was published in the **Federal Register** (64 FR 17146) that an amendment of Permit No. 881–1443, issued March 27, 1998 (63 FR 14905), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Permit No. 881–1443 (ASLC) authorizes the Permit Holder to: assess nutritional physiology, metabolic development, and clinical health under captive conditions of eight harbor seals (*Phoca vitulina*) and three Steller sea lions (*Eumetopias jubatus*); conduct stable isotope and lipid metabolism studies on the harbor seals; and conduct a two-week fasting study on the Stellers, as part of the controlled dietary studies.

The amendment now authorizes the Holder to conduct the following experiments on the Steller sea lions: reproductive chemistry and physiology; immunology; organochlorine testing; dive disorders; optimal foraging; and body condition.

Issuance of this amendment, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 16, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–16014 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits and Increase of Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

June 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits and increasing guaranteed access levels.

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and special shift.

Upon the request of the Government of the Dominican Republic, the U.S. Government has agreed to increase the current guaranteed access levels for textile products in certain categories.

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 63 FR 71096, published on December 23, 1998). Also see 63 FR 63297, published on November 12, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 21, 1999.

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 November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on June 23, 1999, 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]
340/640	877,006 dozen.
342/642	303,683 dozen.
351/651	1,314,857 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The guaranteed access levels (GAL) for Categories 340/640, 342/642 and 351/651 remain unchanged. The GALs for the following categories are being increased:

Category	Guaranteed access level
338/638	5,150,000 dozen.
339/639	3,150,000 dozen.
433	81,000 dozen.
633	100,000 dozen.

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–16079 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Mercantile Exchange for Designation as a Contract Market in CME Degree Days Index Futures and Option Contracts Representing 10 Specified Cities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in degree days index futures and option contracts representing the following 10 cities—Atlanta, GA; Chicago, IL; Cincinnati, OH; Dallas, TX; Des Moines, IA; Las Vegas, NV; New York, NY; Philadelphia, PA; Portland, OR; and Tucson, AZ. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before July 23, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to the CME degree days index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Joseph Storer of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: jstorer@CFTC.gov.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 C.F.R. 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

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

John R. Mielke,

Acting Director.

[FR Doc. 99–16022 Filed 6–22–99; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Reinstatement of Approval of Information Collection Requirements—Sound Levels for Toy Caps

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the April 6, 1999 **Federal Register** (64 FR 16710), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), to announce the agency's intention to seek a reinstatement of approval for a period of three years from the date of approval by the Office of Management and Budget of information collection requirements in a regulation exempting certain toy caps from a banning rule. The Commission now announces that it has submitted to the Office of Management and Budget a request for reinstatement of approval of that collection of information.

A regulation codified at 16 CFR 1500.18(a)(5) bans toy caps producing peak sound levels at or above 138 decibels (dB). Another regulation codified at 16 CFR 1500.86(a)(6) exempts toy caps producing sound levels between 138 and 158 dB from the banning rule if they bear a specified warning label and if firms intending to distribute such caps: (1) Notify the Commission of their intent to distribute such caps; (2) participate in a program to develop toy caps producing sound levels below 138 dB; and (3) report quarterly to the Commission concerning the status of their programs to develop caps with reduced sound levels.

The Commission requests reinstatement of approval of the information collection requirements in the rule codified at 16 CFR 1500.86(a)(6) to obtain current and periodically-updated information from all manufacturers concerning the status of programs to reduce sound levels of toy caps. The Commission will use this information to monitor industry efforts to reduce the sound levels of toy caps, and to ascertain which firms are currently manufacturing or importing toy caps with peak sound levels between 138 and 158 db.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Information Collection Requirements for Sound Levels for Toy Caps; 16 CFR 1500.86(a)(6)(ii) and (iii).

Type of request: Reinstatement of approval.

Frequency of collection: One-time notification before beginning distribution; status report four times each year.

General description of respondents: Manufacturers and importers of toy caps.

Estimated number of respondents: 10.

Estimated average number of hours per respondent: 4 per year.

Estimated number of hours for all respondents: 40 per year.

Comments: Comments on this request for reinstatement of approval of information collection requirements should be submitted by July 23, 1999 to (1) Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-

os@cpsc.gov. Copies of this request for reinstatement of approval of information collection requirements are available from Linda Glatz, management and program analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–0416, extension 2226.

Dated: June 17, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–15876 Filed 6–22–99; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 23, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *DWERFEL@OMB.EOP.GOV*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1965 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfer with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement,; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 17, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: Regular.

Title: ''What Works'' Study for Adult ESL Literacy Students.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden: Responses: 1,600; Burden Hours: 4,033.

Abstract: This study will examine the outcomes of instruction to adult ESL literacy students by comparing instructional activities that focus on literacy development with activities that focus on English acquisition. Instructional activities will be coded through a structured classroom observation guide and through information standardized tests of speaking, reading and writing and through a structured interview of literacy practices. Teachers, policymakers and teacher trainers will use the information from the study to develop more effective instruction.

Requests for copies of this information collection request should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Vivian Reese @ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Jacqueline Montague at 202–708–5359. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Postsecondary Education

Type of Review: Revision.

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Burden: Reponses: 9,848,645. Burden Hours: 3,775,753.

Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

Request for copies of this information collection request should be addressed to Vivian Reese, U. S. Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Vivian Reese, @ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joe Schubart at 202–708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–15918 Filed 6–22–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99–598–000, FERC 598]

Proposed Information Collection and Request for Comments

June 17, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before August 23, 1999.

ADDRESSES: Copies of the proposed collection of information can be obtained and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–598

''Determinations for Entities Seeking Exempt Wholesale Generator Status'' (OMB No. 1092–0166) is used by the Commission to implement the statutory provisions of Section 32 of the Public Utility Holding Company Act of 1935 (PUHCA) as added and redesignated by Section 711 of the Energy Policy Act of 1992. Section 32(a) of PUHCA defines an Exempt Wholesale Generator (EWG) as an individual determined by the Commission to be engaged directly or indirectly through one or more affiliates, and exclusively in the business of owning and/or operating all or part of eligible facilities and selling electric energy at wholesale. An eligible facility may include interconnecting transmission facilities necessary to effect wholesale power sales. Persons granted EWG status will be exempt from regulation under PUHCA. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 365.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
112	1	6	672

Estimated cost burden to respondents: 672 hours/2,080 hours per year × $109,889 per year = $35,503. The cost per respondent is equal to $317.00

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collection, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are cost incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particularly function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15899 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–178–001]

ANR Pipeline Company; Notice of Activity Report

June 17, 1999.

Take notice that, on June 14, 1999 ANR Pipeline Company (ANR) tendered for filing in compliance with a Commission Order dated April 29, 1998, its activity report after one year's experience detailing activity under its Interruptible Wheeling Service (IWS).

ANR states that this report includes all IWS transactions carried out for the period May 1, 1998 to April 30, 1999.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before June 24, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15894 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–001]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1999.

Take notice that, on June 11, 1999, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective June 1, 1999:

Fifth Revised Sheet No. 89
Fourth Revised Sheet No. 188
Fifth Revised Sheet No. 189

ANR states that this filing is made in compliance with Ordering Paragraphs (A) and (B) of the Commission's Order dated May 28, 1999 in the above captioned proceeding.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15898 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–331–000]

CNG Transmission Corporation; Section 4 Filing

June 17, 1999.

Take notice that on June 4, 1999, CNG Transmission Corporation (CNG) tendered for filing pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering services currently being provided on specified uncertificated gathering lines in Ritchie County, West Virginia. CNG states that the uncertificated lines are being abandoned by sale to HAH Petroleum, Inc. CNG states that no contract for transportation service with CNG will be canceled or terminated as a result of this abandonment.

Any person desiring to be heard or to protest this 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 sections 385.214 and 385.211 of the Commission's Rules and Regulations. Motions or protests must be filed no later than June 23, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http:www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15974 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–195–002]

Equitrans, L.P.; Notice of Compliance Filing

June 17, 1999.

Take notice that on June 14, 1999, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets with a proposed effective date of February 1, 1999:

Original volume No. 1

Second Revised Sheet No. 6
First Revised Sheet No. 305

First Revised Volume No. 1

Second Substitute Thirteenth Revised Sheet No. 6
Substitute Fourth Revised Sheet No. 266

Equitrans states that the proposed revised tariff sheets are intended to comply with the Commission's ''Order On Compliance Filing and Technical Conference'' issued herein on May 28, 1999 by (1) omitting a termination provision and (2) revising the products extraction rate to $0.1786 per Dth effective February 1, 1999.

Finally, Equitrans has provided a recalculation of its products extraction rate showing a per unit rate of $0.1802 per Dth resulting from the updating of billing determinants to match the same time period in which costs had been previously updated in data already submitted in this proceeding. Equitrans states that it is not now seeking any further adjustment in its products extraction rate but will instead reflect undercollections in its next annual products extraction filing in accordance with the terms of its tariff.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15897 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–040]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1999.

Take notice that on June 11, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective June 6, 1999:

Original Sheet No. 8E

REGT states that the purpose of this filing is to reflect the appropriate pagination and its name change consistent with its recently approved FERC Gas Tariff, Fifth Revised Volume No. 1.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 99–15892 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–041]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1999.

Take notice that on June 14, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective June 15, 1999:

Original Sheet No. 8F

REGT states that the purpose of this filing is to reflect the implementation of a new negotiated rate contract.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15893 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–64–005]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

June 17, 1999.

Take notice that on June 11, 1999, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets, with an effective date of September 1, 1998:

Seventh Revised Sheet No. 209
Original Sheet No. 209.01
Original Sheet No. 209.02
Original Sheet No. 209.03
Fifth Revised Sheet No. 209A
Fourth Revised Sheet No. 209B
Fifth Revised Sheet No. 217
Second Revised Sheet No. 406A

Tennessee states that the attached tariff sheets are submitted in compliance with the Commission's Letter Order issued April 28, 1999 in the above-referenced dockets. Tennessee Gas Pipeline Company, 87 FERC ¶ 61,106 (1999). In the Letter Order, the Commission approved a Stipulation and Agreement whereby Tennessee and its customers agreed to resolve all issues in the above-referenced five cashout dockets.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15891 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–394–003]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1999.

Take notice that on June 14, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Second and Third Revised Volume No. 1, certain revised tariff sheets listed on Appendix A attached to the filing, contains the enumeration and effective dates of the revised tariff sheets.

Transco states that on November 30, 1998, Transco filed certain tariff sheets in the referenced docket in compliance with Commission's order issued on October 28, 1998. On May 14, 1999, the Commission issued an ''Order on Rehearing and Compliance Filing'' (May 14 Order), which, among other things, requires that Transco file within 30 days of the issuance of the order revised tariff sheets to reflect directed modifications.

Transco, in compliance with the May 14 Order, has submitted for filing certain revised tariff sheets under Rate Schedule WSS and Rate Schedule WSS-Open Access. Specific revisions are listed in the filing.

Transco states that it is serving copies of the instant filing to its affected customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15896 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–290–004]

Viking Gas Transmission Company; Notice of Filing Refund Report

June 17, 1999.

Take notice that on June 14, 1999, Viking Gas Transmission Company (Viking) tendered for filing a report of refunds in accordance with the Offer of Settlement and Stipulation and Agreement (Settlement) filed by Viking on March 16, 1999 in the above-referenced docket and approved by the Commission by order issued May 12, 1999.

Viking states that copies of this filing have been served on all parties designated on the official service list in this proceeding, on all Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission,

888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protest must be filed on or before June 24, 1999. Protests will be considered by the Commission in determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the we at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15895 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–35–000]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report

June 17, 1999.

Take notice that on June 11, 1999, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing a report of GRI refunds made to customers.

Williams states that this filing is being made in compliance with Commission order issued February 22, 1997, in Docket No. GT97–31. The February 22 order directed each pipeline receiving a refund from GRI to credit such refunds pro rata to its eligible customers, and within days of making these credits, file a refund report with the Commission.

Williams states that the refund report reflects refunds of $484,162 made by Williams to its eligible firm customers on June 11, 1999.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before June 24, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15888 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1337–002, et al.]

Boston Edison Company, et al.; Electric Rate and Corporate Regulation Filings

June 14, 1999.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Company

[Docket No. ER99–1337–002]

Take notice that on June 8, 1999, Boston Edison Company tendered for filing a report in compliance with the Commission's May 28, 1999, order in the above docket with regard to the issue of NERC's experimental interim program for the 1999 summer season.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas & Electric Corporation, et al.

[Docket Nos. ER97–1523–000, OA97–470–000 and ER97–4234–000]

Take notice that on June 9, 1999, New York State Reliability Council, tendered for filing a letter that serves as notification to the Federal Energy Regulatory Commissin of the members of the Executive Committee of the New York State Reliability Council Executive Committee, pursuant to Section 4.03 of the New York State Reliability Agreement filed by the Member Systems of the New York Power Pool in the above-referenced dockets.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER98–2048–001]

Take notice that on June 9, 1999, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing a Compliance Filing in response to the Federal Energy Regulatory Commission's Order, dated May 13, 1999, in Docket No. ER98–2048–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company and Commonwealth Edison Company of Indiana

[Docket Nos. ER98–2279–001 and ER98–3689–000]

Take notice that on June 9, 1999, Commonwealth Edison Company and Commonwealth Edison Company of Indiana (collectively ComEd), tendered for filing its Final Report on Non-Firm Redispatch and to continue its Redispatch Service and Third-Party Redispatch Service.

Copies of the filing were served upon each person or company named on the Commission's official service list in the above-captioned proceedings.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER99–1476–002]

Take notice that on June 9, 1999, New England Power Company, tendered for filing a Report of Compliance in response to the Commission's order of May 28, 1999 in the above-referenced docket.

Copies of said filing have been served upon all parties to this proceeding.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER99–1991–001]

Take notice that on June 9, 1999, American Electric Power Service Corporation, on behalf of the operating companies of the American Electric Power System (AEP), tendered for filing changes to its Open Access Transmission Tariff in accordance with the Commission's May 12, 1999 Order on Interim Procedures in North American Electric Reliability Council, Docket Nos. EL98–52–000, *et al.*

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. California Power Exchange Corporation

[Docket No. ER99–2229–001]

Take notice that on June 8, 1999, the California Power Exchange Corporation, on behalf of its newly-created division, CalPX Trading Services, made a compliance filing in accordance with the Commission's Order Accepting for Filing Proposed Block-Forward Market, As Modified, issued in this docket on May 26, 1999 and published at 87 FERC ¶ 61,203 (1999).

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Western Resources, Inc.

[Docket No. ER99–3026–000]

Take notice that on June 9, 1999, Western Resources, Inc., (Western Resources) tendered for filing an amendment to Docket No. ER99–3026–000.

Copies of the filing were served upon Kansas Electric Power Cooperative, Inc.,and the Kansas Corporation Commission.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER99–3156–000]

Take notice that on June 4, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated May 26, 1999, with Statoil Energy Services, Inc. (Statoil), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Statoil as an eligible customer under the Tariff.

PP&L requests an effective date of June 4, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Statoil and to the Pennsylvania Public Utility Commission.

Comment date: June 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. PP&L, Inc.

[Docket No. ER99–3157–000]

Take notice that on June 4, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated May 26, 1999, with Rochester Gas and Electric Corporation (RG&E) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds RG&E as an eligible customer under the Tariff.

PP&L requests an effective date of June 4, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to RG&E and to the Pennsylvania Public Utility Commission.

Comment date: June 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. FirstEnergy System

[Docket No. ER99–3171–000]

Take notice that on June 8, 1999, FirstEnergy System tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for TransAlta Energy Marketing (U.S.), Incorporated, the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is May 24, 1999, for the above mentioned Service Agreement in this filing.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER99–3172–000]

Take notice that on June 8, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and American Electric Power Service Corporation for acceptance by the Commission.

The ISO states that this filing has been served on American Electric Power Service Corporation and the California Public Utilities Commission.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER99–3173–000]

Take notice that on June 8, 1999, FirstEnergy System tendered for filing a Service Agreement to provide Firm Point-to-Point Transmission Service for TransAlta Energy Marketing (U.S.), Incorporated, the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is May 24, 1999.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Long Sault, Inc.

[Docket No. ER99–3174–000]

Take notice that on June 8, 1999, pursuant to section 35.15(a), 18 CFR 35.15(a) of the Commission's Regulations, Long Sault, Inc. (Long Sault), tendered for filing with the Federal Energy Regulatory Commission a Notice of Termination of the Exchange Agreement between Long Sault and Consolidated Edison Company of New York, Inc., effective date January 1, 1974, designated as Long Sault Rate Schedule FERC No. 11.

Additionally, pursuant to section 35.15(a) of the Commission's Regulations, Long Sault requests an effective date for this termination 60 days from the date of filing or August 7, 1999.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER99–3175–000]

Take notice that on June 8, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (EGSI), tendered for filing a Generator Imbalance Agreement with Crown Paper Company d/b/a Crown Vantage.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Entergy Services, Inc.

[Docket No. ER99–3176–000]

Take notice that on June 8, 1999, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing an amendment to the Interconnection Agreement between Entergy Gulf States, Inc., and Crown Paper Company d/b/a Crown Vantage.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER99–3179–000]

Take notice that on June 8, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which PP&L Energy Plus Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 15, 1999.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Illinois Power Company

[Docket No. ER99–3180–000]

Take notice that on June 8, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Bridgestone/Firestone, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 15, 1999.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. PP&L, Inc.

[Docket No. ER99–3181–000]

Take notice that on June 8, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated May 17, 1999, with Wabash Valley Power Association, Inc. (Wabash), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Wabash as an eligible customer under the Tariff.

PP&L requests an effective date of June 8, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Wabash and to the Pennsylvania Public Utility Commission.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Southern California Edison Company

[Docket No. ER99–3182–000]

Take notice that on June 9, 1999, Southern California Edison Company (SCE), tendered for filing the Harborgen Substation Interconnection Facilities and Interconnection Agreement (Agreement) between Harbor Cogeneration Company (Harbor) and SCE.

The Agreement specifies the terms and conditions under which SCE will interconnect Harbor's 80,000 kW generator with the 230 kV Harborgen Substation pursuant to SCE's Transmission Owner Tariff.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. KeySpan-Ravenswood, Inc.

[Docket No. ER99–3183–000]

Take notice that on June 9, 1999, KeySpan-Ravenswood, Inc. (KeySpan-Ravenswood), tendered for filing with the Federal Energy Regulatory Commission, pursuant to Rule 205, 18 CFR 385.205, and section 35.12, 18 CFR 35.12 of the Commission's Regulations, as an initial rate schedule, on a market rate basis, the Transition Energy Agreement dated as of May 24, 1999, as amended, executed by KeySpan-Ravenswood and the Consolidated Edison Company of New York, Inc. (Con Edison).

The proposed rate schedule would authorize KeySpan-Ravenswood to sell energy to Con Edison from generation facilities that will be transferred by Con Edison to KeySpan Ravenswood.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Indianapolis Power & Light Company

[Docket No. ER99–3184–000]

Take notice that on June 9, 1999, Indianapolis Power & Light Company (IPL), tendered for filing a power sales agreement, dated June 9, 1999, between IPL and Constellation Power Source, Inc.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER99–3185–000]

Take notice that on June 9, 1999, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing executed Service Agreements between LG&E/KU and the following entities under LG&E/KU's Rate Schedule MBSS.

Alabama Electric Cooperative, Inc.
American Energy Solutions, Inc.
CINergy Services, Inc.
Commonwealth Edison Company
FirstEnergy Corp.
Griffin Energy Marketing, L.L.C.
Merchant Energy Group of the Americas, Inc.
Oglethrope Power Corporation
Ohio Valley Electric Corporation
Rainbow Energy Marketing Corporation
Southern Indiana Gas and Electric Company
Tennessee Power Company
Tennessee Valley Authority
Virginia Electric and Power Company, DBA Virginia Power
Wabash Valley Power Association, Inc.
Wisconsin Electric Power Company

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. PP&L EnergyPlus Co.

[Docket No. ER99–3186–000]

Take notice that on June 9, 1999, PP&L EnergyPlus Co. (EnergyPlus), tendered for filing with the Federal Energy Regulatory Commission a letter approving its membership in the Western Systems Power Pool (WSPP).

EnergyPlus requests that the Commission allow its membership in the WSPP to become effective on June 10, 1999.

EnergyPlus states that a copy of this filing has been provided to the WSPP Executive Committee, the Pennsylvania Public Utility Commission, Michael E. Small, Esq., General Counsel to the WSPP and the members of the WSPP.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Orange and Rockland Utilities, Inc.

[Docket No. ER99–3187–000]

Take notice that on June 9, 1999, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing a Service Agreement between Orange and Rockland and TXU Energy Trading Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of Orange and Rockland's Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of May 19, 1999, for the Service Agreement.

Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Entergy Services, Inc.

[Docket No. ER99–3188–000]

Take notice that on June 9, 1999, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing an amendment to the Interconnection Agreement between Entergy Gulf States, Inc., and Dow Chemical Company.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Idaho Power Company

[Docket No. ER99–3189–000]

Take notice that on June 9, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service between Idaho Power Company and the City of Idaho Falls.

Idaho Power requests that the Commission accept these Service

Agreements for filing, designate an effective date of May 21, 1999, and a rate schedule number.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Carolina Power & Light Company

[Docket No. ER99–3190–000]

Take notice that on June 9, 1999, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Short Term Firm Point-to-Point Transmission Service with Southern Company Services, Inc. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of June 1, 1999, for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Public Service Company of New Mexico

[Docket No. OA96–202–003, OA96–202–002, and ER96–1551–004]

Take notice that on June 8, 1999, Public Service Company of New Mexico (PNM), tendered for filing a letter regarding refunds of Open Access Transmission Tariff (OATT) Ancillary Services Fees collected in excess of PNM's FERC approved Ancillary Services Settlement Rates.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Duke Power Company

[Docket No. OA97–450–005

Take notice that on June 3, 1999, Duke Power Company and Nantahala Power and Light Company filed a joint response to the Commission's May 4, 1999 order on standards of conduct. 87 FERC ¶ 61,145 (1999).

Duke Power Company and Nantahala Power and Light Company state that they served copies of the filing on all parties in this proceeding.

Comment date: June 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–15900 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2170–010 Alaska]

Chugach Electric Association, Inc.; Notice of Availability of Draft Environmental Assessment

June 17, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, the Office of Hydropower Licensing has reviewed the application for the proposed Amendment of License for the Cooper Lake Project, located on Cooper Lake, Cooper Creek, and Kenai Lake near Cooper Landing on the Kenai Peninsula, Alaska, and has prepared a draft environmental assessment (DEA) for the proposed action. The Cooper Lake Project occupies lands within the Chugach National Forest.

Chugach Electric Association proposes to increase the generating capacity of the project by 4.38 MW. The increase would be achieved by installing new, modern design turbine runners in the existing casings, which would increase the hydraulic capacity of each of the two generating units from 165.5 cubic feet per second (cfs) to 190 cfs, a total project increase from 331 cfs to 380 cfs. This 14.8 percent increase is defined as a non-capacity related amendment under the Commission's regulations (18 CFR 4.201(b)).

The DEA finds that approval of the amendment would not constitute a major federal action significantly affecting the quality of the human environment. Copies of the DEA are available for review in the Commission's Public Reference Branch, Room 2A, 888 First Street, NE, Washington, DC 20426 or by calling (202) 208–1371. The DEA may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Please call (202) 208–2222 for assistance.

Any comments on the DEA should be filed within 30 days from the date of this notice and should be addressed to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix ''Cooper Lake Project Amendment of License, Project No. 2170–010'' to all comments. For further information, please contact John K. Novak at (202) 219–2828.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15890 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission and Soliciting Comments and Recommendations, Motions To Intervene, and Protests

June 17, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Application Type:* Amendment to License.

b. *Project No:* 1494–187.

c. *Date Filed:* June 2, 1999.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola Hydroelectric Project.

f. *Location:* The Pensacola Project is on the Grand River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. Grand Lake O' the Cherokees is the reservoir for the Pensacola Project.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Bob Sullivan, Grand River Dam Authority, P.O. Box 409, Drawer G, Vinita, OK 74301.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Hocking, E-mail address steve.hocking@ferc.fed.us, or telephone (202) 219–2656.

j. *Deadline for filing comments and recommendations, motions to intervene, and protests:* July 15, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Application:* Article 401 of Grand River Dam Authority's (GRDA) license for the Pensacola Project requires GRDA to lower Grand Lake to elevation 741 feet Pensacola Datum (PD) from September 1 through October 15 yearly. Lowering the lake supports the project's millet seeding program designed to enhance fish and wildlife.

GRDA filed an application June 2, 1999, for a temporary variance so GRDA would not have to lower Grand Lake to elevation 741 feet PD from September 1 through October 15, 1999. Instead, GRDA would keep the lake at elevation 742 feet PD during this time. GRDA says it is not necessary to lower Grand Lake to 741 feet PD this year because it intends to seed millet at elevation 742 feet or above. The temporary variance it seeks would only apply September 1 through October 15, 1999.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

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, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–15889 Filed 6–22–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6365–1]

Ambient Air Monitoring Reference and Equivalent Methods: Designation of Three New Reference Methods for PM_{10}

AGENCY: Environmental Protection Agency.

ACTION: Notice of designation.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, three new reference methods (samplers) for measuring concentrations of PM_{10} in ambient air.

FOR FURTHER INFORMATION CONTACT: Frank F. McElroy, Human Exposure and Atmospheric Sciences Division (MD–46), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: (919) 541–2622, email: mcelroy.frank@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR Part 53, the EPA examines various methods for monitoring the concentrations of certain pollutants in the ambient air. Methods that are determined to meet specific requirements for adequacy are designated as either reference or equivalent methods, thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining attainment of the National Ambient Air Quality Standards. EPA hereby announces the designation of three new reference methods for measuring PM_{10} in ambient air. This designation is made under the provisions of 40 CFR Part 53, as amended on July 18, 1997 (62 FR 38764).

The new reference methods for PM_{10} are manual monitoring methods based on particular commercially available PM_{10} samplers. The newly designated methods are identified as follows:

RFPS–0699–130, ''Andersen Instruments, Incorporated Model RAAS10–100 Single Channel Reference Method PM_{10} Sampler,'' with RAAS–10 PM_{10} inlet, configured as a PM_{10} reference method, and operated for 24-hour continuous sample periods at a flow rate of 16.67 liters/minute, in accordance with the Model RAAS10–100 Operator's Manual and with the requirements and sample collection filters specified in 40 CFR Part 50, Appendix J or Appendix M.

RFPS–0699–131, ''Andersen Instruments, Incorporated Model RAAS10–200 Single Channel Reference Method PM_{10} Audit Sampler,'' with RAAS–10 PM_{10} inlet, configured as a PM_{10} reference method, and operated for 24-hour continuous sample periods at a flow rate of 16.67 liters/minute, in accordance with the Model RAAS10–200 Operator's Manual and with the requirements and sample collection filters specified in 40 CFR Part 50, Appendix J or Appendix M.

RFPS–0699–132, ''Andersen Instruments, Incorporated Model RAAS10–300 Multi Channel Sequential Reference Method PM_{10} Sampler,'' with RAAS–10 PM_{10} inlet, configured as a PM_{10} reference method, and operated for 24-hour continuous sample periods at a flow rate of 16.67 liters/minute, in accordance with the Model RAAS10–300 Operator's Manual and with the requirements and sample collection filters specified in 40 CFR Part 50, Appendix J or Appendix M.

An application for reference method determinations for the methods based on the corresponding Andersen Instruments PM_{10} samplers was received by the EPA on September 18, 1998, and a notice of the receipt of this application was published in the **Federal Register** on December 17, 1998. The methods are available commercially from the applicant, Andersen Instruments, Incorporated; 500 Technology Court; Smyrna, GA 30082.

Test samplers representative of these methods have been tested by the applicant in accordance with the test procedures specified in 40 CFR Part 53 (as amended on July 18, 1997). After reviewing the results of those tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that these methods should be designated as reference methods. The information submitted by the applicant will be kept on file at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As designated reference methods, these methods are acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes, each method must be used in strict accordance with the operation or instruction manual associated with the method, the specifications and limitations (*e.g.*, sample period or flow rate) specified in the applicable designation method description (see identifications of the methods above), and the specifications and requirements set forth in Appendixes J or M to 40 CFR Part 50. Use of the method should also be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Guidance Document 2.12'' and ''Quality Assurance Guidance Document 2.10.'' Vendor modifications of a designated reference or equivalent method used for purposes of Part 58 are permitted only with prior approval of the EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to 40 CFR Part 58 (Modifications of Methods by Users).

In general, a method designation applies to any sampler or analyzer which is identical to the sampler or analyzer described in the application for designation. In some cases, similar samplers or analyzers manufactured prior to the designation may be upgraded (*e.g.*, by minor modification or by substitution of the approved operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at a modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated reference or equivalent method analyzers or samplers comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(a) A copy of the approved operation or instruction manual must accompany the sampler or analyzer when it is delivered to the ultimate purchaser.

(b) The sampler or analyzer must not generate any unreasonable hazard to operators or to the environment.

(c) The sampler or analyzer must function within the limits of the applicable performance specifications given in Parts 50 and 53 for at least one year after delivery when maintained and operated in accordance with the operation or instruction manual.

(d) Any sampler or analyzer offered for sale as part of a reference or equivalent method must bear a label or sticker indicating that it has been designated as part of a reference or equivalent method in accordance with Part 53 and showing its designated method identification number.

(e) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(f) An applicant who offers samplers or analyzers for sale as part of a reference or equivalent method is required to maintain a list of ultimate purchasers of such samplers or analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the method has been canceled or if adjustment of the sampler or analyzer is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(g) An applicant who modifies a sampler or analyzer previously designated as part of a reference or equivalent method is not permitted to sell the sampler or analyzer (as modified) as part of a reference or equivalent method (although it may be sold without such representation), nor to attach a label or sticker to the sampler or analyzer (as modified) under the provisions described above, until the applicant has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified, or until the applicant has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the sampler or analyzer as modified.

(h) An applicant who offers $PM_{2.5}$ samplers for sale as part of a reference or equivalent method is required to maintain the manufacturing facility in which the sampler is manufactured as an ISO 9001-certified facility.

(i) An applicant who offers $PM_{2.5}$ samplers for sale as part of a reference or equivalent method is required to submit annually a properly completed Product Manufacturing Checklist, as specified in Part 53.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–77), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR Part 58. Questions concerning the commercial availability or technical aspects of these methods should be directed to the applicant.

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 99–15979 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6365–7]

Clean Air Act Advisory Committee Mobile Sources Technical Review Subcommittee Notification of Public Advisory Subcommittee Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet on: Wednesday, July 14, 1999 from 9:00 am to 3:15 pm, Eastern Standard Time (registration starts at 8:30 am) at: Marriott Hotel—Key Bridge, 1401 Lee Highway, Arlington, VA 22209, Ph: (703) 524–6400; FAX: (703) 524–8964.

This is an open meeting and seating is on a first-come basis. During this meeting, the subcommittee will hear progress reports from its workgroups, updates and announcements on activities of general interest such as the Clean Air Act Advisory Committee, the Tier 2 Notice of Proposed Rulemaking, the Diesel Fuel Advanced Notice of Proposed Rulemaking, the National Research Council's review of the MOBILE model, and discuss other current issues in the mobile source program including tentative presentations on DOE work on fuels, a

review of in-use emissions from heavy-duty diesel vehicles, and current programs to measure emissions from in-use heavy-duty vehicle emissions.

The preliminary agenda and draft minutes from the previous meeting are available from the subcommittee's website at: http://transaq.ce.gatech.edu/epatac

Subcommittee members and interested parties requesting further technical information should contact: Mr. John T. White, Alternate Designated Federal Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105., Ph: 734/214–4353, Fax: 734/214–4821, email: white.johnt@epa.gov.

Subcommittee members and interested parties requesting administrative or logistics information should contact: Ms. Jennifer Criss, FACA Management Officer, Assessment and Modeling Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, FACA Helpline: 734/214–4518, Ph: 734/214–4029, Fax: 734/214–4821, email: criss.jennifer@epa.gov.

Individuals or organizations wishing to provide comments to the subcommittee should submit them to Mr. John T. White, Alternate Designated Officer, at the address above by July 7, 1999.

The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Michael Shields,

Acting Director, Office of Mobile Sources.

[FR Doc. 99–15982 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6365–4]

Science Advisory Board; Notice of Public Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Advisory Council on Clean Air Compliance Analysis (the Council) of the Science Advisory Board (SAB) will hold a public meeting on Tuesday, July 13, 1999, from 9:30 am to 5:00 pm, Eastern time and Wednesday, July 14, 1999, from 9:00 am to 5:00 pm. The Meeting will take place in the Conference Room of the Office of Children's Health Protection (Room W911), United States Environmental Protection Agency, 401 M Street SW, Washington DC 20460. The meeting is open to the public, however, seating is on a first come basis. Materials that are the subject of SAB reviews are normally available from the responsible EPA Program office and are not available from the SAB. All times noted are Eastern Time.

The Council will review a draft Prospective Study: Report to Congress, prepared by the Agency as part of implementing Section 812 of the Clean Air Act Amendments (CAAA) of 1990. The Council will address the following charge questions provided by the Agency:

Charge #1: Are the input data used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose? If not, does the Council recommend the Agency consider using alternative data or assumptions for the first prospective analysis?

Charge #2: Are the models, and the methodologies they employ, used for each component of the analysis sufficiently valid and reliable for the intended analytical purpose? If not, does the Council recommend the Agency consider using alternative models or methodologies for the first prospective analysis?

Charge #3: Are the analytical results developed using these data and methodologies sufficiently valid and reliable for the intended analytical purpose, and are the characterizations of the analytical methods and results sufficiently accurate and appropriate for the intended expository purpose?

While the above charge questions define the general scope of the advice requested from the Council, a number of specific additional questions are presented below for which the Agency is interested in obtaining particular advice from the Council. In addition, further specific questions and issues may be presented for consideration to the Council during the discussions scheduled to take place on July 13–14, 1999. The supplemental charge questions are listed below, and detailed background information pertaining to each of these specific supplemental charge questions is included in an attachment to this memorandum.

Charge #4: Unquantified/Unmonetized Benefit and Disbenefit Categories.

(4a) Does the Council endorse the recommendation of HEES members that EPA strive to provide estimates of changes in some additional health and welfare effects in order to provide information on the potential relative importance of currently unquantified or unmonetized endpoints?

(4b) Does the Council concur with the simplistic approaches for providing screening-level estimates proposed by EPA for each endpoint and for inclusion of these calculations in the 812 report as illustrative calculations presented in an appendix?

(4c) Does the Council have specific suggestions for additional benefit or disbenefit categories not listed by EPA? If so, does the Council have specific suggestions for methods for developing screening level estimates of these categories?

Charge #5: Value of Avoided Chronic Bronchitis.

(5a) Does the Council concur with EPA's proposed continued use of the adjusted WTP value from Viscusi et al.—i.e. $260,000 per incidence (1990$)—to support the primary benefit estimate?

(5b) If the Council does not concur with EPA's proposed use of the Viscusi, et al. value in the primary estimate, does the Council recommend using an unadjusted value based on the cost-of-illness method, or is an adjustment based on empirical evidence relating COI to WTP appropriate? (In previous reviews, the Council has recommended that ''there is not a sufficient empirical basis for making these adjustments at this time,'' but suggested that EPA ''include some illustrative calculations to show the sensitivity of total benefits to the range of possible adjustments to cost-of-illness estimates.'' SAB, EPA–SAB–COUNCIL–ADV–98–003, September 9, 1998 page 9).

(5c) If the Council does not concur with EPA's proposed use of the Viscusi, et al. value to determine the primary benefit estimate, does the council recommend using the Viscusi et al. value in a sensitivity analysis to illustrate potential differences between COI and WTP?

Charge #6: Value of Avoided Visibility Degradation.

(6a) Does the Council concur with EPA's proposed use of the WTP value from McClelland et al. (1993)—i.e, $14 per household per deciview improvement (1990$)—to support the primary benefit estimate? If not, should EPA treat residential/urban visibility improvements as a screening level benefit category to be reported in an appendix, or does the Council have a specific recommendation for an alternative estimate of the value for this endpoint?

(6b) Does the Council concur with EPA's proposed use of the WTP values from Chestnut and Rowe (1990)—i.e. $4.91 to $13.51 per household per deciview improvement (1990$) for households living outside of the region where a Class I area is located and $7.98 to $16.82 per household per deciview

improvement (1990$) for households living in the region where a Class I area is located—to support the primary benefit estimate? If not, should EPA treat Class I area visibility improvements as a screening level benefit category to be reported in an appendix, or does the Council have a specific recommendation for an alternative estimate of the value for this endpoint?

Charge #7: Value of Avoided Premature Mortality.

(7a) Does the Council concur with EPA's proposal to continue using the Weibull distribution as the most appropriate distribution to characterize the variability in the 26 VSL estimates? If not, does the Council have a specific recommendation for an appropriate distribution of these values?

(7b) Does the Council concur with EPA's proposed use of the arithmetic mean as the appropriate point estimate for the VSL? If not, does the Council have a specific recommendation for an appropriate alternative point estimate?

(7c) Does the Council concur with EPA's proposal to continue using 5 percent as the appropriate discount rate for estimating the value of an avoided mortality incidence using the statistical life years method? If not, does the Council have a specific recommendation for the appropriate discount rate?

(7d) Does the Council concur with EPA's proposal to (1) continue using an estimate of 14 years as the appropriate number of life years saved when age specific distributions of avoided premature mortality incidences are not available and (2) continue using age-specific numbers of life years when age specific distributions of avoided premature mortality incidences are available?

Charge #8: Tax Interaction Effects. Does the Council consider the scope and content of the Appendix B text on tax interaction effects valid and appropriate given the intended purpose of the 812 Prospective? If not, does the Council have specific recommendations for revisions to the scope and/or substance of the draft report language?

Charge #9: Income Adjustments to WTP. Does the Council concur with the specification of the sensitivity analysis examining income adjustment to WTP currently incorporated in the draft report, and with EPA's specific proposal to include this sensitivity analysis in Appendix H of the first prospective analysis? If not, does the Council have specific recommendations for revisions to the specification of the sensitivity analysis and/or recommendations regarding the merits of incorporating any analysis and discussion of income adjustments to WTP in the first prospective analysis?

FOR FURTHER INFORMATION CONTACT: (a) *Contacting Program Office Staff and Obtaining Review Materials*—To obtain copies of the draft documents pertaining to the CAA Section 812 Prospective Study, please contact Ms. Catrice Jefferson, Office Manager, Office of Policy Analysis and Review (OPAR), (Mail Code 6103), US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, Tel. (202) 260–5580; FAX (202) 260–9766, or via e-mail at <jefferson.catrice@epa.gov>. To discuss technical aspects of the draft Section 812 Prospective Study: Report to Congress, please contact Mr. James DeMocker, Office of Policy Analysis and Review (OPAR) (Mail Code 6103), US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, Tel. (202) 260–8980; FAX (202) 260–9766, or via e-mail at: <democker.jim@epa.gov>.

(b) *Contacting SAB Staff and Obtaining Meeting Information*—To obtain copies of the meeting agendas, rosters of participants, or copies of the draft reports, please contact Ms. Diana L. Pozun, Management Assistant to the Council, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460, Tel. (202) 260–8432; FAX (202) 260–7118; or via e-mail: <pozun.diana@epa.gov>. To discuss technical or logistical aspects of the Council review process or to submit written comments, please contact Dr. Angela Nugent, Designated Federal Officer to the Council, at the address above or at Tel. (202) 260–4126; FAX (202) 260–7118, or via e-mail: <nugent.angela@epa.gov>.

(c) *Providing Public Comments to the SAB*—To request time to provide brief oral comments at the meeting, please contact Ms. Diana L. Pozun *in writing* by mail, FAX or E-Mail at the addresses given above no later than 12 noon by Tuesday, July 6, 1999. Please provide a summary of the issue you intend to present, your name and address (incl. phone, fax and e-mail) and the organization (if any) you will represent. Written comments should be submitted to Ms. Pozun at the above address prior to the meeting date.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board (SAB) expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, opportunities for oral comment at face-to-face meetings will be usually limited to ten minutes per speaker. At teleconference meetings, speakers will be usually limited to three minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting), may be mailed to the committees or its respective subcommittees prior to its meeting; comments received too close to the meeting date will normally be provided to the Council and its subcommittees at the meeting. Written comments may be provided up until the time of the meeting.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact Dr. Nugent at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 17, 1999.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 99–15978 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00611; FRL–6089–5]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2–day meeting, June 28 and 29, 1999. This notice announces the location and times for the state co-regulator meeting and sets forth tentative agenda topics that impact the state pesticide regulatory programs. This meeting is open to the public.

DATES: The SFIREG will meet on Monday, June 28, 1999 from 8:30 a.m. to 5:00 p.m. and Tuesday, June 29, 1999 from 8:30 to 12:00 noon.

ADDRESSES: The meeting will be held at: The meeting will be held at the Doubletree Hotel, 300 Army Navy Drive, Arlington-Crystal City, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax: (802) 472–6957; e-mail: aapco@plainfield.bypass.com or Elaine Y. Lyon, Field and External Affairs Division, Office of Pesticide Programs

(7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Crystal Mall 2 (CM #2), Arlington, VA, (703) 305–5306; fax: (703) 308–1850; lyon.elaine@.epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of SFIREG includes the following:.

1. Internet Distributions of EPA Registered and Non Registered Pesticides.
2. North American Trade Agreement Update; Harmonization Opportunities.
3. Food Safety Initiative.
4. Waiver of Liability.
5. Pesticide Registration Notice on Mandatory vs. Advisory Labeling.
6. Waiver of Liability.
7. Keep Out of Reach of Children Labeling Issues (KOORC).
8. Worker Protection Standard Compliance/Enforcement - Labeling Initiative.
9. Inspector Issues:
   a) Federal Credentials.
   b) Inspector Manual.
   c) Inspector Training.
10. Quality Management Plan.
11. Section 19 rule.
12. Status of 24c Guidance Issues.
13. BT Plant Resistance Management Plans.
14. Pesticide Registration Notice on Voluntary Resistance Management Labeling.
15. Office of Pesticide Programs Update.
16. Office of Enforcement and Compliance Assurance Update.
17. Introduction of State Issue/ Discussion Papers.
18. Other Topics as appropriate.

List of Subjects

Environmental protection.

Dated: June 18, 1999.

Jay Ellenberger,

Director, Field and External Affairs Division.

[FR Doc. 99–16090 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34189; FRL 6084–7]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on December 20, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients, and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before December 20, 1999 to discuss withdrawal of the applications for amendment. This 180-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. (Note: Registration number(s) preceded by * indicate a 30–day comment period. ** indicate a 90–day comment period)

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
*000279–02735	Thiodan Pyrenone C.O. EC	Piperonyl butoxide; Pyrethrins; Endosulfan	Use on broccoli
000432–00452	SBP–1382 Insecticide Aqueous Pressurized Spray 0.25% for House and Garden	Resmethrin	Use on dogs and cats
000524–00403	Partner WDG Herbicide	Alachlor	Aerial applications
*000644–00048	Orchex 796	Mineral oil – Includes paraffin oil	Cranberries
*001386–00599	Diazinon 4EC (AG)	Diazinon	Walnuts/nuts
005905–00090	2,4-D 2-Ethylhexyl Ester 4	Acetic acid, (2,4-dichlorophenoxy)-, 2 ethylhexyl ester	Rice and aquatic non-food uses
005905–00093	2,4-D 2-Ethylhexyl Ester 6	Acetic acid, 2,4-dichlorophenoxy)-, 2 ethylhexyl ester)	Rice and aquatic non-food uses
*007401–00433	3-Way Dust Garden Insecticide	Rotenone; sulfur; Cube resins other than rotenone	All food and feed crop uses
**010163–00110	Gowan Endosulfan 3EC	Endosulfan	Alfalfa grown for forage, safflower, sugar beets, sunflowers, and peas grown for seed

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
011694–00107	Dry Fog Drop-Um	Piperonyl butoxide; Pyrethrins	Use on dogs and cats
*034911–00021	Hi-Yield Rotenone 100 Insecticide Dust	Rotenone; Cube resins other than rotenone	All food and feed crop uses

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000279	FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, PA 19103.
000432	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
000524	Monsanto Company, 600 13th Street, N.W., Suite 660, Washington, DC 20005.
000644	Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77252.
001386	Universal Cooperatives, Inc., 7801 Metro Parkway, Minneapolis, MN 55440.
005905	Helena Chemical Company, 6075 Poplar Avenue, Suite 500 Memphis, TN 38119.
007401	Voluntary Purchasing Group Inc., P.O. Box 460, Bonham, TX 75418.
010163	Gowan, P.O. Box 5569, Yuma, AZ 85366.
011694	ITW Dymon, 805 E. Old 56 Hwy, Olathe, KS 66061.
034911	Hi-Yield Chemical Co., P.O. Box 460, Bonham, TX 75418.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 10, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–15717 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00607; FRL–6088–1]

Pesticides; Pesticide Registration Proposal for Isomeric Active Ingredients; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On April 28, 1999 EPA issued a **Federal Register** notice (64 FR 22863) (FRL–6055–1) soliciting comments on how the Agency should handle the registration of pesticide active ingredients (AI's) that are composed of chemical isomers. In particular the Agency intended to clarify its approach on determining whether a particular isomeric pesticide is a new active ingredient or not. The comment period for this notice was scheduled to end on June 28, 1999. In response to several requests, EPA has decided to extend the comment period 30 days.

DATES: Written comments, identified by the docket control number ''OPP–00607,'' must be received on or before July 28, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV. of the ''SUPPLEMENTARY INFORMATION'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Alan Dixon, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703–305–7237, Fax: 703–305–6920, e-mail: dixon.alan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

You may be potentially affected by this notice if you are applying for a registration or amended registration of a pesticide product that contains isomeric active ingredients and in particular a product purified for one or more (usually more chemically active) isomers. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. Why is EPA Issuing This Notice?

The Office of Pesticide Program (OPP) is soliciting comments on how the Agency should handle the registration of pesticide active ingredients that are composed of chemical isomers. In particular, OPP is interested in learning the various opinions on the question of whether an AI originally registered at a particular proportion of isomers should be subsequently registered as a new AI when purified for one or more (usually more chemically active) isomers.

In the past the Agency has treated some purified isomeric compounds as new formulations and some purified isomeric compounds as new AI's. Examples of purified isomeric compounds treated as new formulations are: Fluazifop butyl and fluazifop-p-butyl, fenoxaprop-ethyl and fenoxaprop-p-ethyl, 2,4-DP and 2,4-DP-p, and MCPP

to MCPP-p. Examples of purified isomeric compounds treated as new AI's are: Metolachlor and alpha-metolachlor, and metalaxyl and mefenoxam. Some recent regulatory decisions caused the Agency to re-evaluate its policy on isomeric active ingredients.

The Agency is considering three options:

1. To continue determining case by base whether an isomeric compound is a new AI.
2. To consider all purified isomeric compounds not as new AI's but as new formulations.
3. To consider all purified isomeric compounds as new active ingredients.

III. How Can I Get Additional Information or Copies of This Document or Other Documents?

A. Electronic Availability

You may obtain electronic copies of this document from the EPA internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under ''**Federal Register** - Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. In Person or By Phone

If you have any questions or need additional information about this action, you may contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number ''OPP–00607''. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

IV. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, ''OPP–00607'', in your correspondence.

A. 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.

B. In Person or By Courier

Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

C. Electronically

Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–00607''. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

V. How Should I Handle CBI Information That I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. 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. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

VI. What Should I Consider as I Prepare My Comments for EPA?

A. General Tips for Preparing Your Comments

We invite you to provide your views on the various options we propose, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Tell us what you support, as well as what you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the document.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice, along with the name, date, and **Federal Register** citation.

B. Specific Issues for Your Consideration

For a detailed description of this section please refer to the original **Federal Register** notice (64 FR 22863) (FRL–6055–1) published April 28, 1999.

List of Subjects

Environmental protection, Pesticides.

Dated: June 15, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–15715 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6364–9]

Implementation Guidance for the Interim Enhanced Surface Water Treatment Rule and the Disinfectants and Disinfection Byproducts Rule

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for comments.

SUMMARY: The EPA would like to obtain stakeholder and public comments on the Draft Implementation Guidance for the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR). Comments will be considered in developing the final version. EPA encourages the full participation of all stakeholders and the public throughout this process.

The Draft IESWTR and Stage 1 DBPR Implementation Guidance is a

comprehensive reference to assist with Regional and State implementation of the rules. The draft guidance has been developed based on input from an Environmental Protection Agency (EPA) Headquarters and Regional staff workgroup, several State-EPA training meetings, and State review of a previous version of the guidance. Along with summaries of each rule, the document contains guidance for preparing State primacy revision applications, and a thorough list of questions and answers compiled during Regional and State training meetings. The implementation guidance covers special primacy requirements for States, information on compliance determinations, Safe Drinking Water Information System (SDWIS) reporting and definitions for significant non-compliance.

DATES: Comments must be submitted on or before July 23, 1999.

ADDRESSES: Address all comments concerning this notice to Nicole Foley (Mailcode 4606), U.S. EPA Headquarters, 401 M Street SW, Washington, DC 20460. See Supplementary Information section for information to request a copy of the draft guidance and electronic addresses.

FOR FURTHER INFORMATION CONTACT: For general information related to IESWTR and Stage 1 DBPR, please contact: Doug McKenna of EPA's Office of Ground Water and Drinking Water at (202) 260–5760 or by sending electronic mail (e-mail) at mckenna.doughlas@epamail.epa.gov, or Nicole Foley at (202) 260–0875 or e-mail at foley.nicole@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: To request a copy of the draft guidance, please contact Nicole Foley of EPA's Office of Ground Water and Drinking Water at (202) 260–0875. You may request a copy of the document or submit comments e-mail to: foley.nicole@epamail.epa.gov.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–15980 Filed 6–22–99; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, June 28, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: June 21, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–16075 Filed 6–21–99; 11:30 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSYTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 64 FR 32878, June 18, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, June 23, 1999.

CHANGES IN THE MEETING: Change in the time of the open meeting to 9:00 a.m., Wednesday, June 23, 1999.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: June 21, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–16076 Filed 6–21–99; 11:30 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Availability of Environmental Impact Study Record of Decision

AGENCY: General Services Administration, National Capital Region.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) National Capital Region (NCR) announces the Record of Decision (ROD) for the Environmental Impact Study (EIS) undertaken for the U.S. Patent and Trademark Office (PTO) consolidation project. The project is for the lease acquisition of 2.4 million rentable square feet with a 20-year term on three possible sites in northern Virginia: Crystal City, Eisenhower Avenue, and Carlyle. The ROD as well as EIS is available at *http://ncr.gsa.gov/pto*.

DATES: The Rod was issued on June 14, 1999 and the final EIS availability was published in the **Federal Register** on January 29, 1999.

FOR FURTHER INFORMATION CONTACT: Carl W. Winters, General Services Administration, Capital Development Division (WPC), 7th & D Streets, S.W., Washington, DC 20407, (202) 401–1025. E-mail *carl.winters@gsa.gov*.

Dated: June 17, 1999.

Jeffrey Hysen,

Assistant Regional Counsel (WL).

[FR Doc. 99–15878 Filed 6–22–99; 8:45 am]

BILLING CODE 6820–BR–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–1866]

Goldschmidt 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 Goldschmidt Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of silicone acrylate resins produced by addition of ω-hydroxyalkenes and/or propenyloxy-2,3-dihydroxypropane, mono- or diester with acrylic acid, acetic acid or other saturated monocarboxylic acid, to dimethyl polysiloxane, methylhydrogen polysiloxane, or dimethyl-methylhydrogen polysiloxane as

coatings or components of coatings on polymers and on paper and paperboard intended for contact with food. The following optional adjuvants may also be required in the manufacture of silicone acrylate resins: 2-hydroxy-2-methyl-1-phenyl-1-propanone and/or oligomeric 2-hydroxy-2-methyl-1-[4-(1-methylvinyl)phenyl]-1-propanone.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 9B4658) has been filed by Goldschmidt Chemical Corp., 914 East Randolph Rd., Hopewell, VA 23860. The petition proposes both to amend the food additive regulations in part 177 (21 CFR part 177) by adding a new section and to amend § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of silicone acrylate resins produced by addition of ω-hydroxyalkenes and/or propenyloxy-2,3-dihydroxypropane, mono- or diester with acrylic acid, acetic acid or other saturated monocarboxylic acid, to dimethyl polysiloxane, methylhydrogen polysiloxane, or dimethyl-methylhydrogen polysiloxane as coatings or components of coatings on polymers and on paper and paperboard intended for contact with food. The following optional adjuvants may also be required in the manufacture of silicone acrylate resins: 2-hydroxy-2-methyl-1-phenyl-1-propanone and/or oligomeric 2-hydroxy-2-methyl-1-[4-(1-methylvinyl)phenyl]-1-propanone.

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: June 2, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–15877 Filed 6–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

The FDA Review Process for New Product Applications: An Interactive Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of workshop.

The Food and Drug Administration (FDA), Los Angeles District, in cosponsorship with the Orange County Regulatory Affairs Discussion Group (OCRA) is announcing the following workshop: The FDA Review Process for New Product Applications: An Interactive Workshop, which is intended to give the medical products industry (drugs, biologics, and medical devices) an opportunity to learn and discuss the process by which the centers and district offices review new product applications. Reviewing staff from the Centers for Biologics, Devices, and Drugs will make presentations regarding the elements of submissions that make the review process more efficient.

Date and Time: The workshop will be held on July 12 and 13, 1999, from 7:30 a.m. to 5 p.m.

Location: The workshop will be held at the Irvine Marriott, 18000 Von Karman Ave., Irvine, CA, 949–553–0100.

Contact: Sandi Velez, Los Angeles District Office, Food and Drug Administration, 19900 MacArthur Blvd., Irvine, CA 92612–2445, 949–798–7748 or FAX 949–798–7715, for further information including a registration form.

Registration: Space is limited. Preregistration and confirmation are required. Registration forms can be obtained at the OCRA web site ''http://www.ocra-dg.org'' or from Sandi Velez at the numbers given previously. There is a $250 registration fee if postmarked by June 30, 1999 ($275 after July 1, 1999) payable to OCRA. The registration fee and form should be sent to PeriAnn DiRocco at OCRA Submissions Conference, 5405 Alton Pkwy., suite 5A–624, Irvine, CA 92604, FAX and voice 949–348–9141, and received no later than July 7, 1999. The registration fee will cover actual expenses incurred by OCRA including refreshments, lunch, materials, parking fees, and speaker expenses.

If you need special accommodations due to disability, please contact Sandi Velez at least 7 days in advance.

Dated: June 17, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy Coordination.

[FR Doc. 99–16091 Filed 6–21–99; 2:29 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–263]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* On Site Inspection for Durable Medical Equipment (DME) Supplier Location & Supporting Regulations in 42 CFR, 424.57; *Form Nos.:* HCFA–R–263 (OMB# 0938–0749);

Use: To identify and implement measures to prevent fraud and abuse in the Medicare program. Controlling the entry of suppliers of durable medical equipment, prosthetics, orthotics, or supplies (DMEPOS) to Medicare has been identified as one of the most effective ways to prevent fraud and abuse. To meet this challenge, HCFA is moving forward with a plan to improve the quality of the process for enrolling and reenrolling DMEPOS suppliers into the Medicare program by enhancing procedures for verifying supplier information collected on the Form HCFA 855S (DMEPOS Supplier Enrollment Application, OMB Approval No. 0938–0685). This form will be used

to complete information on DMEPOS suppliers' compliance with regulations found in 42 CFR 424.57.

Frequency: On occasion;

Affected Public: Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government;

Number of Respondents: 40,000;

Total Annual Responses: 40,000;

Total Annual Hours: 20,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 19, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–15887 Filed 6–22–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1999 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of extension of deadline dates.

SUMMARY: This notice extends the application due date for two Guidance for Applicants (GFAs) previously announced by the Substance Abuse and Mental Health Services Administration: (1) Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services grants (short title: TCE/HIV, GFA No. TI 99–004) and (2) Targeted Capacity Expansion Cooperative Agreements for Substance Abuse and HIV/AIDS Prevention grants (short title: Targeted SA & HIV/AIDS Prevention, GFA No. SP 99–03) previously published in the **Federal Register** on March 9, 1999 and March 10, 1999, respectively, as part of the General Notice: Fiscal Year (FY) 1999 Funding Opportunities (FR Vol. 64, No. 45, 11478–11483 and Vol. 64, No. 46, 11940–11943, respectively). TCE/HIV grants are intended to augment the capabilities of substance abuse treatment programs to address the growing HIV/AIDS problem in African American and other racial/ethnic minority communities. Targeted SA & HIV/AIDS Prevention grants are intended to increase community capacity to provide integrated substance abuse and HIV/AIDS prevention services targeted to African American and other racial/ethnic minority youth, and women and their children. Questions related to the extension should be directed to Judith B. Braslow, Deputy Associate Administrator for Policy and Program Coordination, (301) 443–4111.

Extension of Receipt Date

In the second column of the tables on pages 11478 (FR Vol. 64, No. 45) and 11941 (FR Vol. 64, No. 46), the application deadline published in the **Federal Register** notices has been extended from June 17, 1999 to July 13, 1999, to increase the pool of applicants.

Dated: June 18, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–16035 Filed 6–22–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4442–N–11]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 23, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Rm. 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Paul B. Dornan, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street, SW, Rm 8140, Washington, DC 20410, (202) 708–0574, extension 4486 (this is not a toll-free number). A copy of the proposed data collection instruments and other available documents submitted to OMB may be obtained from Mr. Dornan.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) 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; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Welfare to Work Voucher Program Evaluation.

Description of the need for the information and proposed use: The Department is conducting under contract the evaluation of a demonstration program—Welfare to Work Vouchers—which was intended by Congress to demonstrate that the provision of tenant-based rental assistance to eligible low-income families would permit them to obtain or retain employment.

Members of affected public: Heads of eligible families who have been assigned into either a treatment group (i.e., receiving Section 8 vouchers) or control group (i.e., not receiving Section 8 vouchers) within the jurisdiction of housing authorities electing to participate in the evaluation.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and

hours of response: The researchers will survey participants, both those from the treatment and control groups, once for the baseline survey. 10,000 participants will be surveyed in all; the surveys are expected to last 40 minutes.

Status of the proposed information collection: Awaiting OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 11, 1999.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 99–15914 Filed 6–22–99; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4444–N–09]

Notice of Proposed Information Collection: Study of the Effectiveness of Program Implementation of the Milwaukee Lead Hazard Control Ordinance

AGENCY: Office of Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: August 23, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gail N. Ward, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room P3206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dr. Peter Ashley, 202–755–1785 ext. 115 (this is not a toll-free number) for available documents regarding this proposal.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Notice also lists the following information:

Title of Proposal: Study of the Effectiveness of Program Implementation of the Milwaukee Lead Hazard Control Ordinance.

OMB Control Number: To be assigned.

Description of the need for the information and proposed use: Despite dramatic reductions in blood-lead levels over the past 15 years, lead poisoning continues to be a significant health risk for young children. The Third National Health and Nutrition Examination Survey suggests that the greatest risk exists for children under the age of two. The development of a viable national strategy for the primary prevention of lead poisoning in these young children is a difficult task. The City of Milwaukee has enacted an ordinance requiring owners of pre-1950 rental properties in two target neighborhoods to carry out specified essential maintenance practices and standard treatments by April 30, 2000. The purpose of this information collection activity is to valuate the feasibility, costs, and effectiveness (in terms of reducing residential dust-lead levels and preventing elevated blood-lead levels in children under two years of age) of the comprehensive primary prevention program being conducted in two target Milwaukee neighborhoods. The collected information will be used as vital input for developing a viable national strategy.

This information collection will involve conducting brief on site interviews of tenants, conducting visual inspections of rental units, collecting dust-wipe samples for lead analysis from selected floor and window sill locations, and obtaining blood-sample from study subjects. If appropriate, the results of this information collection will be used to improve existing HUD guidance for primary prevention lead-hazard control activities.

Agency form numbers: Not applicable.

Members of affected public: Selected residents of study neighborhoods within the City of Milwaukee.

Total Burden Estimate:

Number of respondents	Frequency of response	Total hours of response
320	4	640

Status of the proposed information collection: New collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 14, 1999.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 99–15915 Filed 6–22–99; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–17]

Notice of Proposed Information Collection: Comment Request; Request and Payment for Labels, Manufactured Home Monthly Production Report, Due Manufacturer, Adjustment Report and List or Damaged Label Report

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: August 23, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Stuart Margulies, Office of Single Family Housing, Manufactured Housing and Standards Division, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–6409 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed

information collection to OMB for review, as required by the paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Request and Payment for Labels, Manufactured Home Monthly Production Report, Due Manufacturer, Adjustment Report and List or Damaged Label Report.

OMB Control Number, if applicable: 2502–0233.

Description of the need for the information and proposed use:

The National Manufactured Home Construction and Safety Standards Act, 42 U.S.C., 5400, *et seq.*, authorizes HUD to promulgate and enforce reporting standards for the production of manufactured housing. HUD uses the forms to calculate and collect monitoring inspection fees for manufactured housing units.

Agency form numbers, if applicable: NCS/BCS—Forms 301, 302, 303, 304.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 283, frequency of responses are occasional, the total annual responses are 10,298, and the estimated annual burden hours requested are 5,480.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 9, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–15916 Filed 6–22–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4491–N–02]

Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS); City of Monterey Park, CA; Section 108 Loan Guarantee/Economic Development Initiative Grant (EDI)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development gives this notice to the public that the City of Monterey Park, California intends to prepare an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Monterey Park Towne Plaza Project, which, among other components includes the development of a 515,382-square foot retail center including a home improvement store with a garden center, three restaurants, and various retail uses, in the City of Monterey Park, California.

This notice is in accordance with regulations of the Council on Environmental Quality as described in 40 CFR parts 1500–1508. Federal agencies having jurisdiction by law, special expertise, or other special interest should report their interests and indicate their readiness to aid in the EIR/EIS efforts as a ''Cooperating Agency.'' Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and dates which the EIR/EIS should consider and recommended mitigation measures and alternatives associated with the proposed project.

A Draft EIR/EIS will be completed for the proposed action described herein. Comments relating to the Draft EIR/EIS are requested and will be accepted by the contact person listed below. When the Draft EIR/EIS is completed, a notice will be sent to individuals and groups known to be interested in the Draft EIR/EIS and particularly on the environmental impact issues identified therein. Any person or agency interested in receiving a notice and making comment on the Draft EIR/EIS should contact the person listed below.

ADDRESSES: All interested agencies, groups and persons are invited to submit written comments on the within-named project and the Draft EIR/EIS to: Ray Hamada, City of Monterey Park, Community Development Department, 320 West Newmark Avenue, Monterey Park, California, 91754 (626) 307–1463. Comments pertaining to the proposed project should be received by the person and office named above, within 15 days of the publication of this notice in order for all comments to be considered in the preparation of the Draft EIR/EIS.

SUPPLEMENTARY INFORMATION: The City of Monterey Park, acting on behalf of the U.S. Department of Housing and Urban Development, will prepare an EIR/EIS to analyze potential impacts of developing a triangular-shaped, 47.1-acre piece of property, located in the southeast portion of the City of Monterey Park immediately north of the Pomona Freeway (State Route 60) and west of Paramount Boulevard. The proposed project would consist of a 515,382-square foot retail center including a home improvement store with a garden center, three restaurants, and various other retail uses. The project site includes a net 0.1-acre land dedication to Caltrans that results from an approximately 1-acre land trade. The proposed project would also include roughly 4.4-acres of Southern California Edison property to the northwest and east of the site to be used for surface parking and an access road. The new access road would require realignment of the intersection of Paramount Boulevard/Neil Armstrong Street. An existing berm located along the southern boundary of the site would also be leveled.

Approximately 10 acres of the western portion of the site contain a historic landfill (''North Parcel Landfill''), that received municipal solid waste between 1948 and 1975. Due to the past landfill operations, the project site is currently designated as a Superfund site. A leachate treatment plant (LTP) is also located on the site and currently processes collected groundwater (leachmate) from a landfill located just south of the Pomona Freeway (''South Parcel Landfill''), which stopped accepting waste in 1984. The LTP will continue to operate on-site in this capacity following the closure of the South Parcel Landfill in the year 2000. The North Parcel Landfill is currently being remediated based upon guidance from the U.S. Environmental Protection Agency.

Other businesses that currently occupy the site include Ecology Auto Wrecking, Aman Brothers Pavement Crushing, Manhole Adjustment, Inc., and Recycled Wood Products. The project applicant has negotiated lease termination agreements with each of the site tenants. Other than the LTP, all of the tenants will vacate the project site prior to development of the site.

It is anticipated that the City of Monterey Park will be awarded a Section 108 Loan Guarantee and an accompanying Economic Development Initiative (EDI) grant from the Department of Housing and Urban Development which will help with the costs associated with land acquisition, site cleanup and required access. The section 108 Loan Guarantee request by the City of Monterey Park is $6.5 million and the EDI request is $540,000.

Need for the EIS

It has been determined that the project may constitute an action significantly affecting the quality of the human environment and an Environmental Impact Report/ Environmental Impact Statement will be prepared by the City of Monterey Park in accordance with the National Environmental Policy Act of 1969 (Pub.L. 91–190) on such project.

Responses to this notice will be used to:

1. Determine significant environmental issues;
2. Identify data which the EIS/EIR should address; and
3. Identify agencies and other parties which will participate in the EIS process and the basis for their involvement.

This notice is in accordance with the regulations of the Council on Environmental Quality under its rule (40 CFR parts 1500–1508).

The Draft Environmental Impact Report/Environmental Impact Statement will be published and distributed about August 30, 1999 and a copy will be on file at the City of Monterey Park, Community Development Department, 320 West Newmark Avenue, Monterey Park, California, 91754 and available for public inspection, or copies may be attained at the same address, upon request to Mr. Ray Hamada, Planning Manager (626) 307–1463.

Scoping

This notice is part of the process used for scoping the EIR/EIS. Responses will help determine the significant environmental issues, identify data which the EIR/EIS should address, and help identify cooperating agencies.

The Draft EIR/EIS will be published upon completion and will be on file, and available for public inspection, at the address listed above. Copies may also be obtained upon request at the same address.

This Notice shall be in effect for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on the project, then the Notice for that project shall be canceled. If the Draft EIS is expected more than one year after the publication of this Notice, a new and updated Notice shall be published.

Dated: June 17, 1999.

Richard H. Broun,

Director, Office of Community Viability.

[FR Doc. 99–15991 Filed 6–22–99; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4340–FA–08]

Housing Counseling Program Announcement of Funding Awards for Fiscal Year 1998

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a SuperNOFA competition for funding of HUD-approved counseling agencies to provide counseling services. This announcement contains the names and addresses of the agencies selected for funding and the amount.

FOR FURTHER INFORMATION CONTACT: Kitty Woodley, Director, Program Support Division, Room 9166, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0317. Hearing-or speech-impaired individuals may access this number by calling the Federal Information Relay Service on 1–800–877–8339 or (202) 708–9300. (With the exception of the ''800'' number, these are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). HUD enters into agreement with qualified public or private nonprofit organizations to provide housing counseling services to low- and moderate-income individuals and families nationwide. The services include providing information, advice and assistance to renters, first-time homebuyers, homeowners, and senior citizens in areas such as pre-purchase counseling, financial management, property maintenance and other forms of housing assistance to improve the clients' housing conditions and meet the responsibilities of tenancy and homeownership.

The purpose of the grant is to assist HUD-approved housing counseling agencies in providing housing counseling services to HUD-related and other clients. HUD funding of approved housing counseling agencies is not guaranteed and when funds are awarded, a HUD grant does not cover all expenses incurred by an agency to deliver housing counseling services. Counseling agencies must actively seek additional funds from other sources such as city, county, state and federal agencies and from private entities to ensure that they have sufficient operating funds. The availability of housing counseling program grants depends upon whether the U.S. Congress appropriates funds for this purpose, the amount of those funds, and the outcome of the competitions for award.

The 1998 grantees announced in this Notice were selected for funding in competitions announced in a **Federal Register** Notice published on March 31, 1998 (63 FR 15545) for the housing counseling program. Applications submitted for each competition were scored and selected for funding on the basis of selection criteria contained in the Notice. HUD awarded $18 million housing counseling grants to 359 housing counseling agencies nationwide: 322 local agencies, 8 intermediaries, and 29 State housing finance agencies.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and award amounts as provided in Appendix A.

The Catalog of Federal Domestic Assistance number for this program is 14.169.

Dated: June 17, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

Appendix A—Housing Counseling Recipients of Funding Awards for FY 1998

Intermediary Organizations (8)

ACORN HOUSING CORPORATION, 846 N. Broad Street, Philadelphia, PA 19130, Amount Awarded: $1,000,000

CATHOLIC CHARITIES USA, 1731 King Street, Suite 200, Alexandria, VA 22314, Amount Awarded: $999,222

HOUSING OPPORTUNITIES, INC., 133 Seventh Avenue, P.O. Box 9, McKeesport, PA 15134, Amount Awarded: $623,782

NATIONAL ASSOCIATION OF HOUSING PARTNERSHIPS, INC., 153 Milk Street,

Suite 300, Boston, MA 02109, Amount Awarded: $632,693
NATIONAL COUNCIL OF LA RAZA, 1111 19th Street, NW, Suite 1000, Washington, DC 20036, Amount Awarded: $659,427
NATIONAL FOUNDATION FOR CONSUMER CREDIT, 8611 Second Avenue, Suite 100, Silver Spring, MD 20910, Amount Awarded: $1,000,000
NEIGHBORHOOD REINVESTMENT CORPORATION, 1325 G Street, NW, Suite 800, Washington, DC 20005–3100, Amount Awarded: $703,983
THE CONGRESS OF NATIONAL BLACK CHURCHES, INC., 1225 Eye Street, NW, Suite 750, Washington, DC 20005–3914, Amount Awarded: $380,890

State Housing Finance Agencies (29)

Atlanta (HOC)

FLORIDA HOUSING FINANCE CORPORATION, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301, Amount Awarded: $192,032
GEORGIA HOUSING & FINANCE AUTHORITY, 60 Executive Park South, Atlanta, GA 30329–2231, Amount Awarded: $250,000
ILLINOIS HOUSING DEVELOPMENT AUTHORITY, 401 N. Michigan Avenue, Suite 900, Chicago, IL 60611, Amount Awarded: $334,939
KENTUCKY HOUSING CORPORATION, 1231 Louisville Road, Frankfort, KY 40601, Amount Awarded: $290,281
MISSISSIPPI HOME CORPORATION, 840 East River Place, Suite 605, Jackson, MS 39202, Amount Awarded: $245,622
NORTH CAROLINA HOUSING FINANCE AGENCY, P. O. Box 28066, Raleigh, NC 27611–8066, Amount Awarded: $406,393
SOUTH CAROLINA STATE HOUSING FINANCE & DEVELOPMENT AUTH., 919 Bluff Road, Columbia, SC 29201, Amount Awarded: $94,681

Denver (HOC)

INDUSTRIAL COMMISSION OF NORTH DAKOTA, North Dakota Housing Finance Agency, P.O. Box 1535, Bismarck, ND 58502, Amount Awarded: $50,000
KANSAS DEPARTMENT OF COMMERCE & HOUSING, 700 SW Harrison, Suite 1300, Shawnee County, Topeka, KS 66603–3712, Amount Awarded: $200,000
MINNESOTA HOUSING FINANCE AGENCY, 400 Sibley Street, Suite 300, St. Paul, MN 55101, Amount Awarded: $150,000
NEW MEXICO MORTGAGE FINANCE AUTHORITY, 344 Fourth Street SW, Albuquerque, NM 87123, Amount Awarded: $315,000
OKLAHOMA HOUSING FINANCE AGENCY, P. O. Box 26720, Oklahoma, OK 73126–0720, Amount Awarded: $100,000
SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY, P. O. Box 1237, Pierre, SD 57501, Amount Awarded: $130,000
STATE OF TEXAS, P. O. Box 13941, 507 Sabine, Suite 900, Austin, TX 78711–3941, Amount Awarded: $380,000
WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY, 201 W. Washington Ave., Suite 700, P. O. Box 1728, Madison,, WI 53701–1728, Amount Awarded: $150,000

Philadelphia (HOC)

CONNECTICUT HOUSING FINANCE AGENCY, 999 West Street, Rocky Hill, CT 06067, Amount Awarded: $110,000
DELAWARE STATE HOUSING AUTHORITY, Carvel State Building, 820 North French Street, Wilmington, DE 19801, Amount Awarded: $131,101
MAINE STATE HOUSING AUTHORITY, 353 Water Street, Augusta, ME 04330–4633, Amount Awarded: $125,000
MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, 100 Community Place, Crownsville, MD 21032, Amount Awarded: $145,000
MASSACHUSETTS HOUSING FINANCE AGENCY, One Beacon St., Boston, MA 02108, Amount Awarded: $130,000
NEW HAMPSHIRE HOUSING FINANCE AUTHORITY, P.O. Box 5087, Manchester, NH 03108, Amount Awarded: $110,101
NEW JERSEY HOUSING & MORTGAGE FINANCE AGENCY, 637 South Clinton Ave., Trenton, NJ 08650–2085, Amount Awarded: $150,000
PENNSYLVANIA HOUSING FINANCE AGENCY, 2101 North Front St., Harrisburg, PA 17105, Amount Awarded: $175,000
RHODE ISLAND HOUSING & MORTGAGE FINANCE CORPORATION, 44 Washington St., Providence, RI 02903, Amount Awarded: $110,000
STATE OF MICHIGAN, 401 S. Washington Square, Lansing, MI 48909, Amount Awarded: $130,000
VIRGINIA HOUSING DEVELOPMENT AUTHORITY, 601 S. Belvidere St., Richmond, VA 23220, Amount Awarded: $145,000
WEST VIRGINIA HSG. DEVELOPMENT FUND, 814 Virginia St. E., Charleston, WV 25301, Amount Awarded: $110,101

Santa Ana (HOC)

IDAHO HOUSING AND FINANCE ASSOCIATION, P. O. BOX 7899, 565 MYRTLE, BOISE, ID 83707–1899, Amount Awarded: $193,100
WASHINGTON STATE HOUSING FINANCE COMMISSION, 1000 SECOND AVENUE, SUITE 2700, SEATTLE, WA 98104, Amount Awarded: $500,000

Local Organizations (322)

Atlanta (HOC)

CITY OF ALBANY, GEORGIA, 230 S. Jackson St., Suite 315, Albany, GA 31701, Amount Awarded: $22,959
COBB HOUSING, INC., 700 Sandy Plains Rd., Suite B–8, Marietta, GA 30066, Amount Awarded: $37,893
CONSUMER CREDIT COUNSELING SERVICE OF GREATER ATLANTA, 100 Edgewood Avenue, Suite 1500, Atlanta, GA 30303, Amount Awarded: $22,660
DEKALB FULTON HOUSING COUNSELING CENTER, INC., 4151 Memorial Drive, Suite 107–E, Decatur, GA 30032, Amount Awarded: $94,500
ECONOMIC OPPORTUNITY FOR SAVANNAH–CHATHAM COUNTY AREA, INC., 618 West Anderson Street, Savannah, GA 31401, Amount Awarded: $94,500
GWINNETT HOUSING RESOURCE PARTNERSHIP, INC., 3453 Holcomb Bridge Road, Suite 140, Norcross‘, GA 30092, Amount Awarded: $21,500
METRO COLUMBUS URBAN LEAGUE, INC., 802 First Avenue, Columbus, GA 31901, Amount Awarded: $5,000
UNIFIED GOVERNMENT OF ATHENS–CLARKE COUNTY, 155 E. Washington St., P.O. Box 1868, Athens, GA 30603, Amount Awarded: $27,894
ALABAMA COUNCIL ON HUMAN RELATIONS, P. O. Box 409, Auburn, AL 36831–0409, Amount Awarded: $5,000
BIRMINGHAM URBAN LEAGUE, INC., 1717 4th Avenue North, P. O. Box 11269, Birmingham, AL 35202, Amount Awarded: $6,374
COMMUNITY ACTION & COMMUNITY DEVELOPMENT AGENCY OF N. AL, P. O. Box 1788, 107 Second Avenue, NE, Decatur, AL 35602, Amount Awarded: $6,607
COMMUNITY ACTION AGENCY HUNTSVILLE/MADISON & LIMESTONE, 3516 Stringfield Road, P. O. Box 3975, Huntsville, AL 35810–0975, Amount Awarded: $5,000
COMMUNITY ACTION AGENCY OF NORTHWEST ALA., INC., 502 E. College Street, Florence, AL 35630, Amount Awarded: $5,000
HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT, 1826 3rd Avenue South, Birmingham, AL 35233, Amount Awarded: $6,451
JEFFERSON COUNTY HOUSING AUTHORITY, 3700 Industrial Parkway, Birmingham, AL 35217, Amount Awarded: $7,462
MOBILE HOUSING BOARD, 151 South Claiborne Street, Mobile, AL 36633, Amount Awarded: $6,529
ORGANIZED COMMUNITY ACTION PROGRAM, INC., P.O. Box 908, Troy, AL 36081, Amount Awarded: $5,000
THE HOUSING AUTHORITY OF THE CITY OF AUBURN, ALABAMA, 931 Booker Street, Auburn, AL 36832, Amount Awarded: $6,684
THE HOUSING AUTHORITY OF THE CITY OF MONTGOMERY, 1020 Bell Street, Montgomery, AL 36104, Amount Awarded: $6,374
WIL-LOW NONPROFIT HOUSING CORP., INC., P.O. Box 383, 200A commerce Street, Haynesville, AL 36040, Amount Awarded: $6,684
BROWARD COUNTY HOUSING AUTHORITY, 1773 North State Road 7, Lauderhill, FL 33313, Amount Awarded: $39,241
CONSUMER CREDIT COUNSELING SERVICE OF PALM BEACH CO., 2330 Congress Avenue south, Suite 1A, West Palm Beach, FL 33406, Amount Awarded: $47,314
CONSUMER CREDIT COUNSELING SERVICE OF SOUTH FL, 11645 Biscayne Blvd. #205, No. Miami, FL 33181, Amount Awarded: $10,000
MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION, 1205 Drexel Avenue, Miami Beach, FL 33139, Amount Awarded: $5,000
URBAN LEAGUE OF PALM BEACH COUNTY, INC., 1700 North Australian Avenue, West Palm Beach, FL 33407, Amount Awarded: $36,000
WEST PERRINE COMMUNITY DEVELOPMENT CORPORATION, 17623

Homestead Avenue, Miami, FL 33157, Amount Awarded: $30,000
CAROLINA REGIONAL LEGAL SERVICES, INC., P.O. Box 479, 279 West Evans Street, Florence, SC 29503–0479, Amount Awarded: $13,531
FAMILY SERVICE CENTER, 1800 Main Street, Columbia, SC 29201, Amount Awarded: $16,811
PALMETTO LEGAL SERVICES, 2109 Bull Street, P.O. Box 2267, Columbia, SC 29202, Amount Awarded: $10,250
TRIDENT UNITED WAY, 6296 Rivers Avenue, North Charleston, SC 29406, Amount Awarded: $5,000
CUMBERLAND COMMUNITY ACTION PROGRAM, INC., P.O. Box 2009, 328 Gillespie Street, Fayetteville, NC 28302, Amount Awarded: $36,296
NORTHWESTERN REGIONAL HOUSING AUTHORITY, P.O. Box 2510, Boone, NC 28607, Amount Awarded: $29,490
SANDHILLS COMMUNITY ACTION PROGRAM, INC., 103 Saunders Street, P O. Box 937, Carthage, NC 28327, Amount Awarded: $24,499
GULF COAST COMMUNITY ACTION AGENCY, INC., 500 24th Street, P.O. Box 519, Gulfport, MS 39502–0519, Amount Awarded: $22,792
HOUSING EDUCATION AND ECONOMIC DEVELOPMENT, 3405 Medgar Evers Blvd., Jackson, MS 39213, Amount Awarded: $18,424
SACRED HEART SOUTHERN MISSIONS HOUSING CORP., 6144 Highway, 161 North, P.O. Box 365, Walls, MS 38680, Amount Awarded: $5,000
CITY OF GAINESVILLE, Station 10–B, P.O. Box 490, Gainesville, FL 32602–0490, Amount Awarded: $5,000
FAMILY COUNSELING SERVICES, 1639 Atlantic Boulevard, Jacksonville, FL 32207, Amount Awarded: $38,872
TALLAHASSEE URBAN LEAGUE, INC., 923 Old Bainbridge Road, Tallahassee, FL 32303, Amount Awarded: $5,000
LOUISVILLE URBAN LEAGUE, 1535 West Broadway, Louisville, KY 40203, Amount Awarded: $9,977
NORTHERN KENTUCKY COMMUNITY CENTER, 824 Greenup Street, P.O. Box 2030, Covington, KY 41011, Amount Awarded: $5,000
REALTOR-COMMUNITY HOUSING FOUNDATION, 2250 Regency Road, Lexington, KY 40503–2302, Amount Awarded: $9,978
TENANT SERVICES & HOUSING COUNSELING, INC., 136 N. Martin Luther King Blvd., Lexington, KY 40507, Amount Awarded: $9,300
CITY OF CHATTANOOGA HUMAN SERVICES DEPT., 501 W. 12th Street, Chattanooga, TN 37402, Amount Awarded: $5,051
CONSUMER CREDIT COUNSELING SERVICE OF EAST TN, 1012 Heiskell Avenue, P.O. Box 3924, Knoxville, TN 37927, Amount Awarded: $7,175
FAMILY AND CHILDREN'S SERVICES OF CHATTANOOGA, INC., 300 East 8th Street, Chattanooga, TN 37403, Amount Awarded: $5,125
KNOX HOUSING PARTNERSHIP, INC., 220 Carrick Street, Suite 306, Knoxville, TN 37921, Amount Awarded: $7,321
KNOXVILLE LEGAL AID SOCIETY, INC., 502 S. Gay Street, Suite 404, Knoxville, TN 37902, Amount Awarded: $7,321
MEMPHIS AREA LEGAL SERVICES, 109 N. Main., Suite 200, Memphis, TN 38103–5013, Amount Awarded: $32,176
THE MEMPHIS HOUSING RESOURCE CENTER, 61 Adams, Memphis, TN 38103, Amount Awarded: $5,000
VOLLINTINE-EVERGREEN COMMUNITY ASSOCIATION (VECA)-CDC, 1680 Jackson Avenue, Memphis, TN 38107, Amount Awarded: $30,836
WEST TENNESSEE LEGAL SERVICES, INC., 210 W. Main Street, P.O. Box 2066, Jackson, TN 38302, Amount Awarded: $33,517
C.C.C.S. OF MIDDLE TENNESSEE, INC., P.O. Box 160328, Nashville, TN 37216–0328, Amount Awarded: $8,600
CITIZENS FOR AFFORDABLE HOUSING, INC., 1719 West End Avenue, Suite 607W, Nashville, TN 37203, Amount Awarded: $7,414
HOPE, INCORPORATED, 212 Capitol Blvd., Nashville, TN 37219, Amount Awarded: $8,106
METROPOLITAN DEVELOPMENT & HOUSING AGENCY, 701 South Sixth Street, Nashville, TN 37206–3893, Amount Awarded: $9,193
NASHVILLE URBAN LEAGUE, 1219 Ninth Avenue North, Nashville, TN 37208–2552, Amount Awarded: $9,688
CONSUMER CREDIT COUNSELING SERVICE, 220 Coral Sands Drive, Rockledge, FL 32955, Amount Awarded: $5,000
CONSUMER CREDIT COUNSELING SERVICE OF CENTRAL FLORIDA, INC., 3670 Maguire Blvd., Suite 103, Orlando, FL 32803, Amount Awarded: $27,215
HOMES IN PARTNERSHIP, INC., 235 E. Fifth Street, P.O. Box 761, Apopka, FL 32704–0761, Amount Awarded: $26,100
HOUSING AND NEIGHBORHOOD DEV. SERV OF CENTRAL FLORIDA, 2211 Hillcrest St, Orlando, FL 32803, Amount Awarded: $24,440
CEIBA HOUSING & ECONOMIC DEVELOPMENT CORPORATION, Ave. Lauro Pinero #252, P.O. Box 203, Ceiba, PR 00735, Amount Awarded: $43,856
CONSUMER CREDIT COUNSELING SERVICE OF PR, INC., 1603 Ponce de Leon Avenue, Stop 23, Suite GM–03 Santurce, PR 00909, Amount Awarded: $48,355
CONSUMER CREDIT COUNSELING SERVICE OF FL. GULF COAST, INC., 5201 W. Kennedy Blvd., Suite 110, Tampa, FL 33609, Amount Awarded: $66,450
MANATEE OPPORTUNITY COUNCIL, INC., 347 6th Avenue, West Bradenton, FL 34205, Amount Awarded: $5,000
AGENCY METROPOLITAN PROGRAM SERVICES 3210, W. Arthington Street, Chicago, IL 60624, Amount Awarded: $5,000
CEFS ECONOMIC OPPORTUNITY CORPORATION, 1805 S. Banker Street, P.O. Box 928, Effingham, IL 62401, Amount Awarded: $5,000
CHICAGO URBAN LEAGUE DEVELOPMENT CORPORATION, 4510 S. South Michigan Ave., Chicago, IL 60653, Amount Awarded: $5,000
COMMUNITY SERVICE COUNCIL OF NORTHERN WILL COUNTY, 719 Parkwood Avenue, Romeoville, IL 60446, Amount Awarded: $30,240
COMMUNITY AND ECONOMIC DEVELOPMENT ASSOC. OF COOK COUNTY, 208 South Lasalle, Suite 1900, Chicago, IL 60604–1001, Amount Awarded: $31,810
DUPAGE HOMEOWNERSHIP CENTER, INC., 1333 North Main Street, Wheaton, IL 60187, Amount Awarded: $20,000
HOUSING AUTHORITY OF THE COUNTY OF LAKE, IL, 33928 North, Route 45, Grayslake, IL 60030, Amount Awarded: $28,670
LATIN UNITED COMMUNITY HOUSING ASSOCIATION, 2750 W. North Avenue, Chicago, IL 60647, Amount Awarded: $30,240
MADISON COUNTY URBAN LEAGUE, 210 Williams Street, Alton, IL 62002, Amount Awarded: $28,050
NEIGHBORHOOD HOUSING SERVICES OF CHICAGO, INC., 747 North May Street, Chicago, IL 60622, Amount Awarded: $5,000
ROGERS PARK COMMUNITY COUNCIL, 1772 W. Lunt Avenue, Chicago, IL 60626, Amount Awarded: $5,000
SPANISH COALITION FOR HOUSING, 4035 West North Avenue, Chicago, IL 60639, Amount Awarded: $29,300
ANDERSON HOUSING AUTHORITY, 528 West 11th Street, Anderson, IN 46016, Amount Awarded: $8,180
CITY OF BLOOMINGTON, P.O. Box 100, 401 N. Morton Street, Bloomington, IN 47402, Amount Awarded: $6,100
COMMUNITY ACTION OF GREATER INDIANAPOLIS, INC., 2445 North Meridian Street, Indianapolis, IN 46208, Amount Awarded: $7,669
CONSUMER CREDIT COUNSELING OF NWI, 3637 Grant Street, Gary, IN 46408–1439, Amount Awarded: $7,669
HAMMOND HOUSING AUTHORITY, 7329 Columbia Circle West, Hammond, IN 46324, Amount Awarded: $7,158
HOOSIER UPLANDS ECONOMIC DEVELOPMENT CORPORATION, 521 West Main Street, Mitchell, IN 47446, Amount Awarded: $5,000
HOPE OF EVANSVILLE, INC., 608 Cherry Street, Evansville, IN 47713, Amount Awarded: $10,466
HOUSING AUTHORITY OF THE CITY OF FORT WAYNE, P.O. Box 13489, 2013 South Anthony Blvd., Fort Wayne, IN 46869–3489, Amount Awarded: $7,924
LAKE COUNTY, 2293 North Main Street, Crown Point, IN 46307, Amount Awarded: $6,306
LINCOLN HILLS DEVELOPMENT CORPORATION, 302 Main Street, P.O. Box 336, Tell City, IN 47586, Amount Awarded: $6,817
MUNCIE HOMEOWNERSHIP AND DEVELOPMENT CENTER, 206 S. Walnut Street, P.O. Box 93, Muncie, IN 47308, Amount Awarded: $7,413
REAL SERVICES, INC., 1151 S. Michigan, P.O. Box 1835, South Bend, IN 46634, Amount Awarded: $6,100
TELAMON CORPORATION/TRANSITION RESOURCES CORPORATION, 2511 E.

46th Street, Suite 02, Indianapolis, IN 46205, Amount Awarded: $6,220
URBAN LEAGUE OF NORTHWEST INDIANA, INC., 3101 Broadway, Gary, IN 46409, Amount Awarded: $5,453

Denver (HOC)

COMMUNITY ACTION, INC. OF ROCK AND WALWORTH COUNTIES, 2300 Kellog Avenue, Janesville, WI 53546, Amount Awarded: $8,000
WALKER'S POINT DEVELOPMENT CORP, 914 S. 5th Street, Milwaukee, WI 53204, Amount Awarded: $5,153
COMMUNITY ACTION FOR SUBURBAN HENNEPIN, 33 Tenth Avenue South, Suite 150, Hennepin County, Hopkins, MN 55343, Amount Awarded: $44,370
SOUTHERN MINNESOTA REGIONAL LEGAL SERVICE, 700 Minnesota Building, 46 East Fourth Street, St. Paul, MN 55101, Amount Awarded: $30,000
ST. PAUL HOUSING INFORMATION OFFICE, 25 West Fourth Street, St. Paul, MN 55102, Amount Awarded: $27,716
CITY OF FORT WORTH, 1000 Throckmorton, Fort Worth, TX 76102, Amount Awarded: $100,000
CONSUMER CREDIT COUNSELING SERVICE OF GREATER FORT WORTH INC, 1320 South University, Suite 200, Fort Worth, TX 76107, Amount Awarded: $78,000
GULF COAST COMMUNITY SERVICE ASSOCIATION, 6300 Bowling Green, Houston, TX 77021, Amount Awarded: $70,000
CRAWFORD-SEBASTIAN COMMUNITY DEVELOPMENT COUNCIL, INC., 4831 Armour, P.O. Box 4069, Fort Smith, AR 72914, Amount Awarded: $12,500
CROWLEY'S RIDGE DEVELOPMENT COUNCIL, INC., P.O. Box 1497, 249 S. Main, Jonesboro, AR 72401, Amount Awarded: $20,884
EAST ARKANSAS LEGAL SERVICES, P.O. Box 1149, 500 East Broadway, West Memphis, AR 72301, Amount Awarded: $15,000
FAMILY SERVICE AGENCY, 4504 Burrow Drive, P.O. Box 16615, North Little Rock, AR 72231–6615, Amount Awarded: $12,500
GUADALUPE ECONOMIC SERVICES CORPORATION, 1416 First Street, Lubbock, TX 79401, Amount Awarded: $37,982
ASSIST AGENCY, P.O. Box 1404, Crowley, LA 70527–1404, Amount Awarded: $9,061
CENTRAL CITY HOUSING DEVELOPMENT CORP., 2020 Jackson Avenue, New Orleans, LA 70113, Amount Awarded: $9,000,
LAFAYETTE CONSOLIDATED GOVERNMENT, P.O. Box 4017-C, Lafayette, LA 70502–4017, Amount Awarded: $9,000
PARISH OF JEFFERSON, 1221 Elmwood Park Blvd., Suite 402, Jefferson, LA 70123, Amount Awarded: $40,000
ST. MARY COMMUNITY ACTION COMMITTEE ASSOC., INC., 1407 Barrow St., P.O. Box 271, Franklin, LA 70538, Amount Awarded: $11,500
CDSA, 2615 E. Randolph, Enid, OK 73701, Amount Awarded: $7,000
CONSUMER CREDIT COUNSELING SERVICE OF CENTRAL OKLAHOMA INC., 3230 North Rockwell, Bethany, OK 73008, Amount Awarded: $20,197
HOUSING AUTHORITY OF THE CITY OF LAWTON, OK, 609 SW "F" Avenue, Comanche County, Lawton, OK 73501, Amount Awarded: $6,500
NORMAN HOUSING AUTHORITY, 700 N. Berry Rd., Norman, OK 73069, Amount Awarded: $6,500
CITY OF SAN ANTONIO, 115 Plaza de Armas, Suite 150, San Antonio, TX 78205, Amount Awarded: $50,000
COMMUNITY DEVELOPMENT CORPORATION OF BROWNSVILLE, 1150 E. Adams, Second Floor, Brownsville, TX 78520, Amount Awarded: $35,000
LEGAL AID OF CENTRAL TEXAS, 205 West 9th Street, Suite 200, Austin, TX 78701, Amount Awarded: $10,452
METRO AFFORDABLE HOUSING CORPORATION, 2000 San Francisco, Laredo, TX 78040, Amount Awarded: $16,000
MARSHALL HOUSING AUTHORITY, 1401 Poplar, P.O. Box 609, Marshall, TX 75671, Amount Awarded: $22,831
DEEP FORK COMMUNITY ACTION FDN., INC., P.O. Box 670, Okmulgee County, Okmulgee, OK 74447, Amount Awarded: $6,000
FAMILY MANAGEMENT CREDIT COUNSELORS, INC. (FMCCI), 1409 W. 4th, Waterloo, IA 50702, Amount Awarded: $7,500
HAWKEYE AREA COMMUNITY ACTION PROGRAM, INC., P.O. Box 789, Cedar Rapids, IA 52406–0789, Amount Awarded: $9,800
GREATER KANSAS CITY HOUSING INFORMATION CENTER, 3810 Paseo, Kansas City, MO 65109–2721, Amount Awarded: $29,226
HOUSING AND CREDIT COUNSELING, INC., 1195 SW Buchanan, Suite 203, Shawnee County, Topeka, KS 66604–1183, Amount Awarded: $29,227
MENNONITE HOUSING REHABILITATION SERV. INC., 3033 W. 2nd Street, Wichita, KS 67203, Amount Awarded: $10,000
NORTHEAST KANSAS COMMUNITY ACTION PROGRAM (NEK-CAP, INC.), P.O. Box 380, Hiawatha, KS 66434, Amount Awarded: $29,227
WEST CENTRAL MISSOURI COMMUNITY ACTION AGENCY, P.O. Box 125, 106 W. 4th, Appleton City, MO 64724, Amount Awarded: $10,000
FAMILY HOUSING ADVISORY SERVICES, INC., 2416 Lake Street, Douglas County, Omaha, NE 68111, Amount Awarded: $38,942
LINCOLN ACTION PROGRAM, INC., 2202 south 11, Lincoln, NE 68502, Amount Awarded: $14,500
HOUSING OPTIONS PROVIDED FOR THE ELDERLY, 4265 Shaw Avenue, St. Louis, MO 63110, Amount Awarded: $5,000
LEGAL SERVICES OF EASTERN MISSOURI, INC., 4232 Forest Park Avenue, St. Louis, MO 63108, Amount Awarded: $54,172
URBAN LEAGUE OF METROPOLITAN ST. LOUIS, 3701 Grandel Square, P.O. Box 8138, St. Louis, MO 63156–8138, Amount Awarded: $6,000
ADAMS COUNTY HOUSING AUTHORITY, 7190 Colorado Blvd., Commerce City, CO 80022, Amount Awarded: $60,000
BLACK HILLS LEGAL SERVICES, INC., 621 6th Street, Suite 202, P.O. Box 1500, Rapid City, SD 57709, Amount Awarded: $16,800
BOULDER COUNTY HOUSING AUTHORITY, Boulder, Boulder, CO 80302, Amount Awarded: $20,000
COMMUNITY ACTION OPPORTUNITIES, INC., 420 3rd St., SW, Minot, ND 58701–4304 Amount Awarded: $10,000
COMMUNITY ACTION PROGRAM REGION VII, INC., 2105 Lee Avenue, Burleigh County, Bismarck, ND 58504–6798, Amount Awarded: $15,000
CONSUMER CREDIT COUNSELING SERVICE OF BLACK HILLS, INC., 621 6th Street, Suite 201, Rapid City, SD 57709, Amount Awarded: $6,000
CONSUMER CREDIT COUNSELING SERVICE OF LSS, 705 East 41st Street, Suite 100, Sioux Falls, SD 57105, Amount Awarded: $3,546
NEIGHBOR TO NEIGHBOR, INC., 424 Pine Street, Suite 203, Fort Collins, CO 80524, Amount Awarded: $20,000
RED RIVER VALLEY COMMUNITY ACTION, 1013 North Fifth Street, Grand Forks, ND 58203, Amount Awarded: $5,000
SOUTHEASTERN NORTH DAKOTA COMMUNITY ACTION AGENCY, 3233 South University Drive, P.O. Box 2683, Fargo, ND 58104, Amount Awarded: $10,000
DISTRICT 7 HUMAN RESOURCES DEVELOPMENT COUNCIL, 7 North 31st Street, P.O. Box 2016, Billings, MT 59103, Amount Awarded: $10,000
WOMEN'S OPPORTUNITY & RESOURCE DEVELOPMENT, 127 N. Higgins, Missoula, MT 59802, Amount Awarded: $6,055
COMMUNITY ACTION SERVICES, 257 East Center Street, Provo, UT 84606, Amount Awarded: $19,500
FAMILY LIFE CENTER, 493 North 700 East, Cache County, Logan, UT 84321, Amount Awarded: $20,000
SALT LAKE COMMUNITY ACTION PROGRAM, 764 South 200 West, Salt Lake City, UT 84101, Amount Awarded: $2,500
YOUR COMMUNITY CONNECTION, 2261 Adams, Ogden, UT 84401, Amount Awarded: $2,500

Philadelphia (HOC)

CONSUMER CREDIT COUNSELING SERVICES OF MAINE INC, 111 Wescott Road, South Portland, MA 04106, Amount Awarded: $10,000
GREATER BOSTON LEAGAL SERVICES, INC., 197 Friend Street, Boston, MA 02114, Amount Awarded: $15,000
MERRIMACK VALLEY HOUSING PARTNERSHIP, INC., P.O. BOX 1042, Lowell, MA 01853–1042, Amount Awarded: $12,000
QUINCY COMMUNITY ACTION PROGRAMS, INC., 1509 Hancock Street, Norfolk County, Quincy, MA 02169, Amount Awarded: $10,000
CONSUMER CREDIT COUNSELING SERVICE OF CT. INC., 111 Founders Plaza, Suite 1400, East Hartford, CT 06108, Amount Awarded: $20,000

COASTAL ECONOMIC DEVELOPMENT CORP., 39 Andrews Road, Bath, ME 04530, Amount Awarded: $10,000
COASTAL ENTERPRISES, INC, 36 Water Street Wiscasset, ME 04578, Amount Awarded: $15,000
BLACKSTONE VALLEY COMMUNITY ACTION PROGRAM, INC, 32 Goff Avenue, Pawtucket, RI 02860, Amount Awarded: $10,000
CHAMPLAIN VALLEY OFFICE OF ECONOMIC OPPORTUNITY, P.O. BOX 1603, Burlington VT 05402, Amount Awarded: $6,000
URBAN LEAGUE OF RHODE ISLAND, INC., 246 Prairie Avenue, Providence County, Providence, RI 02905, Amount Awarded: $10,000
ALBANY COUNTY RURAL HOUSING ALLIANCE, INC., P.O. Box 407, 34 S. Main Street, Voorheesville, NY 12186, Amount Awarded: $15,000
BETTER NEIGHBORHOODS INCORPORATED, 986 Albany Street, Schenectady, NY 12307, Amount Awarded: $15,000
CORTLAND HOUSING ASSISTANCE COUNCIL, INC., 159 Main Street, Cortland, NY 13045, Amount Awarded: $5,000
METRO INTERFAITH SERVICES, INC, 21 New Street, Binghamton, NY 13903, Amount Awarded: $10,000
OPPORTUNITIES FOR CHENANGO, INC., P.O. Box 470, 44 West Main Street, Norwich, NY 13815–0470, Amount Awarded: $15,000
RURAL ULSTER PRESERVATION COMPANY, INC., 289 Fair Street, Ulster County, Kingston, NY 12401, Amount Awarded: $8,900
SYRACUSE UNITED NEIGHBORS, INC., 1540 South Salina Street, Onondaga County, Syracuse, NY 13205–1149, Amount Awarded: $10,000
UNITED TENANTS OF ALBANY, INC., 33 Clinton Avenue, Albany, NY 12207, Amount Awarded: $8,000
URBAN LEAGUE OF ONONDAGA COUNTY, INC., 324 University Avenue , Syracuse, NY 13203, Amount Awarded: $10,000
CENTER CITY NEIGHBORHOOD DEVELOPMENT CORPORATION, 1818 Main Street, Niagara Falls, NY 14305, Amount Awarded: $25,000
CHAUTAUQUA OPPORTUNITIES, INC., 17 West Courtney Street, Dunkirk, NY 14048, Amount Awarded: $20,000
HOUSING ASSISTANCE CENTER OF NIAGARA FRONTIER, INC, 1219 Main Street, Buffalo, NY 14209, Amount Awarded: $25,000
JAMAICA HOUSING IMPROVEMENT, INC, 161–10 Jamaica Avenue, Suite 601, Jamaica, NY 11432, Amount Awarded: $20,000
NEAR WESTSIDE NEIGHBORHOOD ASSOCIATION, INC., 353 Davis Street, Elmira, NY 14901, Amount Awarded: $12,000
THE HOUSING COUNCIL IN THE MONROE COUNTY AREA, 183 East Maint Street, Suite 1100, Rochester, NY 14604, Amount Awarded: $15,000
ATLANTIC HUMAN RESOURCES, INC., One South New York Ave., Atlantic City, NJ 08401, Amount Awarded: $9,000
CITY OF PLAINFIELD, 515 Watchung Avenue, Plainfield, NJ 07060, Amount Awarded: $20,000
GENESIS HOUSING CORPORATION, 217 South Barber Avenue, Woodbury, NJ 08096, Amount Awarded: $15,000
ISLES INC, 10 Wood Street, Trenton, NJ 08618, Amount Awarded: $10,000
JERSEY COUNSELLING AND HOUSING DEVELOPMENT, INC., 1840 South Broadway, Camden City, NJ 08104, Amount Awarded: $25,000
MERCER COUNTY HISPANIC ASSN.—MECHA, 410–416 W. Hanover St., P.O. Box 1331, Trenton, NJ 08608, Amount Awarded: $20,000
SENIOR CITIZENS UNITED COMMUNITY SERVICES OF CC, INC, 146 Black Horse Pike, Ephraim, NJ 08059, Amount Awarded: $8,000
ASIAN AMERICANS FOR EQUALITY, INC., 111 Division Street, New York, NY 10002, Amount Awarded: $25,000
BISHOP SHEEN ECUMENICAL HOUSING FOUNDATION, INC, 935 East Avenue, Rochester, NY 14607, Amount Awarded: $15,000
COMMUNITY DEVELOPMENT CORPORATION OF LONG ISLAND, 2100 Middle Country Road, Centereach, NY 11720, Amount Awarded: $20,000
CYPRESS HILLS LOCAL DEVELOPMENT CORP., 625 Jamaica Avenue, Kings County, Brooklyn, NY 11208, Amount Awarded: $15,000
FAMILY AND CHILDREN'S ASSOCIATION, 336 Fulton Avenue, Hempstead, NY 11550, Amount Awarded: $15,000
LONG ISLAND HOUSING SERVICES, INC, 1747 Veterns Memorial, Highway, Suite 42A, Islandia, NY 11722, Amount Awarded: $10,000
MARGERT COMMUNITY CORPORATION, 1931 Mott Avenue, Room 412, Far Rockaway, NY 11691, Amount Awarded: $20,000
NEIGHBORS HELPING NEIGHBORS, INC., 5313 5th Avenue, Brooklyn, NY 11220, Amount Awarded: $20,000
OPEN HOUSING CENTER, INC., 594 Broadway, Suite 608, New York, NY 10012, Amount Awarded: $15,000
PUTNAM COUNTY HOUSING CORPORATION, 5 Seminary Hill Road, Carmel, NY 10512, Amount Awarded: $15,000
RURAL SULLIVAN COUNTY HOUSING OPP., INC, P.O. Box 1497, Monticello, NY 12701, Amount Awarded: $10,000
ROCKLAND HOUSING ACTION COALITION, INC, 747 Chestnut Street, Chestnut Ridge, NY 10977, Amount Awarded: $20,000
ROCKWAY DEVELOPMENT & REVITALIZATION CORP., 1920 Mott Avenue, Suite #2 Far Rockaway, NY 11691, Amount Awarded: $15,000
WESTCHESTER RESIDENTIAL OPPORTUNITIES, INC, 470 Mamaroneck Avenue, Suite 410, White Plains, NY 10605, Amount Awarded: $25,000
CATHOLIC CHARITIES, DIOCESE OF METUCHEN, 540–550 ROUTE 22 EAST, BRIGEWATER, SOMERSET, NJ 08807, Amount Awarded: $15,000
CHECK MATE INC., 550 COOKMAN AVENUE, ASBURY PARK, NJ 07712, Amount Awarded: $10,000
CITIZEN ACTION OF NEW JERSEY, 400 Main Street, Hackensack, NJ 07601, Amount Awarded: $25,000
HOUSING COALITION OF CENTRAL JERSEY, 78 NEW STREET, NEW BRUNSWICK, NJ 08901, Amount Awarded: $20,000
MONMOUTH COUNTY BOARD OF CHOSEN FREEHOLDERS, P.O. BOX 1255, FREEHOLD, NJ 07728, Amount Awarded: $20,000
SOMERSET COUNTY COALITION ON AFFORDABLE HOUSING, ONE WEST MAIN STREET, 2ND FLOOR, SOMERVILLE, NJ 08876, Amount Awarded: $20,000
TRI COUNTY COMMUNITY ACTION AGENCY, INC, 143 W. Broad Street, Bridgeton, NJ 08302, Amount Awarded: $10,000
URBAN LEAGUE OF UNION COUNTY, INC., 272 NORTH BROAD ST., ELIZABETH, NJ 07207, Amount Awarded: $15,000
ANN ARUNDEL CO. ECONOMIC OPPORTUNITY, 251 West Street, Annapolis, Anne Arundel, MD 21404, Amount Awarded: $20,000
CITY OF FREDERICK, 100 South Market Street, Frederick County, Frederick, MD 21701, Amount Awarded: $5,000
COMMUNITY ASSISTANCE NETWORK, INC., 7701 Dunmanway, Baltimore, MD 21222, Amount Awarded: $20,000
CONSUMER CREDIT COUNSELING SERVICE OF GREATER WASHINGTON, 15847 Crabbs Branch Way, Rockville,, MD 20855 Amount Awarded: $20,000
COUNTY COMMISSIONER OF CARROLL COUNTY, 10 Distillery Drive Suite 101, Westminster, MD 21157–5194, Amount Awarded: $12,000
DRUID HEIGHTS COMMUNITY DEVELOPMENT CORPORATION, 1821 Mc Culloh Street Baltimore, MD 21217, Amount Awarded: $10,000
HARFORD COUNTY, 15 South Main Street—Suite 106 Harford County, Bel Air, MD 21014, Amount Awarded: $10,000
HARLEM PARK REVITALIZATION CORPORATION, 1017 Edmondson Avenue, Baltimore, MD 21223, Amount Awarded: $20,000
INNER CITY COMMUNITY DEVELOPMENT CORP, 3030 WEST NORTH AVENUE BALTIMORE, MD 21216, Amount Awarded: $15,000
MARYLAND RURAL DEVELOPMENT CORPORATION, 428 4TH STREET, ANNAPOLIS, MD 21403, Amount Awarded: $20,000
MIDDLE EAST COMMUNITY DEVELOPMENT CORP., 730 North Collington Avenue, Baltimore, MD 21205, Amount Awarded: $20,000
ST AMBROSE HOUSING AID CENTER, 321 E. 25TH STREET, BALTIMORE, MD 21218, Amount Awarded: $25,000
SHORE UP!, INC., P.O. Box 430, Salisbury, MD 21803, Amount Awarded: $20,000
SOUTHEAST DEVELOPMENT, INC., 10 South Wolfe Street, Baltimore, MD 21234, Amount Awarded: $15,000

TRI-CHURCHES HOUSING, INC., 815 Scott Street, Baltimore, MD 21230, Amount Awarded: $10,000
BAYFRONT NATO, INC., 312 CHESTNUT STREET, ERIE,, PA 16507, Amount Awarded: $5,900
BERKS COMMUNITY ACTION PROGRAM/ BUDGET COUNSELING CENTER, Post Office Box 22, Berks County, Reading, PA 19603–0022, Amount Awarded: $15,000
COMMISSION ON ECONOMIC OPPORTUNITY, 165 Amber Lane, Wilkes-Barre, PA 18702, Amount Awarded: $10,000
COMMUNITY ACTION SOUTHWEST, 315 East Hallam Avenue, Washington, PA 15301, Amount Awarded: $10,000
COMMUNITY HOUSING, INC., 613 Washington Street, Wilmington, DE 19801, Amount Awarded: $15,000
FAYETTE COUNTY COMMUNITY ACTION AGENCY, INC, 137 N. Beeson Avenue, Uniontown, PA 15401, Amount Awarded: $7,000
FIRST STATE COMMUNITY ACTION AGENCY, INC., 308 North Railroad Avenue, P.O. Box 877, Georgetown, DE 19947, Amount Awarded: $25,000
HISPANIC AMERICAN ORGANIZATION, 711 CHEW ST., ALLENTOWN, PA 18102, Amount Awarded: $15,000
HARRISBURG FAIR HOUSING COUNCIL, 2100 North 6th Street, Harrisburg, PA 17110, Amount Awarded: $12,000
HOUSING CONSORTIUM FOR DISABLED INDIVIDUALS, 4040 Market Street, Philadelphia, PA 19104, Amount Awarded: $10,000
HOUSING COUNCIL OF YORK, INC., 116 North George Street, York County, York, PA 17401, Amount Awarded: $20,000
KEYSTONE LEGAL SERVICES, INC., 2054 EAST COLLEGE AVE. STATE COLLEGE, PA 16801, Amount Awarded: $12,000
NCALL RESEARCH, INC., 20 East Division Street, P.O. Box 1092, Dover, DE 19903–1092, Amount Awarded: $25,000
NORTHWEST COUNSELING SERVICE, INC., 5001 NORTH BROAD Street, PHILADELPHIA, PA 19141, Amount Awarded: $25,000
NEIGHBORHOOD HOUSE, INC., 1218 B Street, New Castle County, Wilmington, DE 19801, Amount Awarded: $20,000
NEW KENSINGTON COMMUNITY DEVELOPMENT CORPORATION, 2515 Frankford Avenue, Philadelphia, PA 19125, Amount Awarded: $10,000
PHILADELPHIA COUNCIL FOR COMMUNITY ADVANCEMENT, 100 North 17th Street, Suite 700, Philadelphia, PA 19107, Amount Awarded: $20,000
RESOURCES FOR HUMAN DEVELOPMENT, 4333 Kelly Drive, Philadelphia, PA 19129, Amount Awarded: $15,000
TABOR COMMUNITY SERVICES INC, 439 EAST KING ST., LANCASTER, PA 17602, Amount Awarded: $20,000
THE TREHAB CENTER, 10 PUBLIC AVENUE, P.O. BOX 366, MONTROSE, PA 18801, Amount Awarded: $15,000
YOUNG WOMEN'S CHRISTIAN ASSOCIATION, 233 KING Street, WILMINGTON, DE 19801, Amount Awarded: $20,000
BOOKER T. WASHINGTON CENTER, 1720 Holland Street, Erie, PA 16503, Amount Awarded: $3,000
CENTER FOR INDEPENDENT LIVING OF SOUTHWESTERN PENNA, 7110 PENN AVENUE, PITTSBURGH, PA 15208, Amount Awarded: $20,000
COMMUNITY/LENDER CREDIT PROGRAM, INC., 355 Fifth Avenue—Suite 1022, Park Building, Pittsburgh, PA 15222–2407, Amount Awarded: $15,000
ECONOMIC OPPORTUNITY CABINET OF SCHUYLKILL COUNTY, 225 N. CENTRE Street, POTTSVILLE, PA 17901, Amount Awarded: $10,000
GECAC HOUSING COUNSELING, 18 WEST NINTH Street, ERIE, PA 16501, Amount Awarded: $1,500
GARFIELD JUBILEE ASSOCIATION, INC., 5138 Penn Avenue, Pittsburgh, PA 15224, Amount Awarded: $5,000
INDIANA COUNTY COMMUNITY ACTION PROGRAM, INC., P.O. Box 187, 827 Water Street, Indiana, PA 15701, Amount Awarded: $5,500
ARLINGTON HOUSING CORPORATION, 2300 S. 9TH ST. #200 ARLINGTON, VA 22204, Amount Awarded: $20,000
FAMILY SERVICES OF TIDEWATER, INC., 222 W. 19TH Street, NORFOLK, VA 23517, Amount Awarded: $15,000
HOUSING OPPORTUNITIES OF RICHMOND, INC., 1218 W. Cary Street, RICHMOND, VA 23220, Amount Awarded: $20,000
HAMPTON REDEVELOPMENT & HOUSING AUTHORITY, P.O. Box 280, 22 Lincoln Street, Hampton, VA 23669, Amount Awarded: $10,000
MONTICELLO AREA COMMUNITY ACTION AGENCY, 1025 Park Street, Charlottesville, VA 22901, Amount Awarded: $10,000
OFFICE OF HUMAN AFFAIRS, 6060 JEFFERSON AVENUE., SUITE 12C P.O. BOX 37, NEWPORT NEWS, VA 23607, Amount Awarded: $15,000
PEOPLE INCORPORATED OF SOUTHWEST VIRGINIA, 1173 WEST MAIN Street, ABINGTON, VA 24210, Amount Awarded: $2,500
PRINCE WILLIAM COUNTY, 803 ASHTON AVENUE, SUITE 105, MANASSAS, VA 20109, Amount Awarded: $20,000
SKYLINE CAP, INC, P.O. BOX 588, MADISON, VA 22727, Amount Awarded: $10,000
SOUTHSIDE COMMUNITY DEVELOPMENT & HOUSING CORP., 1624 HULL Street, RICHMOND, VA 23224, Amount Awarded: $15,000
TOTAL ACTION AGAINST POVERTY (TAP), 145 CAMPBELL AVENUE, SW, ROANOKE, VA 24001–2868, Amount Awarded: $20,000
TELAMON CORPORATION 4915 Radford Avenue, Suite 202–A, Richmond, VA 23230, Amount Awarded: $15,000
THE STOP ORGANIZATION OPPORTUNITY PROJECT, INC., 2551 Almeda Avenue, Norfolk, VA 23513, Amount Awarded: $15,000
VIRGINIA EASTERN SHORE ECONOMIC EMPOWERMENT & HSG. CORP., P.O. Box 814, Nassawadox, VA 23413, Amount Awarded: $20,000
HOUSING COUNSELING SERVICES, INC., 2430 ONTARIO ROAD NW, WASHINGTON, DC 20009, Amount Awarded: $20,000
MARSHALL HEIGHTS COMMUNITY DEV., ORG, 3917 Minnesota Avenue, Washington, DC 20019, Amount Awarded: $15,000
NEAR NORTHEAST COMMUNITY IMPROVEMENT CORPORATION, 1326 Florida Avenue—N.E., Washington, DC 20002, Amount Awarded: $20,000
UNIVERSITY LEGAL SERVICES, 300 I Street, NE, Suite 202, Washington, DC 20002, Amount Awarded: $15,000
BETTER HOUSING LEAGUE OF GREATER CINTI, 2400 Reading Road, Cincinnati, OH 45202, Amount Awarded: $25,000
FAIR HOUSING CONTACT SERVICE 333 South Main Street—Suite 300, Akron, OH 44308, Amount Awarded: $20,000
LUTHERAN HOUSING CORPORATION, 13944 Euclid Avenue, Suite 208, East Cleveland, OH 44112, Amount Awarded: $20,000
COMMUNITY ACTION COMMISSION OF BELMONT COUNTY, INC, 410 FOX-SHANNON PLACE, ST. CLAIRSVILLE,, OH 43950, Amount Awarded: $10,000
COMMUNITY ACTION COMMISSION OF FAYETTE COUNTY, INC, 324 EAST COURT STREET, FAYETTE COUNTY, OH 43160, Amount Awarded: $12,000
CONSOC HOUSING COUNSELING, INC, 1889 E. LIVINGSTON Avenue, COLUMBUS, OH 43209, Amount Awarded: $10,000
HOUSING DIRECTIONS OF GREATER TOLEDO, 3539 HILL AVE. AT BYRNE, TOLEDO, OH 43607, Amount Awarded: $15,000
MID–OHIO REGIONAL PLANNING COMMISSION, 285 East Main Street, Franklin County, Columbus, OH 43215–5272, Amount Awarded: $12,000
D.T.& ASSOCIATES, 33625 State Street, Oakland County, Farmington, MI 48335, Amount Awarded: $15,000
DETROIT NON-PROFIT HOUSING CORPORATION, 1200 Sixth Street, Suite 404, Detroit, MI 48226, Amount Awarded: $20,000
HOUSING RESOURCE CENTER, 300 N. Washington Square., Suite 103, Lansing, MI 48933, Amount Awarded: $15,000
OAKLAND COUNTY MICHIGAN, 1200 North Telegraph Road, Oakland County, Pontiac, MI 48341–9901, Amount Awarded: $20,000
MICHIGAN HOUSING COUNSELORS, INC., 237 S.B. GRATIOT, MT. CLEMENS, MI 48043, Amount Awarded: $12,000
SAGINAW COUNTY COMMUNITY ACTION COMMITTEE, INC., 2824 Perkins Street, Saginaw, MI 48601, Amount Awarded: $20,000

Santa Ana (HOC)

CONSUMER CREDIT COUNSELING SERVICE OF CENTERAL VALLEY INC, 4969 E. McKINLEY, SUITE #107, FRESNO, CA 93727, Amount Awarded: $77,804
CONSUMER CREDIT COUNSELORS OF KERN COUNTY, INC., 5300 LENNOX AVENUE, SUITE 200, BAKERSFIELD, CA 93309–1662, Amount Awarded: $50,000

STANISLAUS COUNTY AFFORDABLE HSG. CORP. (STANCO), 1207 13th Street, Suite #5, Modesto, CA 95354, Amount Awarded: $68,189
HALE MAHAOLU, 200 HINA AVENUE, KAHULUI, HI 96732, Amount Awarded: $3,750
LEGAL AID SOCIETY OF HAWAII, 1108 NU'UANU AVENUE, HONOLULU, HI 96817–5119, Amount Awarded: $9,494
CONSUMER CREDIT COUNSELING SERVICE OF LOS ANGELES, 500 CITADEL DRIVE, SUITE #300, LOS ANGELES, CA 90040, Amount Awarded: $95,671
CONSUMER CREDIT COUNSELING SERVICE OF VENTURA COUNTY, INC., 80 NORTH WOOD ROAD, SUITE 312, CAMARILLO, CA 93010, Amount Awarded: $70,301
HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA, 815 W. OCEAN AVENUE, LOMPOC, CA 93438–0397, Amount Awarded: $25,000
INSTITUTE FOR HOMEOWNER EDUCATION AND AWARENESS INC., 14402 S. HAWTHORNE BLVD. #171, LAWNDALE, CA 90260, Amount Awarded: $99,724
NHS NEIGHBORHOOD LENDING SERVICES, 3111 SOUTH FLOWER STREET, LOS ANGELES, CA 90007, Amount Awarded: $93,226
CHICANOS POR LA CAUSA, INC., 1112 EAST BUCKEYE ROAD, PHOENIX, AZ 85034, Amount Awarded: $50,000
CITY OF PHOENIX NEIGHBORHOOD SERVICES DEPARTMENT, 200 W. WASHINGTON ST, 4TH FLOOR, PHOENIX, AZ 85003, Amount Awarded: $100,000
COMMUNITY HOUSING & CREDIT COUNSELING CENTER (CHCCC), 1560 HUMBOLDT ROAD, STE 2, CHICO, CA 95928, Amount Awarded: $61,891
CONSUMER CREDIT COUNSELING SERVICE OF MID COUNTIES, 1776 West March Lane, Suite 420, Stockton, CA 95207, Amount Awarded: $73,704
CONSUMER CREDIT COUNSELORS OF SAN DIEGO AND IMPERIAL CO., 1550 HOTEL CIRCLE N. Suite 110, SAN DIEGO, CA 92108–2907, Amount Awarded: $21,520
NEIGHBORHOOD HOUSE ASSOCIATES, 5660 COPLEY DRIVE, SAN DIEGO, CA 92111, Amount Awarded: $20,618
SAN DIEGO HOME LOAN COUNSELING SERVICE, 2859 El Cajon Blvd., Suite 1–A, San Diego, CA 92104, Amount Awarded: $22,909
CONSUMER CREDIT COUNSELING SERVICE OF SAN FRANCISCO, 77 MAIDEN LANE, SAN FRANCISCO, CA 94108, Amount Awarded: $16,363
CITY OF VACAVILLE, OFFICE OF HOUSING AND REDEVELOPMENT, 40 Eldridge Avenue, Suite 1–5, Vacaville, CA 95688, Amount Awarded: $14,000
EDEN COUNCIL FOR HOPE AND OPPORTUNITY, 770 A STREET, HAYWARD, CA 94541 Amount Awarded: $14,625
HOUSING AUTHORITY OF THE COUNTY OF SANTA CRUZ 2160 41st AVENUE, CAPITOLA, CA 95010–2060, Amount Awarded: $9,857
HUMAN INVESTMENT PROJECT, INC., 364 SOUTH RAILROAD AVENUE, SAN MATEO, CA 94401, Amount Awarded: $8,000
PACIFIC COMMUNITY SERVICES, INC., P.O. BOX 1397, 329 RAILROAD AVENUE, PITTSBURG, CA 94565, Amount Awarded: $14,625
PROJECT SENTINEL, 430 SHERMAN AVENUE, STE 308, PALO ALTO, CA 94306, Amount Awarded: $11,936
CONSUMER CREDIT COUNSELING SERVICE OF INLAND EMPIRE, 6370 MAGNOLIA AVENUE, SUITE 200, RIVERSIDE, CA 92506, Amount Awarded: $100,000
CONSUMER CREDIT COUNSELING SERVICE OF ORANGE COUNTY, P.O. BOX 11330, 1920 OLD TUSTIN AVENUE, SANTA ANA, CA 92705, Amount Awarded: $75,000
FAIR HOUSING COUNCIL OF ORANGE COUNTY, 1666 N. MAIN ST., SUITE 500, SANTA ANA, CA 92701, Amount Awarded: $69,664
INLAND MEDIATION BOARD, 1005 BEGONIA AVENUE, ONTARIO, CA 91762, Amount Awarded: $65,621
CONSUMER CREDIT COUNSELING SERVICE OF SOUTH NEVADA, 3650 S. DECATUR, SUITE 30, LAS VEGAS, NV 89103, Amount Awarded: $55,507
WASHOE LEGAL SERVICES, 650 TAHOE STREET, RENO, NV 89509, Amount Awarded: $40,000
WOMEN'S DEVELOPMENT CENTER, 953 E. SAHARA SUITE #201, LAS VEGAS, NV 89104 Amount Awarded: $24,978
ADMINISTRATION OF RESOURCES AND CHOICES, 209 SOUTH TUCSON BLVD., TUCSON, AZ 85016, Amount Awarded: $11,628
PPEP MICROBUSINESS AND HOUSING DEVELOPMENT, 802 E. 46TH STREET, TUCSON, AZ 85713, Amount Awarded: $12,207
SOUTHEASTERN ARIZONA GOVERNMENT ORGANIZATION, 118 ARIZONA STREET, BISBEE, AZ 85603, Amount Awarded: $9,601
CONSUMER CREDIT COUNSELING SERVICE OF ALASKA, 208 East 4th Avenue, Anchorage, AK 99501, Amount Awarded: $20,000
COMMUNITY ACTION AGENCY, 124 NEW 6TH STREET, LEWISTON, ID 83501, Amount Awarded: $15,000
ACCESS, INC., 3630 AVIATION WAY, MEDFORD, OR 97504, Amount Awarded: $11,040
CENTRAL OREGON COMMUNITY ACTIVE AGENCY NETWORK, 2303 SW FIRST STREET, REDMOND, OR 97756, Amount Awarded: $18,113
OPEN DOOR COUNSELING SOCIAL SERVICE, 34420 SW Tualatin Valley Highway, Hillsboro, OR 97123, Amount Awarded: $8,504
PORTLAND HOUSING CENTER, 1605 NE 45th, PORTLAND, OR 97213, Amount Awarded: $13,902
UMPQUA COMMUNITY ACTION NETWORK, 2448 WEST HARVARD, ROSEBURG, OR 97470, Amount Awarded: $15,000
COMMUNITY HEALTH CENTER LA CLINICA, P.O. Box 1323, Pasco, WA 99301, Amount Awarded: $26,752
FREMONT PUBLIC ASSOCIATION, P.O. Box 31151, Seattle, WA 98103, Amount Awarded: $27,881
PIERCE COUNTY DEPARTMENT OF COMMUNITY SERVICES, Community Action Program 8811 South Tacoma, Tacoma, WA 98499, Amount Awarded: $28,544
SPOKANE NEIGHBORHOOD ACTION PROGRAM, 2116 East First Avenue, Spokane, WA 99202, Amount Awarded: $20,000
THE COMMUNITY HOUSING RESOURCE CENTER, 5212 B St. John Road, Vancouver, WA 98668, Amount Awarded: $28,976

[FR Doc. 99–15990 Filed 6–22–99; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4361–FA–04]

National Housing Counseling Training Program Announcement of Funding Awards for Fiscal Year 1998

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department for the National Housing Counseling Training Program under the National SuperNOFA for experienced training professionals to provide training and technical assistance to counselors of HUD-approved housing counseling agencies. This announcement contains the names and addresses of the organizations selected for funding and the amounts.

FOR FURTHER INFORMATION CONTACT: Kitty Woodley, Director, Program Support Division, Room 9166, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0317. Hearing-or speech-impaired individuals may access this number by calling the Federal Information Relay Service on 1–800–877–8339 or (202)708–9300. (With the exception of the ''800'' number, these are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). HUD enters into

agreement with qualified public or private nonprofit organizations to provide housing counseling services to low- and moderate-income individuals and families nationwide. Section 106 further authorizes the Department to conduct education and training activities to meet the training needs of HUD-approved counseling agencies to ensure the currency and accuracy of the information being provided to HUD-related and other clients.

The purpose of the housing counseling training grant is to provide training for housing counselors of local HUD-approved counseling agencies to improve the quality of counseling services being provided. The training will be made available in several cities beginning the second quarter of 1999 through year 2000.

The 1998 awards announced in this Notice were selected for funding in competitions announced in a **Federal Register** Notice published on April 30, 1998 (63 FR 23977) for the national housing counseling training program. Applications submitted for each competition were scored and selected for funding on the basis of selection criteria contained in the Notice. HUD awarded a total of $550,000 in housing counseling training grants to two (2) non-profit training providers. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and award amounts as follows:

Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800 Washington, DC 20005, Amount Awarded: $484,019

National Consumer Law Center, Inc. 18 Tremont Street, Suite 400, Boston MA 02108–2336, Amount Awarded: $65,918

The Catalog of Federal Domestic Assistance number for this program is 14.169.

Dated: June 17, 1999.

William C. Apgar,

Assistant Secretary for Housing -Federal Housing Commissioner.

[FR Doc. 99–15989 Filed 6–22–99; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–07–1990–00]

Call for Nominations for the Bureau of Land Management's California Desert District Advisory Council

SUMMARY: The Bureau of Land Management's California Desert District is soliciting nominations from the public for six members of its District Advisory Council to serve the 2000–2002 three-year term. Council members provide advice and recommendations to BLM on the management of public lands in southern California. Public notice begins with the publication date of this notice. Nominations will be accepted through Tuesday, August 31, 1998. The three-year term would begin January 1, 2000.

The six positions to be filled include:

—One recreation representative;
—One renewable resources representative;
—One transportation/right-of-way representative;
—Three public-at-large representatives.

Four council members are eligible for reappointment. The transportation/right-of-way representative, and one public-at-large representative will retire December 31, 1999. Council members serve three-year terms and may be nominated for reappointment for an additional three-year term. The recreation appointee will serve a two-year term, which will end December 31, 2001.

The California Desert District Advisory Council is comprised of 15 private individuals who represent different interests and advise BLM officials on policies and programs concerning the management of 10.4 million acres of public land in southern California. The Council meets in formal session three to four times each year in various locations throughout the California Desert District. Council members serve without compensation except for reimbursement of travel expenditures incurred in the course of their duties.

Section 309 of the Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of BLM administered lands. The Secretary also selects council nominees consistent with the requirements of the Federal Advisory Committee Act (FACA), which requires nominees appointed to the council be balanced in terms of points of view and representative of the various interests concerned with the management of the public lands.

The Council also is balanced geographically, and BLM will try to find qualified representatives from areas throughout the California Desert District. The District covers portions of eight counties, and includes 10.4 million acres of public land in the California Desert Conservation Area and 300,000 acres of scattered parcels in San Diego, western Riverside, western San Bernardino, Orange, and Los Angeles Counties (known as the South Coast).

Any group or individual may nominate a qualified person, based upon their education, training, and knowledge of BLM, the California Desert, and the issues involving BLM-administered public lands throughout southern California. Qualified individuals also may nominate themselves.

Nominations must include the name of the nominee; work and home addresses and telephone numbers; a biographical sketch that includes the nominee's work and public service record; any applicable outside interests or other information that demonstrates the nominees qualifications for the position; and the specific category of interest in which the nominee is best qualified to offer advice and council. Nominees may contact the BLM California Desert District External Affairs staff at (909) 697–5217/5220 or write to the address below and request a copy of the nomination form.

All nominations must be accompanied by letters of reference from represented interests, organizations, or elected officials supporting the nomination. Individuals nominating themselves must provide at least one letter of recommendation. Advisory Council members are appointed by the Secretary of the Interior, generally in late January or early February.

Nominations should be sent to the District Manager, Bureau of Land Management, California Desert District, 6221 Box Springs Boulevard, Riverside, California 92507.

FOR FURTHER INFORMATION CONTACT: BLM California Desert District External Affairs: Carole Levitzky, (909) 697–5217 or Doran Sanchez, (909) 697–5220.

Dated: June 16, 1999.

Tim Salt,

District Manager.

[FR Doc. 99–15921 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–700–99–1010–00–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource Advisory Council public input meetings and Southwest Resource Advisory Council meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC), utilizing a designated subcommittee, will hold a series of public input meetings in July and early August, 1999, in Cortez, Colorado. The meetings are for the purpose of identifying community concerns and issues to be considered as greater protection is given to BLM's 156,000 acre Anasazi Culture Multiple-Use Area of Critical Environmental Concern (Anasazi ACEC) west of Cortez.

DATES: The public input meetings are scheduled for the following dates and times. Any changes to the time, date and/or location of the meetings will be posted on the Southwest RAC web page (http://www.co.blm.gov/mdo/mdo__sw__rac.htm) and publicized via local media.

All of the public input meetings will be held at the Cortez Conference Center, 2121 East Main Street in Cortez, Colorado. Unless otherwise indicated, all meetings will begin at 7:00 p.m. and end at approximately 9:00 p.m.

Thursday, July 8—This meeting is for the purposes of organizing subsequent meetings and the procedures of the RAC subcommittee and local constituents, who together will comprise a Working Group. A segment of this meeting will be open to public input on organization and procedural concerns and comments.

Wednesday, July 14—The purpose of this meeting is for the Working Group to obtain public input on concerns and issues to be considered as greater protection is given to the Anasazi ACEC. The majority of this meeting will be open to public input regarding the identification of those concerns and issues.

Thursday, July 15—The purpose of this meeting is to provide another opportunity for the Working Group to obtain public input on concerns and issues to be considered as greater protection is given to the Anasazi ACEC. The majority of this meeting will be open to public input regarding the identification of those concerns and issues.

Wednesday, July 21—The primary purpose of this meeting is for the Working Group to characterize, categorize, rate and rank the concerns and issues identified in the July 14 & 15 meetings. A segment of this meeting will be open for public input regarding the characterization, categorization, rating and ranking process.

Thursday, July 22—The primary purpose of this meeting is to provide another opportunity for the Working Group to characterize, categorize, rate and rank the concerns and issues identified in the July 14 & 15 meetings. A segment of this meeting will be open for public input regarding the characterization, categorization, rating and ranking process.

Thursday, August 5—This meeting is for the purpose of preparing the report for the public and the Southwest RAC. A segment of this meeting will be open to public input on the report contents and the identification of any omissions and/or misinterpretations of the concerns and issues identified during the July 14 & 15 meetings.

Thursday, August 12—This meeting will be an official Southwest Resource Advisory Council meeting. The meeting will begin at 1:00 p.m. The afternoon agenda will be limited to Southwest RAC business and discussion on proposed statewide BLM recreation guidelines being developed by BLM Colorado's three RAC's. The afternoon session will end at 5:00 p.m. The evening session will begin at 7:00 p.m. and will be limited to presentation of the final report on the public input process regarding community concerns and issues relating to the future management of the Anasazi ACEC. Public comment is scheduled from 7:30 p.m. to 8:30 p.m.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management (BLM), Southwest Center, 2465 South Townsend Avenue, Montrose, Colorado 81401; telephone 970–240–5335; TDD 970–240–5366; e-mail Roger__Alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: Existing management has proven to be inadequate to ensure the long-term protection of cultural resources in the Anasazi ACEC. The Secretary of the Interior has asked the Southwest RAC to conduct a series of public meetings to identify community concerns and issues to be considered when determining what form the future management of the area will take.

All Resource Advisory Council and RAC subcommittee meetings are open to the public. Interested persons are encouraged to attend the series of public meetings and to make verbal statements to the RAC subcommittee and working group and on August 12, to the full Council. Written statements may also be submitted for the both the RAC subcommittee/working group and the full Council's consideration. If necessary, a per-person time limit for verbal comments may be established.

Summary minutes for all Council meetings are maintained in the Southwest Center Office and on the Internet at http://www.co.blm.gov/mdo/mdo__sw__rac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: June 17, 1999.

Mark W. Stiles,

Southwest Center Manager.

[FR Doc. 99–15919 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware Water Gap National Recreation Area Parkwide Trails Plan Environmental Impact Statement and General Management Plan Amendment (GMPA/EIS)

AGENCY: National Park Service; Interior

ACTION: Notice of availability

SUMMARY: Delaware Water Gap National Recreation Area announces the availability of the draft Trails Plan/General Management Plan Amendment/Environmental Impact Statement. The draft plan has been developed to meet the needs of its many visitors. This plan serves as an amendment to the park's 1987 General Management Plan. The document will be available for a 45-day public review beginning on July 2, 1999.

Public meetings will be held in early August. Notices of these meetings will be distributed to prior respondents/participants and through the local media. For further information about this document, contact: Superintendent, Delaware Water Gap National Recreation Area, 1 River Road, Bushkill, PA 18324, 570–588–2418.

Copies available at: Website: www.nps.gov/dewa

Park Headquarters, River Road, Bushkill, PA 18324.

Warren County Library, Belvidere NJ 07823

Congressional Listing for Delaware Water Gap NRA

Honorable Frank Lautenburg, U.S. Senate, SH–506 Hart Senate Office

Building, Washington, DC 20510–3002
Honorable Robert G. Torricelli U.S. Senate, Washington, DC 20510–3001
Honorable Richard Santorum, U.S. Senate, SR 120 Senate Russell Office Bldg., Washington, DC 20510
Honorable Arlen Specter, U.S. Senate, SH–530 Hart Senate Office Bldg., Washington, DC 20510–3802
Honorable Pat Toomey, U.S. House of Representatives, Cannon House Office Bldg., Washington DC 20515
Honorable Don Sherwood, U.S. House of Representatives, Washington DC 20515–3810
Honorable Margaret Roukema, U.S. House of Representatives, 2244 Rayburn House Office Bldg., Washington, DC 20515–3005
Honorable Tom Ridge, State Capitol, Harrisburg, PA 17120
Honorable Christine Whitman, State House, Trenton, NJ 08625
Kemp Library, East Stroudsburg University, E Stroudsburg PA 18301
State Library of Pennsylvania, P.O. Box 1601, Harrisburg, PA 17105
Easton Area Public Library, 6th and Church Street, Easton PA 18042
Sussex County Library, 125 Morris Turnpike, Newton NJ 07860
New Jersey State Library, 185 West State Street, CN 520, Trenton NJ 08625
Eastern Monroe Public Library, 1002 North Ninth Street, Stroudsburg PA 18360
Pike County Library, 201 Broad Street, Milford PA 18337.

Dated: June 15, 1999.

J. Robert Kirby,

Acting Superintendent.

[FR Doc. 99–15913 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability; Final Environmental Impact Statement for the Marsh-Billings-Rockefeller National Historical Park Final General Management Plan

AGENCY: National Park Service.

ACTION: Availability for 30 days of Final Environmental Impact Statement (FEIS) for Marsh-Billings-Rockefeller National Historical Park Final General Management Plan.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of the Final Environmental Impact Statement for Marsh-Billings-Rockefeller National Historical Park Final General Management Plan.

The Final Environmental Impact Statement is presented in an abbreviated format. It must be integrated with the Marsh-Billings National Historical Park Draft General Management Plan/Draft Environmental Impact Statement issued in April 1998, to be considered a complete document reflecting the full proposal and alternative, and all significant environmental impacts. The two documents *together* compose the complete Final Environmental Impact Statement.

Marsh-Billings-Rockefeller National Historical Park is the only national park to focus on conservation history and the evolving nature of land stewardship in America. Opened in June of 1998, Vermont's first national park preserves and interprets the historic Marsh-Billings-Rockefeller property in Woodstock. The park is named for George Perkins Marsh, Frederick Billings, and Laurance S. Rockefeller. George Perkins Marsh was one of the nation's first global environmental thinkers (who grew up on the property). Frederick Billings was an early conservationist who established a progressive dairy farm and professionally managed forest on the former Marsh farm. Frederick Billing's granddaughter, Mary French Rockefeller, and her husband, conservationist Laurance S. Rockefeller came to own the property in the 1950s. They sustained Billings's mindful practices in forestry and farming on the property over the latter half of the twentieth century. In 1983, they established the Billings Farm & Museum to continue the farm's working dairy and to interpret rural Vermont life and agricultural history. The Billings Farm & Museum is operated by the Woodstock Foundation, Inc. as a private nonprofit educational institution.

Marsh-Billing-Rockefeller National Historical Park was created in 1992 when the Rockefellers' gave the estate's residential and forest lands to the people of the United States. Today, the park interprets the history of conservation with tours of the Marsh-Billings-Rockefeller mansion and the surrounding 550-acre forest—one of the oldest planned and continuously managed woodlands in America. Working in partnership, the park and the museum present historic and contemporary examples of conservation stewardship and interpret the lives and contributions of George Perkins Marsh, Frederick Billings and his descendants, and Mary and Laurance S. Rockefeller.

The National Park began to plan for the management of Marsh-Billings-Rockefeller National Historical Park in 1993. Park planners conducted a conservation stewardship workshop, a community study, visitor and community surveys, a transportation analysis, neighborhood meetings, and other resource inventories and assessments. In a Draft-General Management Plan/Draft Environmental Impact Statement that underwent 60 days of public review, the National Park Service presented and evaluated two management scenarios (the Proposal and the Alternative) and described five management options that were considered, but rejected by the planning team. After considering public and agency comment, the National Park Service adopted the draft plan's Proposal as the final plan.

Availability

The FEIS is available for a period for thirty days, beginning on the date of the Environmental Protection Agency publication in the **Federal Register**. The National Park Service will take no action for the thirty-day period of availability, after which time a Record of Decision will be prepared and made available.

SUPPLEMENTARY INFORMATION: Public reading copies of the FEIS will be available for review at Marsh-Billings-Rockefeller National Historical Park, 54 Elm Street, Woodstock, Vermont. For further information, please contact the Superintendent, Marsh-Billings-Rockefeller National Historical Park, P.O. Box 178, Woodstock, Vermont 05091; voice at (802) 457–3368; fax at (802) 457–3405.

Dated: May 25, 1999.

Terry W. Savage,

Superintendent, Boston Support Office.

[FR Doc. 99–15912 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Draft Principles of Agreement Regarding the Disposition of Culturally Unidentifiable Human Remains

AGENCY: National Park Service

ACTION: Notice

Section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3006 (c)(5)) requires the Review Committee to recommend specific actions for developing a process for the disposition of culturally unidentifiable Native American human remains. The Review Committee has developed the following draft principles of agreement

for comment and discussion. The document is intended for wide circulation to elicit comments from Indian tribes, Native Hawaiian organizations, museums, Federal agencies, and national scientific and museum organizations.

Anyone interested in commenting on the review committee's draft principles of agreement should send written comments to:

The NAGPRA Review Committee
c/o Departmental Consulting Archeologist
National Park Service (2275)
1849 C St. NW. (NC340)
Washington DC, 20240

Comments received by August 15, 1999 will be considered by the committee at its next scheduled meeting. For additional information, please contact Dr. C. Timothy McKeown at (202) 343-4101.

Note: We will not accept any comments in electronic form.

Dated: June 15, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

DRAFT PRINCIPLES OF AGREEMENT

At its June 25-27, 1998 meeting, the NAGPRA Review Committee examined the legislative history of NAGPRA and discussed both the law's intent and how to proceed with one of the Committee's most pressing tasks-- making recommendations on the disposition of culturally unidentifiable human remains. One result was a set of principles. Working from these, the Review Committee offers the following draft principles of agreement as a next step for discussion. The Committee wishes to underscore the preliminary nature of these principles and their placement as a beginning point for consideration of this topic.

A. Intent of NAGPRA.

1. The legislative intent of NAGPRA is stated by the statute's title, the ''Native American Graves Protection and Repatriation Act''.

2. Specifically, the statute mandates:

a. The disposition of all Native American human remains and cultural items excavated on Federal lands after November 16, 1990,

b. The repatriation of culturally affiliated human remains and associated funerary objects in Federal agency and museum collections,

c. The development of regulations for the disposition of unclaimed remains and objects (under 25 U.S.C. 3002) and culturally unidentified human remains in Federal agency and museum collections (under 25 U.S.C. 3006).

3. The legal standing of funerary objects associated with culturally unidentifiable human remains is not addressed by NAGPRA and is beyond the Review Committee's charge.

4. While the statute does not always specify disposition, it is implicit that:

a. The process be primarily in the hands of Native people (as the nearest next of kin),

b. Repatriation is the most reasonable and consistent choice.

5. Additionally, a fundamental tension exists within the statute between the legitimate and long denied need to return control over ancestral remains and funerary objects to Native people, and the legitimate public interest in the educational, historical and scientific information conveyed by those remains and objects. (25 U.S.C. 3002 (c); 25 U.S.C. 3005 (b))

B. Culturally Unidentifiable Human Remains.

1. Federal agencies and museums must make a decision as to whether all Native American human remains are related to lineal descendants, culturally affiliated with a present day Federally recognized Indian tribe, or are culturally unidentifiable. This determination must be made through a good faith evaluation of all relevant, available documentation and consultation with any appropriate Indian tribe.

2. A determination that human remains are culturally unidentifiable may change as additional information becomes available.

3. Human remains can be identified as ''culturally unidentifiable'' for different reasons. At present, four categories are recognized:

a. Those which are culturally affiliated, but with a non-Federally recognized Native American group.

b. Those which represent a defined past population, but for which no present day Indian tribe exists.

c. Those for which some evidence exists, but insufficient for a Federal agency or museum to make a determination of cultural affiliation.

d. Those for which no information exists.

C. Guidelines for the disposition of culturally unidentifiable human remains.

1. Four principles must serve as the foundation for any regulations on the disposition of culturally unidentifiable human remains. They must be:

a. *Respectful*. Culturally unidentifiable human remains are no less deserving of respect than those for which culturally affiliation can be established. While the Review Committee is aware that the term ''culturally unidentifiable'' is inherently offensive to many Native people, it is the term used in the statute.

b. *Equitable*. Regulations must be perceived as fair and within the intent of the statute.

c. *Doable*. Regulations must propose a process that is possible for Federal agencies, museums, and claimants and worth the effort to implement.

d. *Enforceable*. There is no point in making regulations that can not or will not be enforced.

2. Since human remains may be determined to be culturally unidentifiable for different reasons, there will be more than one appropriate disposition/repatriation solution. Examples:

a. Human remains that are, technically, culturally unidentifiable because the appropriate claimant is not federally recognized [section B(3)(a.) above], may be repatriated once federal recognition has been granted, or if the claimant works with another culturally affiliated, federally recognized Indian tribe (example-- the Titicut site / Mashpee case).

b. Human remains for which there is little or no information [section B(3)(c. and d.) above] should be speedily repatriated since they have little educational, historical or scientific value.

3. Documentation.

a. Since documentation is required (25 U.S.C. 3003 (b)(2)), it is appropriate that it be conducted in accordance with defined standards.

b. Documentation should be proportional to the importance of the information conveyed. For example, remains from a defined past population for which no present-day Indian tribe exists [section B(3)(b.) above] are of far greater educational, historical and scientific importance than those for which there is little or no information [section B(3)(c) and (d) above].

c. Appropriate documentation includes non-invasive techniques such as measurement, description and photography.

d. Invasive testing is not required for statutory documentation. Such testing may be performed if agreed upon by the parties in consultation.

e. Documentation prepared for compliance with the statute is a public record.

D. Models for the disposition of culturally unidentifiable human remains.

1. Joint recommendations by institutions, Federal agencies, or states and appropriate claimants. The Review Committee has recommended the repatriation of culturally unidentifiable human remains in those cases where:

a. All the relevant parties have agreed in writing,

b. Statutory requirements have been met,

c. The guidelines listed above have been followed.

These cases have included institutions (University of Nebraska, Lincoln), units of the National Park Service (Carlsbad Caverns NP and Guadalupe Mountains NM), and states (Minnesota and Iowa).

2. Regional consultations

Historical and cultural factors, and therefore issues concerning the definition and disposition of culturally unidentifiable human remains, vary significantly across the United States. For example, issues in the Southeast, where most Indian tribes were forcibly removed during the 19th century, are very different from those in the Southwest where many Indian tribes remain on their ancestral lands. Similarly, issues in the Northeast and California differ significantly from those in the Great Plains. Therefore, it is reasonable to look for regional solutions that best fit regional circumstances.

The Review Committee recommends a process in which the Federal agencies, institutions and Indian tribes within a region consult together and propose the most appropriate disposition solutions for that region.

As with joint recommendations, any proposed regional disposition must meet both statutory requirements and the guidelines listed above.

[FR Doc. 99–15975 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Central Valley Project Improvement Act, Central Valley, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a supplement to the draft programmatic environmental impact statement (DPEIS).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Reclamation is preparing a supplement to the DPEIS for the Central Valley Project Improvement Act. The original DPEIS was released for public review on November 7, 1997, and numerous comments addressing a wide range of issues were received on the document. Reclamation is preparing this supplement in response to a general group of comments received on the DPEIS. These comments addressed an inconsistency that was discovered in the Project Simulation Model (PROSIM) hydrology shortly before the DPEIS was completed.

DATES: The supplement to the DPEIS will be released to the public in early July 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Candlish, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825; (916) 978–5190.

Dated: June 15, 1999.

Kirk C. Rodgers,

Acting Regional Director.

[FR Doc. 99–15923 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of minor changes to a system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is updating a system of records managed by the Bureau of Reclamation (Reclamation). The changes are to the system of records ''Real Estate Comparable Sales Data Storage, WBR–43'' which is published in its entirety below.

DATES: These actions are effective June 23, 1999.

FOR FURTHER INFORMATION CONTACT: For information regarding ''Real Estate Comparable Sales Data Storage, WBR–43'' contact Mr. Graham McMullen, Chief, Land Resources Branch at (916) 978–5260. For general information regarding Reclamation's Privacy Act program, contact Mr. Casey Snyder at (303) 445–2048.

SUPPLEMENTARY INFORMATION: When originally published in the **Federal Register** this system of records was identified with an organization prefix of ''LWP'' (i.e., LWP–43). The content of the system of records is the same; the prefix on this system was changed to reflect organizational changes.

This system of records notice was previously published in the **Federal Register** on March 11, 1980 (45 FR 15684). This publication revises the system location, adds a purpose statement which was not included in the original system of records notice, and revises the storage, retention and disposal, and system manager and address sections. All other changes proposed are editorial in nature.

Murlin Coffey,

Manager, Property and Office Services.

INTERIOR/WBR–43

SYSTEM NAME:

Real Estate Comparable Sales Data Storage.

SYSTEM LOCATION:

Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento, California 95825.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who own or lease property adjacent to or within the vicinity of property owned or leased by the Bureau of Reclamation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain data on the physical and nonphysical characteristics of properties having transferred ownership within the vicinity of Federal reclamation projects. Ownership transfers are defined herein as a transfer by deed, agreements to sell or purchase, leases, and contracts. In addition to the property characteristics, the records contain the terms, names, addresses, and telephone numbers of the parties involved, plus other official recorded data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) The Reclamation Act of 1902, as amended and acts supplemental thereto, 43 U.S.C. 371, *et seq.*; and (2) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4651, *et seq.*

PURPOSE(S):

(1) To make available to the Department of the Interior data concerning real estate which has transferred ownership within the vicinity of a Bureau of Reclamation project; (2) For use as comparable data involving real estate appraisals in connection with acquisition programs, land disposals or leases of land owned by the United States, or appraisals of excess land in compliance with the acreage limitation; and (3) To make available to independent appraisers, which are under contract with the Bureau of Reclamation or the Department of Justice, comparable data for use in connection with an appraisal assignment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures outside the Department of the Interior (Department) may be made to: (1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains; (2) The Department of Justice, or to a court, adjudicative, or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when: (a) One of the following is a party to the proceeding or has an interest in the proceeding: (i) The Department or any component of the Department; (ii) Any Departmental employee acting in his or her official capacity; (iii) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or (iv) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and (b) The Department deems the disclosure to be: (i) Relevant and necessary to the proceedings; and (ii) Compatible with the purpose for which we compiled the information; (3) The appropriate Federal, State, tribal, local, or foreign governmental agency that is responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or license, when we become aware of an indication of a violation or potential violation of the statute, rule, regulation, order, or license; (4) A congressional office in response to an inquiry to that office by the individual to whom the records pertain.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual file folders and on electronic media.

RETRIEVABILITY:

Records are indexed by Bureau of Reclamation-assigned document control number and data field codes which identify property characteristics.

SAFEGUARDS:

In accordance with the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

In accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Realty Officer, Attn: MP–450, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the Regional Director, Attn: MP–450, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento, California 95825. A written, signed request stating that the requestor seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Written petitions for amendment should be sent to the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained, county recorder, title companies, and appraisers.

[FR Doc. 99–15942 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for 30 CFR part 800, Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

DATES: Comments on the proposed information collection must be received by August 23, 1999, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtrelease@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies an information collection activity that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR part 800, Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden on respondents. OSM will request a 3-year term of approval for this information collection activity.

Comments are invited to: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs—30 CFR 800.

OMB Control Number: 1029–0043.

Summary: The regulations at 30 CFR part 800 primarily implement section 509 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), which requires that persons planning to conduct surface coal mining operations first post a performance bond to guarantee fulfillment of all reclamation obligations under the approved permit. The regulations also establish bond release requirements and procedures consistent with section 519 of the Act, liability insurance requirements pursuant to section 507(f) of the Act, and procedures for bond forfeiture should the permittee default on reclamation obligations.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Surface coal mining and reclamation permittees and State regulatory authorities.

Total Annual Responses: 16,974.

Total Annual Burden Hours: 188,736 hours.

Dated: June 17, 1999.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 99–15933 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Abandoned Mine Land Research Projects

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Abandoned Mine Land Research Projects.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $225,000 from the Abandoned Mine Reclamation Fund to pay for research in the area of abandoned and active coal mine land reclamation as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Abandoned Coal Mine Land Research Program are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., July 23, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You many read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 1000 East ''B'' Street, Casper, Wyoming 82601–1918

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when re review and approach such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and the facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411 (b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Abandoned Coal Mine Land Research Program funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund the Cost of the Abandoned Coal Mine Land Research Program

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $225,000 to pay for the cost of an applied research program focusing on reclamation techniques. The Governor of Wyoming certified the need and urgency to fund this applied research program prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal mining activities. The applied research program is the result of a 1989 agreement between the University of Wyoming and the Abandoned Mine Land Division of the Wyoming Department of Environmental Quality (DEQ). Through agreement, the research office of the University of Wyoming will administer the program. Annually, the University will solicit research proposals. A technical review committee will review and rank proposals and recommend the best proposals for funding. The program is intended to stimulate applied research and demonstration projects related to underground and surface mine reclamation techniques, in order

to increase transfer of information on state-of-the-art technology and to increase the exchange of research information and expertise between the academia, state agencies, and engineering, mining, and construction entities. The projects approved for funding will help the State in reclaiming AML sites and assist Wyoming, other States and the Office of Surface Mining in reclamation methods for both active and abandoned mine sites. The DEQ reviews the recommendations of the Selection Committee to assure that selected projects are eligible for funding under section 403 and 404 of Pub. L. 95–87.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically §§ 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Abandoned Coal Mine Land Research Program projects contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of §§ 875.15(e) (1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for the Abandoned Coal Mine Land Research Program. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: June 11, 1999.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 99–15934 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Greybull Sewer Replacement Project in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Greybull Sewer Replacement project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $302,885 from the Abandoned Mine Reclamation Fund to pay approximately 85 percent of the cost of building the Greybull Sewer Replacement project in Greybull, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Greybull Sewer Replacement project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., July 23, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to

comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411 (b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Greybull funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of the Greybull Sewer Replacement Project

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $302,885 that it will use to pay for part of the cost of building the Greybull Sewer in Big Horn County, Wyoming. This sewer project is a public facility in a community impacted by coal mining activities. The requested funding is 84.6 percent of the project's total cost. Money for the balance of the project cost will come from the City of Greybull (15.4 percent).

The Governor of Wyoming certified the need and urgency to fund the Greybull Sewer Replacement project prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. The governor certifies that the project is in a community impacted by coal mining activities. The present sewer system is deteriorating rapidly and it is suspected that it is contaminating groundwater and surface water.

The Governor's certification states that the threat to public health and safety is greater at this site than on remaining non-coal mine sites.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities of facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility if not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities; and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Greybull Sewer project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we received and determine whether the funding meets the requirements of § § 875.15(e)(1) through (7) described below. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of the Greybull sewer system. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: June 11, 1999.

Guy Padgett,

Director, Casper Field Office.

[FR Doc 99–15935 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Rock Springs Stormwater Drainage Channel Project in Wyoming

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

ACTION: Notice of application for grant funding; Public comment period on request to fund the Rock Springs Stormwater Drainage Channel project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $10,000 from the Abandoned Mine Reclamation Fund to pay approximately 51 percent of the cost of building the Rock Springs Stormwater Drainage Channel Project in Sweetwater County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Rock Springs Stormwater Drainage Channel project are available for you to read. It also sets the time period during which

you may send written comment on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., July 23, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983.

You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (48 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Rock Springs funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of Building the Rock Springs Stormwater Drainage Channel Project

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $210,000 that it will use to pay for part of the cost of building the Rock Springs Stormwater Drainage Channel. This drainage project is a public facility in a community impacted by coal mining activitive. The requested funding is 51 percent of the project's total cost. Money for the balance of the project will come from the city of Rock Springs (49%). The Governor of Wyoming certified the need and urgency to fund the Rock Springs Stormwater Drainage Channel project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal mining activities. The project involves providing flood control to a community that supports a large coal and trona industry. The project is designed to mitigate impacts resulting from historic boom and bust cycles of the mining industry and the overall growth of the community from mining. An extensive flood event in an adjacent area (White Mountain/Belmont area) resulted in property loss (residential and business) and business disruption in 1991.

This project will mitigate the impacts of flooding and damage to property. The Governor's certification states that the threat to public health and safety is as great at these locations as at unreclaimed non-coal mines. The potential health risks warrant funding this project before the remaining non-coal projects.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically §§ 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is

not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Rock Springs Stormwater Drainage Channel Project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of §§ 875.15(e) (1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of building the Rock Springs Stormwater Drainage Channel Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: June 11, 1999.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 99–15936 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Converse County Road 37 Project in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Converse County Road 37 project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $261,000 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of rebuilding Converse County Road 37 in Converse County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Converse County Road 37 project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m. m.s.t., July 23, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is

described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411 (b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Converse County Road 37 funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of Rebuilding Converse County Road 37

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $261,000 that it will use to pay for part of the cost of rebuilding Converse County Road 37 in Converse County, Wyoming. This road is a public facility in a community impacted by coal mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the County's general fund (25 percent), Powder River Coal Company and Kennecott Energy Company (25 percent). The Governor of Wyoming certified the need and urgency to fund the Converse County Road 37 project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal mining activities. The project involves the rebuilding and paving of 3 miles of County Road 37. This road is one of the busiest roads in the County. The road directly serves the employees of three coal mines. Employees commute daily to these mines by personal vehicles and company buses. A mine employee bus accident on the road indicates the need for improving the road.

The project will mitigate the impacts of safety hazards associated with the present condition of County Road 37. The Governor's certification states that safety hazards impacting coal mine employees warrant funding of this project before the remaining inventory of non-coal projects are completed.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically § 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Converse County Road 37 project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of § 875.15(e) (1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project.

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of rebuilding Converse County Road 37. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: June 11, 1999.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 99–15937 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Community Health Center in the Town of Kaycee, WY

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Kaycee Community Health Center project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming's application requests $612,660 from the Abandoned Mine Reclamation Fund to pay approximately 81% percent of the cost of building the Kaycee Community Health Center in Kaycee, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Kaycee Community Health Center project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., July 23, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore and lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 CFR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411 (b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Kaycee Community Health Center finding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of Building a Community Health Center in the Town of Kaycee

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $612,660 that it will use to pay for part of the cost of building the Community Health Center in Kaycee, Wyoming. This building project is a public facility in a community impacted by coal mining activities. The requested funding is 81 percent of the project's total cost. Money for the balance of the project cost will come from Kaycee (19 percent). The Governor of Wyoming certified the need and urgency to fund the Kaycee Community Health Center project prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal mining activities. The present health clinic serving Kaycee is an old mobile home and does not meet health and safety codes and will not pass the next accreditation inspection. The clinic does not accommodate a wheelchair and is not ADA accessible. The clinic is the only medical facility in southern Johnson County. The Governor's Certification states that lack of medical services in Kaycee is a greater threat to Wyoming citizens than the threat presented at remaining abandoned non-coal mine sites.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically §§ 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Kaycee Community Health Center project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of §§ 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do If You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of building a Community Health Center in the Town of Kaycee, Wyoming. You are welcome to comment on the project. If you do, please give us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411

of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: June 11, 1999.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 99–15938 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Construction of Cokeville High School in Lincoln County, WY

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Cokeville High School project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $1 million from the Abandoned Mine Reclamation Fund to pay approximately 19 percent of the cost of building the Cokeville High School in Lincoln County, Wyoming. The Wyoming State Legislature will provide $3 million (58%) of the funds and the Lincoln County School Board will provide $1.2 million. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Cokeville High School project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., July 23, 1999.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3. 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we received about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e) and (f), of SMCRA.

State law and regulations that apply to the proposed Cokeville High School funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request to Fund Part of the Cost of Construction of a New High School in Cokeville, Wyoming

The Wyoming Department of Environmental Quality submitted to us a grant application dated December 21, 1998. In that application, Wyoming asked for $1 million that it will use to pay for part of the cost of building the Cokeville High School This building project is a public facility in a community impacted by coal mining activities. The requested funding is 19 percent of the project's total cost. Money for the balance of the project cost will come from the State Legislature (58%) and Lincoln County School District #2 (23%). The Governor of Wyoming certified the need and urgency to fund the Cokeville High School project prior to completing the State's remaining inventory of non-coal reclamation work

as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal mining activities. The State Fire Marshal has condemned the existing structure and will not permit its use. Only the gymnasium and auditorium can be used. The remainder cannot be used. The school was heavily damaged by earthquakes. An inspection by AML engineers confirms the danger. Currently, students are housed in portions of the old high school (gymnasium and auditorium), modular buildings and other community buildings. This poses a safety hazard to the students because no central emergency system exists in case of fire or other hazard. The Governor's Certification states that the safety hazards associated with the old high school warrant funding of this project before the remaining inventory of non-coal projects.

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically §§ 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project till have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Cokeville High School project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of § 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What to Do if You Want to Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of building a new high school in Cokeville, Wyoming. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCFA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: June 11, 1999.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 99–15939 Filed 6–22–99; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–807 (Final)]

Certain Hot-Rolled Steel Products From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured [2] by reason of imports from Japan of certain hot-rolled steel products, provided for in headings 7208, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission finds that critical circumstances do not exist with respect to subject imports from Japan.[3]

Background

The Commission instituted this investigation effective September 30, 1998, following receipt of a petition filed with the Commission and the Department of Commerce by Bethlehem Steel Corp., Bethlehem, PA; U.S. Steel Group, a unit of USX Corp., Pittsburgh, PA; Ispat Inland Steel, East Chicago, IN; LTV Steel Co., Inc., Cleveland, OH; California Steel Industries, Fontana, CA; Gallatin Steel Co., Ghent, KY; Geneva Steel, Vineyard, UT; Gulf States Steel, Inc., Gadsden, AL; IPSCO Steel, Inc., Muscatine, IA; Steel Dynamics, Butler, IN; Weirton Steel Corp., Weirton, WV; Independent Steelworkers Union, Weirton, WV; and the United Steelworkers of America, Pittsburgh, PA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain hot-rolled steel products from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 5, 1999 (64 FR 10723). The hearing was held in Washington, DC, on May 4, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 18, 1999. The views of the Commission are contained in USITC Publication 3202 (June 1999), entitled Certain Hot-Rolled Steel Products from Japan: Investigation No. 731–TA–807 (Final).

Issued: June 18, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–16006 Filed 6–22–99; 8:45 am]

BILLING CODE 7020–02–P

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[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Askey determines that an industry in the U.S. is threatened with material injury.

[3] Commerce found that critical circumstances do not exist with respect to two Japanese producers: Nippon Steel Corp. and NKK Corp. Chairman Bragg finds that critical circumstances exist with respect to subject imports from Japan. Commissioner Askey did not assess critical circumstances because she did not determine that the industry in the U.S. is materially injured.

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–412]

Certain Video Graphics Display Controllers and Products Containing Same; Decision To Extend the Deadline for Determining Whether To Review an Initial Determination Finding No Violation of Section 337 of the Tariff Act of 1930

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by 29 days, or until July 16, 1999, the deadline for determining whether to review an initial determination (ID) finding no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–3012. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission ordered the institution of this investigation on July 27, 1998, based on a complaint filed on behalf of Cirrus Logic, Inc., Fremont, California. 63 FR 40932 (1998). The presiding administrative law judge (ALJ) issued her final ID on April 30, 1999, concluding that there was no violation of section 337 of the Tariff Act of 1930 in the instant investigation. The previous deadline for deciding whether to review the ID was June 17, 1999.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42(h)(2) of the Commission's Rules of Practice and Procedure (19 CFR § 210.42(h)(2)).

Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000.

Issued: June 17,1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–16005 Filed 6–22–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 29, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. AA1921–115 (Review)(Synthetic Methionine from Japan)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on July 12, 1999.)
5. Outstanding action jackets: (1.) Document No. ID–99–010: Approval to begin work on the proposed final phase in the series in Inv. No. 332–237 (Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations, 1995–1998).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: June 21, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–16093 Filed 6–21–99; 2:03 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that a proposed consent decree in *United States* v. *Tucson Airport Authority, et al.,* Civil No. CIV–99–313–TUC–WDB, was lodged on June 17, 1999, with the United States District Court for the District of Arizona (''Airport Property Decree''). The proposed Airport Property Decree would resolve claims under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607, 9607, as amended, and Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, brought against defendants Tucson Airport Authority, the City of Tucson, General Dynamics Corporation and McDonnell Douglas Corporation (collectively ''Defendants''), to compel performance of response actions and to recover response costs incurred and to be incurred by the Environmental Protection Agency in connection with the release and threatened release of hazardous substances at a portion of the Tucson International Airport Area Superfund Site known as the Airport Property.

The proposed Airport Property Decree would resolve the liability of the Defendants with respect to the Airport Property. The proposed Airport Property Decree would release claims against the Defendants for performance of the remedy selected in the Record of Decision entitled ''Tucson International Airport Area Superfund Site, Tucson, Arizona, Airport Property Soils and Shallow Groundwater Zone, Burr-Brown Property Soils, Former West-Cap Property Soils'' signed by the Environmental Protection Agency on September 30, 1997. The proposed Airport Property Decree would also release claims for response costs incurred and to be incurred by the Environmental Protection Agency in responding to releases and threatened releases of hazardous substances at and from the Airport Property. To resolve these claims, the Defendants collectively would perform the remedy selected in the 1997 ROD, would pay $1,719,771.23 to the Hazardous Substances Superfund to reimburse the United States for Past Response Costs, and would reimburse the United States for all Interim and Future Response Costs.

The proposed Airport Property Decree includes a covenant not to sue by the United States under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9606 and 9607, and under Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973.

The United States also lodged on June 17, 1999, a proposed modification to a consent decree entered on June 5, 1991, in *United States* v. *Tucson Airport Authority, et al.,* D. Ariz., Civ. No. 90–587–TUC–RMB (''TARP Decree''). In return for a single, unallocated payment of $35 million to Tucson Airport

Authority, the United States Department of the Air Force would receive a covenant not to take administrative action from the United States Environmental Protection Agency under the proposed Airport Property Decree, and would effect Final Settlement under the TARP Decree. The proposed modification to the TARP Decree is lodged with the Court in order to allow the public to evaluate the Environmental Protection Agency's covenant not to take administrative action against the Department of the Air Force under the proposed Airport Property Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Airport Property Decree. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d). Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Tucson Airport Authority, et al.*, D. Ariz, Civil No. CIV–99–313–TUC–WDB, DOJ Ref. #90–11–3–369/2.

The Airport Property Decree and the modification to the TARP Decree may be examined at the office of the United States Attorney, District of Arizona, 110 S. Church Avenue, Suite 8310, Tucson, Arizona 85701; the Region 9 Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Airport Property Decree and modification to the TARP Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. In requesting copies please refer to the referenced case and enclose a check in the amount of $80.25 for the Airport Property Decree and $8.25 for the modification to the TARP Decree (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 99–16021 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jeffrey I. Goltz, M.D.; Revocation of Registration

On November 5, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Jeffrey I. Goltz, M.D., of Washington, DC, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AG2606599 pursuant to 21 U.S.C. 824(a)(3), for reason that he is not currently authorized to handle controlled substances in the District of Columbia. The order also notified Dr. Goltz that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause Was sent to Dr. Goltz by registered mail to his DEA registered address, but was returned to DEA with a notation that Dr. Goltz had moved without leaving a forwarding address. Copies of the Order to Show Cause were sent by regular mail to Dr. Goltz at a correctional facility in Maryland and to an attorney who had previously represented Dr. Goltz. Thereafter, a DEA investigator went to Dr. Goltz' registered address and learned that he no longer resided at that location.

No request for a hearing or any other reply was received by the DEA from Dr. Goltz or anyone purporting to represent him in this matter. The Deputy Administrator finds that DEA has made numerous attempts to serve Dr. Goltz with the Order to Show Cause without success. It is evident that Dr. Goltz is no longer practicing medicine at the address listed on his DEA Certificate of Registration. Dr. Goltz is therefore deemed to have waived his opportunity for a hearing. The Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that a letter in the investigative file dated March 5, 1998, from the District of Columbia Department of Consumer and Regulatory Affairs indicates that Dr. Goltz' District of Columbia controlled substances registration expired on July 30, 1996. Therefore, the Deputy Administrator finds that Dr. Goltz is not currently authorized to handle controlled substances in the District of Columbia, where he is registered with DEA.

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 state authority to handle controlled substances in the state in which he conducts his business. *See* 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 Dr. Goltz is not currently authorized to handle controlled substances in the District of Columbia. Therefore, Dr. Goltz is not entitled to a DEA registration there.

Accordingly, the 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 AG2606599, previously issued to Jeffrey I. Goltz, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective July 23, 1999.

Dated: June 14, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–15879 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

John Robert Harrison, M.D.; Revocation of Registration

On November 17, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John Robert Harrison, M.D., of Rhode Island, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AH6477942 under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of his registration pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Rhode Island. The order also notified Dr. Harrison that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by registered mail to Dr. Harrison's registered location in Rhode Island, and was returned to DEA. Another copy of

the Order to Show Cause was sent to Dr. Harrison at an address in Massachusetts. On November 24, 1998, DEA received a signed receipt for this Order to Show Cause. No request for a hearing or any other reply has been received by DEA from Dr. Harrison or anyone purporting to represent his in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Harrison is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) 1301.46.

The Deputy Administrator finds that Dr. Harrison currently possesses DEA Certificate of Registration AH6477942, issued to him in Rhode Island. In an Administrative Decision dated July 8, 1998, the Rhode Island Department of Health, Board of Medical Licensure and Discipline (Board) revoked Dr. Harrison's license to practice medicine. The Board concluded ''that (Dr. Harrison) is seriously impaired and incompetent to practice.''

The Deputy Administrator concludes that Dr. Harrison is not currently licensed to practice medicine in the State of Rhode Island and therefore, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state. 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 state authority to handle controlled substances in the state in which he conducts his business. *See* 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 Dr. Harrison is not currently authorized to handle controlled substances in the State of Rhode Island. As a result, Dr. Harrison is not entitled to a DEA registration in that state.

Accordingly, the 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 AH6477942, previously issued to John Robert Harrison, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective July 23, 1999.

Dated: June 14, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–15880 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; reinstatement, without change, of a previously approved collection for which approval has expired: Number of full-time law enforcement employees as of October 31.

The Department of Justice, Federal Bureau of Investigation has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 31, 1999 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until July 23,1 999. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Department of Justice Office of Management and Budget, Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 1725 17th Street, N.W., Washington, D.C. 20530.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Number of Full-Time Law Enforcement Employees as of October 31.

(3) *The agency form number, if any, and applicable component of the department sponsoring the collection:* Form 1–711a/1–711b/1–711c. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Local and State Law Enforcement Agencies. This collection is needed to collect information to determine the number of Civilian and sworn full-time law enforcement employees throughout the United States. Data are tabulated and published in the annual *Crime in the United States.*

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply:* 17,667 agencies with 17,667 responses (including zero reports); and with an average of 8 minutes a year per responding agency devoted to compilation of data for this information collection.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 2,356 hours annually.

If additional information is required contact: Mr. Robert B. Briggs. Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 99–15688 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; reinstatement, without change, of a previously approved

collection for which approval has expired: Law Enforcement Officers Killed and Assaulted (LEOKA).

The Department of Justice, Federal Bureau of Investigation has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 31, 1999 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until July 23, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Department of Justice Office of Management and Budget, Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 1725 17th Street, N.W., Washington, D.C. 20530.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Law Enforcement Officers Killed and Assaulted (LEOKA).

(3) *The agency from number, if any, and applicable component of the department sponsoring the collection:* Form: 1–705. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Local and State Law Enforcement Agencies. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is tabulated and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply:* 17,667 agencies with 212,004 estimated annual responses (includes zero reports); and with an average completion time of 7 minutes a month per responding agency.

(7) *An estimate of the total public burden (in hours) associated with this collection:* 24,734 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: June 16, 1999.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 99–15689 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; reinstatement, without change, of a previously approved collection for which approval has expired: Monthly Return of Arson Offenses Known to Law Enforcement.

The Department of Justice, Federal Bureau of Investigation has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 31, 1999 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until July 23, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Department of Justice Office of Management and Budget, Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 1725 17th Street, N.W., Washington, D.C. 20530.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Monthly Return of Arson Offenses Known to Law Enforcement.

(3) *The agency form number, if any, and applicable component of the department sponsoring the collection:* Form: 1–725. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Local and State Law Enforcement Agencies. This collection is needed to collect information on arson offenses committed throughout the United States. Data is tabulated and published in the annual *Crime in the United States.*

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply:* 17,667 agencies with 212,004 estimated annual responses (includes zero reports); and with an average completion time of 9 minutes a month per report.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 31,801 hours annually.

In additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: June 16, 1999.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 99–15690 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; reinstatement, without change, of a previously approved collection for which approval has expired; Analysis of law enforcement officers killed and assaulted.

The Department of Justice, Federal Bureau of Investigation has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 31, 1999 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until July 23, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Department of Justice Office of Management and Budget, Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 1725 17th Street, N.W., Washington, D.C. 20530.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Analysis of Law Enforcement published in the Comprehensive annual *Law Enforcement* Officers Killed and Assaulted.

(3) *The agency form number, if any, and applicable component of the department sponsoring the collection:* Form: 1–728. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Local and State Law Enforcement Agencies. Collection will be printed in English and Spanish. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is analyzed, tabulated, and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) *The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply:* 17,667 agencies with 570 estimated annual responses (zero reports are not required); and with an average of 1 hour per report per responding agency.

(7) *An estimate of the total public burden (in hours) associated with this collection:* 570 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, D.C. 20530.

Dated: June 16, 1999.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 99–15691 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review: Application to Replace Alien Registration Card.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 23, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application to Replace Alien Registration Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the*

collection: Form I–90. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collected will be used by the INS to determine eligibility for an initial Alien Registration Card, or to replace a previously issued card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 410,799 responses at 55 minutes (.916) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 376,292 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: June 17, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–15969 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; Notice of Naturalization Oath Ceremony.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 23, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. 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;

2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including 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.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of currently approved collection.

2. *Title of the Form/Collection:* Notice of Naturalization Oath Ceremony.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–445. Adjudications Division, Immigration and Naturalization Service.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information furnished on this form refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer to make and render an appropriate decision on the application.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 650,000 responses at 5 minutes (.083) per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 53,950 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: June 17, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–15970 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Employment eligibility verification.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. A notice containing this information collection was previously published in the **Federal Register** on February 9, 1999 at 64 FR 6380. The notice allowed for a 60-day public review and comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 23, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the

estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) 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;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Employment Eligibility Verification.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–9. Programs Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form was developed to facilitate compliance with Section 274A of the Immigration and Nationality Act (the Act), as amended by the Immigration Reform and Control Act of 1986 (IRCA), which prohibits the knowing employment of unauthorized aliens. The information collected is used by employers or by recruiters for enforcement of provisions of immigration laws that are designed to control the employment of unauthorized aliens.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 78,000,000 respondents at 9 minutes or (.15) hours per response and 20,000,000 record keepers at 4 minutes or (.066) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 13,020,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: June 18, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–15971 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1238]

RIN 1121–ZB72

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in Annapolis, Maryland, beginning at 2 p.m. (EST) on Thursday, July 8, 1999, and ending at 4 p.m. (EST) on July 8, 1999. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet at the Maryland Inn, located at 16 Church Circle, Annapolis, MD 21401. The Coordinating Council, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This meeting will be open to the public. Members of the public who are attending the meeting should RSVP to the Juvenile Justice Resource Center by close of business June 29, 1999.

The point of contact is Jan Shaffer, who can be reached at (301) 519–5014. For security purposes, picture identification will be required.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–16034 Filed 6–22–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 17, 1999.

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, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, 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: Employment Standards Administration.

Title: Claim for Continuance of Pay/Compensation (CA–2a).

OMB Number: 1215–0167.

Frequency: As needed.

Affected Public: Individuals or households.

Number of Respondents: 550.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 275.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $198.

Description: The CA–2a is a form used by current or occasionally former Federal employees to claim wage loss resulting from a recurrence of a work-related injury while Federally employed.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 99–15951 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 16, 1999.

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, Ira Mills ({202} 219–5096 ext. 143) or E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, 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: Employment Standards Administration.

Title: Regulations, 29 CFR Part 825, the Family and Medical Leave Act of 1993.

OMB Number: 1215–0181.

Frequency: Recordkeeping, Reporting on occasion.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; State, Local or Tribal government.

Number of Respondents: 3.9 million.

Estimated Time Per Respondent: 1 minute to 10 minutes.

Total Burden Hours: 645,625.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Family and Medical Leave Act of 1993 (FMLA) requires private sector employers of 50 or more employees, and public agencies, to provide up to 12 weeks of unpaid, job-protected leave to ''eligible'' employees for certain family and medical reasons. Records are required to be kept so that the Department of Labor can determine employer compliance with FMLA.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–15952 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission of OMB Review; Comment Request

June 15, 1999.

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, Ira Mills ({202} 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, 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: Hours at Work Survey.

OMB Number: 1220–0076.

Frequency: Annually.

Affected Public: Business or other for-profit.

Form	Total number of respondents	Frequency	Total annual responses	Average time per response	Estimated total annual burden hours
BLS 2000N	2,500	Annually	2,500	1 hour	2,500
BLS 2000P	3,500	Annually	3,500	1 hour	3,500
RAS	1,000		1,000	15 min	250
TOTAL	6,000		7,000		6,250

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: Ratios of hours at work to hours paid are needed to measure labor input for productivity statistics. Ratios from this survey are used to convert hours paid data from the Current Employment Statistics Program to hours at work. The resulting hours at work measures are then incorporated into the Bureau's labor and multifactor productivity statistics published annually and quarterly. The collection of information on hours at work began in 1982 and must be done annually because of the cyclical sensitivity of productivity measures.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–15953 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,449A]

ARCO, dba ARCO Exploration and Production Technology (AEPT) Plano, Texas; Negative Determination on Reconsideration

On April 21, 1999, the Department issued an Affirmative Determination Regulatory Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on May 6, 1999 (66 FR 24417).

The Department initially denied TAA to workers of ARCO Exploration and Production Technology because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. Initial information indicated that the workers were engaged in exploration related to serving foreign markets. The workers at the subject firm were engaged in employment related to the research related to exploration of crude oil and natural gas.

The company asserted that the workers were involved in both the domestic and foreign markets and provided additional information which warranted reconsideration of the Department's previous denial.

On reconsideration, the Department requested that the subject firm provide additional information about the work being conducted at the subject facility. Additional information revealed that the workers at the subject facility were providing research and technical services in the areas of exploration, reservoir engineering, drilling, production, safety. The Plano facility is the main research, development, and technical service center as well as computing resource for ARCO's upstream operations. Most of the work done by the workers at AEPT is done at the Plano campus. AEPT provides a supporting role in domestic oil and natural gas exploration. Since the work is primarily done at the Plano campus, and not at the well site, the work is considered a service to the parent company and its subsidiaries and not an activity directly engaged in the exploration of crude oil and natural gas.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for the workers and former workers of ARCO Exploration and Production Technology, Plano, Texas.

Signed at Washington, D.C., this 4th day of June 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15955 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,899]

Consolidated Coal Company Humphrey #7 Mine Osage, West Virginia; Affirmative Determination Regarding Application for Reconsideration

By letter of May 25, 1999, the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to petition number TA–W–35,899. The denial notice was signed on May 7, 1999 and published in the **Federal Register** on June 3, 1999 (64 FR 29888).

The petitioner provided additional information about imports of coal which should have been considered by the Department in its survey of customers.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted. Signed at Washington, D.C. this 8th day of June 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15956 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,276]

Dawson Production, Midland, Texas; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at

Dawson Production, Midland, Texas. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,276; Dawson Production, Midland, Texas (June 14, 1999)

Signed at Washington, D.C. this 14th day of June, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15946 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,480]

Florida Coast Paper Company, L.L.C. Port Saint Joe, Fl; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Florida Coast Paper Company, L.L.C., Port Saint Joe, Florida. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,480; Florida Coast Paper Co., L.L.C., Port Saint Joe, Florida (June 14, 1999)

Signed at Washington, DC this 11th day of June, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15954 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 1999.

The petitions filed in this case are available for inspection at the office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of May, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 05/10/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,171	Gerber Childrenswear (Wkrs)	Ballinger, TX	04/26/1999	Babies Blanket Sleepers.
36,172	Pennant Etc (Wkrs)	Long Island, NY	04/26/1999	Underwear, Lingerie.
36,173	Young Morgan Lumber (Co.)	Lyons, OR	04/29/1999	Lumber.
36,174	Cranston Print Works (Wkrs)	Providence, RI	04/15/1999	Engraved Screens for Textile Printing.
36,175	Frog, Switch & Mfg. (USWA)	Carlisle, PA	04/15/1999	Maganese Steel Crusher Parts.
36,176	Phoenix Production (Co.)	Cody, WY	04/12/1999	Crude Oil.
36,177	Lansdale Manufacturing (Wkrs)	Montgomeryville, PA	04/14/1999	Ladies' Apparel.
36,178	Alcoa Memory Products (Wkrs)	Sidney, OH	04/15/1999	Aluminum Disk Blanks.
36,179	Wilcox Forging Corp (USWA)	Mechanicsburg, PA	04/14/1999	Die Commerical Forgings.
36,180	Aromat Corporation (Co.)	San Jose, CA	04/12/1999	Electronic Relays.
36,181	Lighthouse Electric Ltd. (Co.)	Middlesex, NC	04/23/1999	Telecommunications Equipment.
36,182	Jackes Evans (Wkrs)	St. Louis, MO	04/22/1999	Stovepipes.
36,183	Oxford Automotive (Co.)	Hamilton, IN	04/21/1999	Leaf Springs for Autos.
36,184	LM and Sons, Inc. (Wkrs)	Vineland, NJ	04/22/1999	Ladies' Jackets.
36,185	AZT Sewing Co. (Wkrs)	Commerce, CA	04/21/1999	Jeans, Jackets.
36,186	International Electronic (Wkrs)	Burbank, CA	04/23/1999	Electronics.
36,187	Fluor Daniel (Co.)	Sugar Land, TX	04/16/1999	Hydrocarbons.
36,188	Preferred Foundations (UNITE)	Freeport, TX	04/28/1999	Intimate Apparel.
36,189	Gary Williams Energy (Wkrs)	Roosevelt, UT	04/23/1999	Natural Gas Liquid.
36,190	Cole Haan Manufacturing (Co.)	Livermore Falls, ME	04/27/1999	Leather Shoes.
36,191	Greene Metal Products (Wkrs)	Sturtevant, WI	04/16/1999	Gas Grill Burner, Tubes.
36,192	Nextrom, Inc (Wkrs)	Perth Amboy, NJ	04/23/1999	Wire Drawing Machines & Spare Parts.
36,193	Andin International (Wkrs)	New York, NY	04/22/1999	Jewelry.
36,194	Barko Hydraulics, LLC (IBB)	Superior, WI	04/20/1999	Log Handling Equipment.
36,195	Jahmpasa USA (Wkrs)	Vass, NC	04/26/1999	Shirts.
36,196	Biological Abstracts (Wkrs)	Philadelphia, PA	04/25/1999	Printed Reference Publications.
36,197	Copper Industries, Inc (IUE)	Elizabethtown, KY	04/13/1999	Circuit Protection Products (Fuses).
36,198	William Carter Co (Wkrs)	Senatobia, MS	04/26/1999	Infants and Children's Apparel.

APPENDIX—Continued

[Petitions instituted on 05/10/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,199	Key Tronic Southwest (Co.)	El Paso, TX	04/26/1999	Computer Keyboards.
36,200	AMG Resources Corp. (Wkrs)	Philadelphia, PA	04/23/1999	Detined Steel Bundles.
36,201	Lighting Resources Int'l (Wkrs)	Bellevue, OH	04/28/1999	Equipment for Making Lamps.
36,202	Thunderbird Mining (USWA)	Eveleth, MN	04/22/1999	Taconite Pellets.
36,203	Apollo Tanning Ltd (Co.)	Camden, ME	04/30/1999	Leather Tanners.
36,204	Madeira Twin Fashion (UNITE)	New Bedford, MA	04/20/1999	Ladies' Winter Coats.
36,205	Dante Fashions (UNITE)	Jeanette, PA	04/26/1999	Ladies' Sportswear.
36,206	Hamilton Beach Proctor (Co.)	Southern Pines, NC	04/27/1999	Soleplate and Heating Elements.
36,207	Tarkett, Inc (PACE)	Whitehall, PA	04/29/1999	Vinyl Flooring.
36,208	QDS Components (Wkrs)	Winchester, TN	04/23/1999	Hubs, Spindles and Industrial Wheels.
36,209	Acorn Products (Co.)	Hampden, ME	05/03/1999	Footwear.
36,210	Flying J. Oil and Gas (Wkrs)	Sidney, MT	04/08/1999	Crude Oil and Natural Gas.
36,211	Aquila Gas Pipeline (Co.)	San Antonio, TX	04/21/1999	Gas Pipeline Transmission.
36,212	Weatherford International (Co.)	Longview, TX	04/09/1999	Seismic Data Analysis.
36,213	Veritas Geosciences (Wkrs)	Midland, TX	04/12/1999	Process Exploration Data.
36,214	Union Drilling (Wkrs)	Roosevelt, UT	04/08/1999	Oil.
36,215	Circle C Tool & Wireline (Co.)	Snyder, TX	04/01/1999	Service Oilwells.
36,216	Key Four Corners (Wkrs)	Roosevelt, UT	04/08/1999	Drilling, Completions for Gas Industry.
36,217	Fairweather E and P (Co.)	Anchorage, AK	04/06/1999	Oil Drilling.
36,218	Trans Texas Gas (Wkrs)	Laredo, TX	04/21/1999	Oil and Gas.
36,219	Matador Petroleum (Wkrs)	Dallas, TX	04/02/1999	Exploration of Oil and Gas.
36,220	Forcenergy, Inc (Co.)	Miami, FL	04/01/1999	Exploration of Oil and Gas.
36,221	Don Nan Machine (Wkrs)	Midland, TX	04/23/1999	Oilfield Products.
36,222	Fairfield Industries (Co.)	Sugar Land, TX	04/27/1999	Digital Telemetry Systems.
36,223	Hydrolex, Inc (Wkrs)	Longview, TX	04/02/1999	Pressure Control Equipment.
36,224	Starke Uniform Mfg. (Wkrs)	Starke, FL	04/21/1999	Employee Uniforms.
36,225	Glenn Enterprises (Co.)	Reform, AL	05/03/1999	Men's and Boys' Pants and Shorts.
36,226	Seagull Energy (Co.)	Houston, TX	04/08/1999	Oil and Gas.

[FR Doc. 99–15948 Filed 6–22–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 6, 1999.

Interested persons are invited to submit written comments regrading the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 6, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, DC this 17th day of May, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 05/17/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,227	R and M Energy Systems (Wrks)	Borger, TX	04–22–1999	Oilfield Equipment.
36,228	Buster Brown Apparel (Comp)	Lebanon, VA	05–04–1999	Children's Apparel.
36,229	Neomet Corp (Comp)	Edinburg, PA	04–07–1999	Magnets.
36,230	Johansen Brothers Shoe (Wrks)	Harrisburg, AR	04–30–1999	Shoes.
36,231	BASF Corp (UFCW)	Rensselaer, NY	04–30–1999	Chemicals.
36,232	Total Safety, Inc (Wrks)	Watford City, ND	04–28–1999	Rental of Safety Prod. to Oil Industry.
36,233	ADC Solitra (Wrks)	Hutchinson, MN	04–23–1999	RF Filters.
36,234	Northrop Grumman Corp (UAW)	Dallas, TX	04–29–1999	Stop Fittings.

APPENDIX—Continued

[Petitions instituted on 05/17/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,235	Horner Flooring Co., Inc (Comp)	Dollar May, MI	04–19–1999	Hardwood Flooring.
36,236	Yopp & Co., Inc (Wrks)	Florence, SC	04–22–1999	Infants Apparel.
36,237	Actown Electrocoil (Wrks)	Spring Grove, IL	05–03–1999	Transformers.
36,238	H.L. Miller & Son, Inc (Comp)	Iola, KS	05–03–1999	Ladies' Apparel.
36,239	NewsSouth Apparel, LLC (Comp)	Brewton, AL	04–28–1999	Ladies' Blouses, Tops.
36,240	Consolidated papers, Inc (Comp)	Niagara, WI	04–29–1999	Coated Groundwood Printing Papers.
36,241	Holston Defense Corp (Wrks)	Kingsport, TN	04–23–1999	Explosives.
36,242	Radan CIM, Inc (Comp)	Malvern, PA	04–29–1999	Sales and Service of Software.
36,243	Levi Strauss and Co (Comp)	Morrilton, AR	05–10–1999	Jeans.
36,244	White Knight Healthcare (Wrks)	Douglas, AZ	05–07–1999	Surgeon Gowns and Drapes.
36,245	Clariant Corp (Comp)	Coventry, RI	05–10–1999	Textile Dyes and Pigments.
36,246	Wheaton, Inc (GMP)	Millville, NJ	04–27–1999	Glass Containers.
36,247	Softspun Knitting Mills (Comp)	Henderson, NC	05–02–1999	Men's Ladies'; and Childrens' Hosiery.
36,248	Armenian American Explor. (Comp)	Rancho Santa Fe, CA	04–29–1999	Oil Exploration.
36,249	Coastal Oil and Gas Corp (Wrks)	Houston, TX	04–20–1999	Oil and Gas.
36,250	ASCG Inspection, Inc (Wrks)	Anchorage, AK	04–09–1999	Oil and Gas.
36,251	Gary Drilling Co., Inc (Comp)	Bakersfield, CA	04–19–1999	Oil/Gas Drilling.
36,252	Fina Oiland Chemical Co (Comp)	Midland, TX	04–23–1999	Oil and Gas.
36,253	Venture Petroleum Inc (Wrks)	Noble, IL	04–19–1999	Oil.
36,254	Riggs Petroleum Co (Wrks)	Graham, TX	04–27–1999	Crude Oil.

[FR Doc. 99–15947 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,385]

Rainbow Piece Dye, Fair Lawn, NJ; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Rainbow Piece Dye, Fair Lawn, New Jersey. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,385; Rainbow Piece Dye, Fair Lawn, New Jersey (June 14, 1999).

Signed at Washington, D.C. this 14th day of June, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15949 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,853]

Titan Oil, Incorporated, Baker, MT; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 15, 1999 in response to a worker petition which was filed on behalf of former workers at Titan Oil, Incorporated, located in Baker, Montana (TA–W–35, 853).

The Department of Labor has not been able to collect the necessary data and information from the company official of the subject firm to render a trade adjustment assistance determination. Consequently, the Department of Labor cannot conduct an investigation to make a determination as to whether the workers are eligible for adjustment assistance benefits under the Trade Act of 1974. Therefore, further investigation in this matter would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 4th day of June, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15945 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02667; NAFTA–02667A]

Russell Corp., Marianna, Florida and Jerzees Activewear, Niceville, Florida; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 as amended (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 24, 1998, applicable to all workers at Russell Corp., Marianna, Florida. The notice was published in the **Federal Register** on December 16, 1998 (63 FR 69314).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of men's and women's activewear (T-shirts, plackets, headwear and fleece). Findings show that Jerzees Activewear, Niceville, Florida is a division of Russell Corp. The workers are engaged in the production of knitted T-shirts and sweatwear. The company reports that worker separations will occur at Jerzees Activewear when it closes in July, 1999.

Accordingly, the Department is amending the certification to cover the workers of Jerzees Activewear, Niceville, Florida.

The intent of the Department's certification is to include all workers of

Russell Corp. adversely affected by increased imports from Mexico.

The amended notice applicable to NAFTA–02667 is hereby issued as follows:

All workers of Russell Corp., Marianna, Florida (NAFTA–02667) and Jerzees Activewear, Niceville, Florida (NAFTA–02667A) who became totally or partially separated from employment on or after September 8, 1997 through November 24, 2000 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of June, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–15950 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–4]

Process Safety Management of Highly Hazardous Chemicals; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed reduction, and extension of the information collection requirements contained in the standard on Process Safety Management of Highly Hazardous Chemicals (29 CFR 1910.119).

The Agency is particularly interested in comments on the following:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Written comments must be submitted on or before August 23, 1999.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–99–4, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2350. Written comments 10 pages or less in length may also be transmitted by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2222. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in the Process Safety Management (PSM) standard is available for inspection and copying in the Docket Office, or will be mailed on request by telephoning Theda Kenney at (202) 693–2222 or Barbara Bielaski at (202) 693–2444. For electronic copies of the ICR on PSM, contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION: .

1. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and impact of information collection requirements on respondents can be properly assessed.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. (29 U.S.C. 657.) In this regard, the information collection requirements in the Process Safety Management of Highly Hazardous Chemicals Standard (29 CFR 1910.119) prevent or minimize the consequences of accidents involving highly hazardous chemicals.

II. Proposed Actions

OSHA proposes to reduce its earlier estimates of the burden hours for the Process Safety Management Standard from 93,407,489 to 73,111,180 hours. The burden reduction resulted when the Agency reestimated the number of plants and processes that were in compliance with the standard before it was promulgated. Under ORA–95, the burden for activities that are a normal and customary business practice are not counted when calculating the burden associated with information collection requirements. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the PSM standard.

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Process Safety Management of Highly Hazardous Chemicals (29 CFR 1910.119).

OMB Number: 1218–0200.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 192,865.

Frequency: Varies (on occasion, annually).

Average Time per Response: Varies from 5 minutes (.08 hr.) to 146.5 hours.

Estimated Total Burden Hours: 73,711,180.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 11.

Signed at Washington, DC, this 24th day of May 1999.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 99–15957 Filed 6–22–99; 8:45 am]

BILLING CODE 4510–23–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

June 16, 1999.

Federal Register Citation of Previous Announcements, Vol. 64, No. 89, at 31,020, June 9, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Friday, June 11, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW, Washington, DC.

STATUS: Open.

CHANGES IN MEETING: The Commission meeting to consider the location and terms of oral argument in *Morgan* v. *Arch of Illinois,* Docket No. LAKE 98–17–D, was canceled.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Thursday, June 17, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW, Washington, DC.

STATUS: Open.

CHANGES IN MEETING: The Commission postponed until 9:30 a.m., Wednesday, June 23, 1999, the meeting to consider and act upon the following:

1. *Secretary of Labor on behalf of Baier* v. *Durango Gravel,* Docket No. WEST 97–96–DM (Issues include whether substantial evidence supports the judge's determination that Durango Gravel's termination of the complainant violated section 105(c) of the Mine Act.)

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 99–16092 Filed 6–21–99; 1:57 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–090]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: Available for licensing on or after June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; telephone (757) 864–9260, fax (757) 864–9190.

NASA Case No. LAR–15543–1: Phenylethynyl Containing Reactive Additives;

NASA Case No. LAR–15818–1: Optical Path Switching Based Differential Absorption Radiometry for Substance Detection;

NASA Case No. LAR–15544–1: High Performance/High Temperature Transfer Molding Resins;

NASA Case No. LAR–15492–2: A Method of Making Carbon-Carbon Piston Architectures (Div of-1);

NASA Case No. LAR–15971–1: Three Dimensional Object Tracking System and Method Employing Plural Sensors and Plural Processors for Performing Parallel Processing (CIP of 15289–2);

NASA Case No. LAR–15604–1–CU: Thin-Film Thermal Conductivity Meter;

NASA Case No. LAR–15968–1: A Novel Shape Parameterization Approach;

NASA Case No. LAR–15834–1: High Performance/High Temperature Resins for Infusion and Transfer Molding Processes;

NASA Case No. LAR–15767–1: Polyimide Foam from Monomeric Solutions;

NASA Case No. LAR–15831–1: Hollow Polyimide Microspheres;

NASA Case No. LAR–15645–1–CU: Modulated Ft-Ramen Fiber Optic Spectroscopy for Thermal Discrimination in Real-Time High Temp Chemical Reactions;

NASA Case No. LAR–15977–1: Polyimide Foam from Monomeric Solutions;

NASA Case No. LAR–15498–2: Carbon Fiber Reinforced Carbon Composite Rotary Valves for Internal Combustion Engines (Div of-1);

NASA Case No. LAR–15498–3: Carbon Fiber Reinforced Carbon Composite Rotary Valves for Internal Combustion Engines (Div of-1);

NASA Case No. LAR–15498–4: Carbon Fiber Reinforced Carbon Composite Rotary Valves for Internal Combustion Engines (Div of-1);

NASA Case No. LAR–15962–1–CU: Poly(Arylether Ketones) Bearing Alkylated Side Chains.

Dated: June 15, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–15873 Filed 6–22–99; 8:45 am]

BILLING CODE 7510–01–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 Panel, Theater/Musical Theater Section (Creation & Presentation (A) category) to the National Council on the Arts will be held on July 12–16, 1999 in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506. The panel will meet from 9:30 a.m. to 7 p.m. on July 12th–14th, from 9:30 a.m. to 5:30 p.m. on July 15th, and from 9:30 a.m. to 5 p.m. on July 16th. A portion of this meeting, from 3:30 p.m. to 5:30 p.m. on July 15th, will be open to the public for policy discussion.

The remaining portions of this meeting, from 9:30 a.m. to 7 p.m. on July 12th–14th, from 9:30 a.m. to 3:30 p.m. on July 15th, and from 9:30 a.m. to 5 p.m. on July 16th, 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 12, 1999, these session will be closed to the public pursuant to (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: June 7, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–15905 Filed 6–22–99; 8:45 am]

BILLING CODE 7537–01–M

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 Panel, Literature Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on July 19–21, 1999 in Room 708 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. Panel A will meet from 9 a.m. to 7 p.m. on July 19th–20th, and from 9 a.m. to 1 p.m. on July 21st, and Panel B will meet from 2:30 p.m. to 4:30 p.m. on July 21st. A portion of this meeting, from 9a.m. to 11 a.m. on July 21st, will be open to the public for policy discussion.

The remaining portions of these meeting from 9 a.m. to 7 p.m. on July 19th and 20th, and from 11 a.m. to 1 p.m. (Panel A), and 2:30 p.m. to 4:30 p.m. (Panel B), on July 21st, 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 12, 1999, these sessions will be closed to the public pursuant to (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 Accessibility, 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: June 7, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–15906 Filed 6–22–99; 8:45 am]

BILLING CODE 7537–01–M

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 meetings of the Combined Arts Panel, Theater Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on July 26–30, 1999 in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. The panel will meet from 9:30 a.m. to 7 p.m. on July 26th–29th and from 9:30 a.m. to 5 p.m. on July 30th. A portion of this meeting, from 3:00 p.m. to 5 p.m. on July 30th, will be open to the public for policy discussions.

The remaining portions of this meeting, from 9:30 a.m. to 7 p.m. on July 26th–29th and from 9:30 a.m. to 3 p.m. on July 30th, 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 applications. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed to the public pursuant to (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: June 17, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–15907 Filed 6–22–99; 8:45 am]

BILLING CODE 7537–01–N

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 meetings of the Combined Arts Panel, Multidisciplinary Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on July 27–28, 1999 and July 30, 1999, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. The panel reviewing the Creation & Presentation category will meet from 9 a.m. to 5:30 p.m. on July 27th, and from 9 a.m. to 4:30 p.m. on July 28th, and the panel reviewing the Planning & Stabilization category will meet from 9 a.m. to 5 p.m. on July 30th. A portion of each meeting, from 3:30 p.m. to 4:30 p.m. on July 28th, and from 2:30 p.m. to 3:30 p.m. on July 30th, will be open to the public for policy discussions.

The remaining portions of these meeting, from 9 a.m. to 5:30 p.m. on July 27th, from 9 a.m. to 3:30 p.m. on July 28th, and from 9 a.m. to 2:30 p.m. and 3:30 p.m. to 5 p.m. on July 30th, are for the purposes 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 12, 1999, these sessions will be closed to the public pursuant to (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, N.W., 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: June 16, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–15908 Filed 6–22–99; 8:45 am]

BILLING CODE 7537–01–M

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 meetings of the Combined Arts Panel, Presenting Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on July 29, 1999. The panel will meet from 8:30 a.m. to 6 p.m. in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506. A portion of this meeting, from 4:30 p.m. to 5 p.m., will be open to the public for policy discussions.

The remaining portions of this meeting, from 8:30 a.m. to 4:30 p.m. and from 5 p.m. to 6 p.m., 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 12, 1999, these sessions will be closed to the public pursuant to (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: June 16, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–15909 Filed 6–22–99; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Company, et al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Energy Company, et al. (the licensee) to withdraw its August 23 and November 3, 1995, applications for proposed amendments to Facility Operating License No. DPR–65 for the Millstone Nuclear Power Station, Unit No. 2, located in Waterford, Connecticut.

The proposed amendments would have revised the facility Technical Specifications to allow outage time extensions for the Emergency Diesel Generators and the Low Safety Injection System.

The Commission had previously issued for each application a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 13, 1995, and March 27, 1996 (60 FR 47620 and 61 FR 13529). However, by letter dated May 14, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the applications for amendments dated August 23 and November 3, 1995, and the licensee's letter dated May 14, 1999, which withdrew the applications for license amendments. The above documents 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 room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Public Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 15th day of June 1999.

For the Nuclear Regulatory Commission.

Ronald B. Eaton, Sr.,

Project Manager, Section 2 Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–15960 Filed 6–22–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Evidence for Application of Overall Minimum.

(2) *Form(s) submitted:* G–319,G–320.

(3) *OMB Number:* 3220–0083.

(4) *Expiration date of current OMB clearance:* 08/31/1999.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 290.

(8) *Total annual responses:* 290.

(9) *Total annual reporting hours:* 121.

(10) *Collection description:* Under section 3(f)3 of the Railroad Retirement Act, the total monthly benefits payable to a railroad employee and his family are guaranteed to be no less than the amount which be payable if the employee's railroad service had been covered by the Social Security Act.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–15886 Filed 6–22–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Rule 17a–19 and Form X–17A–19, SEC File No. 270–148, OMB Control No. 3235–0133

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–19 requires National Securities Exchanges and Registered National Securities Associations to file a Form X–17A–19 with the Commission within 5 days of the initiation, suspension or termination of a member in order to notify the Commission that a change in designated examining authority may be necessary.

It is anticipated that approximately eight National Securities Exchanges and Registered National Securities Associations collectively will make 3,000 total annual filings pursuant to Rule 17a–19 and that each filing will take approximately 15 minutes. The total burden is estimated to be approximately 750 total annual hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: June 16, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–15910 Filed 6–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23873; 812–11520]

Salomon Brothers Series Funds Inc., et al.; Notice of Application

June 17, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application 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 THE APPLICATION: Applicants request an order to permit Salomon Brothers Small Cap Growth Fund, series of Salomon Brothers Series Funds Inc., to acquire all of the assets and liabilities of the Smith Barney Special Equities Fund, a series of Smith Barney Investment Funds Inc. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: Salomon Brothers Series Funds Inc. (''Salomon Brothers Fund''), Smith Barney Investment Funds Inc. (''Smith Barney Fund''), Salomon Brothers Asset Management Inc (''SBAM''), and SSBC Fund Management Inc. (''SSBC,'' together with SBAM, the ''Advisers'').

FILING DATES: The application was filed on February 16, 1999. Applicants have agreed to file and amendment to the application 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 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 July 8, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Scretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 7 World Trade Center, 38th Floor, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, (202) 942–0634, or Michael W. Mundt, 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 from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington DC 20549–0102 (telephone (202) 942–8090).

Applicant's Representations

1. Salomon Brothers Fund, a Maryland corporation, is registered under the Act as an open-end management investment company and is currently comprised of multiple series, including Salomon Brothers Small Cap Growth Fund (the ''Acquiring Fund''). Smith Barney Fund, a Maryland corporation, is registered under the Act as an open-end management investment company. Smith Barney Special Equities Fund (the ''Acquired Fund,'' together with the Acquiring Fund, the ''Funds'') is a series of the Smith Barney Fund.

2. SBAM is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is the investment adviser to the Acquiring Fund. SBAM is wholly-owned by Salomon Brothers Holding Company (''SBHC''), which is wholly-owned by Salomon Smith Barney Holdings Inc. (''Holdings''). As of April 23, 1999, SBHC owned approximately 31.6% of the outstanding shares of the Acquiring Fund. SSBC is registered under the Advisers Act and is the investment adviser to the Acquired Fund. SSBC is wholly-owned by Holdings.

3. On January 7, 1999, and January 11, 1999, the boards of directors of Salomon Brothers Fund and Smith Barney Fund (''Boards''), including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), respectively, approved a Plan of Reorganization (''Plan''). Under the Plan, on the closing date as defined in the Plan (''Closing Date''), the Acquiring Fund will acquire all of the assets and liabilities of the acquired Fund in exchange for shares in the Acquiring Fund (''the Reorganization''). Following the Reorganization, each Acquired Fund shareholder will receive shares of a corresponding class of the Acquiring Fund that have an aggregate net asset value (''NAV'') equal to the aggregate

NAV of the Acquired Fund's shares held by that shareholder on the Closing Date. Applicants anticipate that the Closing Date will be on or around July 9, 1999.

4. Applicants state that the investment objectives and policies of the Acquiring and Acquired Funds are generally similar. In addition, applicants state that the characteristics of there respective classes of the Acquiring Fund are substantially the same as those of the corresponding classes of the Acquired Fund. The Acquiring Fund offers Class A shares, Class B shares, Class 2 shares, and Class O shares. The Acquired Fund offers Class A shares, Class B shares, Class L shares, and Class Y shares. The Acquired Fund currently has no Class Y shareholders. Class A, Class B, and Class L shareholders of the Acquired Fund will receive Class A, Class B, and Class 2 shares, respectively, of the Acquiring Fund. Class A shares of the Acquiring and Acquired Fund are generally subject to a maximum front-end sales charge of 5.75% and 5.00%, respectively. Class B shares of the Acquiring Fund are subject to a maximum contingent deferred sales charge (''CDSC'') of 5.00%, declining to zero seven years after purchase. Class B shares of the Acquired Fund are subject to a maximum DCSC of 5.00%, declining to zero five years after purchase. Class B shares of the Acquiring Fund received in exchange for Class B shares of the Acquired Fund as a result of the Reorganization will continue to be subject to the DCSC schedule in effect for the Acquired Fund at the time of purchase. Class 2 shares of the Acquiring Fund and Class L shares of the Acquired Fund are sold with a front-end sales charge of 1.00% and are subject to a CDSC if redeemed within one year of purchase. For purposes of calculating the CDSC, shareholders of the Acquired Fund will be deemed to have held shares of the corresponding class of the Acquiring Fund since the date the shareholders initially purchased the shares of the Acquired Fund. No sales charge will be imposed in connection with the Reorganization.

5. The Boards, including all of the independent Directors, determined, after considering relevant factors, that the Reorganization is in the best interests of the Acquired Fund's and Acquiring Fund's shareholders, and that the interests of the existing shareholders would not be diluted by the Reorganization. In approving the Plan, the Bonds considered factors including (a) the benefits of managing the Funds as a single Fund; (b) the tax free-nature of the Reorganization; (c) increased operational efficiencies; (d) shareholder expenses after the Reorganization; and (e) the potential benefits to Fund affiliates, including SSBC and SBAM. SBAM will be responsible for expenses incurred in connection with the Reorganization.

6. The Reorganization is subject to a number of conditions precedent, including that: (a) The Acquiring and Acquired Funds receive opinions of counsel that the Reorganization will be tax-free for each Fund and its shareholders; (b) the Acquired Fund's shareholders approve the Plan; and (c) applicants receive from the SEC an exemption from section 17(a) of the Act for the Reorganization. The Plan may be terminated by mutual agreement of the parties at any time prior to the Closing Date. In addition, either party may terminate the Plan if (a) the other party materially breaches a representation, warranty, or agreement contained in the Plan or (b) a condition precedent to the terminating party's obligations cannot be met.

7. Definitive proxy solicitation materials have been filed with the SEC and were mailed to the Acquired Fund's shareholders on April 12, 1999. A special meeting of the Acquired Fund's shareholders was held on May 28, 1999, and the Plan was approved.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''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 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.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganization because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that the Acquiring Fund may be deemed to be an affiliated person of SBHC because SBHC owns more than 25% of the outstanding voting securities of the Acquiring Fund. Additionally, SBAM and SBHC are under the common ownership and control of Holdings. because of this ownership, the Acquiring Fund may be deemed an ''affiliated person of an affiliated person'' of the Acquired Fund.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that 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, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization. Applicants believe that the terms of the Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the Reorganization will be based on the relative NAVs of the Acquiring and Acquired Funds' shares. Further, applicants state that the Funds have similar investment objectives and policies. Finally, applicants state that the Boards, including all of the Independent Directors, determined that the Reorganization is in the best interests of each Fund and that the interests of the shareholders of the Funds will not be diluted.

For the SEC, by the Division of Investment Management, under designed authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–15966 Filed 6–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41527; File No. SR–Amex–99–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Development of a New Equity Market Structure

June 15, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 16, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commisson'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. Amex filed an amendment to the proposed rule change on May 24, 1999.[3] 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 text of the proposed rule change is available at the Office of the Secretary, the Amex and 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 self-regulatory organization 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 self-regulatory organization 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.

[3] *See* Letter from William Floyd-Jones, Assistant General Counsel, Legal and Regulatory Policy, Amex, to Michael Walinskas, Associate Director, Division of Market Regulation, Commission, dated May 21, 1999 (''Amendment No. 1''). Amendment No. 1 replaces and supersedes the original filing.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Introduction

The Exchange intends to implement a program to change and make its equity market operation more competitive (the ''New Equity Market Structure''). A key element of the program is the development of a new electronic order book for equities incorporating automatic execution for electronically delivered orders and transparency of the book up to two minimum trading increments (''ticks'') away from the Amex bid and offer. In order to integrate traditional auction market processes with automatic execution of electronically delivered orders, the Exchange will amend it rules to specify that bids and offers in the trading crown must be incorporated in the Amex published quote to be eligible to interact with marketable electronic orders, and that a bid or offer in the quote is not deemed to be accepted by a member on the floor until the specialist enters the acceptance into the book.

To reduce the cost of doing business on the Amex, the Exchange intends to prohibit specialists from charging a commission for executing orders delivered electronically from off the floor for securities traded under the New Equity Market Structure. The Amex will waive a portion of its fees imposed on specialists and will share its revenue with specialists to effectively offset the specialists' loss of floors brokerage with respect to orders delivered electronically from off the floor for securities traded under the New Equity Market Structure. In addition, the Exchange proposes to eliminate the stabilization requirements of Commentaries, .01, .02, and .07 to Rule 170 and expand the parameters of the ''2, 1, ½ point Rule'' (Rule 154, Commentary .08) to permit specialists to respond to the needs of the fast moving, modern market without unnecessary restrictions.

New Electronic Order Book for Equities

Look at the Book

Specialists will continue to see the entire limit order book at they currently do. In addition, the Exchange will provide trading crowds, booths on the trading floor, and upstairs members with information regarding limit orders on the book up to two ticks away from the Amex displayed quote. Thus, limit order book information for a security that trades in minimum increments of 1/16 will be available for up to 12.5 cents away from the Amex best bid and offer. While limit order book information currently is available to floor brokers on an inquiry basis,[4] the proposed look at the book will make this information available systematically.

For example, assume the Amex quoted market for a stock is 20 to 20⅛, 5,000 by 5,000, and there are limit orders on the book to buy 2,000 shares at 19 5/16, buy 1,000 at 19⅞ and buy 1,000 at 19 13/16. In this example, the look at the book would include the orders to buy 2,000 by 19 15/16 and 1,000 at 19⅞. No limit order information would be disseminated if the order on the book closest to the Amex bid were the order to buy 1,000 at 19 13/16. For any securities that trade in increments smaller than 1/16 under the New Equity Market Structure, the look at the book will remain at two ticks and will narrow in dollar terms.

The Exchange will not include all or none orders, the unelected or unconverted portion of percentage orders, orders for non-regular way settlement,[5] and stop orders in the look at the book display. The Exchange believes that it would be inappropriate to disseminate information regarding all or none orders due to the restriction placed on the execution of these orders, and notes that these orders currently are not included in the Amex published quote.[6] Percentage orders require either an electing transaction or conversion by the specialist into a bid or offer to become capable to execution. Percentage orders, consequently, only will be included in the book or displayed in look at the book information upon election or conversion.[7] Non-regular way delivery is a fundamentally different proposition from standard settlement.[8] To prevent confusion, therefore, limit orders for non-regular way settlement will not be commingled with orders for regular way delivery in look at the book information. The Exchange also believes that the distribution of information regarding the existence and location of stop orders should be minimized to reduce opportunities for trading abuses.[9]

[4] Amex Rule 174.

[5] Orders for delivery on a cash, next day, or seller's option basis are non-regular way orders.

[6] Amex Rule 131(c). *See also* Exchange Act Rule 11 Ac1–4(c0(7).

[7] Amex Rules 131(n) and 154, Commentary .15.

[8] Amex Rule 126(a).

[9] ''Gunning'' stop orders, for example, is a practice whereby persons with knowledge of the location of stop orders will engage in buying or selling designed to elect the stop orders and trigger additional buying or selling.

Transmission of Orders and Crowd Interest

Market and limit orders will be transmitted electronically to the book from off the floor via CMS (''Common Message Switch'') and from on the floor via BARS (''Booth Automated Routing System'').[10] Floor brokers and traders may also drop hard copy limit orders with the specialist or stand in the crowd and bid and offer as they do currently. Specialist unit personnel will be responsible for entering dropped orders and bids and offers from the trading crowd into the book or the Amex published quote.

Orders and modifications to orders (*e.g.,* cancellations) that are electronically transmitted to the post will be processed automatically. For example, limit orders transmitted to the post electronically will be automatically filed in the limited order book in appropriate price/time priority and limit orders that would affect the Amex published quote will be automatically incorporated into the Amex published quotes.

Automatic Execution

Market and marketable limit orders entered electronically may execute automatically (*i.e.,* without any human intervention) against the Amex published quote up to the display size, and such executions will be automatically reported to the Tape and to the member firms that initiated the orders. Following an automatic execution, the specialist will have the ability to manually determine the new Amex published quote to assure appropriate representation of book, crowd and specialist proprietary interest.[11] The Exchange believes that customers will favor an automatic execution since it will speed reports and provide customers with increased control over their orders. Persons that do not wish an automatic execution may have their orders entered with a request for a ''stop'' and these orders will be ineligible for automatic execution.[12]

Crowd interest, the specialist's proprietary quote, and orders dropped by brokers must be incorporated into the Amex published quote to take part in automatic executions. Similarly, crowd interest, the specialist's proprietary quote and dropped orders will be firm with respect to electronic orders until physically removed form the Amex published quote. The Exchange is amending Rules 123 (''Manner of Bidding and Offering'') to provide that bids and offers must be incorporated into the published quote to preserve their standing with respect to incoming electronic orders, and that such bids and offers remain firm with respect to electronic orders until physically removed from the Amex quote or until an execution takes place.[13] Trades between brokers and traders in the crowd will occur outside the book and will be reported to the Tape.

The following examples will illustrate how automatic execution will work. Assume an Amex published quote of 20 to 20⅛, 5,000 by 5,000. Assume further that the bid consists exclusively of one order on the book, and that an order to sell 3,000 shares at the market is sent electronically to the floor. In this case, 3,000 shares would trade automatically at 20, the trade would be reported to the Tape, and execution reports would be sent to both the buy and sell side member firms. Automatic execution will work similarly if the Amex published bid consists of both booked limit orders and the specialist's proprietary interest. Assume an Amex published quote of 20 to 20⅛, 5,000 by 5,000, with the bid consisting of a 2,000 share limit order and the specialist's bid for 3,000 shares. Assume that an order to sell 3,000 shares at the market is sent electronically to the book. In this example, 3,000 shares would trade automatically at 20, the trade would be reported to the Tape, the book would automatically allocate 2,000 shares to the limit order and 1,000 shares to the specialist,[14] and execution reports would be sent to the buy and sell side firms.

The process will change slightly if the Amex published quote includes crowd interest. As before, the book will automatically execute eligible incoming electronic orders. The specialist, however, will manually allocate the execution on the contra side of the electronic order in accordance with the Exchange's rules of precedence. For example, assume the market is quoted 20 to 20⅛, 5,000, and an order to sell 3,000 shares at the market is sent electronically to the floor. Also assume that the bid consists of (i) the specialist as principal bidding for 1,000 shares, (ii) a broker representing a customer order bidding for 1,000 shares, (iii) a limit order on the book to buy 3,000 shares, and (iv) the broker and book bids are on parity. In this case, 3,000 shares would trade automatically at 20, the selling firm would get a report at 20, and the 3,000 share trade would print automatically. The specialist, however, would allocate the fill on the buy side of the trade in accordance with the Exchange's current rules of precedence.[15] Thus, in the example above, the specialist would allocate 2,000 shares to the order on the book and 1,000 shares to the broker in the crowd. Following the allocation, the book would automatically generate execution reports to the buy side firms.

In the event that an incoming executable electronic order is equal to or larger than the displayed quote, the incoming order will automatically execute to the full extent of the displayed quote, the trade will print, the member firm entering the electronic order will receive a report for the amount that traded, the specialist will manually requote the market, and the unexecuted balance of the incoming electronic order will be handled in accordance with the Exchange's current auction market processes. For example, assume the market for a stock is 20 to 20⅛, 5,000 by 5,000, and there are limit orders on the book to buy 2,000 at 19 15/16, by 1,000 to 19⅞ and buy 1,000 at 19 13/16. Assume further that there is a broker in the crowd working a sell order and that an electronic order to sell 7,000 shares at the market arrives at the book. The book would automatically execute 5,000 shares at 20 (the electronic order would sell all 5,000 shares) and print the trade. The specialist then would execute the remaining 2,000 shares of the unexecuted electronic market order given the limit orders on the book, the crowd's expressed interest, and the specialist's interest and requote the market.

Automatic execution will be unavailable when the specialist is in the process of manually executing a trade. This will occur in connection with (i) openings and reopenings, (ii) trades between the crowd and the specialist or orders in the book, (iii) trades between the specialist and the book, (iv) block trades, (v) the execution of queued orders, and (vi) the pendency of

[10] BARS is currently under development.

[11] During the brief period between an automatic execution and the time the specialist updates the market, the ''old'' quote will be unavailable for trading because the specialist will be in the process of revising the Amex published quote.

[12] An agreement to ''stop'' stock at a specified price constitutes a guarantee by the member who grants the stop to execute the order at the stop price or better. *See* Amex Rule 109.

[13] Amex has indicated that bids and offers will also remain firm with respect to electronic orders until an execution takes place. Telephone call between Michael Ryan, Chief of Staff & Senior Legal Officer, Amex, and Michael Walinskas, Associate Director, Commission, on June 4, 1999. Disputes regarding bids and offers will be resolved by Floor Officials. *See* Amex Rules 22 and 126(h).

[14] Amex Rule 155 provides that a specialist shall give precedence to orders on the book.

[15] Amex Rules 111, Commentary .07; 126(e); and 155.

Intermarket Trading System (''ITS'') commitments.

The Exchange will preserve its existing procedures for opening and reopenings to ensure single price openings.[16] A single price opening involves a balancing of supply and demand to arrive at a single consensus price that cannot be achieved by an automatic execution against a displayed bid or offer.

The Exchange's rules currently provide that a trade occurs upon the acceptance of a bid or offer.[17] Due to the speed of automatic executions, however, these executions could preempt trades executed in the traditional manner if automatic execution were available during the processing of such trades. For example, assume a broker walks into a crowd, asks for a market, and is told to 20⅛, 5,000 by 5,000. Assume the broker says ''sell 5,000.'' Under the Exchange's current rules, a trade has occurred on the broker's acceptance of the bid. However, if automatic execution were available during the processing of the trade, it would be possible for an incoming electronic order to hit the bid and sell the stock ahead of the broker. For this reason, automatic execution will be unavailable while manually executed trades are being processed.

The Exchange, accordingly, is amending Rule 128 to provide that a trade does not occur between a broker in the crowd and the specialist or another member whose bid or offer is incorporated in the Amex published quote until the specialist begins to process the trade.[18]

Automatic execution will be unavailable following automatic executions to allow for the inclusion of specialist and crowd interest in the Amex published quote. Where there is no crowd interest in the Amex published quote, there are no messages in queue that may affect the quote, and [19] the bid or offer is not exhausted, automatic execution will be available after a fixed time interval (*e.g.,* 15 seconds), or immediately after the specialist manually updates the market.[20] In those circumstances where there is crowd interest in the published quote, there are messages in queue that may affect the quote, or the bid or offer is exhausted, automatic execution will be available immediately after the specialist manually updates the market. For example, assume the market is 20 to 20⅛, 5,000 by 5,000, there is no crowd interest in the quote, and an order to sell 3,000 shares at the market is automatically executed. If the specialist takes no action following this trade and there are no messages in queue that would affect the quote, after a fixed time interval (*e.g.,* 15 seconds), the Amex published quote would automatically become 20 to 20⅛, 2,000 by 5,000, and automatic execution would become available.

Incoming electronic orders and other messages that may affect the quote (*e.g.,* order cancellations) will queue during times when automatic execution is unavailable. The specialist will neither have access to, nor be advised of the existence of, queued messages until the termination of queuing. The book will automatically process order cancellations and modifications and away from the market limit orders immediately following termination of queuing without manual intervention. After the book automatically processes order cancellations and modifications and away from the market limit orders, the specialist will manually process queued marketable orders to ensure maximum possible order interaction. Automatic execution will resume once all messages in the queue are processed and a new market is disseminated.

The benefits of manually processing of queued marketable orders are illustrated by the following example. Assume the market is 20 to 20⅛, 5,000 by 5,000 and a broker walks into the crowd and sells 5,000 shares, eliminating the entire Amex published bid. Assume that a market order to buy 1,000 shares and a market order to sell 1,000 shares both are received electronically by the book while the specialist processes the 5,000 share trade, and that the specialist requotes the market 19 15/16 to 20 1/16, 2,000 by 2,000, following the execution of the 5,000 share trade. If automatic execution were available prior to the disposition of the orders in the queue, the two electronic market orders would execute sequentially at different prices. To prevent this, the specialist will execute queued orders manually to ensure maximum potential order interaction. In this example, the specialist would pair-off the two orders at 20, requote the market at 19 15/16 to 20 1/16, 2,000 by 2,000, and automatic execution would resume.

The Exchange anticipates that during heavy trading it may be desirable to suspend automatic execution in a particular stock without queuing incoming messages. Such action only will be taken with the approval of a Floor Official. In addition, it may be necessary to suspend automatic execution on a floor-wide basis without queuing incoming messages in the event of systems difficulties or unusual market conditions. Floor-wide suspension of automatic execution only will be authorized by a Senior Floor Official. If automatic execution is suspended, orders and messages will be processed by the specialist in the same manner as they currently are handled.

Interaction With Other Markets

The new equity book will not permit automatic executions in situations where an away market displays a higher bid or lower offer for 200 or more shares. In these situations, the specialist will have the option either to manually execute the income order at the better price or transmit it to the away market. For example, assume the Amex market is 20 to 20⅛, 5,000 by 5,000, and an away market is bidding 20 1/16 for 200 shares. Assume that the book receives an electronic order to sell 200 shares at the market. In this case, the book would not execute the electronic order automatically. Instead, the specialist either would execute the order at 20 1/16, or ship it to the away market via ITS. Once the incoming order is shipped through ITS as a commitment, it can neither be executed on the Amex nor canceled by the originating firm until it expires (one minute) or is canceled by the receiving market.

The implementation of the new book will not result in the way ITS commitments are handled, and incoming ITS commitments will not receive an automatic execution. Similarly, the Exchange proposes to adopt new Rule 431 that would prohibit members and member organizations from submitting orders for market makers in other markets for automatic execution in the Exchange's trading system unless such market affords a comparable level of service to Amex specialists. The Exchange believes it is appropriate to not provide the new automatic execution service to the market in Amex listed stocks that

[16] Amex Rules 108(a) and 154, Commentary .07.

[17] Amex Rule 128 (''Contract Made on Acceptance of Bid or Offer'').

[18] Amex has indicated that the point at which the specialist ''begins to process the trade'' means when the specialist has accepted the trade and is ready to report it. Telephone call between Michael Ryan, Chief of Staff & Senior Legal Officer, Amex, and Michael Walinskas, Associate Director, Commission, on June 4, 1999.

[19] Amex has clarified that the filing should state ''and the bid or offer is not exhausted,'' not ''or the bid or offer is not exhausted.'' Telephone call between Michael Ryan, Chief or Staff & Senior Legal Officer, Amex, and Michael Walinskas, Associate Director, Commission, on June 4, 1999.

[20] *Id.*

excludes Amex specialists from their comparable services.[21]

During the period when there are pending incoming or outgoing ITS commitments, the book will not permit automatic executions in order to prevent trade throughs and to provide that the market does not change during the pendency of the commitments. During these times, incoming orders and cancellations (but not additional ITS commitments) will queue. Incoming ITS commitments will not queue to allow specialists sufficient time to respond to them within their life.

Specialists will not see queued messages or receive an advice of their existence prior to processing except when an ITS commitment is received while messages already are in queue (*i.e.*, there is a preexisting queue at the time the commitment arrives). In this one circumstance, specialists will receive an advice that there are orders in queue without any specification as to the contents of the queued messages (*e.g.*, whether the messages are buy or sell orders or the size of the orders). This advice will permit specialists to process queued orders and ITS commitments together in their proper time sequence following the conclusion of the event that caused the initial suspension of automatic execution. Automatic execution will resume once the orders in the queue and the ITS commitment are processed.[22]

Market Surveillance

The Exchange currently requires specialists to maintain and file with the Exchange a paper record of their principal transactions in both specialty securities and related derivative securities. This record, referred to as the ''191 Book'' after the Exchange Rule that requires its preparation, is a three-part form that includes for each specialty security opening positions, principal trades, trade times, contra broker badge numbers, and tick. In addition, certain actions by specialists require Floor Official approval, and these approvals traditionally have been memorialized by the Floor Official signing the specialist's 191 Book.[23]

Today, the Exchange's regulatory staff go to the trading floor if they wish to see specialist trading information in real-time. The new equity book, however, will update this procedure and electronically provide the Exchange's regulatory personnel with specialist trading activity in real-time. The new book also will maintain a record of Floor Official approval of specialist transactions. The Exchange, accordingly, is amending Rule 191 to eliminate those specialist's record keeping requirements that will be captured and maintained by the Exchange's new systems.

Pilot and Roll-Out of the New Equity Book

The Exchange anticipates that it will implement the use of the new equity book on a pilot basis during the third quarter of 1999 and that providing the look at the book to upstairs members may require additional time. The initial pilot will involve a cross section of listed stocks and will last for approximately six months. In recognition of the fact that Index Share products (*e.g.*, Portfolio Depositary Receipts and Index Fund Shares) have trading characteristics, and in certain respects trade under rules, that differ from those applicable to other products traded under the Exchange's equity rules, the New Equity Market Structure and the associated rule changes are not intended to be applied to Index Share products.

The Exchange will use the new equity book for actual trading during the pilot phase, and may make changes to the book as the result of operational experience or to enhance the system. Following the completion of the pilot program and the implementation of any changes to the book, the Exchange will commence its floor wide introduction. This roll-out will be done in steps to accommodate training and technical considerations.

Floor Brokerage

Specialists will not be permitted to charge commissions upon the execution of orders delivered electronically from off the floor for securities traded under the New Equity Market Structure. This should reduce the cost of doing business on the Exchange and thereby benefit investors. Specialists will continue to be able to charge floor brokerage on manually delivered orders. The Exchange also is proposing to confirm that specialists may charge a commission on hand delivered orders when acting as principal if the member leaving the order consents. The Exchange proposes to amend Rule 152(c) in order to effect these changes.

The Amex will share its review with the specialists based on a specified rate schedule to effectively offset the specialists' loss of floor brokerage with respect to orders delivered electronically from off the floor of the Exchange. Index Share orders will not be covered by this program. Floor brokerage will cease and revenue sharing will commence for each equity security on the date such security begins trading under the New Equity Market Structure. In addition, any portion of the Amex regulatory fee payable by specialists on qualifying trades[24] that does not exceed $1.5 million in any year will be waived by the Amex.

Specialist Activity

The Exchange is proposing to eliminate the stabilization requirements of Commentaries .01, .02, and .07 to Rule 170 and expand the parameters of the ''2, 1, ½ point Rule'' (Rule 154, Commentary .08) to permit specialist to respond to the needs of the fast moving, modern market without unnecessary restrictions.

Specialists are subject to affirmative and negative obligations in trading for their account. The affirmative obligation requires them to engage in a course of dealing to assist in the maintenance, insofar as reasonably practical, of a fair and orderly market in specialty securities. This involves engaging in dealing reasonably calculated to contribute to the maintenance of price continuity with reasonable depth, and to the minimizing of the effect of temporary disparities between supply and demand, immediate or reasonably anticipated. The negative obligation provides that specialists may not buy or sell a specialty security unless such dealings are reasonably necessary to permit specialist to maintain a fair and orderly market in such security.

Good specializing involves judgments as to the proper degree of continuity and the reasonableness of depth in light of shifting market conditions. The price of a stock, overall market trends, company specific news, order flow, the specialist's position in a stock and overall risk position, among other factors, go into the mix that needs to be considered in determining how

[21] Amex has clarified that the filing should state that a market, not a market maker, would be required to ''afford a comparable level of service.'' Telephone call between Michael Ryan, Chief of Staff & Senior Legal Officer, Amex, and Michael Walinskas, Associate Director, Commission, on June 4, 1999.

[22] The Amex specialist has no control over the execution or non-execution of outgoing commitments which may be canceled or expire in the receiving ITS market. Specialists, accordingly, will be able to manually restore automatic execution and end queuing even if outgoing commitments have neither been processed nor expired to prevent delays in order handling on the Amex that are beyond the Exchange's control.

[23] For example, *see* Exchange Rule 170, Commentaries .01, .02 and .04.

[24] Qualifying trades are trades with orders qualifying for revenue sharing. Qualifying orders are those delivered electronically from off the floor of the Exchange, excluding orders for Index Shares.

specialists fulfill their affirmative obligations. For these reasons, the Exchange (and the Commission) have not developed standardized criteria to assess the performance of specialists with respect to their affirmative obligations.

In contrast to the absence of concrete guidelines with respect to specialists' affirmative obligations, there are a variety of trading rules that circumscribe the ability of specialists to trade and therefore, define specialist negative obligations. These rules include Amex Rules 126, 154, 155, 170(c), (d) and (e), Commentaries .01, through .09 to Rule 170, and 175. Some of these rules are generally applicable to members (*e.g.*, Rule 126 which prescribes rules of priority, parity and precedence) while other rules are specific to specialists (*e.g.*, Rule 155). In particular, Commentaries .01, .02 and .07 to Rule 170 identify transactions characterized as ''destabilizing'' (*i.e.*, purchases on plus or zero-plus ticks and sales on minus or zero minus ticks) and circumscribe a specialist's ability to trade on destabilizing transactions.

When Congress first adopted the Exchange Act, Congress delegated to the Commission broad authority to regulate specialists. As originally enacted, Section 11(b) of the Act provided in part that *if* the Commission were to adopt rules permitting specialists to act as dealer, such rules would, ''restrict his dealings so far as practicable, to those reasonably necessary to permit him to maintain a fair and orderly market.'' In 1937, the Commission issued an interpretation (the ''Saperstein Interpreation'') with respect to specialists and their functions.[25] It avoided hard and fast rules and defined permitted transactions under the statutory standard as those which enhanced price continuity and minimized the effects of imbalances between supply and demand.

The Commission did not use its rule making authority under Section 11(b) until 1964, when it promulgated Rule 11b–1.[26] The rule was a result of the SEC's finding in the *Report of Special Study of Securities Markets*,[27] and was the product of intensive negotiations between the Commission and the primary exchanges. Rule 11b–1 includes both the specialist's affirmative and negative obligations.[28] The Exchange adopted paragraphs (b), (c), (d) and Commentaries .01 and .02 to Rule 170 in January 1965 soon after the adoption of Exchange Act Rule 11b–1.

In 1975, Congress amended section 11(b) of the Act *and entirely deleted the prior statutory limitation on specialist dealing.* The Senate Committee Report of the legislation stated that the limitation on specialist dealing might become unnecessary with the evolution of the National Market System and, specifically, ''active competition among market makers,'' and the elimination of the specialists ''trading advantages.''[29] Congress, accordingly, gave the SEC flexibility to eliminate the restrictions on specialist dealing when the looked-for changes in the National Market System occurred. The Commission, however, has not substantively amended Rule 11b–1 since its adoption in 1964.[30]

In 1991, the SEC approved NYSE rule change to permit specialists to reduce dealer positions on zero minus or zero plus destabilizing ticks *without* Floor Official approval, and to reduce dealer positions on straight plus and minus destabilizing ticks *with* Floor Official approval, provided that the specialist reentered the market following the liquidating transaction on the opposite side of the market from the liquidating trade.[31] In 1994, the SEC approved similar rule change for the Amex.[32]

It has been almost 25 years since Congress amended the Act to eliminate the statutory restriction on specialists dealing, and approximately 35 years have elapsed since the adoption of Rule 11b–1 in its present form. During this time, there have been tectonic changes to securities trading in the U.S., and the two preconditions to the elimination of the restrictions on specialist dealing identified by Congress, *i.e.*, the ''elimination of specialist trading advantages'' and ''active competition among the market makers,'' have occurred. The explosion in trading volume, proliferation of trading venues, nearly instantaneous dissemination of market information, development of electronic order routing and execution facilities, and implementation of the consolidated tape have substantially eroded the time and place advantage enjoyed by specialists in the mid-1970s and earlier. In addition, much of the specialist's perceived trading advantage derived from special access to the limit order book.[33] To the extent that any such advantage persists today, it would be significantly eroded in the New Equity Market Structure by the proposed ''look at the book.''

Specialists today face substantially greater competition from other market makers and liquidity providers than they faced in 1975 when Congress struck the restruction on specialist dealing from the Act. Off-Board trading restrictions are largely inapplicable to the Exchange's current equity list and third market makers and regional exchanges now trade substantial portions of the consolidated volume in Exchange listed stocks and constitute an even higher percentage of the trades. Block positions, derivatives markets and alternative trading systems also provide investors with sources of liquidity and

[25] Exchange Act Release No. 1117, March 30, 1937.

[26] Exchange Act Release Nos. 7432 (September 24, 1964), 29 FR 13777 (October 6, 1964) (proposing Rule 11b–1); and 7456 (November 23, 1964), 29 FR 15862 (adopting the Rule).

[27] *Report of Special Study of Securities Markets of the Securities and Exchange Commission*, 88th Congress, 1st Session, House Document No. 95, 1963 (hereinafter ''Special Study of Securities Markets'').

[28] In relevant part, Rule 11b–1(a) states:

(2) The rules of a national securities exchange permitting a member of such exchange to register as a specialist and to act as a dealer shall include:

(ii) Requirements, as a condition of a specialist's registration, that a specialist engage in a course of dealings for his won account to assist in the maintenance, so far as practicable, of a fair and orderly market, * * *

(iii) Provisions restricting his dealings so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market * * *.

[29] The Senate Committee Report states:

The present requirement in Section 11(b) that a specialist's dealing must be limited to those transactions 'reasonably necessary to permit him to maintain a fair and orderly market' would be eliminated. This change does not reflect a belief on the Committees' part that this present limitation of specialist dealing is inappropriate. The change is merely intended to provide the SEC with greater flexibility in prescribing a specialist's obligations in a national market system. It might well be that with active competition among market makers and the elimination of the trading advantages specialists now enjoy, such a restriction on specialists' dealings would become unnecessary. Because trading patterns and market making behavior in the context of a national market system cannot now be predicted, it appears appropriate to expand the Commission's rulemaking authority in this area so that the Commission may define responsibilities and restrict activities of specialists in response to changing conditions in the markets.

Senate Committee Report No. 94–75, page 100 (1975).

[30] In 1981, the Commission amended Rule 11b–1 to clarify that it also applied to options specialists and to eliminate duplicative SRO rule filing requirements. *See* Exchange Act Release No. 17574 (February 25, 1981), 46 FR 15134 (March 4, 1981).

[31] *See* Exchange Act Release No. 29626 (August 29, 1991), 56 FR 43949 (September 5, 1991) (approving SR–NYSE–91–07). The SEC permanently approved the rule changes in 1993. *See* Exchange Act Release No. 31797 (January 23, 1993), 58 FR 7277 (February 5, 1993).

[32] *See* Exchange Act Release No. 33957 (April 22, 1994), 59 FR 22188 (April 29, 1994) (temporarily approving SR–Amex–92–26). The SEC permanently approved the rule changes in 1997. *See* Exchange Act Release No. 38379 (March 10, 1997), 62 FR 13918 (March 24, 1997).

[33] *See* H.R. Report No. 1383.73rd Congress, Second Session, April 27, 1934, pages 14 and 15. The *Special Study of Securities Markets*, Part 2 at page 77 states:

Thus, in executing his brokerage functions, the specialist has a powerful tool [the limit order book] available to him only, giving him insight into the possible course of the market.

trading venues for Exchange listed securities that were unavailable or undreamed of the mid-1970s. With the erosion of commission income, specialists have had to rely increasingly upon trading revenues to survive, and rules that impede their ability to trade, but are inapplicable to their competitors,[34] threaten their competitive position. In addition, the Exchange's market surveillance capabilities have substantially increased in the last quarter entry. The Exchange, accordingly, is better able to identify and address inappropriate specialist activity when it occurs, and the need for prophylactic restrictions on specialists trading has been correspondingly reduced.

The Exchange believes that the elimination of the stabilization rules with respect to securities traded under the New Equity Market Structure will benefit investors by enhancing the ability of specialists to comply with their affirmative obligations to the modern, fast moving market by allowing them flexibility to manage their inventory. For example, assume that a specialists is long 5,000 shares of a stock that typically trades 50,000 shares per day. A brokerage firm publishes an initial ''buy'' recommendation on the stock and there is a predictable influx of buy orders. In this situation, the price of the stock would rise and the specialist would sell out of inventory to supply the demand. If a seller were to enter the market and the specialist were permitted to buy on a plus or zero (destabilizing) tick, the specialist could replenish its inventory and be in a position to better fulfill its affirmative obligations to the market. As matters stand now, however, the specialists is precluded from increasing its position on a destabilizing tick without obtaining Floor Official approval. In the time it would take to locate and obtain Floor Official approval, the offered stock would be purchased by another buyer. The specialists in the example thus would be unable to effectively manage its inventory to respond to changed market conditions.

It is important to note that the Exchange is not proposing the complete elimination of specialist negative obligations (even though Congress gave the Commission explicit authority to do so in 1975 in contemplation that the changes due to the advent of the National Market System would make such restrictions unnecessary). Instead, the Exchange is proposing to eliminate trading rules of the sort never applied by the Exchange and Commision in the context of specialist affirmative obligations. Thus specialists would be permitted under the Exchange's proposal to deal for their account without reference to the ''tick'' of the trade[35] and without the time consuming and duplicative review of a Floor Official. Specialists, however, would remain subject to the general negative obligation that they may not effect a principal transaction unless it is reasonably related to the maintenence of a fair and orderly market.[36] Specialists also would remain bound by the numerous other rules that circumscribe their dealer activity. Potential concerns with inappropriate specialist trading in the absence of the stabilizing rules should be addressed by the Exchange's review of specialist dealer activity to determine if it complies with the negative obligation and other rules applicable to specialist trading.

The Exchange also believes that the trading restrictions of Commentary .08 to Rule 154 (which requires specialists to obtain Floor Official approval prior to effecting trades at specified variations from the last sale) whould be modified to expand the price variations that require Floor Official approval. The current two dollar (for securities trading at $20 or more per share), one dollar (for securities trading between $10 and $20), and half dollar (for securities trading below ten dollars per share) price parameters have become too restrictive given the increasing speed of trading, and the Exchange proposes that the parameters be expanded to three, two and one dollar for stocks in the respective price ranges.

2. Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the proposed New Equity Market Structure and assocaited rule changes are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with person engaged in regulating, clearing, settling, processing informaiton with respect to, and facilitating transactions in securities, to remove impediment and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change also is consistent with section 11A of the Act in that it enhances (i) economically efficient execution of securities transactions, (ii) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, (iii) the availability to brokers, dealers, and investors of informaiton with respect to quotations for and transactions in securities, (iv) the practicability of brokers executing investors' orders in the best market, and (v) an opportunity, consistent with the provisions of clauses (i) and (iv), for investors orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not beleive that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[34] In the Release adopting Rule 11b–1, the Commission exempted specialists on regional exchanges from the requirements of the Rule. *See* Exchange Act Release no. 7465 (November 23, 1964), 29 FR 15862. In 1981, the Commission modified the exemption to apply Rule 11b–1 to regional exchanges with respect to such of their securities that are not listed on the Amex or NYSE. *See* Exchange Act Release No. 18157 (October 7, 1981), 46 50639 (October 14, 1981). The regional exchanges currently have rules that apply the general specialists affirmative and negative obligations to their specialists. They have not, however, applied stabilizing rules to their specialists. *See* Philadelphia Stock Exchange Rule 203, Chicago Stock Exchange Article XXX, Rule 1, and Pacific Exchange Rules 5.29(f) and 5.33(a).

[35] Specialists would remain subject to the Commission's short sale rule notwithstanding the proposed rule change.

[36] Amex Rules 170(c) and (d).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR–Amex–99–08 and should be submitted by July 14, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–15967 Filed 6–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41535; SR–DTC–99–16]

Self-Regulatory Organizations; The Depository Trust Corporation; Notice of Filing of Proposed Rule Change Relating to Profile Modification Feature of the Direct Registration System

June 17, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 17, 1999, The Depository Trust Corporation (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the prosed 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.

[37] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of DTC's filing is to resolve an impasse among members of the securities industry relating to the implementation of the Profile Modification System feature of the Direct Registration System.

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.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to resolve an impasse among members of the Securities Transfer Association (''STA'') and the Securities Industry Association (''SIA'')[3] relating to the delay in implementing the Profile Modification System feature (''Profile'')[4] of the Direct Registration System (''DRS'').[5] Profile will allow a participant upon instructions from the participant's customer to electronically request a ''DRS limited participant''[6] to move the customer's DRS share positions to the participant's acount at DTC.[7] Profile will be available over both DTC's Participant Terminal System (''PTS'') and DTC's Computer-to-Computer Facility (''CCF'').

Representative member of the STA have reported that some of their members may not be able to implement Profile until some time in calendar year 2000. Members of the SIA had envisioned that Profile would be implemented during the third quarter of 1999. Becuase of differing views on the implementation schedule for Profile, there is no industry consensus on whether DRS should continue to operate as it does today[8] or whether use of DRS should be restricted in some manner until Profile is fully implemented.

If DRS is to continue to operate as it does today, there are several ways to handle making additional securities issued eligible for inclusion in DRS. The options include:

(1) If all ''DRS limited participants'' are not able to implement Profile by August 31, 1999, no additional securities issues would be made eligible after August 31, 1999, for inclusion in DRS until sometime in the first quarter of 2000 when all ''DRS'' limited participants'' are able to implement Profile using either PTS or CCF;

(2) securities issues would continue to be made eligible for inclusion in DRS in the manner in manner in which they are currently made eligible for inclusion; or

(3) securities would continue to be made eligible for inclusion in DRS provided that each ''DRS limited participant'' could be the ''DRS limited participant'' for no more than two new issues per month. If all ''DRS limited participants'' are not able to implement Profile by using PTS and CCF by March 31, 2000, no additional securities issues would be made eligible for inclusion in DRS until such time as all ''DRS limited participants'' are ready to use Profile.

DTC requests that the Commission staff provide guidance on the above options or any other option not described in this filing.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change is designed to further the perfection of the mechanism for the national system for the prompt and accurate clearance and settlement of securities transactions.

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] The STA and the SIA are two member groups on the DRS Committee, which is an industry responsible for designing DRS. The other members include Corporate Transfer Association and DTC.

[4] Profile is an electronic communication system through DTC which allows participants and DRS Limited Participants to send instructions to each other regarding the movement of DRS shares.

[5] See Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 (concept release relating to the direct registration system); Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 [File No. SR–DTC–96–15] (order relating to the establishment of DRS).

[6] For a description of ''DRS limited participants,'' refer to Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 [File No. SR–DTC–96–15].

[7] Profile will also allow a ''DRS limited participant'' upon instructions from a customer to electronically request a participant to move the customer's share positions to a ''DRS limited participant's'' account.

[8] Because ''DRS limited participants'' are currently not using Profile to receive instructions, brokers or their customers must submit requests to move DRS shares by sending a medallion guaranteed transaction advice to the ''DRS limited participants.''

(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.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments on the proposed rule change were solicited or received. DTC will notify the Commission of any written comments it receives.

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 finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organizations consents, the Commission will:

(a) by order approved the proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying 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–99–16 and should be submitted by July 14, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–15968 Filed 6–22–99; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41534; File No. SR–EMCC–99–4]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing of a Proposed Rule Change Regarding Expansion of Eligible Instruments

June 16, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 26, 1999, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') the proposal rule change (File No. SR–EMCC–99–04) as described in Items I, II, and III below, which items have been prepared primarily by EMCC. 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 purpose of the proposed rule change is to expand the types of instruments eligible for clearance and settlement at EMCC.

II. Self-Regulatory Organization's Statement of the Purpose of, Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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. EMCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statement.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to expand the types of instruments eligible for processing by EMCC. To accomplish this, the proposed rule change will amend the definition of ''eligible sovereign debt,'' which is set forth in Rule 1, to mean any instruments which either:

(1) Are issued by or on behalf of an emerging markets sovereign issuer or an agency or instrumentality thereof (including, without limitation, any central bank thereof); provided that, in the case of any instrument issued by an agency or instrumentality, the credit quality of those instruments is judged by one or more NRSROs or by market participants generally on the basis of the credit quality of the related sovereign issuer; or

(2) Have the timely payment of principal and interest guaranteed by an issuer who meets the criteria set forth in (1).

As with all instruments that are EMCC eligible, these instruments must also meet the existing criteria set forth in Rule 3, Section 1 that they must be eligible for settlement at a qualified securities depository and that they must be U.S. dollar denominated.

The dollar denominated non-Brady sovereign debt of Brazil, Argentina, and Mexico has been eligible at EMCC since August 1998. Since that time, there have been two extreme market events affecting emerging market debt generally, one in August/September 1998 and another in January 1999. According to EMCC, it is the consensus of current members that having non-Brady sovereign debt of Brazil, Argentina, and Mexico eligible at EMCC during these events significantly reduced settlement risk and increased safety and soundness. EMCC also believes that these events demonstrated that EMCC's risk management systems and procedures, as well as their clearance and settlement systems and procedures, are well suited to non-Brady sovereign debt, even during times of market stress and extreme violability. EMCC staff and members attribute this primarily to the facts that (1) the distinction between Brady and non-Brady sovereign debt (*i.e.*, whether or not it originated as part of a loan restructuring) is not relevant to the market behavior of the instruments and (2) the trading and settlement practices for both types of sovereign instruments are virtually identical.

EMCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[3] and the rules and regulations thereunder because the inclusion of dollar denominated sovereign debt will help to reduce risk and respect to the

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by EMCC.

[3] 15 U.S.C. 78g–1.

clearance and settlement of those specific instruments as well as will help to reduce risk with respect to the emerging market marketplace generally.

(B) Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments relating to the proposed rule change have been solicited of received. EMCC will notify the Commission of any written comments received by EMCC.

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 the self-regulatory organization 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 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 EMCC. All submissions should refer to File No. SR–EMCC–99–4 and should be submitted by July 14, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–15911 Filed 6–22–99; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)/Joint Planning Advisory Group (JPAG)

AGENCY: Maritime Administration, DOT.

ACTION: Synopsis of June 9, 1999, meeting with VISA participants.

On June 9, 1999, a Voluntary Intermodal Sealift Agreement (VISA) Joint Planning Advisory Group (JPAG) meeting was held via video telephonic conference (VTC). The sites connected by the VTC were the Military Sealift Command headquarters, Washington, DC, the Military Traffic Management Command, Falls Church, Virginia, and the U.S. Transportation Command, Scott Air Force Base, Illinois.

Meeting attendance was by invitation only, due to the classified nature of the information discussed and the requirement for a government-issued security clearance. Of the 35 U.S.-flag carrier corporate participants enrolled in VISA at the time of the meeting, 12 cleared carrier representative companies participated in the JPAG VTC. In addition, JPAG attendance included representatives from the Department of Defense (DoD) and the Maritime Administration (MARAD).

The purpose of the JPAG was to update VISA participants about current and future sealift operations in support of NATO operation ''Allied Force'' and Balkan region humanitarian support. The meeting convened at 9:00 a.m. EDT and adjourned at 10:30 a.m.

The full text of the VISA program is published in 64 FR 8214–8222, dated February 18, 1999. One of the program requirements is that MARAD periodically publish a list of VISA participants in the **Federal Register**. As of June 9, 1999, the following commercial U.S.-flag vessel operators were enrolled in VISA with MARAD: Alaska Cargo Transport Inc., American Auto Carriers, Inc., American Automar, Inc., American President Lines, Ltd., American Ship Management, LLC, Central Gulf Lines, Inc., Crowley American Transport, Inc., Crowley Marine Services, Inc., Dixie Fuels II, Limited, Double Eagle Marine, Inc./Caribe USA, Inc., Farrell Lines Incorporated, First American Bulk Carrier Corp., Foss Maritime Company, Lykes Line Limited, L.L.C., Lynden Incorporated, Maersk Line, Limited, Matson Navigation Company, Inc., Maybank Navigation Company, LLC, McAllister Towing & Transportation Company, Inc., Moby Marine Corporation, NPR, Inc., OSG Car Carriers, Inc., Osprey Shipholding Corporation, L.L.C., Resolve Towing & Salvage, Inc., Seacor Marine International Inc., Sealift Inc., Sea-Land Service, Inc., Smith Maritime, Totem Ocean Trailer Express, Inc., Trailer Bridge, Inc., Trico Marine Operators, Inc., Troika International, Ltd., Van Ommeren Shipping (USA) LLC, Waterman Steamship Corporation, and Weeks Marine, Inc.

FOR FURTHER INFORMATION CONTACT: Raymond R. Barberesi, Director, Office of Sealift Support, (202) 366–2323.

By Order of the Maritime Administrator.

Dated: June 17, 1999.

Joel C. Richard,

Secretary.

[FR Doc. 99–15848 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Compliance Policy for Year 2000 (Y2K) Problems

AGENCY: Research and Special Programs Administration (RSPA); U.S. Department of Transportation (DOT).

ACTION: Notice; compliance policy.

SUMMARY: RSPA has developed safety standards, procedures and reporting requirements, found at 49 CFR Parts 190, 191, 192, 193, 194, 195 and 199, for ensuring the safe operation of pipeline facilities. Civil enforcement action (civil penalty or compliance order) can be taken for violations of pipeline safety regulations. RSPA can also issue a corrective action order if it determines a pipeline facility poses a hazard to life, property, or the environment. RSPA can also seek injunctive relief.

We do not intend to pursue applicable pipeline safety compliance actions for regulatory violations or for environmental or safety problems

caused by tests that are specifically designed to identify and eliminate Year 2000-related malfunctions. For example, we would not pursue any compliance actions should an over-pressurization, hazardous liquid or natural gas release, fire, or explosion occur as a result of component failure during Year 2000 testing, as long as no substantial environmental damage or serious harm results and the failure is promptly corrected. The proposed stays of compliance actions are limited to testing-related problems disclosed to RSPA by February 1, 2000, if certain criteria have been met, such as ensuring that the tests are designed to protect human health and the environment, ensuring that the tests are conducted well in advance of the Year 2000 critical dates, and ensuring that all testing-related problems are immediately corrected. If a testing-related problem does occur, testing plans should be available to document that these criteria have been met.

We will pursue enforcement action or other applicable compliance action against companies that do not prepare for potential Year 2000 problems and thereby endanger the public and the environment. Such actions will include assessing maximum civil penalties for any pipeline safety regulatory violation. Failure to identify and correct Year 2000 problems before 2000 could result in serious safety problems, such as unexpected shutdowns or other safety and operational malfunctions. The federal pipeline safety regulations require companies to prepare for and address any adverse or abnormal operations on its pipeline system, including those associated with Year 2000 issues. Every company must ensure Year 2000 readiness of its system through testing, repair, and contingency planning.

The millennium date change is near and substantial progress in assessing and remediating Year 2000 non-compliant computer code and hardware should already have occurred. Therefore, we are encouraging companies to focus on preparing business continuity and contingency plans. These plans need to ensure that the impact of any Year 2000 failure is minimized and that appropriate and adequate preparations are in place to ensure continuous, safe service to customers.

ADDRESSES: This document can be viewed on the Office of Pipeline Safety (OPS) home page at: http://ops.dot.gov.

FOR FURTHER INFORMATION CONTACT: Roger Little, (202) 366–4569.

SUPPLEMENTARY INFORMATION:

Background

The Year 2000 issue arises because a number of computerized functions require recognition of a specific year, day, and time, but many computers and computerized equipment recognize only the last two digits of a year's date (e.g., 1998 is 98; 2000 is 00). Therefore, when the calendar changes to the year 2000, computers and equipment with embedded computer chips may have difficulty interpreting the correct date. They may interpret the year to be 1900 or some other year. As a result, some computers and equipment containing embedded computer chips could become permanently unable to function properly. Others may continue to operate, but erroneously, while others simply may stop and need to be restarted. Some may create data that look correct, but in reality contain errors, and some may continue to operate correctly. In addition, some computer-related systems may have trouble functioning properly on other dates such as a leap year, and on September 9, 1999, where the date string 9–9–99 was commonly used as an end-of-operation command or for other purposes than for representing the date. Our policy to stay compliance actions encompasses any facility or computer-related testing problems that may arise as a result of the generally recognized suspect dates associated with Year 2000 non-compliance. We are referring to all of these dates as Year 2000 problems for purposes of this compliance policy.

Emphasis on Testing

The public expects compliance with the nation's environmental and safety laws. The regulated pipeline community must take all steps necessary to anticipate and resolve potential environmental and safety compliance problems that may result from Year 2000-related equipment problems. In an effort to ensure timely compliance, RSPA adopts this compliance policy to encourage any necessary testing of computer systems and their related pipeline facilities (e.g., Supervisory Control and Data Acquisition systems, overpressure protection devices, or other pipeline system components). We recognize that regulated companies need to understand how RSPA will react should such testing result in pipeline safety violations or other compliance problems.

Relationship to Year 2000 Dates

Although the focus of this policy is on testing-related problems that occur prior to January 1, 2000, RSPA notes that with respect to problems occurring after January 1, 2000, we will continue to recognize good faith efforts and other potentially mitigating factors in determining an appropriate response. In that regard, companies that test and prepare necessary plans in accordance with the terms of this policy are likely to be in a more favorable position to avoid compliance action than companies that do not, should a company not be able to correct all Year 2000-related deficiencies in a timely manner.

Criteria Justifying Application of This Policy

Companies must address potentially adverse conditions on their pipelines. The pipeline safety regulations require procedures to assure safety from adverse, abnormal and emergency operating conditions. RSPA will fully consider a company's preparations if a violation or incident results from a Year 2000 problem and will mitigate any subsequent compliance action if necessary preparations have been taken. However, RSPA will pursue strong enforcement action, including assessing maximum civil penalties, for regulatory violations or other safety problems resulting from a pipeline company not having prepared for potential Year 2000 problems.

As noted above, RSPA will exercise its discretion to forego applicable compliance actions for problems resulting from specific tests, where the company can demonstrate to RSPA that it has satisfied all of the nine (9) applicable criteria below.

(1) *Systematic Design of Testing Protocols.* Written testing protocols were (a) designed in advance of the testing period, (b) reflect a good faith effort to evaluate the company's Year 2000-related safety and environmental compliance status, (c) will not circumvent pipeline safety regulatory compliance, (d) were designed to prevent or limit violations or other compliance problems that may result from such testing (e.g., through adoption or revision of appropriate contingency plans) and (e) include provisions to protect the public, employees and the environment.

(2) *Problems Caused By Testing.* The specific Year 2000-related testing was the direct cause of the potential compliance problems.

(3) *Testing Need, Timing and Length.* The specific testing that caused the problem was:

(a) Necessary to determine the effectiveness of specific Year 2000-related modifications or existing operations in ensuring pipeline safety compliance;

(b) Part of a comprehensive testing program designed to correct Year 2000 deficiencies at the facility;

(c) Conducted well in advance of the Year 2000 dates in question (i.e., normally at least 30 days in advance of the dates in question);

(4) *Absence of Harm.* Testing problems do not result in substantial environmental damage or serious actual harm to the public;

(5) *Immediate Correction.* The company corrected all problems caused by the testing as soon as possible (i.e. normally within 24 hours).

(6) *Expeditious Remediation.* The company expeditiously remediated any hazardous liquid release in accordance with the company response plan required by 49 CFR Part 194.

(7) *Reporting.* The company has met all applicable reporting requirements including those for releases from a pipeline facility (49 CFR Parts 191 and 195) and safety related condition reports (49 CFR Parts 191 and 195).

(8) *Retesting.* Any retesting conducted prior to the Year 2000 dates in question met all the criteria outlined in this policy and included modifications to earlier testing and/or applicable operating conditions that are reasonably designed to achieve compliance.

(9) *Cooperation.* The company provides any information RSPA requests as necessary to determine whether to forego compliance action.

Emphasis on Business Continuity and Contingency Planning

Time is running out for solving Year 2000 problems. Some companies may not be able to fully test and remediate all of their mission-critical systems and may face disruptions in their operations. Systems that have been tested and remediated may still encounter unanticipated Year 2000 problems. Despite best efforts of dedicated staff to assess, remediate, validate, and implement mission-critical systems, companies remain vulnerable to disrupted business processes. Because most companies are highly dependent on information technology to carry out their business, Year 2000-induced failures may have a severe impact on their ability to deliver critical services and assure safety. Additionally, the risk of failure is not limited to the company's internal information systems. Many companies depend on information and data provided by business partners such as other pipeline companies, state and local agencies, international suppliers, and private sector entities. Every company depends on key infrastructure services such as power, water, transportation, and telecommunications. Because of these risks, it is important that companies conduct business continuity and contingency planning to reduce the risk of Year 2000 business and facility failures.

Each company should ensure the continuity of core business processes by identifying, assessing, managing, and mitigating its Year 2000 risks. This effort should not be limited to the risks posed by the Year 2000-induced failures of internal information systems, but should include potential Year 2000 failures of others, including business partners and infrastructure service providers.

The business continuity planning process focuses on reducing the risk of Year 2000-induced business and facility failures. It safeguards a company's ability to maintain safety functions and produce a minimum acceptable level of services in the event of failures of critical information systems and services. It also helps to identify alternate resources and processes needed to operate the core business processes. Although it does not offer a long-term solution to Year 2000-induced failures, it will help the company to prepare for a potential crisis, and may facilitate the restoration of normal service at the earliest possible time in the most cost-effective manner.

Cooperation With States

RSPA is strongly encouraging States participating in the pipeline safety program to adopt this or a similar approach to address Year 2000 compliance issues. RSPA is coordinating closely with State agencies concerning Year 2000-related testing issues.

Disclaimer

This policy does not constitute a final Department action. It does not create any rights, duties, obligations, or defenses, implied or otherwise, in any persons or entities. It sets forth factors that RSPA intends to use in the exercise of its compliance discretion, and it is not intended for use in pleading, at hearing, at trial, or in any adjudicatory context.

Specific Compliance Concerns

Individual facility-specific concerns may be directed to the RSPA Office of Pipeline Safety Regional offices listed below:

EASTERN REGION, 400 Seventh Street, SW, Room 7130, DPS–24, Washington, D.C. 20590, Telephone: (202) 366–4580, Fax: (202) 366–3274

SOUTHERN REGION, 61 Forsyth Street, Suite 16T15, DPS–25, Atlanta, GA 30303, Telephone: (404) 562–3530, Fax: (404) 562–3569

CENTRAL REGION, 1100 Main Street, Suite 1120, DPS–26, Kansas City, MO 64105, Telephone: (816) 426–2654, Fax: (816) 426–2598

SOUTHWEST REGION, 2320 LaBranch Street, Room 2100, DPS–27, Houston, TX 77004, Telephone: (713) 718–3746, Fax: (713) 718–3724

WESTERN REGION, 12600 W. Colfax Avenue, Suite A–250, DPS–28, Lakewood, CO 80215–3736, Telephone: (303) 231–5701, Fax: (303) 231–5711

Issued in Washington, D.C., on June 16, 1999.

Stacey L. Gerard,

Director, Office of Policy, Regulations and Training.

[FR Doc. 99–15988 Filed 6–22–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (99–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 1999 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 1999 RCAF (Unadjusted) is 1.002. The third quarter 1999 RCAF (Adjusted) is 0.586. The third quarter 1999 RCAF–5 is 0.579.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. TDD for the hearing impaired: (202) 565–1695.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW., Washington, DC 20423–0001, telephone (202) 289–4357. (Assistance for the hearing impaired is available through TDD services (202) 565–1695.)

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–16004 Filed 6–22–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33763]

Paducah & Louisville Railway, Inc.—Trackage Rights Exemption—CSX Transportation, Inc.

CSX Transportation, Inc. (CSXT) has agreed to grant overhead trackage rights to Paducah & Louisville Railway, Inc. (P&L) over CSXT's rail line between the P&L/CSXT connection at Madisonville, KY, at or near milepost OOH 275, and the Dotiki mines located on CSXT's Morganfield Branch, at or near milepost MF–298.3, a total distance of approximately 23 miles.

The transaction is scheduled to be consummated on June 18, 1999.

The purpose of the trackage rights is to allow P&L to handle movements of coal from the Dotiki mines to the Louisville Gas & Electric Cave Run plant in Louisville, KY, and the Louisville Gas & Electric Mill Creek plant in Kosmosdale, KY, and to handle empties via the reverse route.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33763, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on (1) J. Thomas Garrett, Esq., Paducah & Louisville Railway, Inc., 1500 Kentucky Avenue, Paducah, KY 42003, and (2) Fred R. Birkholz, Esq., CSX Transportation, Inc., 500 Water Street, J–150, Jacksonville, FL 32202.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 16, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–16002 Filed 6–22–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33765]

The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Illinois Central Railroad Company

Illinois Central Railroad Company (IC) has agreed to grant limited overhead trackage rights to The Burlington Northern and Santa Fe Railway Company (BNSF) over IC's rail line between a point at the east end of the St. Charles Airline near IC's milepost 1.7 at Chicago, IL, and a point near IC's milepost 19.5 at Harvey, IL, a distance of approximately 17.6 miles.

The transaction is scheduled to be consummated on or shortly after June 18, 1999.

The purpose of the trackage rights is to permit BNSF, using its own trains with its own crews, to interchange unit coal trains with Canadian National Railway (CN) at CN's connection with IC at Harvey.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33765, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Michael E. Roper, The Burlington Northern and Santa Fe Railway Company, 3017 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161–0039.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 16, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–16001 Filed 6–22–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 382X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment of Chicago Area Trackage in Cook County, IL

On June 3, 1999, The Burlington Northern and Santa Fe Railway Company (BNSF) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its switching/industrial lead track beginning north of Corwith Yard at station 24 + 43 and ending at station 149 + 87 near the east end of the Western Avenue Bridge, a total distance of 2.38 miles within the city limits of Chicago, in Cook County, IL.[1] The line traverses U.S. Postal Service Zip Codes 60608, 60623, and 60632 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 21, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of

[1] BNSF states that the line is arguably not subject to regulation by the Board pursuant to 49 U.S.C. 10906. However, to avoid any doubt over the status of the line and to avoid delays from possible litigation over the line's status, BNSF has elected to file this petition for exemption.

rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 13, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–6 (Sub-No. 382X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Sarah Whitley Bailiff, BNSF, 3017 Lou Menk Drive, Fort Worth, TX 76161–0039. Replies to the BNSF petition are due on or before July 13, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.[2]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 16, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–16003 Filed 6–22–99; 8:45 am]

BILLING CODE 4915–00–P

[2] BNSF requests a waiver of the 20 days' advance service requirement for the environmental and historic reports (49 CFR 1105.7 and 1105.8), due to an urgent need to discontinue service because of safety concerns. Both reports were filed simultaneously with the petition for exemption. Given the circumstances, waiver of the advanced service requirement is granted.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 136X)]

Union Pacific Railroad Company—Abandonment Exemption—in Hidalgo County, TX

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon its Santa Rosa Industrial Lead from milepost 145.0, near Edinburg, to milepost 161.0, near Rogerslacy, a distance of 16.0 miles in Hidalgo County, TX (line). The line traverses United States Postal Service Zip Codes 78539–40 (Edinburg), 78539 (San Carlos), 78543 (Elsa), 78538 (Edcouch), and 78593 (Rogerslacy).

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 23, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 6, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 13, 1999, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, Esq., Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by June 28, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by June 23, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 10, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–15452 Filed 6–22–99; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 16, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 23, 1999 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0057.

Form Number: None.

Type of Review: Extension.

Title: Annual Letter—Certification of Authority.

Description: The letter is sent to insurance companies that provide surety bonds to protect the Federal Government. These companies then provide information necessary for the renewal of their Treasury Certification and the determination of their underwriting limit. Summary information about the company is then published in Circular 570 for use by Federal bond approving officers.

Respondents: Individuals or households.

Estimated Number of Respondents: 317.

Estimated Burden Hours Per Respondent: 62 hours and 30 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 19,813 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–15882 Filed 6–22–99; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 15, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 23, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0067.

Form Number: IRS Form 2555.

Type of Review: Revision.

Title: Foreign Earned Income.

Description: Form 2555 is used by U.S. citizens and resident aliens who qualify for the foreign earned income exclusion and/or the foreign housing exclusion or deduction. The information is used by the service if a taxpayer qualifies for the exclusion(s) or deduction.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 286,955.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 52 min.
Learning about the law or the form—26 min.
Preparing the form—1 hr., 47 min.
Copying, assembling, and sending the form to the IRS—49 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,403,210 hours.

OMB Number: 1545–0173.

Form Number: IRS Form 4563.

Type of Review: Extension.

Title: Exclusion of Income for Bona Fide Residents of American Samoa.

Description: Form 4563 is used by bona fide residents of American Samoa whose income is from sources within American Samoa, Guam, and the Northern Mariana Islands to the extent specified in Internal Revenue Code (IRC) section 931. This information is used by the IRS to determine if an individual is eligible to exclude possession source income.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—52 min.
Learning about the law or the form—7 min.
Preparing the form—28 min.
Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 174 hours.

OMB Number: 1545–1119.

Form Number: IRS Forms 8804, 8805 and 8813.

Type of Review: Extension.

Title: Annual Return for Partnership Withholding Tax (Section 1446) (Form 8804); Foreign Partner's Information Statement of Section 1446 Withholding Tax (Form 8805); and Partnership Withholding Tax Payment (Section 1446) (Form 8813).

Description: Code section 1446 requires partnerships to pay a withholding tax if they have effectively connected taxable income to foreign partners. Forms 8804, 8805 and 8813 are used by withholding agents to provide IRS and affected partners with data to assure proper withholding, crediting to partners' accounts and compliance.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	8804	8805	8813
Recordkeeping	59 min	59 min	26 min.
Learning about the law or the form	57 min	54 min	49 min.
Preparing the form	31 min	17 min	16 min.
Copying, assembling, and sending the form to the IRS	20 min	17 min	10 min.

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 121,200 hours.
OMB Number: 1545–1139.
Regulation Project Number: PS–264–82 Final.
Type of Review: Extension.
Title: Adjustments to Basis of Stock and Indebtedness to Shareholders of S Corporations and Treatment of Distribution by S Corporation to Shareholders.
Description: The regulations provide the procedures and the statements to be filed by S corporations for making the election provided under section 1368, and by shareholders who choose to reorder items that decrease their basis. Statements required to be filed will be used to verify that taxpayers are complying with the requirements.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 2,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 6 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 200 hours.
OMB Number: 1545–1204.
Form Number: IRS Form 8823.
Type of Review: Extension.
Title: Low-Income Housing Credit Agencies Report of Noncompliance Building Disposition.
Description: Form 8823 is used by housing agencies to report noncompliance with the low-income housing provisions of Code section 42.
Respondents: State, Local or Tribal Government.
Estimated Number of Respondents/ Recordkeepers: 20,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 hr., 39 min.
Learning about the law or the form—30 min.
Preparing and sending the form to the IRS—39 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 176,000 hours.
OMB Number: 1545–1491.
Regulation Project Number: REG–209798–95 Final.
Type of Review: Extension.
Title: Amortizable Bond Premium.
Description: The information requested is necessary for the Service to determine whether a holder of a bond has elected to amortize bond premium and to determine whether an issuer or a holder has changed its method of accounting for premium.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 100,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: Other (once).
Estimated Total Reporting Burden: 50,000 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–15883 Filed 6–22–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 16, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 23, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1648.
Publication Number: Publication 3319.
Type of Review: Extension.
Title: Low-Income Taxpayer Clinics—199 Grant Application Package and Guidelines.
Description: Publication 3319 outlines requirements of the IRS Low-Income Taxpayer Clinics (LITC) program and provides instructions on how to apply to a LITC grant award.
Respondents: Not-for-profit institutions.
Estimated Number of Respondents/ Recordkeepers: 825.
Estimated Time For Program Sponsors: 60 hours.
Estimated Time For Student and Program Participants: 2 hours.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 6,000 hours.
OMB Number: 1545–1649.
Revenue Procedure Number: Revenue Procedure 99–21.
Type of Review: Extension.
Title: Disability Suspension.
Description: The information is needed to establish a claim that a taxpayer was financially disabled for purposes of section 6511(h) of the Internal Revenue Code (which was added by section 3203 of the Internal Revenue Service Restructuring and Reform Act of 1998). Under section 6511(h), the statute of limitations on claims for credit or refund is suspended for any period of an individual's taxpayer's life during which the taxpayer is unable to manage his or her financial affairs because of a medically determinable mental or physical impairment, if the impairment can be expected to result in death, or has lasted (or can be expected to last) for a continuous period of not less than 12 months. Section 6511(h)(2)(A) requires that prof of the taxpayer's financial disability be furnished to the Internal Revenue Service.
Respondents: Individuals or households.
Estimated Number of Respondents: 48,200.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 24,100 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–15884 Filed 6–22–99; 8: 45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–51]

Customs Accreditation of Chemical and Petroleum Inspections, Inc. as an Accredited Laboratory

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Accreditation of Chemical and Petroleum Inspections, Inc. as a Commercial Accredited Laboratory.

SUMMARY: Chemical and Petroleum Inspections, Inc. of Groves, Texas, an approved Customs gauger, has applied to U.S. Customs for accreditation to perform analysis under Part 151.13 of the Customs Regulations (19 CFR 151.13) at their Groves, Texas facility. Customs has determined that Chemical and Petroleum Inspections, Inc. meets all of the requirements for accreditation as a Commercial Laboratory to perform the analyses for Identity and Composition. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Chemical and Petroleum Inspections, Inc., is granted accreditation to perform the analyses listed above.

LOCATION: Chemical and Petroleum Inspections, Inc. accredited site is located at: 5300 39th Street, Groves, Texas 77619.

EFFECTIVE DATE: June 15, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Room 5.5–B, Washington, D.C. 20229 at (202) 927–1060.

Dated: June 16, 1999.

George D. Heavey,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 99–15964 Filed 6–22–99; 8:45 am]

BILLING CODE 4820–02–P

federal register

Wednesday
June 23, 1999

Part II

Environmental Protection Agency

40 CFR Parts 9 and 63

National Emission Standards for Hazardous Air Pollutants: Pesticide Active Ingredient Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[AD–FRL–6345–5]

RIN–2060–AE83

National Emission Standards for Hazardous Air Pollutants: Pesticide Active Ingredient Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for the pesticide active ingredient (PAI) production source category under section 112 of the Clean Air Act as amended (CAA or Act). The intent of the standards is to reduce emissions of hazardous air pollutants (HAP) from existing and new facilities that manufacture organic PAI used in herbicides, insecticides, and fungicides. The standards protect human health and the environment by reducing HAP emissions to the level corresponding to the maximum achievable control technology (MACT) through the use of pollution prevention measures and control strategies. The major HAP emitted by facilities covered by this rule include toluene, methanol, methyl chloride, and hydrogen chloride (HCl). All of these pollutants can cause reversible or irreversible toxic effects following exposure. The rule is estimated to reduce total HAP emissions from existing facilities by 2,500 megagrams per year (Mg/yr) (2,755 tons per year (tons/yr)), a reduction of 65 percent from the baseline emission level. Because many of these pollutants are also volatile organic compounds (VOC), which are precursors to ambient ozone, the rule will aid in the reduction of tropospheric ozone. The emission reductions achieved by these standards, when combined with the emission reductions achieved by other similar standards, will achieve the primary goal of the CAA, which is to ''enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.''

The July 16, 1992 source category list included an agricultural chemicals industry group that contained 10 source categories. Today's final rule groups these 10 agricultural chemicals source categories into one source category, renames the source category, and adds additional chemical production processes to the source category.

EFFECTIVE DATE: June 23, 1999.

ADDRESSES: *Docket.* Docket No. A–95–20, containing supporting information considered by the EPA in developing the promulgated standards, is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room 1500, 1st Floor, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning this final rule, contact Mr. Lalit Banker at (919) 541–5420, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA regional representatives. For a list of regional representatives, see the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated are those which produce PAI's and integral intermediates that are used in herbicides, insecticides, or fungicides and are located at facilities that are major sources as defined in section 112 of the CAA. Regulated categories and entities include:

Category	NAICS codes	SIC codes	Examples of potentially regulated entities
Industry	Typically, 325199 and 32532.	Typically, 2869 and 2879.	• Producers of pesticide active ingredients that contain organic compounds and are used in herbicides, insecticides, or fungicides. • Producers of any integral intermediate used in the onsite production of an active ingredient used in an herbicide, insecticide, or fungicide.

The foregoing table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1360 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

Regional Representatives. The EPA regional representatives are:

Region I

NESHAP (MACT) Coordinator, U.S. EPA Region I, John F. Kennedy Federal Building, One Congress Street, Boston, MA 02114–2023, (617) 918–1111

Region II

Umesh Dholakia, U.S. EPA Region II, 290 Broadway Street, New York, NY 10007–1866, (212) 637–4023 (Umesh)

Region III

Bernard Turlinski, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–2150

Region IV

Lee Page, U.S. EPA Region IV, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303–3104, (404) 562–9131

Region V

Bruce Varner, U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 886–6793

Region VI

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Background Documentation. The following is a listing of background documents pertaining to this rulemaking. The complete title, EPA publication number, publication date, docket item number, and the abbreviated descriptive title used to refer to the document throughout this notice are included.

(1) National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Pesticide Active Ingredient Production Industry: Summary of Public Comments and Responses. EPA–453/R–98–011. April 1999. Docket item No. IV–B–1. Response to Comment Document for Promulgated Standards.

(2) Pesticide Active Ingredient NESHAP—Basis and Purpose document. July 1997. Docket item No. III–B–1. Basis and Purpose Document.

(3) Hazardous Air Pollutant Emissions From the Pesticide Active Ingredient Production Industry—Supplementary Information Document for Proposed Standards. July 1997. Docket item No. II–B–21. Supplementary Information Document.

The response to comment document for the promulgated standards contains: (1) a summary of all the public comments made on the proposed rule and the Administrator's response to the comments; and (2) a summary of the changes made to the rule since proposal. The basis and purpose document contains much of the rationale for the standards. The supplementary information document contains a compilation of technical memoranda.

Electronic Versions of Documents. Electronic versions of documents from the Office of Air and Radiation (OAR) are available for downloading from EPA's OAR Technology Transfer Network Web site (TTNWeb). The TTNWeb is a collection of related Web sites containing information about many areas of air pollution science, technology, regulation, measurement, and prevention. The TTNWeb is directly accessible from the Internet via the World Wide Web at the following address: ''http://www.epa.gov/ttn.'' This preamble and rule are located under the OAR Policy and Guidance Information Web site, ''http://www.epa.gov/ttn/oarpg/t3main.html,'' under the **Federal Register** Notices section. The background documents are located at the same web site, under the Reports section. If more information on the TTNWeb is needed, contact the Systems Operator at (919) 541–5384.

Judicial review. Under section 307(b)(1) of the CAA, judicial review of NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The information presented in this preamble is organized as follows:

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I. List of Source Categories

Section 112 of the CAA requires that EPA evaluate and control emissions of HAP. The control of HAP is achieved through promulgation of emission standards under section 112 (d) and (f) and work practice and equipment standards under section 112(h) for categories of sources that emit HAP. On July 16, 1992, EPA published an initial list of major and area source categories to be regulated (57 FR 31576). Today's final rule adds additional chemical production processes to the agricultural chemicals industry group, groups the initial and additional source categories into a single source category, and renames the source category.

A. Initial Source Categories

Included on the initial source category list were major sources emitting HAP from 10 categories of agricultural chemicals production; in addition to being an agricultural chemical, each of these compounds is also a PAI. One source category on the initial source category list, butadiene furfural cotrimer (R–11) production, was moved from the polymers and resins industry group to this industry group on June 4, 1996 (61 FR 28197). The EPA decided it was appropriate to move butadiene furfural cotrimer (R–11) to the agricultural chemicals industry group because it is an insecticide commonly used for delousing cows.

B. Addition of Other Pesticide Active Ingredients

In developing the rule, the EPA identified a number of other PAI production operations that were not on the initial source category list. It was determined that production of these compounds is similar to the production of the compounds in the 11 initial agricultural chemical source categories. Production of these other PAI's are being added to the source category list under section 112(c) of the CAA based on information obtained during the gathering of HAP emission data for this proposed rule. From this information, it

was determined that: (1) there are similarities in process operations, emission characteristics, control device applicability and costs, and opportunities for pollution prevention of these PAI's with the listed agricultural chemicals; and (2) the production of these PAI's occurs at facilities that are major sources. Like the initial agricultural chemicals, these PAI's are those that are used in herbicides, insecticides, and fungicides that are registered as end-use products under section 3 of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

C. Single Source Category

In developing the proposed rule, EPA decided not to set MACT for each individual PAI chemical but, rather, to aggregate all PAI's together under the same source category. The PAI's that EPA proposes to include in this source category are all organic PAI's that are used to produce insecticide, herbicide, or fungicide products. Data gathered from the PAI production industry indicate that the process equipment, emission characteristics, and applicable control technologies are sufficiently similar for the broad group of sources that EPA intends to regulate under a single set of standards. There are no significant differences in the types of control technologies applicable to controlling emissions from the various PAI processes. Common HAP control technologies are applicable to the production operations at all of the facilities. Based on these factors, EPA concluded that determining MACT for each individual PAI is not warranted.

The EPA believes it is technically feasible to regulate emissions from a variety of PAI processes by a single set of emission standards. Similar to the Hazardous Organic NESHAP (HON) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI), separate requirements are proposed for process vents, storage vessels, equipment leaks, and wastewater HAP emission points (often referred to as planks). The set of standards also establishes different control requirements based on distinctions in the size of the emission points. Variability in the characteristics of the production processes for each individual PAI chemical may affect the quantity of HAP emissions. This variability has been addressed by incorporating cutoffs for uncontrolled emissions in the standards for individual planks.

Several other reasons support the development of a single set of emission standards for a group of PAI processes. Many of these PAI's are only produced at a single facility or by a single company. In addition, data indicate that many of the PAI processes that EPA is proposing to regulate by this set of standards are collocated within individual facilities; at some facilities, multiple PAI's are also produced in the same equipment (i.e., flexible operating equipment). Facilities with collocated PAI manufacturing could more easily comply with a single set of emission standards than with individual standards for each of the collocated processes. Several industry representatives also expressed interest in a generic regulation that would specify consistent requirements for a wide range of processes.

Another justification for developing a single set of emission standards to regulate production of a variety of PAI's is that it is more efficient and less costly for EPA to develop a single standard than to develop separate standards for several individually listed source categories which have similar emission characteristics and applicable control technologies. A single set of standards for PAI manufacturing will ensure that process equipment with comparable HAP emissions and control technologies are subject to consistent emission control requirements. In addition, compliance and enforcement activities would be more efficient and less costly.

D. Change of the Source Category Name

Under today's final rule, EPA is revising the source category list published under section 112(c) of the CAA to add a source category called ''Pesticide Active Ingredient Production'' and to subsume the 11 initial, separate source categories into that category, as well as to include other identified chemical production processes which are major sources of HAP. All 11 agricultural chemicals on the initial source category list are PAI's; all of the other chemicals identified during data gathering that have been added to the list are also PAI's. Because these other PAI's have been added to the source category list and because they have been grouped with the initial 11 agricultural chemicals, which are also PAI's, the EPA decided that it is appropriate to change the title of this NESHAP source category. Effective by this notice, EPA is changing the title of the source category to ''pesticide active ingredient production.'' This change is appropriate to avoid confusion regarding the definition of the source category and to aid in distinguishing the types of air emission sources addressed by this source category.

II. Background

A. Summary of Considerations Made in Developing This Rule

The CAA was created in part ''to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population'' (CAA section 101(b)(1)). Section 112(b) of the CAA lists 189 HAP believed to cause adverse health or environmental effects. (Through rulemaking, EPA subsequently delisted caprolactam). Section 112(d) of the CAA requires that emission standards be promulgated for all categories and subcategories of major sources of these HAP and for many smaller ''area'' sources listed for regulation under section 112(c) in accordance with the schedules listed under section 112(c). Major sources are defined as those that emit or have the potential to emit at least 10 tons/yr of any single HAP or 25 tons/yr of any combination of HAP.

On July 16, 1992 (57 FR 31576), EPA published the initial list of categories of sources slated for regulation. As noted above, this list included 10 categories of Agricultural Chemicals Production; with today's final rule, these source categories are combined into a single category called Pesticide Active Ingredient Production, and additional PAI processes are added to the source category. The statute requires emissions standards for the listed source categories to be promulgated between November 1992 and November 2000. On December 3, 1993, the EPA published a schedule for promulgating these standards (58 FR 83841).

In the CAA, Congress specified that each standard for major sources must require the maximum reduction in emissions of HAP that EPA determines is achievable considering cost, health and environmental impacts, and energy requirements. In essence, these MACT standards would ensure that all major sources of air toxic emissions achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions.

Available emissions data show that pollutants that are listed in section 112(b)(1) of the CAA and are emitted in substantial amounts by the PAI production source category include toluene, methanol, methyl chloride, and HCl. The PAI production source category also emits small amounts of other listed pollutants including benzene, benzyl chloride, 1,3-butadiene,

carbon tetrachloride, chloroform, ethylbenzene, ethyl chloride, ethylene dichloride, hexachlorobenzene, hexachlorocyclopentadiene, hexachloro ethane, hexane, methylene chloride, tetrachloroethylene, trichlorobenzene, trichloroethylene, xylenes, acetonitrile, Captan®, formaldehyde, glycol ethers, hydroquinone, methyl ethyl ketone, methyl isobutyl ketone, methyl isocyanate, napthalene, phosgene, chlorine, and hydrogen cyanide. Some of these pollutants have been classified as known, probable, or possible human carcinogens when inhaled, and all can cause reversible and irreversible toxic effects following sufficient exposure. These effects include respiratory and skin irritation, neurological disorders (e.g., dizziness, headache, and narcosis), effects upon the eye (including blindness), damage to organs (e.g., liver, kidney, and testes), and in extreme cases, death. Emissions of these pollutants will be reduced by implementation of today's final rule.

The list of HAP in section 112(b) of the CAA includes 22 HAP compounds (or classes of compounds) that have been reported to be possible endocrine disruptors. Many of these 22 HAP are PAI's, or are used in the production of PAI's, and, thus, could possibly be emitted from PAI manufacturing plants. In a survey of 20 plants producing PAI's, EPA found only one of these 22 HAP in the actual emissions of these plants. The quantity of this one potential endocrine disruptor was very low relative to the total HAP emissions reported at the 20 surveyed plants.

Based on published chemical property data, the vapor pressures of the possible endocrine disruptors tend to be low relative to the solvents and raw materials used in the PAI manufacturing processes (the lower the vapor pressure, the less material that will volatilize). In addition, based on a PAI industry buyer's guide, the possible endocrine disruptors that are also PAI's are each produced by only one or a small number of companies. As a result, the HAP that are possible endocrine disruptors are likely emitted in small quantities, if at all, relative to the HAP listed above. The EPA is implementing a program under the Federal Food Drug and Cosmetic Act and Safe Drinking Water Act to screen pesticides and other chemicals for their potential to disrupt the endocrine system of humans and wildlife. The EPA will assess the risk to humans and wildlife of chemicals identified in this program as endocrine disruptors and take appropriate risk management action. The EPA's risk management strategy could include the development of risk based emission standards under the CAA.

The alternatives considered in the development of this regulation, including those alternatives selected as standards for new and existing sources, are based on process and emissions data received from 20 of the estimated 78 existing facilities that are subject to today's final rule. Regulatory alternatives more stringent than the MACT floor (the minimum control level required by the CAA) were selected when they were judged to be reasonable, considering cost, non-air quality health and environmental impacts, and energy requirements.

Included in today's final rule are methods for determining initial compliance as well as monitoring, recordkeeping, and reporting requirements. All of these components are necessary to ensure that affected sources will comply with the standards both initially and over time. However, the EPA has made every effort to simplify the requirements in the rule. The EPA has also attempted to maintain consistency with existing regulations by either incorporating text from existing regulations or referencing the applicable sections.

Representatives from other interested EPA offices and programs, State environmental agency personnel, and industry participated in the regulatory development process as MACT partnership members. The partnership members were given opportunities to review and comment on the regulation prior to proposal. Industry, regulatory authorities, environ mental groups, and other interested parties provided comment on drafts of the proposed standards and provided additional information during the public comment period.

B. Regulatory Background

Today's final rule implements section 112(d) of the CAA, which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of this rule is to protect the public health and the environment by requiring new and existing major sources to reduce generation of emissions by using pollution prevention strategies or to control emissions to the level achievable by the MACT.

In 1994, EPA promulgated National Emission Standards for Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (59 FR 19587). Processes producing Captafol®, Captan®, Chlorothalonil, Dacthal, and Tordon™ acid that use butadiene, carbon tetrachloride, methylene chloride, or ethylene dichloride as a reactant or process solvent, are subject to the Negotiated Regulation for Equipment Leaks. Today's final rule requires control of leaking components that are currently not subject to the Negotiated Regulation for Equipment Leaks, but that contain and/or transport HAP and are associated with processes in this source category. Today's final rule also allows sources subject to the Negotiated Regulation to comply with the leak detection and repair (LDAR) provisions of this rule.

III. Authority for NESHAP Decision Process

A. Source of Authority for NESHAP Development

Section 112 of the CAA gives the EPA the authority to establish national standards to reduce air emissions from sources that emit one or more HAP. Section 112(b) contains a list of HAP to be regulated by NESHAP. Section 112(c) directs the Agency to use this pollutant list to develop and publish a list of source categories for which NESHAP will be developed; this list was published in the **Federal Register** on July 16, 1992 (57 FR 31576). The Agency must list all known categories and subcategories of ''major sources'' that emit one or more of the listed HAP. A major source is defined in section 112(a) as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit in the aggregate, considering controls, 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP.

Under section 112(c)(1) of the CAA, the Administrator has the authority to establish additional source categories as appropriate. Ten (revised to 11) categories of agricultural chemicals were included on the initial list. Because the processes, HAP emissions, control technologies, and control costs for these 11 agricultural chemicals are similar to the processes, HAP emissions, control technologies, and control costs for other PAI's, the Administrator included other PAI's on the source category list and grouped the agricultural chemicals and the PAI's together into one source category.

B. Criteria for Development of NESHAP

The NESHAP are to be developed to control HAP emissions from both new and existing sources according to the statutory directives set out in section 112(d) of the CAA. The statute requires the standards to reflect the maximum degree of reduction in emissions of HAP

that is achievable for new or existing sources. This control level is based on the MACT. The selection of MACT must reflect consideration of the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements for control levels more stringent than the floor (described below).

The MACT floor is the least stringent level for MACT standards. For new sources, the standards for a source category or subcategory ''shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator'' (CAA section 112(d)(3)). Existing source standards can be no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources for categories and subcategories with 30 or more sources, or the average emission limitation achieved by the best performing 5 sources for categories or subcate gories with fewer than 30 sources (CAA section 112(d)(3)). The average emission limitation achieved by the best performing sources is termed the ''MACT floor,'' and the ''average'' is based on a measure of central tendency such as the arithmetic mean, median, or mode.

In establishing the floors for this rulemaking, EPA designed its information collection approach to reduce the paperwork burden on the industry. Rather than collect detailed information from all 78 existing sources, EPA narrowed its detailed collection request. Through literature reviews, State contacts, and plant visits, EPA identified companies which appeared to have the best controlled plants and sent data collection requests only to those companies. In identifying those companies, EPA also considered the need to include a variety of process and product types in the survey. Data for the PAI production industry were collected from 20 facilities that are major sources. In addition, many of those facilities achieve high emissions reductions, produce a variety of PAI's, and use a variety of production processes. As the standards for existing sources are based on the best-performing 12 percent of sources, the number of best-performing sources for this source category is nine facilities (i.e., 12 percent of 78 facilities). The best-performing nine facilities are included in the 20 facilities surveyed.

After the nine best performing sources in the source category were identified, the ''average emission limitation achieved'' was determined for each of the four types of emission points at these sources. The arithmetic mean was evaluated first for each type of emission point. If this value corresponded with the level of control achieved by a known technology, it was selected as the MACT floor. If the value did not correspond with the level of control achieved by a known technology, the median was evaluated. In all cases where the median was evaluated, it was selected as the MACT floor because it either corresponded with the level of control achieved by a known technology, or it was no control.

IV. Summary of Promulgated Standards

This section describes the source category and pollutants that are regulated, defines an affected source, and summarizes the final standards for each type of emission point. A pollution prevention alternative is also summarized in this section.

A. Source Categories to be Regulated

The final standards regulate HAP emissions from facilities that are major sources and produce PAI's for use in insecticide, herbicide, or fungicide products. These standards apply to existing sources as well as new sources. The final standards for existing and new sources are summarized in Table 1.

TABLE 1.—STANDARDS FOR NEW AND EXISTING PAI SOURCES

Emission source	Applicability	Requirement
Process vents	Existing:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	90% for organic HAP per process or to outlet concentration of ≤20 ppmv TOC.
	Processes having uncontrolled HCl and chlorine emissions ≥6.8 Mg/yr.	94% for HCl and chlorine per process or to outlet HCl and chlorine concentration of ≤20 ppmv.
	Individual process vents meeting flow and mass emissions criteria that have gaseous organic HAP emissions controlled to less than 90% on or after November 10, 1997.	98% gaseous organic HAP control per vent or ≤20 ppmv TOC outlet limit.
	New:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	98% for organic HAP per process or ≤20 ppmv TOC.
	Processes having uncontrolled HCl and chlorine emissions ≥6.8 Mg/yr and <191 Mg/yr.	94% for HCl and chlorine per process or to outlet concentration of ≤20 ppmv HCl and chlorine.
	Processes having uncontrolled HCl and chlorine emissions ≥191 Mg/yr.	99% for HCl and chlorine per process or to outlet concentration of ≤20 ppmv HCl and chlorine.
Storage vessels	Existing: ≥75 m^3 capacity and vapor pressure ≥3.45 kPa.	Install a floating roof, reduce HAP by 95% per vessel, or to outlet concentration of ≤20 ppmv TOC.
	New: ≥38 m^3 capacity and vapor pressure ≥16.5 kPa ...	Same as for existing sources.
	≥75 m^3 capacity and vapor pressure ≥3.45 kPa	
Wastewater [a]	Existing: Process wastewater with ≥10,000 ppmw Table 9 compounds at any flowrate or ≥1,000 ppmw Table 9 compounds at ≥10 L/min, and maintenance wastewater with HAP load ≥5.3 Mg per discharge event.	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	New:	
	Same criteria as for existing sources	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	Total HAP load in wastewater POD streams ≥2,100 Mg/yr.	99% reduction of Table 9 compounds from all streams.
Equipment leaks	Subpart H	Subpart H with minor changes, including monitoring frequencies consistent with the proposed CAR.

TABLE 1.—STANDARDS FOR NEW AND EXISTING PAI SOURCES—Continued

Emission source	Applicability	Requirement
Product dryers and bag dumps.	Dryers used to dry PAI that is also a HAP, and bag dumps used to introduce feedstock that is a solid and a HAP.	Particulate matter concentration not to exceed 0.01 gr/dscf.
Heat exchange systems	Each heat exchange system used to cool process equipment in PAI manufacturing operations.	Monitoring and leak repair program as in HON.

[a] Table 9 is listed in the appendix to subpart G of 40 CFR part 63.

B. Pollutants to be Regulated and Associated Environmental and Health Benefits

Pesticide Active Ingredients production facilities emit an estimated 3,850 Mg/yr of organic and inorganic HAP. Organic HAP include methyl chloride, methanol, and toluene as well as other compounds. Hydrogen chloride is the inorganic HAP emitted in the greatest quantities by this industry. The final rule reduces overall HAP emissions from PAI facilities by 65 percent.

Some of these pollutants are considered to be carcinogenic, and all can cause toxic health effects following exposure, including nausea, headaches, and possible reproductive effects. The extent and degree to which the human health effects may be experienced is dependent upon (1) the ambient concentration observed in the area (e.g., as influenced by emission rates, meteorological conditions, and terrain); (2) the frequency of and duration of exposures; (3) characteristics of exposed individuals (e.g., genetics, age, preexisting health conditions, and lifestyle) which vary significantly with the population; and (4) pollutant specific characteristics (toxicity, half-life in the environment, bioaccumulation, and persistence).

Most of the organic HAP emitted from this industry are classified as VOC. The emission controls for HAP will reduce non-HAP VOC emissions as well. Emissions of VOC have been associated with a variety of health and welfare impacts. Volatile organic compound emissions, together with nitrogen oxides, are precursors to the formation of tropospheric ozone. Exposure to ambient ozone is responsible for a series of public health impacts, such as alterations in lung function, changes in lung structure, and aggravation of existing respiratory disease. Welfare impacts from exposure to ambient ozone include damage to selected commercial timber species and economic losses for commercially valuable crops such as soybeans and cotton.

In addition to being listed under section 112(b)(1) for the purposes of this rulemaking, HCl is listed under section 112(r) of the CAA. The intent of Section 112(r), Prevention of Accidental Releases, is to focus on chemicals that pose a significant hazard to the community should an accident occur, to prevent their accidental release, and to minimize consequences should a release occur. Hydrogen chloride, along with the other substances listed under section 112(r)(3), is listed because it is known to cause, or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment (59 FR 4478, January 31, 1994). Sources that handle hydrogen chloride in greater quantities than the established threshold quantity under section 112(r)(5) will be subject to the risk management program requirements under section 112(r)(7) (58 FR 54190, October 20, 1993).

In essence, the MACT standards mandated by the CAA will ensure that all major sources of air toxic emissions achieve the level of control already being achieved by the better controlled and lower emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions. In addition, the emission reductions achieved by today's final standards, when combined with the reductions achieved by other MACT standards, will contribute to achieving the primary goal of the CAA, which is to ''protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population'' (CAA section 101(b)(1)).

C. Affected Sources

The affected source for the purpose of this regulation is the facility-wide collection of PAI manufacturing process units (PAI process units) that process, use, or produce HAP, and are located at a plant site that is a major source, as defined in section 112(a) of the CAA. An affected source also includes waste management units, heat exchange systems, and cooling towers that are associated with the PAI process units. A PAI process unit includes: the processing equipment; connected piping and ducts; associated storage vessels; and components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems that are assembled at a facility for the purpose of manufacturing a PAI or integral intermediate.

The final rule specifies that new source requirements apply to an affected source for which construction or reconstruction commenced after November 10, 1997, or to any single PAI process unit that meets the following conditions: (1) It is not part of a process unit group; (2) construction commenced after November 10, 1997; and (3) it has the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP. The EPA expects that reconfiguration of processing equipment in a process unit group at an existing source generally will not meet the definition of construction or reconstruction. Therefore, reconfiguration generally will not trigger new source requirements.

D. Compliance Dates

Existing sources must comply within 3 years after June 23, 1999. New or reconstructed affected sources must comply on June 23, 1999 or startup, whichever is later.

E. Process Vent Provisions

The final standards require existing sources to reduce organic HAP emissions from each process with uncontrolled organic HAP emissions greater than or equal to 0.15 Mg/yr. The reduction may be either 90 percent from the sum of all vents within the process or to a total organic carbon (TOC) outlet concentration of 20 parts per million by volume (ppmv). If some vents within a process are controlled to the outlet concentration limits, the 90 percent reduction requirement applies to the sum of uncontrolled organic HAP emissions from all other vents in the process. Additionally, the final rule requires organic HAP emissions from any individual vent that meets certain annual emissions and flowrate criteria to be reduced by 98 weight percent or

to outlet concentrations of 20 ppmv as TOC; the 90 percent requirement would apply to the sum of organic HAP emissions from all other vents in the process. (Those process vents achieving 90 percent control prior to November 10, 1997 are not required to meet the 98 percent control requirement.)

The final standards also require existing sources to reduce HCl and chlorine emissions by 94 percent from each process or to an outlet concentration of 20 ppmv if the sum of uncontrolled HCl and chlorine emissions from all vents in the process is greater than or equal to 6.8 Mg/yr.

New sources are required to meet various process-based control levels. Specifically, for each process where the sum of the uncontrolled organic HAP emissions from all vents in the process is greater than or equal to 0.15 Mg/yr, the final standards require an overall 98 percent reduction in the organic HAP emissions per process. Alternatively, the final standards require that control devices meet outlet concentrations of 20 ppmv as TOC, and the 98 percent reduction requirement applies to the sum of uncontrolled organic HAP emissions from all other vents in the process.

The final standards also require new sources to reduce HCl and chlorine emissions by either a specified percentage or to an outlet concentration not to exceed 20 ppmv. If the uncontrolled HCl and chlorine emissions from the sum of all vents within a process are greater than or equal to 6.8 Mg/yr and less than 191 Mg/yr, the final standards require a reduction of at least 94 percent from the sum of all vents that are not controlled to 20 ppmv. If the uncontrolled HCl and chlorine emissions from the sum of all vents within a process are greater than 191 Mg/yr, the final standards require a reduction of at least 99 percent from the sum of all vents that are not controlled to 20 ppmv.

The final rule also contains an alternative standard for process vents that is similar to the outlet concentration options described above. The initial compliance determination and the monitoring provisions differ from the above outlet concentration options. See section IV.K for additional details regarding the alternative standard.

F. Storage Vessel Provisions

The final standards require both existing and new sources to control organic HAP emissions from storage vessels that have a capacity greater than or equal to 75 cubic meters (m^3) and HAP vapor pressure greater than or equal to 3.45 Kilopascals (kPa). New sources are also required to control organic HAP emissions from storage vessels with capacities greater than or equal to 38 m^3 and less than 75 m^3 and vapor pressure greater than or equal to 16.5 kPa. For all of the affected storage vessels, emissions must be controlled by one of the following methods:

(1) An internal floating roof with proper seals and fittings;

(2) An external floating roof with proper seals and fittings;

(3) An external floating roof converted to an internal floating roof with proper seals and fittings; or

(4) A closed vent system with a control device that is 95 percent efficient or reduces organic HAP to outlet concentrations of less than or equal to 20 ppmv as TOC.

Following comments received on the proposed storage vessel standards, the MACT floor for storage vessels was revised. For the final standards, the storage vessel cutoffs are based on the vessel capacity and the vapor pressure of the stored material rather than the capacity and uncontrolled emissions. See section VI.D for additional information on the changes made to the storage vessel standard.

The final rule also contains an alternative standard for storage vessels that is similar to the outlet concentration options described above. The initial compliance determination and the monitoring provisions differ from the above outlet concentration options. See section IV.K for additional details regarding the alternative standard.

G. Wastewater Provisions

The wastewater provisions are similar to the HON wastewater provisions (subpart G of 40 CFR part 63), except for maintenance wastewater and new source requirements. The final standards require existing and new sources to control Group 1 wastewater streams. Under the final standards, existing and new sources are required to determine Group 1 status for both process wastewater streams and maintenance wastewater streams. A process wastewater stream is a Group 1 stream for compounds listed in Table 9 of the appendix to subpart G of 40 CFR part 63 (''Table 9 compounds'') if:

(1) The total annual average concentration of Table 9 compounds is greater than or equal to 10,000 ppmw at any flowrate; or

(2) The total annual average concentration of Table 9 compounds is greater than or equal to 1,000 ppmw and the annual average flow rate is greater than or equal to 10 liters per minute (L/min).

A maintenance wastewater stream is a Group 1 stream if the mass of Table 9 compounds in an individual maintenance wastewater discharge exceeds 5.3 Mg.

The final standards require existing sources with Group 1 process and maintenance wastewater streams for Table 9 compounds to do one of the following:

(1) Reduce the concentration of Table 9 compounds to less than 50 ppmw;

(2) Use a steam stripper with specific design and operating requirements;

(3) Reduce the mass flow rate of Table 9 compounds by at least 99 percent;

(4) Reduce the mass flow rate of Table 9 compounds by an amount equal to or greater than the fraction removed (Fr) value in Table 9;

(5) If a source using biotreatment for at least one wastewater stream that is Group 1 for Table 9 compounds, achieve a required mass removal greater than or equal to 95 percent for Table 9 compounds; or

(6) Treat with permitted Resource Conservation and Recovery Act (RCRA) units or by discharging to a permitted underground injection well.

The final standards require new sources with Group 1 wastewater streams for Table 9 compounds to control Table 9 compounds to the same level required for existing sources. In addition, new sources with a total mass flow rate from the source of 2,100 Mg/yr or more of Table 9 compounds would be required to reduce the mass flow rate of Table 9 compounds from all wastewater streams by 99 percent. This difference from the HON was needed because the MACT floor for new sources is more stringent than the provisions in the HON for facilities that exceed this mass flow rate cutoff.

A source is exempted from the wastewater standards if:

(1) The total mass flow rate of Table 9 compounds in Group 1 streams is less than 1 Mg/yr; or

(2) If the total mass flow rate of Table 9 compounds in untreated Group 1 wastewater streams and in Group 1 wastewater streams that are treated to levels less stringent than the levels required by the standard is less than 1 Mg/yr.

H. Equipment Leak Provisions

Today's final rule contains revisions to the proposed equipment leak requirements that were based on subpart H (of the HON rule). The final rule contains changes to the standards for valves and connectors in gas/vapor service and light liquid service as

follows: the requirement to implement a quality improvement program and all references to 40 CFR § 63.175 have been removed; an allowance for monitoring every 2 years for those processes with less than 0.25 percent leaking valves has been added; an allowance for valve subgrouping was also added; the equation used to determine the percent of leaking valves in a process was changed to eliminate the optional credit for valves removed, and, the rolling average of leaking valves was revised so that it is calculated as an average of the last three monitoring periods for annual or biannual monitoring programs. The monitoring schedule for connectors in gas/ vapor service and light liquid service was also revised to allow for decreased monitoring for those components with the lowest leak rates. If less than 0.25 percent of the connectors in a group of processes are leaking, the monitoring frequency is now once every 8 years. These changes, which are consistent with the proposed consolidated air rule (CAR), are designed to reduce the recordkeeping requirements while achieving the same level of control as under subpart H. The standard for existing sources is based on a regulatory alternative more stringent than the floor, and the standard for new sources is based on the MACT floor for new sources.

I. Bag Dump and Product Dryer Provisions

Under the final standards, particulate matter emissions are not allowed to exceed 0.01 grains per dry standard cubic foot (gr/dscf) from both (1) product dryers that are used to dry a PAI (or integral intermediate) that is also a HAP, and (2) bag dumps that are used to introduce a feedstock that is a solid material and a HAP. The standard applies to both existing and new sources.

J. Heat Exchanger System Provisions

The final standards apply to each heat exchange system that is associated with the affected source. The standards require a monitoring program to detect leakage of organic HAP from the process into the cooling water. The final standards refer to the monitoring program in the HON (§ 63.104 of subpart F).

K. Alternative Standard

As an alternative to the requirements for process vents and storage vessels that are discussed in sections IV.E and F, respectively, the emissions from any process vent may be routed to a control device achieving outlet concentrations of less than or equal to 20 ppmv TOC (calibrated on methane or the predominant HAP) and less than or equal to 20 ppmv HCl and chlorine. Initial compliance with the alternative standard is achieved when the outlet concentrations for TOC are demonstrated using a TOC monitor that meets the requirements of Performance Specification 8 or 9 of appendix B of 40 CFR part 60. Monitoring to demonstrate ongoing compliance is also conducted with the TOC monitor. Initial and ongoing compliance with the alternative standard for HCl and chlorine is achieved when the outlet concentrations are demonstrated using Method 26.

L. Pollution Prevention Alternative

For existing sources, the promulgated rule also includes a pollution prevention (P2) alternative standard that meets the requirements of the MACT standards and can be implemented in lieu of the requirements described above. The P2 alternative standard provides a way for facilities to comply with the MACT standards by reducing overall consumption of HAP from their processes. The two options that were developed are described in Table 2 and are discussed below.

TABLE 2.—ALTERNATIVE P2 STANDARD

Option	Description of P2 option
1	Demonstrate an 85% reduction in the production-indexed HAP consumption factor (kg HAP consumed/kg product produced) from a baseline period.
2	Demonstrate at least a 50% reduction in the production-indexed HAP consumption factor and additional reduction from add-on control to yield overall reduction equivalent to an 85% reduction in the production-indexed HAP consumption factor from a baseline period.

In the first option, an owner or operator can satisfy the MACT requirements for all process vents, storage vessels, equipment leaks, wastewater, and heat exchange systems associated with an existing process by demonstrating that the production-indexed consumption of HAP has decreased by 85 percent from a baseline (certain restrictions are discussed below). The baseline comprises the average consumption and production values averaged over the first 3-year period in which the process was operational, beginning no earlier than the period consisting of the 1987 to 1989 calendar years. Alternatively, for a process that has been operational for less than 3 years, but more than 1 year, the baseline may be established for the time period from startup of the process until the present. The production-indexed HAP consumption factor (HAP factor) is expressed as kilograms (kg) HAP consumed per kg product produced. The numerator in the HAP factor is the total consumption of material, which describes all the different areas where material can be consumed, either through losses to the environment, consumption in the process as a reactant, or some other form of destruction. Consumption, rather than emissions, is tracked because it can be used as a true measure of pollution prevention; any decrease in consumption for the same unit of product generated must involve some type of increase in process efficiency, including reduction of waste, increased product yield, and in-process recycling. Because HAP are used generally as raw materials and solvents in this industry, reductions in consumption can be generally associated with reductions in emissions to air, water, or solid waste.

The second option also uses the production-indexed HAP consumption factor and is also applied to existing processes. This option allows an owner or operator to supplement reductions achieved with P2 with add-on controls. The EPA believes that such an option will provide greater flexibility and cost efficiency to the operators who already may have some add-on controls. Under this option, an owner or operator must demonstrate reductions in the HAP factor of at least 50 percent via P2 measures. In addition, the mass of HAP emissions must be reduced by an amount that, when divided by the production rate and added to the reduction in the HAP factor, yields a reduction equivalent to at least 85 percent of the baseline HAP factor. Thus, the total reduction required by option 2 would be equivalent to or greater than an 85 percent reduction in the HAP factor, the same as in option 1.

The following restrictions also apply to the pollution prevention standards in today's final rule. First, for any reduction in the production-indexed HAP consumption factor that is achieved by reducing a HAP that is also a VOC, an equivalent reduction in the production-indexed VOC consumption factor is required. Second, for any reduction in the production-indexed HAP consumption factor that is achieved by reducing a HAP that is not a VOC, the production-indexed VOC consumption factor may not be increased. Third, particulate matter emissions from product dryers are excluded from the P2 option because

the product is not consumed in the process. Fourth, processes that began operation after November 10, 1997 are not eligible for the P2 alternative. Fifth, the P2 alternative does not apply to HAP that are generated in the process if they are not also added as a raw material or solvent; emissions of these generated HAP must be controlled as specified in the standards for process vents, storage vessels, equipment leaks, and wastewater systems.

Today's final rule also require owners and operators complying with the P2 standard to submit a P2 Demonstration Summary as part of the Precompliance plan that describes how the P2 alternative will be applied at their facilities. The minimum data requirements for the P2 Demonstration Summary are listed in § 63.1364(g)(3) of today's final rule.

M. Emissions Averaging Provisions

Today's final rule includes emissions averaging provisions that are essentially unchanged from the proposed provisions that would allow emissions averaging among process vent, storage vessel, and wastewater emission points within an existing affected source. Under emissions averaging, a system of ''credits'' and ''debits'' is used to determine whether an affected source is achieving the required emissions reductions. Emissions averaging allows existing sources the flexibility to achieve compliance at diverse points with varying degrees of control already in place in the most economically and technically reasonable fashion. This flexibility to account for controls already in place is not as justified for new sources because they can and should be designed and constructed with compliance in mind. Therefore, new sources are not allowed to use emission averaging.

N. Initial Compliance and Performance Test Provisions

1. Promulgated Standards

a. *Process Vents.* To determine compliance with the percent reduction requirements for gaseous HAP and HCl emissions from PAI process vents, the owner or operator is required to quantify the uncontrolled and controlled gaseous emissions from all process vents to demonstrate the appropriate overall reduction requirements. For process vents controlled by a device with an inlet of less than 9.1 Mg/yr of HAP, the owner or operator can either test or use mathematical methodologies to determine the uncontrolled and controlled emission rates from individual process vents. For process vents controlled by a device with an inlet of 9.1 Mg/yr or more of HAP, performance tests are required to determine the reduction efficiency of each device.

Performance test provisions were structured to account for the peak-case emissions. The EPA adopted this approach primarily for batch operations, which, because of their cyclic nature, tend to have variable emissions. Continuous processes tend to have more consistent emissions, but for simplicity, the same performance test provisions are applied to controls for continuous processes. This approach essentially considers emissions from continuous processes to be peak-case at all times. Control devices, that have previously been tested under conditions required by this standard, and condensers are exempt from performance testing.

To determine compliance with the outlet concentration standards, the final rule requires the owner or operator to conduct a performance test using the EPA methods specified in the rule under the same peak-case conditions. Today's final rule also specifies procedures to demonstrate initial compliance when using flares.

b. *Storage Vessels.* For demonstrating compliance with the percent reduction requirements for storage vessel emissions, today's final rule requires that the owner or operator conduct either a performance test or a design evaluation. To demonstrate compliance with the 20 ppmv outlet concentration, the final rule requires the owner or operator to conduct a performance test. However, if a control device is shared by storage vessels and process vents, the results of a performance test conducted to demonstrate compliance with the process vent standards may also be used to demonstrate initial compliance with storage vessel standards. For demonstrating compliance with the floating roof equipment standards, the final rule refers to the compliance provisions in the HON. Today's final rule also specifies procedures to demonstrate initial compliance when using flares.

c. *Wastewater.* The wastewater provisions in the final rule remain essentially unchanged from those of the proposed rule. For demonstrating compliance with the various wastewater requirements, owners and operators have a choice of using a specified design, conducting performance tests, or documenting engineering calculations, consistent with the wastewater provisions in the HON. Appropriate inspection, monitoring, reporting, and recordkeeping requirements are included in the regulation via cross-references to the HON.

d. *Equipment Leaks.* To determine compliance with the standard for equipment leaks, facilities must demonstrate that an LDAR program meeting the requirements of the final rule is in use.

e. *Bag Dumps and Product Dryers.* To demonstrate initial compliance with the particulate matter emission limit of 0.01 gr/dscf, the owner or operator is required to conduct a performance test.

2. Pollution Prevention Alternative Standard

To demonstrate initial compliance with the pollution prevention alternative standard, the final rule requires the owner or operator to document yearly quantities of HAP raw materials and products using preapproved material tracking records, including standard purchasing and accounting records, and calculating the baseline HAP and VOC factors. Prior to the compliance date, the final rule requires owners and operators to submit a pollution prevention Demonstration Summary that describes how the pollution prevention alternative will be applied at the facility. The pollution prevention Demonstration Summary provides the regulatory agency an opportunity to review and approve the proposed material tracking procedures. Procedures are also specified in the final rule to demonstrate that the required reductions are achieved by the control devices used to meet option 2.

O. Monitoring Requirements

1. MACT Emission Standards

The final rule requires monitoring to demonstrate compliance on an ongoing basis. This monitoring is done either by (1) continuously measuring emission reductions directly, or (2) continuously measuring a site-specific operating parameter, the value of which is established by the owner or operator during the initial compliance determination. The operating parameter value is defined as the minimum or maximum value established for a control device or process parameter that, if achieved on a daily average by itself or in combination with one or more other operating parameter values, determines that the owner or operator is complying with the applicable emission standards. Except for the bag leak detectors, these parameters are required to be monitored at 15-minute intervals throughout the operation of the control device. For a device controlling streams that, in aggregate, contain less than 0.91 Mg/yr of HAP, only a site-specific

periodic verification that the device is operating as designed is required to demonstrate continuous compliance. Owners and operators must determine the most appropriate method of verification and propose this method to the Agency for approval in the Precompliance plan, which is due 6 months prior to the compliance date of the standard.

Under the final rule, each fabric filter that is used to control particulate matter emissions from a bag dump or product dryer that is subject to the particulate matter standard must be equipped with a bag leak detection system with an alarm to indicate bag leaks or other causes of increased emissions. In addition, the owner or operator must prepare a written operation and maintenance manual that describes inspection and maintenance procedures for these fabric filters. The manual must also include a corrective action plan that describes procedures to diagnose the cause of any alarm as well as corrective actions to be taken to correct malfunctions or minimize emissions. The manual must be submitted to EPA for approval in the Precompliance report. Not initiating the corrective action plan within 1 hour of an alarm is a violation of an operating requirement.

2. Pollution Prevention Alternative Standard

An owner or operator electing to use the pollution prevention alternative can demonstrate ongoing compliance by calculating the rolling average of the HAP and VOC factors for each applicable process or portions of the process. For continuous processes, the rolling average is calculated every 30 days, and for batch processes, the rolling average is calculated every 10 batches. In both cases, the rolling average is based on data from the previous 12 months. In addition, an owner or operator electing to use pollution prevention Option 2 is required to monitor the emission reduction obtained through the use of traditional controls using the methods described above.

P. Recordkeeping and Reporting Requirements

The owner or operator of any PAI production facility subject to these standards is required to fulfill reporting requirements specified in the final rule, as well as requirements outlined in the General Provisions of subpart A to 40 CFR part 63. Table 1 following the regulatory text of today's final rule designates which sections of subpart A apply to the rule. Generally, the recordkeeping provisions require the owner or operator to maintain all records documenting the applicability determinations and indicating that the source is in compliance with the applicable requirements. Required reports under this standard include the Initial Notification of applicability to the standards, the Precompliance report, the Notification of Compliance Status report, and the Periodic reports required after the date of compliance.

V. Summary of Nationwide Impacts

The emission reductions that are required by this regulation could be met by regulated sources using one or more of several different techniques. Impacts were estimated for control scenarios based on traditional control techniques that were judged to be the most feasible for meeting the requirements of the final standards from a technical and cost standpoint. Energy, cost, and economic impacts of the pollution prevention alternative would be equivalent to or lower than the estimated impacts for traditional controls because it is likely that an owner or operator would elect to implement only those pollution prevention techniques that have lower impacts than traditional controls.

A. Air Impacts

The standards are estimated to reduce HAP emissions from existing sources by 2,500 Mg/yr from the baseline level, a reduction of 65 percent from the baseline (i.e., current) emissions level, and 93 percent from the uncontrolled emissions level. These reductions would also occur if facilities elect to implement the alternative pollution prevention standard. In addition to reducing HAP emissions, VOC will also be reduced. This reduction includes both VOC that are HAP and other VOC that are not HAP. Volatile organic compounds are precursors in the atmospheric reaction with oxides of nitrogen that generates tropospheric ozone. The amount of VOC reduction (beyond the HAP portion of the VOC) due to implementation of the PAI standards has not been quantified for this rulemaking. The basis for the estimated emissions reductions is discussed in Chapter 5 of the Basis and Purpose Document and in memoranda in the docket (Docket A–95–20, Docket item numbers III–B–1, IV–B–2, IV–B–3, and IV–B–4).

B. Water and Solid Waste Impacts

With the assumption that overheads from steam stripping will be recoverable as material or fuel, no solid waste is expected to be generated from steam stripping wastewater streams. Additionally, no solid waste is expected to be generated from controls of other emission points.

Under the final standards, wastewater generated from water scrubbers used to control HCl emissions is expected to increase by an estimated 10.8 million liters per year. The volume of wastewater generated would also increase at plants that choose a water scrubber to control certain water soluble organic HAP; however, the increase is expected to be minimal because the use of water scrubbers for this purpose is expected to be uncommon. The basis for the water and solid waste impacts is discussed in the Environmental Impacts memorandum in the Supplementary Information Document in the docket (Docket A–95–20, Docket item number II–B–21).

C. Energy Impacts

Under the final standards, energy use is expected to increase by an estimated 4,880 x 109 British thermal units per year (Btu/yr). The basis for the estimated energy use is discussed in the Environmental Impacts memorandum in the Supplementary Information Document in the docket (Docket A–95–20, Docket item number II–B–21).

D. Cost Impacts

The total control cost includes the capital cost to install control devices (including floating roofs), the costs involved in operating control devices (energy and operating and maintenance costs), costs associated with monitoring control devices to ensure compliance, costs associated with implementing work practices, and the cost savings generated by reducing the loss of valuable product in the form of emissions. Monitoring costs include the cost to purchase and operate monitoring devices, as well as reporting and recordkeeping costs required to demonstrate compliance. Average cost effectiveness, dollars per megaram ($/Mg) of HAP removed, is also presented as part of cost impacts and is determined by dividing the annual cost by the annual emission reduction. The basis for the cost impacts is discussed in the Cost Impacts memorandum in the Supplementary Information Document and in subsequent memoranda in the docket (Docket A–95–20, Docket item numbers II–B–21, IV–B–2, IV–B–3, and IV–B–5).

Under the final standards, EPA estimates that the total capital costs for existing and new sources will be $71.6 million and $10.3 million, respectively (June 1998 dollars). The total annual costs for control at existing and new sources are estimated to be

approximately $39.4 million and $5.47 million, respectively (June 1998 dollars). The average cost effectiveness of the standards is estimated to be about $15,800/Mg for existing sources and $13,400/Mg for new sources.

The EPA estimates that in the first three years following promulgation industry's nationwide annual cost burden will average $304,000/yr for monitoring, recordkeeping, and reporting requirements. Most of these costs are for new and reconstructed sources that must be in compliance upon startup; other costs are for existing sources to prepare initial notifications and plans. In the fourth year after promulgation, existing facilities must begin to record monitoring data and prepare periodic reports, which will significantly increase the nationwide annual burden.

It is expected that the actual compliance cost impacts of the final rule will be less than described above because of the potential to use common control devices, upgrade existing control devices, use other less expensive control technologies, implement pollution prevention technologies, or use emissions averaging. Because the effect of such practices is highly site-specific and data were unavailable to estimate how often the lower cost compliance practices could be utilized, it is not possible to quantify the amount by which actual compliance costs will be reduced. The EPA believes that the overall control costs and the monitoring, reporting, and recordkeeping costs will be substantially reduced for the facilities opting to comply via the pollution prevention option.

E. Economic Impacts

The control costs imposed on producers in the PAI production industry will increase their cost of production. The effects of the changes in production costs are evaluated in the ''Economic Impact Analysis of the Proposed NESHAP for the Production of Pesticide Active Ingredients'' (Docket A–95–20, Docket item No. II–A–20). This report was not changed as a result of public comments and will serve as documentation for the final rule. The resulting increase in production costs will increase the market price by less than 1 percent and decrease market output by less than 1 percent. In addition, the regulation's impact on foreign competition is relatively small. Social cost incorporates the changes in welfare to consumers, unaffected producers, and foreign producers and consumers to the cost of the regulation. These costs were determined to be negligible for the PAI production industry; therefore, the total social cost is estimated to be equal to the total control cost. No plant closures are expected from compliance with this set of alternatives.

VI. Major Comments and Changes to the Proposed Standards

A. Applicability Provisions

1. Selection of Source Category

The initial list of categories of major and area sources included 10 source categories in the agricultural chemicals industry group. In June 1996, butadiene furfural cotrimer was moved from the polymers and resins industry group to the agricultural chemicals industry group (61 FR 28197). In the notice of proposed rulemaking, EPA made the following additional changes: (1) All active ingredients within the meaning of FIFRA section 2(a) that are used in herbicide, insecticide, or fungicide pesticide end-use products were added to the agricultural chemicals industry group; (2) the individual initial and new source categories in the agricultural chemicals industry group were combined into a single source category; and (3) the new source category was named ''pesticide active ingredient production.''

The EPA received numerous comments on the change in the source category. Many of the commenters requested exemptions for specific processes or classes of processes. Examples include: antimicrobials; chromic acid and sodium bichromate; chlorine; sodium hypochlorite; kaolin (aluminum silicate); sulfuric acid, particularly from copper smelters; and copper sulfate, from copper refineries and rod mills. The commenters contend that these processes should be exempt because the production processes are significantly different than organic PAI production processes. In addition to differences in the production processes, each commenter cited one or more of the following reasons to support their requests for exemptions: (1) Minimal toxicity of some of the products themselves; (2) the HAP emitted are not organic compounds or HCl, or they are impurities introduced with feedstocks; (3) regulation would achieve minimal environmental benefit but impose significant burden, especially to demonstrate that equipment does not emit HAP; (4) the product is not primarily sold for use as PAI; and (5) the production process is part of another source category that will be regulated by another MACT standard, is part of a delisted source category, or, if not currently listed, would be more logically listed among the categories of inorganic chemicals. Some of the commenters also indicated that sulfuric acid plants will be MACT for copper and lead smelter furnaces.

Some commenters opposed the expansion of the source category because some products are produced synthetically and others are derived from naturally occurring materials. These commenters are also concerned that the proposal did not identify either the number of processes that would be covered or examples of the processes, and that EPA has not ensured that process operation, emission characteristics, control device applicability, and costs are similar. As a result, they contend that the proposed regulation is arbitrary and capricious, is inconsistent with the Clean Air Act and EPA's procedures for developing MACT standards, and defeats the purpose of creating source categories. The commenters suggested limiting the regulation to synthetically produced materials because this would be consistent with the process descriptions presented in the Basis and Purpose document and with the definition of intermediate (i.e., a compound produced in a chemical reaction). These commenters explained that other regulations (e.g., the HON) have recognized this distinction, and many of the compounds derived from naturally occurring materials are not used primarily as PAI's.

One commenter stated that EPA should not further expand the source category beyond that covered by the proposed rule because owners and operators of other processes may not have read the proposal preamble closely enough to realize that EPA was requesting comment on such action. Two commenters supported the scope of the applicability and the definition of PAI.

The reasons for expanding the source category to include PAI's other than those on the initial source category list, and for aggregating them all together in a single source category, are summarized in section I of this preamble. Since proposal, however, EPA reexamined the scope of the source category and determined that the proposed rule included some processes that are not similar to the others. For the final rule, changes were made to narrow the scope of the source category; in addition, for processes that remain in the source category, changes have been made to exempt some processes and to clarify requirements for others. These changes are: (1) A statement has been added to specify that the provisions of the rule apply only to PAI process units that ''process, use, or produce HAP''; (2)

the definition of PAI has been changed to mean any organic material that is an active ingredient within the meaning of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 2(a); and (3) a statement has been added to specify that the provisions of the rule do not apply to the production of ethylene (processes subject to the HON are also exempted, as they were in the proposed rule). Finally, EPA decided not to limit the source category only to production of compounds by chemical synthesis. Each of these decisions is discussed in more detail later in this section. The provision specifying that the rule applies only to PAI process units that ''process, use, or produce HAP'' has been added to the final rule because EPA did not intend for owners and operators to demonstrate compliance for processes that do not meet this condition. Note, however, that this provision does not automatically exempt process units that do not ''emit'' HAP; for emission points in such process units, an owner or operator must demonstrate that emissions are less than the applicability thresholds.

The EPA decided to exclude production of inorganic compounds from the source category because: (1) Inorganic PAI's comprise only a small percentage of the total PAI production; (2) many of the inorganic PAI production processes do not use or emit HAP; (3) data are unavailable on the use, emissions, and control of HAP compounds other than organics and HCl; (4) some of the inorganic PAI's are included in other active or delisted source categories; and (5) most of the inorganic PAI's are used primarily for non-pesticidal purposes. In this context, ''organic'' means any compound that contains carbon and hydrogen with or without other elements. Based on a review of pesticide registration data in 1996, less than 10 percent of the PAI's in pesticide products that are registered as insecticides, herbicides, or fungicides are inorganic compounds. Inorganic compounds comprise a similar percentage by weight based on 1993 consumption data; the top 25 compounds account for nearly half of the total PAI production, and the two inorganic compounds in the group (sulfur and copper hydroxide) account for less than 10 percent of the total.

Of the inorganic PAI processes, only those producing HCl, chlorine, and compounds containing arsenic and chromium are known to use and emit HAP. Both HCl and chlorine production precesses are part of source categories that will be addressed by other MACT standards that are under development. Chromium-based compounds are part of the delisted chrome chemicals source category and thus, EPA agrees with the commenter that they should not also be part of the PAI source category. Data on the existing control levels for arsenic-based compounds are unavailable. In the absence of such data, EPA has decided that production of such compounds should not be part of the PAI source category.

The commenters cited examples of some inorganic compounds that are primarily used for nonpesticidal purposes. The EPA believes there are other inorganic compounds that could be added to this list of compounds used only in minor amounts as pesticides. Conversely, most of the organic compounds are specifically designed as PAI's. Exceptions include ethylene, which has been specifically exempted in the final rule because it is the subject of a MACT standard that is under development, and several compounds covered by the HON such as acrolein, ethylene oxide, napthalene, and propylene glycol.

Production of organic PAI compounds that are derived from natural materials is retained in the source category. Natural materials used as PAI's fall into one of two categories. One category includes materials such as herbs, tobacco dust, dried blood, chitin, putrescent whole egg solids, pyrethrum flowers, cinnamon, sawdust, and ground sesame plant. These compounds are simply harvested or collected and the only processing involves mechanical action. None of these compounds is a HAP. As a result, these processes are not subject to the final rule because the production processes do not process, use, or produce HAP. The second category includes compounds like turpentine that are extracted from natural materials. Extraction processes are not exempted from the final rule because they tend to use large amounts of solvent and have a high potential for emissions. Emissions from extraction processes tend to be more concentrated than emissions from many of the operations in chemical synthesis processes, and they tend to be larger scale operations than extraction operations that are part of a chemical synthesis process. These characteristics make control of extraction processes more cost effective than control of many chemical synthesis processes. However, because the final rule includes a primary use criterion for determining applicability (see section VI.A.2), extraction processes are only subject to the final rule if the product is primarily used as a PAI.

One commenter believes the Captan® process (one of the 10 initial source categories) should not be combined with other PAI processes because it differs from the other processes in a number of ways. According to the commenter, some of the differences are: (1) The process vent flow rate for production of the intermediate is much lower than the process vent flow rate for the active ingredient production, which leads to differences in the complexity and cost of the control devices; (2) the Captan® process has both volatile organic HAP and particulate HAP emissions; and (3) the cost to control carbon disulfide emissions would be much higher than the modeled costs.

The EPA disagrees with the commenter's assertion that the Captan® process (and the associated intermediate process) should be considered separately from other PAI processes. The EPA assumed the intermediate is an integral intermediate. As a result, the intermediate process and the Captan® process are separate processes, both of which are subject to the final rule. Although the flow rates of the intermediate and Captan® process vent streams differ, the flow rates and other process vent stream characteristics for both processes are well within the range of characteristics for process vent streams at other surveyed PAI facilities. These differences were accounted for in EPA's impact analysis by using different models to represent the two processes.

In addition, although the Captan® process itself emits both particulate HAP (i.e., the Captan® product) and a gaseous organic HAP, carbon disulfide, the two pollutants are emitted from different vents. The particulate emissions from product dryers also are considered to be a separate type of emission point like process vents or storage vessels. The fact that this facility is the only one of the MACT floor facilities to have HAP emissions from product dryers is not considered a significantly unique characteristic. It is analogous to the fact that some of the other plants have HAP storage vessel emissions or wastewater discharges and are subject to the specific standards for these emission points, where other plants are not. Finally, EPA believes the cost impacts analysis is correct. Carbon disulfide can be controlled with many of the same control devices that are used to control other organic HAP. If incinerated, the resulting sulfur dioxide (SO_2) emissions can be controlled using scrubbers comparable to those used to control HCl emissions. A detailed discussion of the cost analysis is provided in section VI.O.2. Therefore, EPA believes the Captan® process is not sufficiently different from other PAI processes to warrant development of a

subcategory or a separate source category.

2. Designation of Affected Source

At proposal, the affected source was defined as the facility-wide collection of process vents, storage tanks, waste management units, heat exchange systems, cooling towers, equipment identified in § 63.149 of subpart G, and equipment components (pumps, compressors, agitators, pressure release devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems) in PAI manufacturing operations at a major source of HAP emissions. The EPA received several comments on the affected source. The comments focused on the following issues: (1) Definition of terms, (2) limiting applicability to processes where the primary product is a PAI, and (3) limiting applicability to processes where the product is primarily used as a PAI.

a. *Definitions.* Two commenters requested changes in the definition of the affected source and in the terms used to describe the affected source. One commenter requested that the definition of ''pesticide active ingredient manufacturing operations'' exclude waste management units because these units are not subject to the standards but instead are used to comply with the standards, and typically they are not dedicated to a particular production process. In addition, the commenter expressed concern that the proposed definition could be interpreted to require compliance with new source standards at an existing waste management unit simply because a new and major PAI manufacturing operation is built that will contribute wastewater to the unit.

The second commenter believes the definition of affected source needs to be revised to include not only the emission points, but also the process unit and emission control technologies. The commenter recognizes that the definition in the proposed rule is similar to the definitions in other MACT standards, but the commenter has recently realized that it is too narrow. For example, in determining whether changes constitute ''reconstruction,'' the changes must cost more than half as much as building a new similar affected source. However, under the proposed rule, the affected source included only process vents, not the reactors, distillation units, or other process equipment of which the vent is a part. Similarly, it included valves and connectors on process piping, but not the piping itself. The commenter also contended that the cost of installing emission controls is a legitimate part of the cost of building a new affected source, but to consider that cost in the reconstruction analysis, emission control technologies must be included in the definition of the affected source.

The EPA made several changes to the definition of affected source and related terms to respond to the comments and to clarify the terms. One change was to remove much of the language from § 63.1360(a) because it is included in the definition of other terms in § 63.1361. Another change was to eliminate the term ''PAI manufacturing operations'' because it is redundant with the definition of the affected source. In its place, the term ''PAI process unit'' is used to describe the process and all related equipment used to produce a single PAI or integral intermediate. The EPA agrees with the commenter that the equipment and piping within a process are components of an affected source that should be considered in the fixed capital cost analysis for determining whether changes constitute reconstruction. For the final rule, these items have been included, along with most of the items on the list of equipment in the proposed definition of the affected source, in the definition of the ''PAI process unit.''

The EPA also agrees with the commenter that waste management units should not be considered part of the PAI manufacturing operations or, in the final rule, part of the PAI process unit. However, waste management units are not used to comply with the standards; they are a type of emission point for which standards are developed. Therefore, waste management units are considered part of the affected source in the final rule. This change makes the final rule consistent with other MACT standards and allows the waste management units to be considered in reconstruction analyses.

Finally, the commenter's conclusion regarding the application of new source requirements is correct. If a new PAI process unit meets the requirements for new source applicability, then the waste management units associated with that new PAI process unit would have to meet the requirements for new sources. If the owner or operator wants to discharge to existing waste management units, they must meet the requirements for new sources. The practical impact of this requirement, however, is expected to be minimal because the requirements for new sources and existing sources are identical except when the HAP load to the waste management units exceeds 2,100 Mg/yr. Based on survey data from the industry, no single existing PAI process unit discharges wastewater with such a high load (and only one facility discharges wastewater containing that much HAP).

The EPA disagrees with the commenter's assertion that control devices should be a component of an affected source for the purposes of determining reconstruction costs. The preamble to the General Provisions cites EPA's policy on this issue, which was originally stated in the preamble to a December 16, 1975 regulation that deals with modification, notification, and reconstruction requirements under 40 CFR part 60. That preamble states, ''Costs associated with the purchase and installation of air pollution control equipment (e.g., baghouses, electrostatic precipitators, scrubbers, etc.) are not considered in estimating the fixed capital cost of a comparable entirely new facility unless that control equipment is required as part of the process (e.g., product recovery)'' (40 FR 58416, December 16, 1975).

b. *Primary Product.* Two commenters urged EPA to specify, as in other MACT standards, that a process (or process unit) is subject to the rule only if its primary product is a PAI. Both commenters believe this determination is needed when processing equipment periodically is reconfigured to produce different products. In addition, one of the commenters believes it is needed when multiple products are produced by a given process unit. This commenter also believes it is needed when a facility makes a change that is intended to be permanent because the commenter could not find any provision in the proposed rule that would allow such a process unit to be exempt from the rule if they stop making a PAI. The commenters believe the primary product determination would help manufacturers determine which rules apply and would result in regulation of processes that produce a given product under only one, most appropriate MACT standard. One commenter suggested that the primary product be defined as the one with the greatest annual design capacity on a mass basis. The other commenter noted that a simple way to define applicability is to specify that if a process unit stops making a PAI, the PAI rule no longer applies.

Another commenter interpreted the proposed rule to mean that the rule would apply whenever a PAI is produced. If a facility uses non-dedicated equipment, the commenter realized that this could mean that other rules would apply when the equipment was reconfigured to produce a different

product (e.g., the proposed pharmaceuticals rule used the same language). The commenter believes that complying with two standards for the same equipment would be confusing. Therefore, the commenter suggested that the PAI rule apply only when 50 percent or more of the annual production from the equipment is a PAI, or that EPA allow a facility to comply only with the most stringent rule that would apply to the equipment, regardless of the configuration or the product being produced.

In response to the comments EPA evaluated several options for including a primary product determination. The analysis considered two types of situations. The first situation consists of processing equipment that produces only one PAI, produces different PAI's at different times, or simultaneously produces coproducts (one of which is a PAI). The second situation involves processing equipment that produces different products periodically, and some of the products are not PAI's.

For the first situation, EPA determined that a primary product determination is not needed. This conclusion is obvious for equipment that only produces PAI's because no other rule could apply (because compounds subject to the HON are exempted from today's final rule). The analysis is more complicated if a PAI is produced as a byproduct or is produced in minor quantities relative to some other product of the process. The EPA is not aware of any such situations. However, if such processes exist, they may already be subject to the HON, in which case they are exempted under § 63.1360(d) of today's final rule. The only other standard that might apply to such a process in the future is the Miscellaneous Organic NESHAP (MON). The MON will cover a wide variety of compounds in many different industries. Thus, EPA believes that a process unit producing a PAI, even if the PAI is not the primary product, has more in common with other PAI process units than with process units that will be subject to the MON. Therefore, EPA also believes it is more appropriate to regulate all such process units under today's rule rather than the MON.

The EPA considered four options for defining the applicability of the rule to equipment periodically used to produce chemicals other than PAI's. The first option is no change from proposal (i.e., no primary product determination). The second option is to include all equipment used to produce different products in a ''process unit group,'' and always comply with the regulation that applies to the primary product for the group, regardless of what product is being produced. The third option is to define applicability of the rule based on the primary product of the process unit. The fourth option is similar to Option 2, except that the applicable rule for the process unit group could, under certain circumstances, be a rule other than the one for the primary product of the group.

Under option 1, a PAI process unit exists whenever a PAI is being produced, when there is no primary product determination, and when the owner or operator must comply with the PAI standard for each PAI process unit. This option was rejected because, as the commenters noted, it has the undesirable effect of requiring an owner or operator to comply with a different regulation each time the feedstock changes or the equipment is reconfigured to make a different type of product.

The second option is to lump all non-dedicated equipment into one or more ''process unit groups'' and require the owner or operator to comply with the rule that applies to the primary product within the group. A variation on this option would be to require compliance at all times with the most stringent rule that would apply to any of the individual process units within the group. This option was rejected because the promulgated pharmaceuticals standard does not include a provision that would allow an owner or operator to elect to comply with today's final rule when a pharmaceutical is produced in a process unit group that has a PAI for the primary product. The variation also was rejected because it would be difficult to implement; the most stringent regulation would vary depending on the mix of different types of emission points at a given facility and could require mixing and matching different requirements from different rules that apply to the various emission points.

The third option would specify that the rule apply only if the primary product of the process unit is a PAI. This option was rejected because it does not solve the problem of equipment being subject to multiple regulations. A process unit is defined only by the product it makes. If the raw materials are changed or the equipment is reconfigured to make a different product, the result is a different process unit. An exemption for a process unit when it no longer produces a PAI would be meaningless because, by definition, a change in product creates a different process unit. In other words, it is not possible to make a permanent change in the primary product of a process unit because a given process unit cannot have more than one primary product.

The fourth option, like the second option, includes the concept of process unit groups. This option requires compliance with today's final rule for all PAI process units within the group, except for the following situations. One exception is that the owner or operator may elect to comply with another existing MACT standard for any PAI process unit(s) if the primary product of the process unit group is subject to the other standard on June 23, 1999 or the date of startup of the process unit group, whichever is later. Thus, PAI process units within a group, even if the PAI is not the primary product for the group, are subject to this standard unless and until the process unit group is subject to another MACT standard that covers the primary product of the group. This option also allows the owner or operator to elect to comply with the pharmaceuticals standard for any PAI process unit(s) if any of the products produced in the process unit group are subject to the pharmaceuticals standard. Thus, pharmaceutical manufacturing process units within a group that are covered by the pharmaceuticals MACT may comply with those standards even if a PAI is the primary product of the group. This provision is included because the pharmaceuticals rule does not have a provision that would allow an owner or operator to comply with the PAI rule while producing a pharmaceutical product when the primary product of the group is a PAI. However, two provisions in the pharmaceuticals rule are not applicable when producing a PAI. First, the process vent emission limit of 0.15 Mg/yr in the PAI rule applies instead of the 2,000 lb/yr limit in the pharmaceuticals rule because the 2,000 lb/yr cutoff would not be consistent with the MACT floor for PAI process vents. Second, the owner or operator of a new source that will produce PAI's as well as pharmaceuticals must comply with all of the requirements regarding application for approval of construction or reconstruction in § 63.5 of the General Provisions; the exclusions in § 63.1259(a)(5) of the pharmaceuticals rule do not apply. Again, EPA believes this change is necessary to avoid disparate treatment of PAI producers. The fourth option was selected because it simplifies compliance by allowing an owner or operator to comply with only one regulation for a process unit group. It accomplishes this goal without sacrificing emission reductions because the requirements of the rules are similar.

It also does not require that an existing regulation be amended.

Under the fourth option, the primary product of a group is defined as the product (e.g., a PAI, pharmaceutical, HON chemical, or currently unregulated chemical) with the highest estimated operating time or total production rate for the 5 years after the compliance date for today's final rule or after startup of the process unit group, whichever is later. The owner or operator proposes the number of groups and the boundaries of each group based on site-specific operation, but a group may only include equipment that is or may be used with equipment that is used to produce a PAI (i.e., some equipment must overlap between the PAI process unit and some other process unit for all equipment in both process units to be part of the same group).

c. *Primary Use.* Two commenters believe the rule should only apply to production of materials that are primarily intended to be used as PAI's. One of the commenters noted that for some chemicals registered as PAI's, only a small percentage of the total product is sold for use as a PAI.

Since proposal, EPA has evaluated four options for determining applicability of process units that produce a product for use both as a PAI and other purposes. Option 1 is to require no primary use determination (i.e., no change from proposal). Option 2 is to list, in the rule, compounds that are registered as PAI's but that would not be subject to the rule based on determinations that their primary use nationwide is not as a PAI. Option 3 is to require site-specific determinations of primary use. Option 4 is to list, in the rule, all PAI's that are subject to the rule.

Option 1 would encompass the most process units and would therefore achieve the greatest environmental benefit. The EPA rejected this option, however, because it could result in inequitable regulatory treatment of a given type of process unit. For example, one facility might produce a compound for multiple purposes, including a small amount for use as a PAI, but other facilities produce the same compound exclusively for other purposes. Under this option, only the facility producing a small amount of the compound for use as a PAI would be subject to the rule even though otherwise identical to the other facility.

Under option 4, a list of PAI's subject to the regulation would be included in the regulation. Compounds for which the primary use is the collective non-PAI purposes would be excluded from the list. This option was rejected because it would not accommodate changes in the industry. This is a dynamic industry with new compounds being developed and registered as PAI's every year. Between 1984 and 1995, the industry added an average of 14 new compounds per year, although not all of these new compounds would meet the definition of organic PAI subject to regulation under this rule. As a result, updating the list every year would be impractical. Another disadvantage to this option is that EPA's pesticide reregistration process is not yet complete. Presumably, compounds with incomplete evaluations would be included on the list. The list then would have to be amended periodically to delete compounds whose registrations are canceled.

Option 2 was rejected because, like option 4, it would not automatically accommodate changes in the industry; the rule might have to be amended periodically to exempt new compounds that are primarily used for non-PAI purposes. Another concern with option 2 is that it would be difficult to ensure that the list is accurate and complete.

The final rule adopts option 3, which requires site-specific determinations of primary use. This option was selected for several reasons. First, this approach is likely to result in a given process being subject to only one, most appropriate regulation because EPA is not aware of any compounds for which the primary use is as a PAI for one facility but not others. Furthermore, EPA does not expect the primary use at a given facility to vary. However, if the primary use changes to non-PAI purposes, today's final rule will still apply to the process unit (based on EPA's ''once-in, always-in'' policy); if the primary use changes to a PAI, today's final rule will apply only if the process unit is not already subject to the HON. A second advantage of this option is that it automatically accommodates new compounds that are developed in the future, and existing compounds that are found to have a pesticidal application. A third advantage is that minimal additional recordkeeping and reporting is required. Manufacturers are required under FIFRA to record and report the annual production of each PAI that they produce; today's final rule requires that they also record and report the total production to demonstrate that the compound is produced primarily for non-PAI purposes. Finally, the pharmaceuticals rule provides a recent precedent for including a primary use provision.

The final rule incorporates the primary use concept in the definition of PAI process unit. Specifically, a process unit is considered to be a PAI process unit if more than 50 percent of the material produced is used as a PAI or integral intermediate. The primary use is determined based on the projected annual production from the process unit in the 3 years after June 23, 1999 or startup, whichever is later.

3. Recovery Devices

One commenter requested that EPA clarify the applicability of recovery devices that are used for multiple processes when the recovered material from a PAI process is used in a non-PAI process. In the proposed rule, the term recovery device had the same meaning as in the HON, but it should have been used only in connection with the wastewater provisions. The MACT floor for process vents is based on the concept that certain condensers are part of the process (i.e., process condensers) and any other add-on devices are considered to be control devices; the concept of recovery devices as in the HON does not apply to process vents. For the final rule, the term recovery device has been revised to include only devices used with water streams, and to specify that equipment based on gravity separation may be a recovery device only if all of the inlet streams are two-phase liquid streams. The material recovered in a recovery device may be used in any process, including non-PAI processes.

4. Intermediates

Under the proposed rule, the affected source would include manufacturing of any intermediate that is integral to a PAI production process and for which more than 50 percent of the annual production of the intermediate is used in the on-site production of PAI's. An integral intermediate process was defined as a process manufacturing an intermediate that is used in the onsite production of PAI's and is not removed to storage before being used to produce the PAI(s). An intermediate was defined as a compound produced in a chemical reaction that is further processed or modified in one or more additional chemical reactions to produce a PAI. The proposed rule would also allow an owner or operator to elect to include production of the following intermediate processes in the affected source: (1) Integral intermediates for which less than 50 percent of the intermediate is used in the onsite production of PAI's and (2) isolated intermediates. ''Isolated intermediates'' were defined as intermediates that are removed to storage before being used in the on-site production of PAI's.

Several commenters addressed the definitions of different types of intermediates and their inclusion in the definition of affected source. One commenter recommended editorial changes to clarify the meaning of affected source. Another commenter stated that the term ''isolated intermediate'' should not be used because it has a different meaning under Toxic Substances and Control Act (TSCA), and different definitions for the same term would cause confusion. Another commenter stated that the rule needs to include a definition for ''storage'' to clarify which intermediate processes are integral. Other commenters believe the proposed rule combined integral intermediate production with PAI production in a single process, which, as described further in section VI.C.1, differs from the approach used to develop the MACT floor.

The intent of the proposed rule was to consider each integral intermediate process to be a separate process within the affected source, and to allow the owner or operator to elect to include any other intermediate process in the affected source. To improve the clarity of these provisions, EPA made several changes in the final rule. The first change was to include the production of integral intermediates in the definition of the new term ''PAI process unit,'' as described in section VI.A.2.a. This change clarifies that production of each integral intermediate is a separate process unit. The second change was to delete the term ''isolated intermediate'' to eliminate possible confusion with the term as it is defined under TSCA. The impact of this change was minimal because the term was only used in the proposed rule to describe intermediates that are not integral intermediates. The third change was to replace the term ''integral intermediate process'' with the term ''integral intermediate'' and change the definition to mean an intermediate for which 50 percent or more of the annual production is used in the onsite production of one or more PAI's and is not stored before being used in the production of another integral intermediate or the PAI(s). For the purposes of this definition, an intermediate is stored if it is discharged to a storage vessel and at least one of the following conditions is met: (1) The processing equipment that discharges to the storage vessel is shutdown before the processing equipment that withdraws from the vessel is started up; (2) on average, the material is stored in the storage vessel for at least 30 days before being used to make a PAI; or (3) the processing equipment that discharges to the storage vessel is located in a separate building or processing area of the plant than the processing equipment that uses material from the storage vessel as a feedstock, and control equipment is not shared by the two processing areas. Processes that satisfy any of these conditions are considered to be significantly distinct and separate. The fourth change was to clarify the provisions allowing the owner or operator to elect to include any intermediate process in the affected source. The final rule specifies that an owner or operator may elect to designate production of any intermediate that does not meet the definition of integral intermediate (and is not otherwise exempted) as a PAI process unit in the affected source. See section VI.C.1 for a discussion of integral intermediates in the development of the MACT floor.

5. Determining New Source Status

Under the proposed rule, an addition of PAI manufacturing operations at an existing plant site would be subject to the requirements for a new source if it had the potential to emit 10 tons/yr or more of any HAP or 25 tons/yr or more of any combination of HAP, unless the Administrator establishes a lesser quantity at a plant that currently is an affected source. Two commenters questioned whether this meant that a source with minor actual emissions but major potential to emit could elect to accept a federally enforceable ''synthetic minor'' operating permit with an emission limit below the 10 and 25 tons/yr cutoffs, and thereby avoid the new source requirements for process vents, storage vessels, and wastewater.

The new affected source provisions have been revised for the final rule. As noted above, the term ''PAI manufacturing operations'' has been removed from the final rule. The phrase ''unless the Administrator establishes a lesser quantity at a plant that currently is an affected source'' is not included in the final rule because this statement is redundant with section 112(c)(1) of the CAA, and the term ''addition'' was determined to be ambiguous. To address these concerns, the final rule specifies that new source requirements apply to an affected source for which construction or reconstruction commenced after November 10, 1997, or to any single PAI process unit that meets the following conditions: (1) It is not part of a process unit group; (2) construction commenced after November 10, 1997; and (3) it has the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP. Thus, if an owner or operator elects to accept federally enforceable conditions that limit the potential to emit for a single PAI process unit that is added to an existing facility to levels below these thresholds, the PAI process unit would be subject to existing source standards, not new source standards.

6. Startup, Shutdown, and Malfunction

For batch processes, the proposed rule would require an owner or operator to comply with the provisions in the rule during periods of startup and shutdown; periods of malfunction would be regulated according to § 63.6 of the General Provisions. For continuous processes, the proposed rule specified that only § 63.6 of the General Provisions would apply during periods of startup, shutdown, and malfunction.

One commenter agrees that routine startups and shutdowns between batches should be covered by the rule, but stated that it should not apply during other startups and shutdowns because normal emission control techniques may be inappropriate or ineffective during those times. According to the commenter, some of the other situations include (1) initial startup of a process unit, (2) startup after a malfunction or an extended period of nonoperation, and (3) shutdowns due to a malfunction. The commenter explained that during initial startup, control devices and monitoring systems need to undergo ''shakedown'' and debugging, and may need time to reach their full efficiency. After an extended downtime, process equipment also will need time to get back to normal operating conditions, and control devices will need to reach operating temperatures or equilibrium. Although the commenter understands that the proposed rule would not apply during malfunctions, the requirements during a shutdown associated with the malfunction were not clear.

The commenter also stated that the final PAI MACT standards should not incorporate § 63.6(e) of the General Provisions for four reasons. First, the requirement in § 63.6(e)(3)(i)(A) to minimize emissions ''at least to the levels required by all relevant standards'' is ambiguous. Second, the General Provisions do not address shutdowns of compliance equipment such as control devices. Third, the General Provisions do not address startups, shutdowns, and malfunctions that affect only a portion of the process. Fourth, the General Provisions do not say how to deal with periods of nonoperation. To address these concerns, the commenter recommended that the rule have self-contained startup,

shutdown, and malfunction provisions patterned after those in the HON.

Another commenter recommended that EPA consider revising the rule to allow batch processes with air pollution control equipment to comply with the startup, shutdown, and malfunction requirements in § 63.6(e) of the General Provisions. The commenter explained that operating practices for controls used with batch processes are the same as those for controls used with continuous processes; for both types of processes, operators verify that all control equipment is on-line and functioning properly to minimize emissions at all times (consistent with § 63.6(e)(1)(i) of the General Provisions). Furthermore, the commenter stated that maintenance and corrective actions after a malfunction of a control device are the same for both batch and continuous processes. Therefore, the commenter recommended that EPA consider revising the rule to include the following language: ''For batch processes with air pollution control equipment, startup, shutdown, and malfunction shall be regulated according to § 63.6 of subpart A of this part. For batch processes without air pollution control equipment, the provisions of this subpart shall apply during startup and shutdown, and periods of malfunction shall be regulated according to § 63.6 of subpart A of this part.''

The EPA has reconsidered the applicability of the rule during periods of startup and shutdown and determined that the requirements of the rule should not be applied under certain situations for batch processes as well as for continuous processes. For batch processes, these situations include initial startups of new or reconstructed processes, and shutdowns that are not part of intended operation (e.g., for maintenance, replacement of equipment, or other repair, possibly as a result of a malfunction). These are times when the operators may be unfamiliar with the equipment operation or it may not be possible to follow standard operating procedures. However, a startup after maintenance, after switching to a product that has been produced in the past, or the startups between batches during a campaign are all routine, normal operating conditions that should result in the same emissions profile. Similarly, shutdown at the end of a campaign, between batches, or for planned, preventive maintenance are all normal operations with the same emissions profile. Conversely, for continuous processes, startup and shutdown for any reason results in operation under conditions different from the normal steady-state operation. To account for these differences between batch and continuous processes, the final rule provides definitions for startup and shutdown that differ from the definitions in the General Provisions. Specifically, the following definitions have been added to the rule:

Startup means the setting in operation of a continuous PAI process unit for any purpose, the first time a new or reconstructed batch PAI process unit begins production, or, for new equipment added, including equipment used to comply with this subpart, the first time the equipment is put into operation. For batch process units, startup does not apply to the first time the equipment is put into operation at the start of a campaign to produce a product that has been produced in the past, after a shutdown for maintenance, or when the equipment is put into operation as part of a batch within a campaign. As used in § 63.1363, startup means the setting in operation of a piece of equipment or a control device that is subject to this subpart.

Shutdown means the cessation of operation of a continuous PAI process unit for any purpose. Shutdown also means the cessation of a batch PAI process unit or any related individual piece of equipment required or used to comply with this part or for emptying and degassing storage vessels for periodic maintenance, replacement of equipment, repair, or any other purpose not excluded from this definition. Shutdown does not apply to cessation of a batch PAI process unit at the end of a campaign or between batches (e.g., for rinsing or washing of equipment), for routine maintenance, or for other routine operations.

The EPA has also clarified in the final rule that the provisions can apply to processing equipment, as well as control, monitoring, and recordkeeping equipment. Additionally, in response to the commenter's concerns regarding ambiguity of the General Provisions, EPA has replaced the reference to the General Provisions with language from the HON that specifically clarifies applicability of provisions during startup, shutdown, and malfunction events.

7. Overlap With Other Standards

Several commenters stated that, in addition to the exemptions provided in the proposed rule, the rule must also address overlap with other regulations. Commenters identified potential overlap with new source performance standards (NSPS) in 40 CFR part 60 (e.g., subparts Kb, III, NNN, and RRR), NESHAP in 40 CFR part 61 (e.g., subparts BB, FF, and G), and RCRA equipment leak requirements. The commenters suggested using language similar to that in § 63.110 of the HON for provisions dealing with process vents, storage vessels, and wastewater and language from § 63.160(b) through (d) to address overlapping provisions that deal with equipment leaks.

The EPA agrees with the commenters that the rule must address overlap with other regulations. The final rule includes language similar to that in § 63.110 of the HON, thus addressing the overlap with NSPS requirements for storage vessels in subpart Kb of 40 CFR part 60 and RCRA requirements in 40 CFR parts 260 through 272. The EPA also added a provision specifying that an owner or operator subject to both this rule and the equipment leak requirements in subpart I of 40 CFR part 63 may elect to comply with the requirements of either rule.

The requirements in NSPS subparts III, NNN, and RRR apply to individual vents, whereas the process vent standards in today's final rule apply to the sum of all process vents within a process. As a result, a facility generally must comply with both today's final rule and any applicable NSPS. One exception is provided in the final rule. If an owner or operator elects to reduce emissions from a process vent by 98 percent (or implement an equivalent control option), then the owner or operator is required to comply only with the provisions of today's final rule.

The final rule does not address overlap with NESHAP in 40 CFR part 61. Subparts BB and FF regulate emissions from benzene production, which, because it is subject to the HON, is not subject to today's rule. Subpart G is reserved and also is not covered in § 63.110 of the HON.

B. Compliance Dates for New Sources

Several commenters addressed the provision in the proposed rule that would require new sources to be in compliance upon startup. One commenter believes the provision should be revised to require compliance by initial startup or the promulgation date of the rule, whichever is later. Other commenters believe EPA should either allow new sources a period of up to 6 months to complete any required testing after startup, or change the definition of startup to stipulate that startup is not complete until all required performance testing is complete, and that this testing must be completed no later than 6 months after steady state production for continuous processes, or

until 6 months after a successful batch production run has been completed.

A provision requiring that new sources be in compliance by initial startup or the promulgation date, whichever is later, is consistent with other MACT standards and has been added to the final rule.

The EPA does not believe that the compliance date needs to be changed to accommodate required emissions testing. Under the proposed rule, an owner or operator would be required to submit the Notification of Compliance Status report no later than 150 days after the compliance date (i.e., startup for a new source). This requirement is consistent with other MACT standards (e.g., the HON, Polymers and Resins (P&R) I, and P&R IV), and it is nearly the requested 6 months after the compliance date. Furthermore, much of the required work (e.g., the emissions profile) may be completed before the compliance date. The amount of time needed to reach steady state production or to complete a successful batch production run should not be greater in this industry than in other chemical production industries. Therefore, the final rule retains the provision to submit the Notification of Compliance Status report no later than 150 days after the compliance date.

C. Process Vent Provisions

1. MACT and MACT Floor

Several commenters requested that sources be able to use process vents meeting the criteria for 98 percent control in determining 90 percent overall process control requirements. Commenters stated that the EPA determined that the MACT floor was 90 percent on a processwide basis and excluding these vents increases the stringency of the floor.

The MACT floor was determined to be 90 percent control for process vents at existing sources. In addition to the MACT floor, the EPA is required to develop regulatory alternatives beyond the floor and to select MACT based on the cost effectiveness of these alternatives. A regulatory alternative was developed that would require 98 percent control efficiency for specific vents that meet the flow and annual uncontrolled emissions criteria described in § 63.1362(b)(2)(iii); and would require 90 percent control efficiency for the sum of emissions from all other vents within the process. The cost of the regulatory alternative was judged to be acceptable, and this alternative was selected as MACT. The EPA agrees that this requirement is more stringent than the floor. If a vent that must be controlled to 98 percent is included in determining 90 percent control for all process vents within the process, the owner or operator would only be complying with the MACT floor, not the more stringent regulatory alternative. Thus, the final rule does not allow an owner or operator to use process vents that are subject to the 98 percent control requirement when determining compliance with the 90 percent overall control level.

Two commenters perceived an inconsistency that they believe should be resolved. The commenters pointed out that in the proposed standards, integral intermediate processes are combined with PAI processes to define a single ''process,'' but they were evaluated separately in the MACT floor analysis. One commenter further noted that this change would result in an increase in the applicability cutoff of the MACT floor because part of the emissions from an intermediate process should be combined with the active ingredient process with the lowest uncontrolled emissions that were used to establish the applicability cutoff of 0.15 Mg/yr.

The discussion in section VI.A.4 explains that the intent in the proposed rule was to consider production of integral intermediates and active ingredients to be separate processes. As the commenters noted, this is also the approach used to develop the MACT floor. However, in reexamining this approach since proposal, EPA realized that some of the active ingredient processes at the surveyed facilities included production of intermediates; in addition, some of the reported intermediate processes may satisfy one of the criteria for storage and thus not be integral intermediates. If all of the intermediates are integral intermediates, the floor would increase to 92 percent. If none of the intermediates are integral intermediates, the floor would decrease to 88 percent. Thus, EPA considers the proposed floor of 90 percent control to be appropriate. The applicability cutoff also is unchanged because the active ingredient production and intermediate production are not combined into a single PAI process unit.

Several commenters requested that the definition of a Group 1 process vent be revised to include an uncontrolled emissions concentration cutoff of 50 ppmv and a flow rate cutoff of 0.005 standard cubic meters per minute. Several commenters also requested changing the applicability cutoff in this definition. Some commenters suggested the applicability cutoff should be based on ''total resource effectiveness,'' as in the HON. The commenters asserted that these changes would provide incentives for sources to implement pollution prevention practices.

Some commenters suggested raising the applicability cutoff to 2,000 lb/yr to be consistent with the cutoff in the proposed pharmaceuticals rule; the commenters asserted this change was needed because the amount of available data on PAI processes was limited. Another commenter suggested raising the applicability cutoff to 10,000 lb/yr because this is the minimum value that was determined to be cost effective in the Batch Processes Alternative Control Techniques (Batch ACT) document. One commenter requested either a higher threshold for a process as a whole or for the individual process entities that comprise the Captan® process.

One commenter also noted that in many cases, controls on processes with small HAP emissions were added to control odors or VOC. The commenter disagreed with EPA's assertion during Partnership Group meetings that the CAA does not allow the Agency to consider the reason controls were added. The commenter states that there is no statutory limitation on how EPA defines ''affected source''; for example, EPA has already provided exclusions in § 63.1360, and a higher applicability cutoff could be another.

The EPA disagrees with the suggestions to change the definition of ''Group 1 process vent'' because these changes would be inconsistent with the MACT floor. The suggested concentration and flow rate cutoffs are inconsistent because the MACT floor was based on the sum of emissions from all vents within a process, not the characteristics of an individual vent. However, for the final rule, EPA did change the definition of ''process vent'' to exclude streams with HAP concentrations less than 20 ppmv. Although concentration data are not available from the surveyed plants, streams with such low concentrations are likely to be uncontrolled because 20 ppmv is considered to be the practical limit of control (Docket No. A–79–32, Docket item No. II–B–31). Furthermore, such streams are likely to have low annual emissions and, thus, have little impact on the applicability determination for a process.

The EPA attempted to collect information on the best controlled facilities in the PAI industry; EPA believes that the best controlled facilities are contained in its PAI data base and that the processes contained in the data base are representative of the industry. Based on the PAI data base, many processes with uncontrolled emissions that were significantly less

than the cutoffs mentioned by the commenters were controlled to levels of 90 percent or greater. Because the emission cutoffs mentioned by the commenters were not supported by the process vent data, these cutoffs would not have been defensible because they would have been less stringent than the cutoff prescribed by the MACT floor.

Regarding the comment that the cutoff for processes is not cost effective and that other cutoffs that have been demonstrated as cost effective should be provided, EPA notes that there is no provision in the amended CAA for consideration of cost-effectiveness in setting the MACT floor. Therefore, it is conceivable that the standards, which are set based on the practices of the industry, will require a level of control that is greater than what was determined to be cost-effective for other CAA programs. For example, the 10,000 lb/yr cutoff contained in the draft Batch ACT that was referenced by the commenters was intended to simplify applicability of presumptive reasonably available control technology (RACT) control measures, which are applied to the reduction of criteria pollutants (in this case, VOC) and can include the consideration of cost effectiveness.

Finally, the amended CAA contains no provisions for considering reasons why certain processes are controlled and others are not when determining the group of sources that will make up the best 12 percent of the source category. Therefore, the issue of facilities controlling HAP for odor control or other purposes is not a consideration in setting the floors.

One commenter asserted that the applicability equation used to determine which vents must be controlled to 98 percent is inappropriately applied to batch processes. The commenter explained that the flow rate used in the computer model to develop the 98 percent applicability regulatory alternative in the Batch ACT is a constant flow rate, which is inconsistent with batch processing.

In the Batch ACT, EPA developed costs for an incinerator to estimate the cost effectiveness of controlling emissions from batch process vents. Although flow rates from batch processes vary, the control device must be capable of handling the maximum flow rate possible. Therefore, the incinerator was sized and costed for the maximum flow rate, even though venting from batch processes will include periods of lower flow rates.

2. HCl Standards

Two commenters expressed concern that EPA's approach to determining the MACT floor for the HCl emission limit criteria (e.g., the 6.8 Mg/yr cutoff) in the proposed rule considers only a limited number of process vents emitting HCl which may not be representative of the entire source category. The commenters recommend that EPA consider setting the HCl cutoff for existing sources at least as high as the average of the two lowest HCl emission rates from controlled processes at the MACT floor facilities (i.e., (6.8 Mg/yr + 11.0 Mg/yr)/2 = 9.0 Mg/yr), or that the control device for the process vent emitting HCl meet a minimum 90 percent efficiency if installed and in operation before November 7, 1997. (Note: EPA assumes the commenter meant the proposal date of November 10, 1997.) The commenters believe these changes will improve incentives for pollution prevention, and that allowing 90 percent control would reduce the cost burden on existing facilities because retrofitting to achieve an incremental improvement in control is very expensive.

The EPA disagrees with the commenters that the proposed cutoff for HCl emissions is inappropriate. As described in the Basis and Purpose document and summarized below, EPA believes the cutoff of 6.8 Mg/yr is a very clear and obvious breakpoint. Also, even though the MACT floor plants have fewer processes with HCl emissions than organic HAP emissions, this is representative of the industry as a whole. Thus, one would expect that the HCl floor would be based on less data than the floor for organic HAP emissions. The EPA also notes that if the floor were determined by evaluating the best controlled processes throughout the industry rather than the processes at the best performing 12 percent of existing facilities, that the applicability cutoff might be lower than 6.8 Mg/yr. It certainly would not be higher.

To develop the MACT floor for the proposed rule, all of the processes at the nine MACT floor facilities were ranked by uncontrolled HCl emissions. All processes with uncontrolled emissions below 6.8 Mg/yr were uncontrolled, and processes with higher emissions were controlled to various levels. Therefore, the MACT floor was determined to be no control for processes below this threshold and 94 percent for processes above it.

The EPA believes there is no basis for setting a cutoff at 9.0 Mg/yr or for setting a control level of 90 percent for control devices installed before November 10, 1997. Because the MACT floor consists of both a control efficiency and a cutoff, the cutoff cannot be changed independently of the control efficiency. A cutoff of 9.0 Mg/yr would be inappropriate because it is not associated with the determined MACT floor control efficiencies. Furthermore, it would not make sense to include one controlled process (i.e., the process with emissions of 6.8 Mg/yr) with all of the uncontrolled processes; this is a very clear and natural cutoff. If the standard were based on an alternative more stringent than the floor, the rule might allow emission points that are already controlled to the level of the MACT floor to comply with that level (as was done for organic emissions from process vents). However, there is no basis for a 90 percent control level, regardless of the installation date, because the 94 percent control level for HCl is the MACT floor. Finally, the EPA recognizes that the incremental cost effectiveness will be high for a facility with control just below the required level. However, this would be true no matter where the level was set.

Other commenters stated that the HCl standards for new sources should be set at 99 percent removal for consistency with the HON requirements. One commenter stated that since there is no actual test data from the pesticide manufacturing industry demonstrating a 99.9 percent removal of HCl, a change to 99 percent would provide consistency with HON rule requirements.

The EPA agrees with the commenters. The proposed control level was based on a value reported by a surveyed facility. This value was not supported by test data or other documentation. However, a control level of at least 99 percent is likely for this scrubber because HCl control levels of 99 percent are widely accepted as achievable by scrubbers, and several other facilities reported this level. Therefore, for the final rule, the required control level for new sources has been changed to 99 percent. Although being consistent with the HON is not a priority, this change, as one commenter observed, does make the two rules consistent.

3. Surge Control Vessels and Bottoms Receivers

One commenter opposes the proposed requirement to regulate surge control vessels and bottoms receivers as process vents because it introduces a third way to regulate such emissions under the MACT standards. The commenter would prefer that these emissions be regulated as equipment leaks, as under the HON. If that is not acceptable, the commenter's second choice is to regulate the emissions as storage vessels, as under Polymers & Resins IV. The commenter believes that additional inconsistency is confusing and likely to

lead to inadvertent compliance mistakes.

The EPA notes that there is essentially no difference between regulating emissions from these equipment as ''equipment leaks'' (as in subpart H) versus as ''storage vessels'' (as in subpart G). Both the applicability and control requirements for these sources in the HON are identical. The reason EPA departed from this approach in the proposed (as well as the pharmaceuticals rule) rule is that surge control vessels and bottoms receivers typify the processing equipment, in capacity and function, found in the PAI and pharmaceuticals industries. Especially in the case of batch processing (where the HON does not regulate process vents), the characteristics of emission streams from these equipment are not significantly different than any other equipment. Emission streams from bottoms receivers and surge control vessels result from the displacement of saturated gases from incoming materials. Displacement emissions are very common in both the pharmaceuticals and PAI industries. Therefore, EPA decided to regulate them in a manner consistent with the remainder of processing equipment found in these industries.

In response to the commenter's concern about possible confusion from the inconsistent application of requirements across different source categories, EPA believes that the consistent treatment described above will actually eliminate a great deal of confusion in the implementation of the rule, because all equipment associated with a process will be treated in the same manner, and the control requirements, which are process based, can be evaluated over all equipment in the process. Additionally, because of the similarities of these equipment with other process vessels, the confusion related to defining a surge control vessel or bottoms receiver from another process vessel will also be averted.

D. Storage Vessel Provisions

1. MACT Floor

Under the proposed rule, the MACT floor for storage tanks consisted of applicability cutoffs and a control efficiency for tanks that exceeded the cutoffs. To develop the floor, the storage tanks at the best performing 12 percent of facilities (the ''MACT floor facilities'') were ranked by decreasing uncontrolled emissions. The tanks were divided into two groups based on an uncontrolled emissions cutoff below which the median control efficiency was no control. The median control efficiency below 108 kg/yr was no control; the median control above the cutoff was 41 percent. A tank size cutoff was established at 38 cubic meters (m^3) based on the smallest tank with uncontrolled emissions greater than 108 kg/yr that was controlled at least to 41 percent. For new sources, the smallest tank with the best level of control was determined. The floor for new sources was determined to be 98 percent control efficiency for storage vessels with capacity of 26 m^3 or greater and uncontrolled emissions of at least 0.45 kg/yr.

One commenter stated that the control levels originally provided by the commenter for two storage vessels are inaccurate due to incorrect coolant temperatures used by the commenter. The commenter stated that the impact of this change is that the existing source MACT floor based on the median control level for tanks with uncontrolled emissions greater than 108 kg/yr becomes 21 percent, instead of 41 percent. Another commenter stated that MACT floor should be revised to include consideration of vapor pressure of the stored HAP to be a primary parameter.

The EPA has corrected the control efficiencies for each of the storage vessels mentioned by the commenter. The EPA also reexamined the data base since proposal and removed several vessels that should not have been included because they do not meet the definition of storage vessel. Changes to the storage vessel data base, and changes to the MACT floor and the final standard that are summarized below are discussed in the memorandum ''Explanation of Options for Reevaluating the Storage Tank MACT Floor for the Production of Pesticide Active Ingredients NESHAP,'' (Docket A–95–20, Docket item No. IV–B–2).

The proposed approach to developing the MACT floor for storage vessels was significantly different than the approach used to develop the floor for other rules (e.g., the HON, polymers & resins, and pharmaceuticals). Since proposal, EPA has reevaluated the revised data base and determined that an approach consistent with that used for the other rules is feasible and appropriate for this rule. One of the commenters also recommended that the floor include vapor pressure cutoffs as in other rules. As a result, EPA decided to revise the MACT floor. The revised approach established vapor pressure cutoffs at the same storage vessel capacity cutoffs and control efficiency cutoffs as were used in the previous rules. Specifically, the approach examined storage vessel cutoffs at 38 m^3, 75 m^3, and 151 m^3. (In English units, these capacities correspond with 10,000 gallons [gal], 20,000 gal, and 40,000 gal, respectively, and the data base includes at least one storage vessel at each of these sizes.) Within these size ranges, the vapor pressure cutoff at which the majority of storage vessels were controlled to 95 percent or more was determined; the 95 percent level is consistent with the efficiency of floating roofs, which are the most cost effective controls.

Under the revised approach, at liquid vapor pressures of 3.45 kPa and higher, the median control efficiency was found to be at least 95 percent in both the 75 m^3 and larger range and the 151 m^3 and larger range; at all vapor pressures, the majority of storage vessels with capacities smaller than 75 m^3 were found to be uncontrolled. The vapor pressure of 3.45 kPa is the vapor pressure of toluene, which is the predominant HAP in the industry and the most common organic HAP stored in storage vessels. Therefore, the revised MACT floor for storage vessels at existing sources was determined to be 95 percent control for storage vessels with a capacity greater than or equal to 75 m^3 that store material with a vapor pressure greater than or equal to 3.45 kPa. In addition, the MACT floor was determined to be no control for all storage vessels with a capacity less than 75 m^3.

The MACT floor for storage vessels at new sources is based on the best controlled storage vessel. As discussed above, the best level of control for storage vessels is considered to be 95 percent. The capacity of the smallest vessel controlled to 95 percent was determined to be 40 m^3, and the vapor pressure of the compound stored in this vessel was 16.5 kPa. The MACT floor for new sources must be at least as stringent as the floor for existing sources. Therefore, the MACT floor for new sources is 95 percent control for storage vessels with (1) a capacity of 40 m^3 or greater that store material with a vapor pressure of 16.5 kPa or greater and (2) a capacity of 75 m^3 or greater that store material with a vapor pressure of 3.45 kPa or greater.

2. Standard

Under the proposed rule, one regulatory alternative more stringent than the floor was developed. The regulatory alternative would require 95 percent control of storage vessels with capacity of 75 m^3 or greater that have uncontrolled emissions of 108 kg/yr or greater. Storage vessels smaller than 75 m^3 (and greater than 38 m^3) that have uncontrolled emissions of 108 kg/yr or

greater would require control to the floor level (41 percent). This regulatory alternative was determined to be cost effective. Therefore, the proposed standard for storage vessels at existing sources was established at 95 percent control for vessels with a capacity greater than or equal to 75 m^3 that have uncontrolled emissions greater than or equal to 108 kg/yr. No regulatory alternatives more stringent than the MACT floor were developed for storage vessels at new sources. Therefore, the proposed standard for storage vessels at new sources was determined to be 98 percent control efficiency for storage vessels with a capacity of 26 m^3 or greater with uncontrolled HAP emissions of at least 0.45 kg/yr.

Several commenters requested that EPA increase the lower emission cutoff for existing and new storage vessels. Most commenters recommended increasing it to at least 227 kg/yr; this level corresponds to the level in the Batch Processes ACT document for which manifolding to an existing control device was shown to be cost effective. One commenter suggested adding an exemption in § 63.1360(d)(4) for such storage vessels. Several of the commenters also noted that combustion would be the only feasible means of controlling HAP emissions of only 0.45 kg/yr, and that secondary emissions would increase significantly as a result.

The Agency has determined that including the higher cutoff suggested by the commenter would have been less stringent than the cutoff prescribed by the MACT floor. The emission cutoffs mentioned by the commenters are not supported by the storage vessel data base.

Since proposal, a different method for estimating the MACT floor has been incorporated (as discussed above). The revised MACT floor uses storage vessel capacity and the vapor pressure of stored material as the parameters for determining applicability for storage vessels, and no uncontrolled emissions cutoff is included in the floor. The Agency expects that implementing standards based on this format will be considerably easier than implementing the proposed standards, because no ongoing emission tracking will be required to demonstrate compliance with the standard. Use of these parameters is consistent with requirements for storage vessels in other rules.

Two commenters stated that the minimum applicability size cutoff for existing Group 1 storage vessels should be changed to correlate with the NSPS subpart Kb size cutoff to simplify compliance. The commenters stated that the cutoff for storage vessels at existing sources would change from 38 m^3 to 40 m^3. In addition, the commenters pointed out that the 38 m^3 cutoff is below the smallest storage vessel controlled to the median control efficiency in the study (i.e., 39 m^3).

For the final rule, EPA based the standards for new and existing sources on the MACT floor because the cost to go beyond the floor was determined to be unreasonable. As a result of the changes to the database discussed above, the capacity cutoffs in the final rule are higher than the cutoffs suggested by the commenters. For existing sources, the cutoff is 75 m^3 instead of the 40 m^3 suggested by the commenters. For new sources, the cutoff is 40 m^3 instead of the 39 m^3 suggested by the commenters.

One commenter pointed out that in both the definitions of Group 1 Storage Vessel (§ 63.1361) and the standard (§ 63.1362), the conversion from metric units to English units are rounded off. The commenter requests that EPA provide a more precise conversion to English units. In an effort to reduce confusion over the conversion from English to metric units (or vice versa), only metric units have been included in the final rule.

One commenter requested that EPA keep the existing source standard for storage vessels with capacities greater than 75 m^3 the same as that for smaller storage vessels, unless floating roof technology is already in-place. The commenter asserted that the EPA's ''beyond the floor'' standard of 95 percent organic HAP control for existing ''large'' storage vessels is not justified for storage vessels that were not already equipped with floating roof technology. The commenter stated that EPA's assumption that any existing storage vessel larger than 75 m^3 can be cost-effectively retrofitted with a floating roof is unrealistic.

For the proposed rule, the MACT floor was based on a control efficiency of 41 percent. As discussed above, the revised MACT floor is based on 95 percent control. The final standards also are based on a control of 95 percent because the cost to control to a higher level was determined to be unreasonable. Now that both the MACT floor and the standard are based on the same control efficiency, the commenter's concern about going beyond the floor is no longer relevant.

Several commenters stated that EPA should allow floating roofs as a control option for storage vessels at new sources. Some of the commenters stated that it is possible to reduce emissions of some HAP by 98 percent using a floating roof, with the efficiency calculated using TANKS3, EPA's computer program to calculate VOC emissions from storage tanks.

As noted above, the control level for storage vessels at new sources is 95 percent under the final rule. Floating roof technology is allowed to meet this limit, just as it is for existing sources.

3. Routine Maintenance

Several commenters requested either an extension in the 240 hours per year (hr/yr) allowance for routine maintenance or greater flexibility in its application. One commenter suggested that EPA allow up to a 30-day extension for control devices (like RCRA incinerators) that require more than 10 days of maintenance per year, or allow a facility to compensate for longer downtime by overcontrolling at other times (this would also require a change in the compliance averaging period—see section VI.M.1). Other commenters recommended that the 240 hr/yr be allowed for each PAI process unit that is created using the non-dedicated equipment because maintenance may be required prior to each campaign. Alternatively, one commenter suggested that, based on standard maintenance work practices, the startup, shutdown, and malfunction requirements in subpart A of part 63 should be allowed in lieu of the proposed 240 hr/yr allowance. The commenter stated that the standard work practice for many companies is to isolate all equipment upstream of control devices where planned maintenance will occur to eliminate all safety hazards to personnel and minimize any impact to the environment. One commenter supported the provision, but suggested it be expanded to cover controls for waste management units, controls used on equipment leaks, and recovery devices (if applicable).

The proposed 240 hr/yr for planned routine maintenance was mistakenly applied to all control devices in the proposed rule; it should only have been applied to storage vessels. The startup, shutdown, and malfunction provisions prohibit the shutdown of control devices during operation; however, EPA recognizes that for storage vessels, it is impossible to ''not operate'' (i.e., not have breathing losses) during a period of time in which an add-on control device would be undergoing planned maintenance. Therefore, EPA has in the final rule allowed an amount of time in which the control devices for storage tanks only can be nonoperational due to planned routine maintenance. All other situations (i.e., those that require unplanned, emergency maintenance)

should be addressed through the startup, shutdown, and malfunction provisions. This change makes the final rule consistent with other MACT standards. The rationale for the 240 hr/yr allowance is that EPA determined that routine maintenance for certain control devices may require up to 10 days to complete, and because this timeframe is consistent with State permitting activities (see 59 FR 19441 for a more detailed discussion of this time allowance).

E. Equipment Leak Provisions

The proposed rule would have required compliance with the provisions of subpart H; this requirement was based on a regulatory alternative more stringent than the MACT floor. However, commenters contended that the data used to justify the program (e.g., the leak rates) were not representative of the PAI industry, and they supplied data which contain a sampling of LDAR program results from numerous types of facilities, including SOCMI and polymer and resins manufacturing facilities. These data indicate that initial equipment leak frequencies and, thus, the potential for emissions from leaking components, may be significantly lower than those assumed in the original development of subpart H. The commenters also contend that the monitoring costs were underestimated. One commenter cited the following specific examples based on a quote from a monitoring contractor: (1) initial and annual monitoring costs should be at least $4.50/component and $2.95/component, respectively, instead of $2.50/component and $2.00/component; and (2) labor costs should be at least $30.00/hr, not $22.50/hr.

In recent regulatory development efforts involving similar industries, EPA has generally found equipment leaks to be a significant source of emissions. In general, EPA's approach has been to require industries to identify leaks and fix them as soon as possible. The EPA is sensitive to the recordkeeping burden associated with an LDAR program for this industry and has strived to minimize the number of activities that have to be conducted and documented while still requiring sources to identify and eliminate equipment leaks. Relative to earlier rules, the Agency developed the HON to focus most of the recordkeeping and reporting burden on those processes and types of equipment that have the most significant leaks, in terms of HAP emissions. Since the development of the HON, the Agency has proposed the CAR that is designed to minimize the reporting and recordkeeping burden even further (63 FR 57748, October 28, 1998). The EPA believes that, in addition to consolidating many LDAR programs, the CAR addresses many concerns regarding the burden placed on industry to implement LDAR programs with little environmental benefit. The proposed CAR is specifically focused on identifying and fixing leaking components, and leaves out many of the recordkeeping requirements that are focused on nonleakers. Therefore, EPA decided to determine the impacts of a standard consistent with the LDAR program in the proposed CAR.

The EPA does not consider the emission estimates in the original analysis to be invalid. However, for the revised analysis, EPA used the leak rate data provided by the commenters and other recently obtained data to determine a lower bound on the baseline emissions (and a corresponding upper bound on cost effectiveness for a given set of assumptions regarding subsequent leak frequencies and the number of monitoring instruments that are needed). Most of the data provided by the commenters were from facilities in the SOCMI or polymers and resins industry. The EPA also combined recently obtained initial leak rate data for components in pharmaceuticals processes with the data provided by the commenters. These data were combined because EPA believes pharmaceuticals processes are at least as representative of PAI processes as are SOCMI or polymers and resins processes due to the prevalence of batch processing, similar process equipment, and similar HAP in the pharmaceuticals and PAI industries.

For the revised analysis, emissions and costs were estimated for the same two model PAI processes that were developed for the original analysis. Uncontrolled emissions for the model processes were estimated based on averages of the initial leak rates that were obtained from the commenters and for pharmaceuticals processes. Controlled emissions were estimated based on assumed average leak rates over a monitoring cycle after implementation of the provisions in the proposed CAR. For valves and connectors, the average leak rates were assumed to be equal to one-half of the performance level (i.e., one-half of 0.25 percent); for pumps, average leak rates were assumed to be equal to one quarter of the initial leak rates (i.e., one-half of the occurrence rate, where the occurrence rate is assumed to be equal to one-half of the initial leak rate).

Since proposal, EPA has reviewed the cost analysis and updated costs for the monitoring instrument. The original analysis was based on costs for a monitor that is no longer available. Capital costs for a currently available monitor that is widely used are higher than the capital costs in the original analysis, but maintenance costs are lower. As a result, the new monitor has a lower total annual cost. The EPA also reviewed the monitoring costs, repair costs, and other factors used in the costing methodology and determined that no changes were warranted. The EPA believes the contractor costs cited by a commenter are higher than the values used in the EPA analysis because they include overhead and capital recovery costs, whereas these are all separate cost items in the EPA analysis.

Two approaches were evaluated in the revised cost analysis. The first approach pro-rated the cost of the monitoring instrument based on the ratio of the number of components in the model processes to the number of components that a fully utilized instrument could be used to monitor (i.e., about 9,000 components). This approach assumes facilities will use a given instrument to monitor multiple PAI processes or PAI processes as well as other processes that also are, or will be, subject to similar LDAR requirements. The cost-effectiveness of the revised analysis was determined to be $1,400/Mg of HAP removed. A second, more conservative approach is to assume monitoring instruments are dedicated to the PAI process(es) at each facility. Thus, one instrument was assumed for facilities with less than 9,000 components, and two or more were assumed for surveyed facilities that have more than 9,000 components. This approach raises the cost-effectiveness to $1,800/Mg. Additional information about the revised cost analysis is provided in the docket (Docket A–95–20, Docket Item No. IV–B–3).

Because both of these cost effectiveness values are considered to be reasonable, EPA revised today's final rule to make it consistent with the CAR. This change makes the final rule consistent with the Agency's recent efforts toward consolidation of equipment leak requirements for air regulations. It also increases the focus on processes with leaking components by reducing the monitoring, recordkeeping, and reporting requirements for processes with nonleaking components.

Most of the changes since proposal involve the requirements for valves and connectors. These changes include: extending the monitoring period from once every four quarters to once every 2 years for process units with less than

0.25 percent leaking valves, adding provisions for valve subgrouping, extending the monitoring period for connectors with low leak rates, deleting both the quality improvement program implementation requirement and the credit for valves removed, and revising the calculations for determining the percentage of leaking valves. The Agency believes that the equipment leak requirements included in today's final rule greatly reduce the administrative burden associated with LDAR recordkeeping and reporting, and at the same time, result in a significant reduction in emissions. Based on the leak rates reported by the commenters, EPA believes the affected sources will be able to take advantage of the provisions extending the monitoring periods.

F. Wastewater Provisions

1. Maintenance Wastewater

Several commenters stated that maintenance wastewater streams should either be excluded from the regulation or subject to the same requirements as in § 63.105(b)(2) of the HON. All of the commenters cited the variability and unpredictable nature of maintenance wastewater streams (which makes it difficult to determine whether a stream is Group 1 or Group 2) and the low potential for substantial emissions (because such streams are typically due to rinsing or flushing equipment) as reasons to regulate maintenance wastewater differently. One commenter added that maintenance wastewater streams cannot be controlled like process wastewater streams. For example, the commenter explained that trying to pump the small amount of water generated when bleed lines or pumps are drained would cause equipment problems if there was not enough flow to keep material running through the pump itself. This commenter also stated that the cost to comply with conveyance requirements would be enormous, especially if an enclosed system has to be connected to every piece of equipment because a maintenance wastewater stream might be generated there.

The EPA considered the comments and is persuaded by the commenters' arguments that the variability of maintenance activities makes characterization of these wastewater streams difficult, and that there is fairly low potential for substantial emissions from most of these wastewater streams. However, EPA has no data on typical quantities of maintenance wastewater generated, or the characteristics of these wastewater streams. Therefore, EPA's approach in resolving this issue was to specify characteristics of maintenance wastewater streams that have significant emission potential. The EPA also sought to minimize the burden of characterization of all maintenance wastewater streams. Based on this approach, EPA evaluated three possible options for regulating maintenance wastewater. The first option was to adopt the same requirements as in § 63.105 of the HON, which is the option suggested by the commenters. The EPA believes that maintenance wastewater streams may warrant a different treatment in this industry than what was done under the HON because the PAI industry is expected to generate process wastewater streams in discrete batches, due to the batch nature of the industry. These process wastewater streams are expected to have properties similar to those for maintenance wastewater streams in terms of the quantities generated, the frequency of generation, and the options for management, suppression, and treatment. Therefore, for streams with significant emissions potential, whether generated because of maintenance activities or by the process operations, EPA believes that proper management and treatment is warranted.

The second option evaluated was to require the same management and treatment for both maintenance and process wastewater, as in the proposed rule. Under this option, the applicability thresholds are the same as in the HON for both types of streams. However, because information on maintenance wastewater streams is unavailable, it is not clear how many such streams would be subject to management and treatment requirements. In addition, it is possible that industry would be required to characterize numerous maintenance wastewater streams with no environmental benefit. Another concern with this option is the extent of dedicated maintenance wastewater conveyance systems that will need to meet emission suppression requirements on the chance that a Group 1 maintenance wastewater stream might be discharged in the processing area served by that part of the conveyance system. Because one of the applicability thresholds for Group 1 streams is 10,000 ppmw at any flow-rate, it is possible that there is a high potential for many maintenance wastewater streams to meet Group 1 applicability criteria. However, even though streams may be concentrated (e.g., greater than 10,000 ppmw HAP), the emission potential also depends on the quantity of water generated. Because the flow rate applicability criterion for 10,000 ppmw streams is unlimited, this option does not consider emission potential.

The third option considered and incorporated into the final rule is a modification of option 2 that does not require characterization, suppression, and treatment of small maintenance wastewater streams with low emission potential. The HON includes two thresholds for triggering Group 1 applicability: the first, which has already been discussed, captures any streams with greater than 10,000 ppmw HAP load and does not consider emissions potential; the second applicability threshold, however, considers emission potential by adding a quantity (greater than 10 L/min) in addition to the HAP concentration (1,000 ppmw HAP). When converted to a HAP load, the second applicability threshold is equivalent to approximately 5.3 Mg of HAP. This load was used as the applicability threshold in the definition of maintenance wastewater in the final rule. The wastewater definition in the final rule also applies to individual discharge events resulting from maintenance activities, not the sum of all events occurring from a single point of determination (POD) over the course of a year. By defining wastewater in this manner, only the largest, most significant maintenance wastewater streams would be subject to suppression and treatment. These large streams should be easier to identify and may occur only at certain POD's. The definition of Group 1 wastewater also includes maintenance wastewater streams with this same load; thus, there are no Group 2 maintenance wastewater streams, and there is no burden to characterize and track any maintenance wastewater streams other than Group 1 streams.

It is conceivable that there are no maintenance wastewater streams in the industry with characteristics approaching this definition. However, because EPA has no data on the quantities or characteristics of these maintenance wastewater streams, EPA believes the best approach is to define a threshold of concern rather than to exempt from suppression and treatment all maintenance wastewater streams.

2. Treatment Options

Several commenters requested that the enhanced biological treatment option in the proposed pharmaceuticals MACT standard be included in this rule (i.e., for wastewater that contains soluble HAP and less than 50 ppmw of partially soluble HAP) for discharges to a privately owned treatment works

(POTW). According to one commenter, the HON provisions essentially preclude discharge to POTW's because owners or operators of POTW's could not reasonably be expected to understand, implement, and certify compliance with this regulation. Furthermore, the commenter stated that the detailed analysis performed for the proposed pharmaceuticals rule indicated that air emissions for certain wastewater streams would be negligible; thus, there is no need to ''ban'' discharge to POTW's.

Except for minor differences in applicability cutoffs, one of the treatment options in the HON (and thus in the proposed rule) is similar to the enhanced biotreatment option under the proposed pharmaceuticals rule. Both the HON and the proposed pharmaceuticals rule regulate two groups of HAP compounds in wastewater. For the HON, the groups are called ''list 1'' and ''list 2'' compounds. For the proposed pharmaceuticals rule, they are called ''partially soluble HAP'' and ''soluble HAP.'' All 52 of the compounds on list 2 are also classified as partially soluble HAP. List 1 contains all 14 soluble HAP as well as the 10 remaining partially soluble HAP. (Note that for the final pharmaceuticals rule, epichlorhydrin has been moved from the solubles list to the partially solubles list.) Under the HON, an owner or operator is exempt from the performance test requirement if wastewater is treated in an enhanced biological treatment process, and compounds on list 1 comprise at least 99 percent by weight of the HAP compounds (list 1 plus list 2) in the wastewater. Under the proposed pharmaceuticals rule, an owner or operator would be exempt from the performance test requirement if wastewater containing soluble HAP and less than 50 ppmw of partially soluble HAP is treated in an enhanced biological treatment unit, and the owner or operator demonstrates that less than 5 percent of the soluble HAP is emitted from the municipal sewer system. The definition of an enhanced biotreatment unit also is the same under both rules, and waste treatment units that qualify as enhanced biotreatment units are subject to the same compliance requirements under both rules. Therefore, EPA disagrees with the commenter's assertion that the treatment provisions in the proposed pharmaceuticals rule reduce the burden on POTW's, and EPA has not revised the treatment provisions for today's final rule.

One commenter cited the results of a study conducted by the Pharmaceutical Research and Manufacturers of America (PhRMA) (and discussed in detail in PhRMA's comments on the proposed pharmaceuticals rule) showing that streams discharged to POTW's have the potential for significant emissions only from ''totally open'' collection and municipal sewer systems. Therefore, if the collection and municipal sewer system is totally open, the commenter recommended adding a provision that would allow an owner or operator to use the enhanced biotreatment option only if the owner or operator demonstrates, as specified in the proposed pharmaceuticals rule, that less than 5 percent of the soluble HAP is emitted from the system.

Under the proposed rule, an off-site facility that treats wastewater would be required to comply with the same requirements as an affected source, including the emission suppression requirements from the collection system. The EPA has reexamined municipal sewer systems and determined that the primary potential for emissions from the collection system is from the headworks at the POTW. Thus, the final rule specifies that either the waste management units up to the activated sludge unit must be covered, or the owner or operator must demonstrate that less than 5 percent of the total list 1 HAP is emitted from these units.

3. Standards for New Sources

Several commenters consider the proposed wastewater standards for new sources with HAP loading greater than 2,100 Mg/yr to be too restrictive. One commenter believes only Group 1 wastewater, not all wastewater, should be subject to the standards. The commenter claims that requiring control of all wastewater will result in negligible additional environmental benefits, and would likely cause greater secondary air and resource impacts (e.g., from fuel usage and emissions of combustion products).

All of the commenters requested that additional treatment options be allowed. One commenter requested that EPA add a treatment option that allows an owner or operator to reduce the mass flow rate by the Fr values; the commenter stated that a 99 percent reduction might be achievable for an individual facility with a certain combination of HAP, but it would not be achievable by all facilities. Other commenters recommended adding at least an enhanced biotreatment option. One commenter believes all of the treatment options for existing sources should be allowed for new sources. Commenters requested the additional options because they believe that limiting treatment options significantly impacts compliance flexibility with little, or no, environmental benefit. For example, one commenter realizes that a steam stripper would not meet the standard for compounds that have Fr values less than 0.99, but believes that because the remaining HAP in the treated streams are less volatile, they would have negligible air impacts. Other commenters stated that EPA had agreed during the development of revised wastewater provisions for the HON that the various treatment options under the HON are equivalent from an air emissions standpoint (e.g., 95 percent reduction in a biological treatment unit is equivalent to 99 percent reduction in a non-biological treatment unit).

According to the CAA, the MACT floor for new sources is to be based on the emission control that is achieved by the best controlled similar source. In the PAI production industry, the best controlled source is achieving 99 percent control. This source also is treating all of its wastewater from PAI processes, the HAP load in this wastewater is 2,100 Mg/yr, and this wastewater contains a mixture of compounds with a range of Henry's law constants. Thus, the proposed MACT floor for new sources with a HAP load exceeding 2,100 Mg/yr consisted of the requirements to treat all wastewater and to achieve a 99 percent reduction in the HAP content in the wastewater; for new sources with lower HAP loadings, the MACT floor is no control, as for existing sources. The EPA continues to stress that the proposed MACT floor is consistent with the CAA, and it is retained in the final rule.

If a facility has a HAP load that exceeds the cutoff, the enhanced biotreatment option (i.e., the option that exempts an owner or operator from initial compliance demonstrations) is not allowed because EPA does not have information showing that enhanced biotreatment units achieve 99 percent removal for mixtures of compounds with low Fr values. Otherwise, the final rule allows any treatment option (including enhanced biotreatment) for such affected sources, provided the owner or operator demonstrates that it achieves 99 percent removal of all HAP in the wastewater. The EPA also points out that the requirement to achieve 99 percent removals applies only to facilities that have extremely high HAP loads and thus, high potential for emissions. Few new sources are likely to exceed the applicability cutoffs for the MACT floor because 2,100 Mg/yr was more than three times higher than the load at any other surveyed facility.

Finally, the commenter's statement about the equivalence of treatment

options needs clarification. Under the HON, the 95 percent option for biological treatment units requires that the reduction be achieved from all wastewater sent to the treatment unit, not just the Group 1 wastewater. The 95 percent reduction also applies to all Table 9 compounds in the wastewater, not just compounds with high Fr values. Thus, on average, this option is considered equivalent to other treatment options in the HON. This option is not considered equivalent to the 99 percent option for new sources described above because the 99 percent reduction is required for all wastewater and all compounds.

G. Bag Dump and Product Dryer Provisions

Numerous commenters opposed the development of standards for bag dumps, and many of these commenters also opposed the development of standards for product dryers. The commenters believe the MACT floor was not established properly per EPA protocol and that the level of the standard (0.01 gr/dscf) is not readily achievable and is not typical of fabric filter control. Pointing to the decision in *Portland Cement Association* v. *Ruckleshaus*, 486 F. 2d 375, 396 (D.C. Cir. 1973), the commenters stated that the test method used to demonstrate compliance must be closely linked to the test method used as the basis for the standard. The commenters expressed concern that the standard was based on data for only one source. Some of the commenters stated that the standard should not cover bag dumps because no data on bag dumps were used to develop the MACT floor, and bag dumps are sources of fugitive emissions that are difficult to capture and route to a control device. One commenter also stated that regulating bag dumps would not result in any meaningful emission reductions because the use of bag dumps is avoided for ergonomic and workplace exposure reasons, and any particulate matter emissions are small and already controlled to reduce workplace exposure. Some of the commenters stated that if standards are promulgated for these emission points, the standard should include an applicability cutoff as well as the concentration limit, and the terms ''particulate HAP'' and ''bag dump'' should be defined in the final rule.

Standards for product dryers and bag dumps were included in the proposed rule because these emission points can be a source of HAP emissions, specifically particulate matter HAP emissions. The MACT floor for these emission points was developed for equipment that emits particulate matter HAP; this equipment was limited to product dryers and bag dumps because these are the only known sources of particulate matter HAP emissions at PAI facilities. The MACT floor also was based on the level of control for these emission points at the MACT floor facilities (i.e., the nine facilities with the best overall control of PAI process units). One of the MACT floor facilities dried a PAI that is also a HAP. Emissions from this product dryer were controlled with a fabric filter, and emissions tests showed the outlet PM concentration was less than 0.01 gr/dscf. The floor for particulate matter HAP emission sources was based on this value because both product dryers and bag dumps are controlled with fabric filters, and 0.01 gr/dscf is a typical level for fabric filters.

The EPA is not persuaded by the commenter's argument that bag dumps should not be regulated because they are (or may be) sources of fugitive emissions and are thus not comparable to product dryers. The EPA knows of two bag dumps where a HAP raw material is added to a PAI process, and both are controlled with fabric filters. At a minimum, a hood or partial enclosure can be placed above or around a bag dump to capture the emissions and route them to the control device. Furthermore, one of the commenters stated that particulate emissions would be controlled to reduce workplace exposure. Uncontrolled emissions (i.e., the pre-control emissions) from one of the two known bag dumps exceed 1.6 Mg/yr. The EPA considers this to be a significant source, and the required emission reduction to be meaningful. The fact that some facilities may have found more desirable alternatives to the use of bag dumps does not justify exempting facilities that still use them from regulation.

No mass emission rate cutoff was established because all known bag dumps that are used to add a HAP raw material to a PAI process unit, and all product dryers that dry a product that is a HAP, are controlled with fabric filters, and EPA believes 0.01 gr/dscf is a reasonable level for all fabric filters in such applications. An emissions test for the fabric filter used to control the product dryer at the MACT floor facility provides evidence that this concentration is achievable. The outlet concentration was less than 0.01 gr/dscf for each of the 12 runs in the test. The EPA expects that the existing fabric filters were designed to meet this outlet concentration, but the standards and associated monitoring requirements are included in the rule to provide assurance that they will continue to perform at this level. As a result, EPA did not change the level of the standard, or add an applicability cutoff, for the final rule.

In summary, EPA maintains that standards are appropriate for bag dumps and product dryers that emit HAP, that the MACT floor is valid, and that the standard should be based on the MACT floor. However, EPA has decided to make one change for the final rule. At proposal, the standard was for ''particulate matter HAP.'' For the final rule, the standard is for ''particulate matter'' because the material captured in the fabric filters is essentially all HAP, and test methods are for ''particulate matter,'' not ''particulate matter HAP.'' (The EPA assumes this is why the commenters mentioned linking the test method used as the basis of the standard with the method used to demonstrate compliance.) The final rule also specifies that the particulate matter standards are for product dryers that dry a PAI or integral intermediate that is a HAP, and for bag dumps that introduce a HAP to a PAI process unit. The final rule also defines ''bag dump'' as equipment into which bags or other containers containing a powdered, granular, or other solid feedstock material are emptied.

H. Heat Exchanger Provisions

One commenter stated that the requirements for heat exchange systems should be deleted because EPA has not justified the high costs of sampling that would be required by the proposed rule.

The EPA disagrees with the commenter's assertion that the heat exchanger provisions impose a high cost for sampling. The rule allows considerable flexibility in the type of sampling or other monitoring that an owner or operator may perform, and the amount of required sampling or monitoring is minimal. The owner or operator may elect to sample for one or more HAP or other substances whose presence in the cooling water indicates a leak. Alternatively, the owner or operator may elect to monitor for any surrogate indicator that reliably identifies the presence of a leak. If the owner or operator elects to comply by monitoring for a surrogate indicator, the owner or operator must develop a plan that specifies what parameter or condition will be monitored, the level that constitutes a leak, and an explanation of how the selected parameter or condition will reliably identify a leak. In the first year, sampling or monitoring is required eight times; in subsequent years, sampling or monitoring is required only four times

per year. If the heat exchangers are all part of a single system, only one set of inlet and outlet samples is required. These requirements also are not considered burdensome because many facilities in the chemical processing industry, and presumably the PAI production industry as well, conduct such sampling or monitoring as a common maintenance practice. Furthermore, sampling for the detection of heat exchanger system leaks is a general requirement of some State permits (e.g., Texas Natural Resources Conservation Commission).

One commenter supports the decision to use the HON requirements for heat exchangers, but believes the rule should simply cross-reference the HON, not modify and spread out the requirements among the standards, compliance, monitoring, recordkeeping, and reporting sections of this rule.

The EPA agrees with the comment that cross-referencing the heat exchanger provisions in subpart F of the HON would simplify the rule. Therefore, the final rule cross-references all of the provisions in subpart F rather than incorporating some of the provisions in the rule and cross-referencing others. However, the heat exchanger system provisions are contained in more than one section in the PAI rule because the two rules have different structures. In the HON, all of the requirements for a specific type of emission point were presented in a single section or in consecutive sections. In the PAI rule, the standards for all types of emission points are presented in one section, the initial compliance provisions for all types of emission points are presented in the next section, and so on. Therefore, each section in today's final rule cross-references the appropriate heat exchanger system provisions from subpart F.

I. Alternative Standard

Since proposal, EPA has received comments on another proposed regulation requesting the inclusion of an alternative standard for facilities that treat HAP emissions, especially from aggregated streams, with add-on control devices. The commenters contended that the use of such control devices should be encouraged because (1) greater emission reduction would occur by controlling processes that are not subject to a rule as well as those that are, (2) it may facilitate the streamlining of compliance requirements and thus reduce the resource burdens on both industry and the enforcement agencies, (3) it may be easier to assure and assess compliance, and (4) it may be more energy efficient and result in lower secondary emissions if fewer control devices are used.

The EPA agrees with the commenters and therefore decided to include an alternative in today's final rule. The alternative standard can be applied to individual process vents and storage vessels or to process vents and/or storage vessels that are manifolded together (with or without emissions from other sources) for control in an end-of-line control device (or series of control devices). The control device (or last control device in a series) must achieve an outlet, undiluted TOC concentration of 20 ppmv or less, as calibrated on methane or the predominant HAP. The control device must also achieve an outlet concentration of 20 ppmv or less as HCl and chlorine. Any other process vents within a process are regulated under the rule as otherwise specified without taking credit for the vents that are controlled under the alternative standard.

To simplify applicability of the alternative, all process vent and storage vessel emissions that are manifolded to a control device are considered as one regulated entity. As a result, an exceedance under the alternative standard results in only a single violation for a given control device, whereas an exceedance under the regular standard results in separate violations for each process using the control device.

J. Pollution Prevention Alternative

Comments relating to the proposed pollution prevention alternative included objections to the high numerical reduc tion target of 85 percent, and to the lack of specific recordkeeping and reporting requirements for demonstrating compliance. Commenters also objected to the proposed restriction on the use of the alternative for processes that generate HAP, and to the requirement that most of the reductions be achieved through pollution prevention techniques and not add-on controls. The following sections summarize major comments on the proposed pollution prevention alternative, EPA's response to these concerns, and subsequent changes made in today's final rule.

1. Objection to the High Removal Target for the Pollution Prevention Alternative

Two commenters asserted that the 85 percent reduction in HAP consumption factor should be changed to 75 percent for both pollution prevention options to be consistent with the Pharmaceutical MACT proposal.

The 85 percent reduction was not changed in the final rule to be consistent with the value specified in the Pharmaceutical MACT standard because both values were developed using industry-specific data. The basis for the 85 percent reduction is the overall nationwide reduction from uncontrolled emissions that is estimated as a result of the implementation of the standards in this industry. Although the required reduction ''target'' was calculated using the same methodology as that in the Pharmaceuticals MACT standard, the difference in numerical value is simply due to differences in the impact of the two rules on each respective industry. For the PAI production industry, the standards achieve slightly greater reductions relative to the uncontrolled baseline, which is carried forward to the reduction target for the pollution prevention alternative. See the pollution prevention memorandum in the Supplementary Information Document for details of this analysis.

2. Data Management for Compliance Demonstrations

One commenter stated that the mechanism to realize pollution prevention reductions must be maintained in a system that can be managed and provide data that regulated entities and EPA can use. The commenter asserted that States may not be prepared to support this regulation with the training requirements of their already overworked staffs.

The Agency agrees with the commenter that the information necessary to demonstrate compliance with the pollution prevention alternative should be identified, collected, and managed in a way that minimizes burdens on both the industry and the regulatory agencies charged with enforcement. Therefore, the final rule requires sources seeking to comply with the pollution prevention alternative to submit, as part of the Precompliance plan, a pollution prevention demonstration summary that describes how the pollution prevention alternative will be applied at the facilities, and what tracking mechanisms will be used to demonstrate compliance with the alternatives. This summary should include descriptions of how the facility will measure and record HAP consumption and production on a daily, monthly, and annual basis. The summary should also include appropriate documentation of how consumption will be tracked such as, but not limited to, operator log sheets, daily, monthly, and annual inventories

of materials and products, and shipment and purchasing records. The pollution prevention demonstration summary report allows the owner or operator some flexibility in deciding the most reasonable and efficient way to demonstrate compliance, while incorporating the regulatory agency's review and approval prerogative. Regarding the agency burden, EPA believes that compliance with the pollution prevention alternative may actually reduce much of the burden on the enforcement agency, in that the monitoring, reporting and recordkeeping burden will be reduced to a material tracking effort, potentially minimizing the amount of data needed to demonstrate continuous compliance (e.g., monitoring data) for an entire process.

3. Pollution Prevention for Reactant and Generated HAP

The EPA received several comments on the proposed rule's restriction against using the pollution prevention option in situations where HAP are generated in the process. One commenter specifically stated that pollution prevention should be allowed for HAP generated in a process. Another commenter indicated that the rule was not clear on how to comply when the HAP generated in the process is the same as that introduced. A third commenter noted that these exclusions would prevent them from using pollution prevention and suggested that the rule include calculations based on total resource effectiveness (TRE) equations like in the HON as a way to provide more cost-effective alternatives for processes that are prohibitively expensive to control (i.e., that would exclude such processes from the requirements of the conventional standards).

The Agency reviewed the language contained in the proposed standard and has revised it to capture the Agency's intent in restricting the use of the alternative in situations where HAP are generated, without prohibiting its use altogether. The Agency's concern, in adding the restriction to the proposed standard, was that HAP generated in a process would not be addressed through the pollution prevention alternative because it requires only a reduction in the consumption of HAP that are actually brought into the process. Therefore, a situation could exist in which a process could be exempted from control because the production-indexed consumption factors were reduced by adequate amounts (85 percent), while a potentially significant amount of HAP, which happened to be generated in the process, could still be emitted. The EPA agrees with the commenter that sources that generate HAP should be eligible for the pollution prevention standard, provided the HAP generated by the sources are included in the analysis. Therefore, the final rule allows owners and operators to use the pollution prevention alternative for processes that generate HAP that are not part of the production-indexed consumption factor (e.g., the HAP generated are different from the HAP brought into the process), provided the following conditions are met: (1) emissions of generated HAP are controlled to the levels required by the applicable provisions for storage vessels, process vents, wastewater, and equipment leaks; and (2) the pollution prevention requirements are applied to the HAP that are added to the process. For HAP that are generated in the process, as well as brought into the process (consumed), the definition of consumption has been revised in the final rule to consider quantities of HAP that are generated by the process.

A related issue is the tracking of the VOC consumption-indexed production factor and the proposed rule's requirement that this factor should not be increased as a result of pollution prevention. Although this issue was not specifically commented on, EPA also revised the language of the final rule regarding the production-indexed VOC consumption factor. In developing the pollution prevention alternative, EPA's intention was to recognize those processes that have reduced or will reduce the amount of HAP solvents used in the manufacture of PAI's as viable alternatives to add-on controls. By preventing affected sources from increasing the production-indexed VOC consumption factor, EPA intended to prevent solvent substitutions that merely replaced HAP with VOC. After reviewing the proposed pollution prevention standard, EPA realized that the proposed standard gave an unfair advantage to affected sources that use VOC-HAP solvents as opposed to non-VOC HAP solvents. As proposed, the rule did not allow affected sources using non-VOC HAP solvents to switch to low-VOC solvents and still qualify under the pollution prevention alternative because such a switch would increase the production-indexed VOC consumption factor. However, affected sources that use VOC-HAP solvents could switch to low-VOC solvents as long as the production-indexed VOC consumption factor did not increase. The EPA's intention in the final rule is that pollution prevention be accomplished through reductions in solvent usage as opposed to solvent substitution. After consideration, EPA changed the final rule to require an equivalent reduction in the production-indexed VOC consumption factor, if the reduction in the production-indexed HAP consumption factor is achieved by reducing a HAP that is also a VOC. If the reduction in the production-indexed HAP consumption factor is achieved by reducing HAP that is not a VOC, the consumption-indexed VOC factor may not be increased. In making these changes to the final rule, EPA essentially eliminated the possibility of receiving credit, through the pollution prevention alternative, for substituting VOC for HAP.

4. Restrictions on Reductions Achieved Through End of Pipe Controls (Option 2 of the Pollution Prevention Alternative Standard)

As proposed, option 2 limited reductions in the HAP factor to exactly 50 percent of the baseline factor, even if actual reductions exceeded this level. Several commenters recommended revising option 2 to allow any combination of pollution prevention and end-of-pipe controls to meet the 85 percent reduction requirement. Some of the commenters explained that not allowing credit for higher reductions makes the option unworkable under certain conditions, and it provides incentives for destruction of recovered material instead of reuse. Some commenters also stated that allowing credit for reductions less than 50 percent would be beneficial, in that such combinations of pollution prevention and emission control would bring overall removals to levels equal to or greater than those required by the standards. As an alternative to option 2, one commenter suggested allowing sources to comply with 90 percent of any applicable standard if at least 50 percent of the reductions are the result of pollution prevention. Finally, the commenters believe option 2 places ''unnecessary'' constraints on the type of control devices that can be used to obtain the required reductions.

In response to the comments, EPA stresses that the pollution prevention alternative is an alternative to the standards in the rule. As such, the Agency has flexibility in developing requirements that may provide alternative approaches for compliance, but is charged with preserving the reductions that would have been achieved through compliance with the standards themselves. Under option 2, EPA required that a significant portion (50 percent) of the reductions be

achieved using pollution prevention techniques, not add-on controls. Without such a restriction, owners and operators could attempt to use add-on controls entirely in meeting the pollution prevention target reductions, which might result in reductions that are less than those required by the standards. For example, the process vent standard requires a 90 percent reduction in the HAP emissions from affected processes, not an 85 percent reduction.

In an effort to ensure the emission reductions from the pollution prevention alternative are at least equivalent to the emission reductions achieved by the standards, the reduction target for the pollution prevention consumption factor was linked to the predicted reductions from the nationwide uncontrolled emissions through implementation of the standards. It was always the Agency's intent that these reductions would be achieved primarily through pollution prevention techniques. In recognition of the difficulties associated with achieving such high consumption reduction targets (85 percent), however, the Agency developed option 2 to allow some of the reductions to be achieved using add-on controls. For these reasons, the Agency disagrees, in general, with the comments suggesting lesser reductions in both the overall target of 85 percent and the requirement that at least 50 percent of the reductions be attributed to the pollution prevention alternative. However, the Agency agrees with the comments that option 2 as proposed is unworkable if the reduction achieved by pollution prevention exceeds 50 percent of the required amount. For the final rule, option 2 was revised to require that at least 50 percent of the reductions be achieved using pollution prevention and that the remainder of the 85 percent, however much is needed, be achieved using conventional controls.

The Agency stresses that the restrictions on the types of add-on controls allowed to be considered in addition to the pollution prevention reductions in meeting the overall target, are in place to guard against double-counting of emission reductions; for example, control via a technique that recycles HAP material back to the process is an environmentally beneficial technique and is encouraged. However, the recycling effect will also reduce the consumption of HAP; therefore, the recycling is inherently considered. To further reduce the consumption factor by the control achieved by the condenser would result in double counting of emissions reductions.

K. Emissions Averaging

1. Complexity of the Methodology

One commenter supported the concept of emissions averaging, but noted that the provisions are so complex and burdensome that many owners and operators may be deterred from using this option.

The emissions averaging provisions provided in the proposed rule are identical to those included in the HON. Further, the requirements are necessarily complex because of the increased flexibility of the compliance approach provided by the provisions. As stated in the HON promulgation preamble discussion, the EPA's goal in crafting the emissions averaging provisions was to make emissions averaging available to sources faced with controlling emission points that are particularly difficult or costly to control, while maintaining the ability to demonstrate compliance with the standard.

2. Nominal Efficiencies for Control Devices

Two commenters suggested that EPA set a nominal control efficiency for combustion devices used for air emission control for storage tanks and/or wastewater at 98 percent. One of the commenters asserted that EPA's wording in § 63.1362(k)(2) of the proposed rule inappropriately restricts sources equipped with controls listed in that section from generating emissions averaging credits.

The EPA believes that the commenters would like to equate 98 percent control to the performance specifications provided in the proposed rule for combustion devices used for air emission control for storage tanks and/or wastewater sources. The EPA does not agree that a nominal 98 percent should be assigned to these devices. Although EPA did establish these performance specifications, EPA maintains that testing is important to ensure that a control device can achieve the reported efficiency. For these reasons, EPA has required performance testing on combustion devices that control greater than 10 tons/yr of HAP. Therefore, EPA will not allow credits based on a control efficiency that has not been demonstrated. Secondly, the provisions of § 63.1362(k)(2) incorrectly referred to the 98 percent and 95 percent control levels as ''nominal'' control efficiencies. These efficiencies must be demonstrated via performance testing and therefore should not be restricted from obtaining credits in emissions averaging. The final rule has been changed to reflect this correction.

3. Restrictions on Calculation of Credits

Commenters believe EPA should delete the restrictions that prohibit a source from calculating emission averaging credits for emission reductions achieved prior to November 15, 1990 or with equipment installed to comply with other State/Federal rules. The commenters believe these restrictions (1) are arbitrary, (2) are not dictated by the CAA, (3) unfairly limit economic incentives and thus impose unreasonable costs, (4) penalize progressive companies, and (5) are inconsistent with procedures to develop the floor (i.e., emission points that would be excluded from emissions averaging are used in setting the standard). In addition, one commenter believes EPA's response to comments in the April 22, 1994 **Federal Register** notice on the HON are inadequate to justify the restriction.

The EPA's policy on not allowing averaging of emission reductions for controls in place prior to the passage of the 1990 CAA Amendments was explained in the April 22, 1994 **Federal Register** notice for the promulgated HON (59 FR 19426), and this rationale is still applicable. In general, the emissions averaging provisions are designed to provide an owner or operator with flexibility in designing a compliance strategy that optimizes the use of existing controls, rather than replacing them. However, the final rule does not allow credit for emissions reductions achieved by control devices installed before November 15, 1990 because EPA policy is that regulations must achieve additional reductions beyond what would have occurred in the absence of the amended CAA. Emission reductions achieved by controls that were in place prior to November 15, 1990 would have occurred regardless of whether or not the CAA was amended. If the rule allowed a source to take credit for these preexisting emission reductions, the source could increase its emissions above the 1990 baseline levels. Regarding the commenter's view that the restrictions penalize progressive companies, EPA notes that, at least for process vents that meet the applicability criteria for 98 percent control, owners and operators who can demonstrate that controls achieving the MACT floor level of control (90 percent) were in place prior to the proposal date of these standards are not required to achieve the higher efficiency requirement of 98 percent. In this manner, companies who have taken proactive measures to control emissions are actually rewarded. Additionally, the pollution prevention

alternative standard also rewards facilities which have demonstrated significant reductions in their production-indexed consumption factors. Finally, these provisions have been included in numerous regulations beginning with the HON, and they have been reviewed and approved by Office of Management and Budget (OMB).

4. Emissions Averaging for New Sources

Commenters objected to restrictions on emissions averaging for ''new sources.'' The commenters disagreed with EPA's rationale in the preamble that this approach holds new sources to a stricter standard and that flexibility is unnecessary for new sources. The commenters argued that using emissions averaging is the more stringent approach because of the 10 percent discount factor that is applied to credits. Furthermore, the commenters stated that new sources also need flexibility to comply with the standard in the most economical and efficient manner; for example, if a new source is added to an existing facility there may be opportunities to route emissions from the new source to existing controls, or to over control certain existing or new emission points to provide equal or greater environmental benefit at lower cost. Also, commenters believe this restriction unfairly limits economic incentives and imposes unreasonable costs.

The EPA's policy on not allowing averaging of emission reductions for new sources was explained in the April 22, 1994 **Federal Register** notice for the promulgated HON (59 FR 19427), and this rationale is still applicable. As noted above, EPA designed emissions averaging provisions to provide existing sources with flexibility in achieving compliance. Instead of requiring the replacement of all existing controls that do not meet the level of the standard, the emissions averaging provisions allow an existing source to optimize the use of existing controls in the most economical and technically feasible fashion. The EPA maintains that this concern does not apply to new sources because the owner or operator of a new source would be able to integrate state-of-the-art controls into the design of the new source. However, nothing in the rule prevents an owner or operator from routing emissions from a new PAI process unit to an existing control that meets the required control levels. Finally, these provisions have been included in numerous regulations, beginning with the HON, and they have been reviewed and approved by OMB.

Even if emissions averaging were allowed for new sources, certain other factors may limit its feasibility. For example, new sources are subject to the requirements of the new source review (NSR) program that may require levels of control similar to those in the rule for new sources. In addition, because the level of stringency in the new source standards is high (98 percent), achieving credit above and beyond the 98 percent levels is probably unrealistic in most situations.

L. Testing Provisions and Initial Compliance Demonstration

1. Testing Conditions

Several comments were received regarding the proposed rule's language on testing. Specifically, commenters identified the requirements for testing under ''absolute,'' ''representative,'' and ''hypothetical'' conditions to be confusing and suggested simpler language that specifies, under actual or simulated conditions, the highest 1-hour period of HAP loading. Another commenter objected to the requirement of testing under the worst-case loading conditions, and suggested that testing be required to be conducted under ''representative'' conditions, citing several reasons for the comment, including safety (operating the device at higher than design loads could create safety issues), precedent from other regulations, and difficulty with production scheduling and the resulting production of unmarketable products if the process was operated in an abnormal fashion. The commenter also questioned the benefits of such testing, stating that organic HAP removal efficiency should be fairly stable across a device.

In response to these comments, EPA has made several changes to the testing language in the final rule that generally cover the commenters' suggested revisions, but also allow more flexibility in defining the required peak-case testing conditions. These changes include the elimination of the option to test under ''representative'' peak-case testing conditions, and the elimination of testing requirements for condensers. Additionally, EPA has expanded the testing language to cover factors other than the highest HAP load that also impair control efficiencies (i.e., the most challenging conditions for the control device). These other factors that limit control efficiencies relate to characteristics of components and the operating principles of the control devices. For example, the solubility of an emission stream component in scrubbing media, or the affinity of an emission stream component for carbon can also define the most challenging conditions for a particular control device.

The intent of compliance testing under peak-case conditions is to document the reduction efficiency of the control device under the most challenging conditions. This documentation is necessary to assure compliance in cases where the process operations yield emission stream characteristics that may vary significantly over time, and where conditions approaching absolute peak-case may occur. Subsequent to the initial compliance test, continuous monitoring of operating parameters established during the test is a reasonable measure of continuous compliance. Presumably, the control device should function as well or better under conditions that are not as challenging.

Although EPA is sensitive to unnecessarily increasing the burden associated with testing of control devices for little benefit, the Agency still has concern that testing under ''representative'' conditions (where ''representative'' is defined either as in the proposed rule for representative peak-case or as a more general concept as suggested by the commenter) may not be sufficient to demonstrate that the control device will achieve required efficiencies under all conditions. This is especially important as it relates to the continuous compliance demonstration provision. Therefore, the option to test under representative peak-case conditions has been eliminated for the final rule, and testing under representative conditions has not been added.

The final rule, however, does allow more flexibility in defining absolute and hypothetical peak-case conditions. The definition of ''absolute peak-case'' in the final rule incorporates the possibility that conditions other than the highest HAP loading constitute the most challenging conditions for the device. These conditions include, but are not limited to, periods when the emissions to the device may contain the highest combined VOC and HAP load, periods when the streams contain HAP constituents that approach limits of solubility for scrubbers, or periods when the streams contain HAP that approach limits of adsorptivity for carbon systems.

The hypothetical peak-case conditions also have been expanded. In addition to establishing hypothetical peak-case testing conditions based on a calculation of maximum actual emissions, the final rule allows hypothetical peak-case conditions to be defined based on equipment design

features that limit the maximum hourly emissions that can be routed to the control device. For example, a fan may limit the flowrate, and the concentration may be limited to a certain percentage of the lower explosive limit before a bypass valve opens.

The Agency does not believe that the testing provisions in the final rule require operation in a manner that could damage equipment, because the testing is only required for conditions that have some reasonable likelihood of occurring. Thus, the design of the system should have considered the possibility of operating under these conditions.

Regarding the comment that the testing provisions should not require operation in a manner that produces excess or unmarketable products, or in a manner that will not occur within the time frame allotted prior to the compliance date, the Agency concedes that some inconvenience to the source may occur, but believes that in most situations, facilities will be able to work within the confines of the definitions to arrive at a set of testing conditions that minimize production disruptions. The Agency also notes that the requirement for submittal of the site-specific test plan is also an opportunity for the facility to present site-specific information that may influence the selection of testing conditions. The EPA encourages owners and operators to work with the permitting agencies to arrive at solutions that meet the intent of this regulation.

2. Emission Estimation Procedures

One commenter stated that facilities should be allowed to calculate emissions based on all available information, including, but not limited to, the equations in the proposed rule, and that they should not have to demonstrate that the equations in the rule are inappropriate. According to the commenter, it is not logical to require facilities that produce a variety of products, only a small portion of which are PAI's, to modify their calculation methodology; nor is it logical to require recalculation on a large scale when the existing emissions estimates are based on fundamentally sound principles. The commenter also noted that facilities already may have invested significant resources to develop methodologies for calculating emissions. Another commenter requested that the rule specify when the emission estimation procedures are not considered appropriate.

For the final rule, EPA did not change the requirement to use equations to estimate emissions when the emission episodes fit the descriptions provided in the rule. The EPA believes that the equations in the rule are the most appropriate methods to estimate emissions from seven specific types of emission episodes. The requirement to use the equations, when appropriate, also is important in standardizing compliance procedures for the industry and in providing replicable procedures which the regulated community and the Administrator can follow to assure compliance. However, the rule also allows owners or operators to request approval to use alternatives for estimating emissions. The EPA believes it is important that the owner or operator be able to make a case for any alternative approach. The final rule clarifies the language describing when an engineering assessment must be conducted and when it may be conducted.

3. Compliance with the Outlet TOC Limit

Several commenters believe EPA should justify why a performance test to demonstrate compliance with the outlet TOC concentration under § 63.1364(c)(1)(viii) of the proposed rule must be conducted only under absolute peak-case conditions. Other commenters also stated that this section of the proposed regulation unnecessarily restricts the choice of test methods to demonstrate compliance with the outlet TOC concentration. Commenters requested that this section be modified to allow combinations of test methods to measure TOC, and to allow measurement of total organic HAP using Method 18.

The EPA reviewed the language in the proposed rule and decided to include two options for demonstrating compliance with the outlet TOC concentration. The source must choose one of the following compliance methods: (1) continuously monitor outlet concentration using a flame ionization detector (FID) or other devices, or (2) perform an initial performance test at absolute or hypothetical peak-case conditions and continuously monitor operating parameter levels. Initial testing at absolute or hypothetical peak-case conditions is not necessary for option 1 because continuous compliance is determined through the use of an FID or other device that continuously monitors outlet concentration (however, if the monitor is to be calibrated on the predominant HAP, it may be necessary to perform an initial test to identify the HAP). Conversely, EPA believes testing under absolute or hypothetical peak-case conditions is necessary for the second option to ensure that operating parameter levels are established that will ensure compliance under all operating conditions. The monitoring requirements for option 2 are the same as the monitoring requirements for complying with the percentage reduction format of the standard. Therefore, EPA believes the initial testing that is used to establish the monitoring parameters should also be the same in both cases.

Finally, EPA has modified the final rule so as not to restrict the choice of methods that the owner or operator may use to determine TOC (i.e., Method 18 is allowed for speciation). However, EPA emphasizes that the concentration limit is based only on TOC, not total organic HAP.

Commenters also objected to the requirement to correct outlet TOC emissions to 3 percent oxygen for the 20 ppmv outlet standard. Commenters oppose this provision because many thermal and catalytic incinerators normally operate with higher oxygen levels in the exhaust stream. Commenters suggested that a more reasonable requirement would be to correct the outlet TOC concentration to the design outlet oxygen concentration for each particular device. One commenter noted that the requirement should only apply when the control device is an incinerator.

The General Provisions prohibit the use of dilution as a means of achieving compliance with a standard (see 40 CFR 63.4(b), Circumvention). However, EPA also recognizes that there are valid reasons for introducing air or inert gases into manifolds for safety or design considerations. For example, supplemental combustion air may be required for proper operation of an incinerator. The intent of the proposed requirement for correction to 3 percent oxygen was to allow an owner or operator to add supplemental combustion air, but only take credit for the amount that is needed for proper operation. As one commenter noted, this correction was not intended to apply to other types of control devices.

The correction to 3 percent oxygen concentrations was drawn from the HON and the earlier SOCMI NSPS. Under these rules, this correction is required for purposes of demonstrating compliance with a 20 ppmv outlet concentration standard. The value of 3 percent originates from good engineering practices. For oxygen deficient streams, if the proper amount of supplemental combustion air is added, the outlet stream would contain approximately 3 percent oxygen. Typically, SOCMI facilities have low oxygen, high VOC/HAP concentration

streams that generally require supplemental combustion air when they are combusted. Therefore, a correction to prevent dilution was needed in rules for the SOCMI industry.

A similar requirement to correct the outlet concentration was included in the Polymer Manufacturing NSPS. Commenters on the proposed NSPS asserted that an oxygen correction may be appropriate for oxygen deficient streams to which supplemental combustion air is added to ensure combustion of the emissions, but it is not appropriate for high oxygen, low VOC concentration streams. The commenters on the proposed NSPS further stated that requiring an oxygen correction for processes with inherently high oxygen concentrations would prevent facilities from being able to use the 20 ppmv outlet concentration compliance option. Because at some point the combination of low VOC/HAP concentration and technology limitations of control devices makes it impossible to achieve a high percentage reduction (98 percent in the case of the Polymers NSPS), the 20 ppmv outlet concentration may be the only compliance option for some streams. As a result of considering these comments, the final rule for the Polymer NSPS was changed to require a correction to 3 percent oxygen only if supplemental air was used to combust emissions.

Other available information indicates that for some pharmaceuticals processes, dilution is needed for safety or design considerations other than for use as supplemental combustion air. Typically, this dilution occurs in manifolds conveying emission streams from unit operations that already have high oxygen concentrations, and it occurs for control devices other than incinerators. Although EPA does not have similar information for the PAI production industry, the information from the surveyed plants supports the commenters contention that there are process vent streams with high oxygen concentrations. It is also possible that some of these streams are diluted for reasons other than to supply supplemental combustion air.

It is not EPA's intent to prohibit the introduction of dilution air or other gases, only to ensure that outlet concentrations are corrected for such dilution. As a result, EPA made a number of changes in the requirement to correct outlet concentrations to prevent dilution. First, a definition of ''supplemental gases'' has been added to the final rule; this term includes supplemental combustion air as well as any other nonaffected streams with TOC and total HCl/Cl_2 concentrations less than 20 ppmv that are combined with affected streams. Second, the final rule clarifies that the correction to 3 percent oxygen applies only for incinerators, and only if supplemental gases are added. Third, the final rule explicitly describes procedures to correct for dilution in noncombustion devices.

4. Exemptions From Performance Testing

Several commenters requested that EPA change the cutoff that defines the minimum size of a control device for which a performance test must be conducted to demonstrate compliance. The proposed rule required performance testing of devices receiving at least 10 tons/yr of HAP emissions. Additionally, other commenters stated that the exemption to the performance test requirement for sources that have conducted a previous test using the same procedures as those required by the rule is basically useless because it is unlikely that a previous performance test would have been conducted using the same procedures and under the same peak-case conditions as those required by the rule. The commenters added that any test on the control device to demonstrate compliance under any EPA-supervised program (e.g., NSPS, NESHAP, RCRA, NSR) should be sufficient to demonstrate compliance with this regulation.

The EPA continues to believe that the testing cutoff for control devices is proper. In developing the regulation, EPA could have required testing of all devices. The EPA proposed the testing cutoff to decrease the burden of testing on the industry. For devices handling lesser loads, EPA believes that the design evaluation will be adequate to demonstrate compliance.

The EPA also continues to believe that the conditions for exempting certain sources from performance testing are proper. As described previously, EPA believes compliance must be demonstrated under the most challenging conditions for the control device to ensure compliance over a range of conditions, especially when variability in emission stream characteristics cannot be predetermined. Therefore, only performance tests that have been conducted at conditions that represent the absolute or hypothetical peak-case conditions are considered valid for demonstrating compliance with this rule.

5. Initial Compliance for Condensers

Under the proposed rule, EPA included three options for sources to determine emissions and control efficiencies for condensers: (1) Performance testing including measurement of HAP concentration and flowrate under peak-case conditions, (2) direct measurement of temperature of the outlet gas under peak-case conditions, or (3) emission estimation. Since proposal, EPA identified the following problems with the proposed options: (1) Direct measurement of temperature is a procedure to demonstrate ongoing compliance, not initial compliance; (2) for condensers, determining the control efficiency during the peak-case conditions does not ensure that the same or higher control efficiencies will be achieved under other conditions, (3) options 2 and 3 are not independent because the outlet temperature is needed to estimate emissions from a condenser, and (4) performance testing is not a replicable procedure for batch processing operations and is unnecessary for establishing the control efficiency. To address these concerns, the final rule was revised to include only one procedure for demonstrating initial compliance when using a condenser. This procedure requires calculation of the outlet temperature that is needed to achieve the required control efficiency for an emission episode (or group of episodes).

Determining the control efficiency for condensers under the peak-case conditions does not ensure that the control efficiency under other conditions will be the same or higher. Under the proposed rule, the peak-case conditions were defined based on the stream from which the maximum amount of heat must be removed over a specified time period to achieve the required emissions reduction. However, to achieve the required control efficiency for another emission stream with a different pollutant and/or temperature may require a significantly lower outlet temperature, even though less heat is removed. Basing the monitoring on the temperature for the stream with the maximum heat removal requirement would not ensure that the lower outlet temperature could be achieved for the other stream.

The revised procedure for the final rule is a replicable protocol in that for identical inlet conditions, every source will estimate the same controlled emissions and control efficiency when using the same outlet temperature. Performance testing for batch processing operations, on the other hand, can be difficult and can lead to considerable variability in results. In addition to concerns about replicable results, the performance testing provisions in the proposed rule were not structured to properly account for control efficiency

of condensers under all conditions. Under the performance testing option in the proposed rule, the control efficiency would be determined for the peak-case conditions. Then, using the heat removal rate that occurred during the test, the outlet temperatures, and thus control efficiencies, could be calculated for other inlet conditions. However, a performance test is not needed because these temperatures can be calculated based on the properties of the emission streams. For these reasons, the final rule does not specifically require testing of condensers (e.g., measurement of flowrate and concentration to generate a mass rate) as a means of compliance with the standards. However, as with other practices, owners and operators can propose alternative means of demonstrating compliance with the standards for approval on a case-by-case basis.

M. Monitoring

1. Establishing Parameter Levels

Several commenters suggested that testing under peak-case conditions and establishing parameter levels for the continuous compliance demonstration results in overcontrol during most of the operations and therefore increases the stringency of the standards. The commenters also believe the requirements to use the average of the three test runs to set the parameter level and to determine compliance on a daily basis, as opposed to a yearly basis, increase the stringency of the standards. One commenter believes that a source should be able to establish parameter ranges other than those measured during a performance test.

In the final rule, EPA requires that testing be conducted under absolute or hypothetical peak-case conditions if all control device inlet stream conditions cannot be predetermined. If inlet stream conditions can be predetermined, the owner or operator has the option of setting different monitoring levels for different operating conditions. This option was provided in the proposed rule and has been retained in the final rule. Therefore, EPA does not believe the requirement results in over control.

Regarding averaging periods, EPA has modified the compliance period of the standard to allow averaging on either a 24-hour basis or a ''block'' basis, where the block may be any length of time less than the time from the beginning to the end of a batch process. For batch operations, an annual compliance period was determined by EPA to be too difficult to implement and therefore not practical. The annual compliance period implies that owners and operators could control a process to varying degrees during the course of a year, as long as the yearly percent reduction target would be met. Although this format would offer flexibility to owners and operators who want to change control strategies to accommodate production scheduling and operational changes, EPA believes that the demonstration of compliance over such an extended time period would result in delayed determination of exceedances and the possibility for extended periods of violations. The EPA notes that the final rule offers numerous compliance options to provide flexibility for owners and operators to address variability within their processes.

Regarding the setting of parameter levels, the purpose of monitoring operating parameters is to provide evidence of continued compliance with the rule. Monitoring parameters are set based on test data, calculations, or information from the evaluation of the control device design. The final rule requires sources to establish maximum or minimum operating parameter levels based on the average of the average parameter values for each of the three test runs (i.e., average values are to be determined for each of the three test runs, and the monitoring parameter level is to be based on the average of these three values). The Agency believes that setting monitoring levels based on the average of three test runs is necessary because the control efficiency is also based on the average from the three test runs. Basing the monitoring parameter on the results of only one of the test runs would be inconsistent with the average control level.

2. Monitoring With Bag Leak Detectors

Two commenters believe the requirement to initiate corrective action within 1 hour of a bag dump alarm is unnecessarily rigid or unnecessary because other situations may require priority attention, replacement parts may not be readily obtainable after normal business hours, or it could trip accidentally. One commenter suggested changing the 1 hour time period to 3 hours. Commenters also believe it is both unnecessary and inconsistent with other aspects of the rule to require written approval before adjusting the range, averaging period, alarm setpoints or alarm delay time contained in the Notification of Compliance Status report. The commenter suggested requiring changes to be reported in the next periodic report, and, if prior approval is needed, it could be handled under the Operating Permit program.

The intent of the requirement to initiate corrective action procedures within 1 hour is to ensure the prompt investigation of the cause of an alarm and resolution of the underlying problem. The corrective action does not necessarily have to be completed within the hour, but the owner or operator should follow predetermined procedures that are to be described in a written corrective action plan. These procedures may vary depending on the time of day, what was determined to cause the alarm, other priorities in an emergency, and other factors. Timing is one aspect of the procedures that the owner or operator should address in the corrective action plan. For the final rule, these provisions have been edited to clarify intent. One substantive change since proposal is that the corrective action plan is to be submitted with the Precompliance plan rather than the Notification of Compliance Status report. This change will allow the implementing agency to review and approve the procedures.

The intended use of the bag leak detector is to identify upset conditions in the baghouse operation. The EPA is concerned that unrestricted adjustment of the bag leak detector could result in improper use, possibly resulting in the alarm and sensitivity settings being set such that leaks or malfunctions could occur undetected. Based on further review, EPA has determined that periodic adjustment may be necessary. Therefore, EPA has revised the bag leak system adjustment requirements to: (1) Allow for routine minor adjustments to the detector system, (2) require owners and operators to identify all routine adjustments in an operating and maintenance plan that is to be submitted with the Precompliance plan, and (3) require that owners and operators perform complete baghouse inspection to ensure proper operation of the baghouse prior to any significant adjustments to the sensitivity or range.

3. Monitoring Frequency

One commenter believes two aspects of the proposed monitoring frequency are excessive: (1) The requirement in § 63.1365(b)(3) of the proposed rule to monitor batch episodes less than 15 minutes in duration, and (2) the requirement to monitor control devices controlling less than 10 ton/yr of an individual HAP or 25 ton/yr of aggregate HAP. For the control devices, the commenter believes ''periodic'' monitoring would be sufficient because many parameters do not vary frequently, and it would allow for the use of simpler monitoring systems that are less prone to design and maintenance problems.

When only one monitoring level is established for a parameter, the EPA agrees with the commenter that monitoring of batch episodes less than 15 minutes in duration should not be required because the practical limit of monitoring frequency is one reading per 15 minutes. Instead of requiring that each batch episode be monitored at least once, the final rule requires an owner or operator to measure and record the parameter level at least once every 15 minutes during the period in which the control device ''is functioning in achieving the HAP removal required'' by the rule. This means that one reading must be taken for every 15-minute period of continuous venting from any combination of emission episodes manifolded to the control device. Thus, even when individual emission episodes are shorter than 15 minutes, one reading is required if venting occurs for at least 15 minutes due to overlapping or ''contiguous'' episodes. On the other hand, if short emission episodes are separated by periods of no flow or venting from vents that are not subject to control, the owner or operator does not need to monitor during each episode. In this case, monitoring every 15 minutes will result in some readings that correspond with an emission episode of an affected stream. Only these readings must be included in the daily (or batch) average. For storage vessels, a control device is considered to be functioning in achieving the HAP removal required at all times material is stored in the vessel. Although working losses occur only during relatively short periods when the tank is being filled, breathing losses may occur at any time. To identify periods of no flow, a flow indicator (not necessarily a flow monitor) would be required.

An exception to the procedures described above exists if the owner or operator establishes separate monitoring levels for different emission episodes. In this case, at least one reading must be taken each time the level changes, even if episode lasts less than 15 minutes. This exception is included to counteract the possibility of setting multiple levels in order to avoid monitoring.

As a result of the change in monitoring frequency, the definition of a valid hour of data as used in the definition of an excursion also has been modified in the final rule. At proposal, monitoring data would not constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour. For the final rule, the word required has been added before the phrase ''15-minute period'' to address the fact that less than four data points per hour may be allowed in some situations.

The EPA believes that the requirement to take 15-minute readings for devices controlling more than 0.91 Mg/yr of HAP is reasonable. The cutoff for continuous monitoring was set because EPA wanted to reduce the compliance burden on facilities with smaller control devices. The EPA also notes that ''periodic'' monitoring could increase the potential for being out of compliance with the standard, because a reduction in the number of data points places a significantly higher emphasis on each reading for compliance determination. Additionally, because emission stream characteristics in this industry are variable, the use of ''periodic'' readings may not represent true conditions over the monitoring period.

4. Monitoring for Storage Vessel Controls

One commenter believes the proposed rule lacks appropriate monitoring provisions for control devices that are used to control emissions from storage vessels. According to the commenter, the proposed provisions address only continuous monitoring, which often will not be appropriate for storage vessels because the emissions occur primarily during filling. Furthermore, if emissions are controlled using a disposable carbon canister, the monitoring may consist only of replacing the canister before the end of its rated life, not periodically checking a parameter. Therefore, the commenter recommended that EPA include some of the concepts from the storage tank monitoring provisions in § 63.120(d) of the HON. For example, these provisions specify that the owner or operator must prepare a monitoring plan that describes how the monitoring will be done. In addition, the commenter indicated that the rule needs to define ''excursion'' for situations where monitoring is not continuous (e.g., the rule should specify that the monitoring plan ''shall define an excursion in terms of the relevant operating parameter'').

The monitoring provisions in § 63.1365(a) of the proposed rule were intended to apply to control devices used for continuous processes, and the provisions in § 63.1365(b) were intended to apply to control devices for all other emission streams. In the final rule, the provisions from § 63.1365(a) and (b) have been consolidated into one section that specifies monitoring provisions for all control devices (§ 63.1366(b)). The final rule also includes monitoring provisions for nonregenerative carbon canisters; the owner or operator is required to determine the maximum time interval between replacement based on operation under absolute or hypothetical peak-case conditions and to replace the canister before this time elapses.

Unlike the HON, the final PAI rule requires the same type of monitoring regardless of the purpose for which the control device is used. The EPA does not believe it is necessary to have different procedures for storage vessel control devices because the types of emission episodes from storage vessels are comparable to those from batch process vents. Furthermore, most storage vessels at the surveyed PAI plants emit less than 0.91 Mg/yr. Under the final rule, if the total uncontrolled HAP emissions entering a control device are less than 0.91 Mg/yr, the owner or operator may elect to conduct a periodic (at least daily) verification that the control device is operating properly. The verification procedures are to be described in the Precompliance plan. This provision is comparable to the monitoring plan concept described in § 63.120(d)(2) of the HON. On the other hand, if the total uncontrolled HAP emissions entering the control device exceed 0.91 Mg/yr, the owner operator must monitor the appropriate parameter(s) every 15 minutes during which the control device is functioning in achieving the HAP removal required by the rule. Based on information from the surveyed PAI facilities, this situation would apply to very few storage vessels in the PAI industry. Most of the few storage vessels with emissions greater than 0.91 Mg/yr are vented to the same control device that is used to control process vent emissions. Thus, a separate set of monitoring requirements for storage vessel control devices is not needed.

For devices that control more than 0.91 Mg/yr of HAP, the definition of excursion in the final rule is the same as that in the proposed rule, and it is applicable to all control devices. Specifically, a valid hour of monitoring data must be obtained for 75 percent of the hours that a control device operates during a day (or, if the control device operates less than 4 hours, at least 3 hours of valid data must be obtained). As noted above, the control device operation is based on the time when the control device is functioning in achieving the HAP reduction required by the rule. For storage tanks, this means all of the time that the storage tank contains material. When compliance for small control devices is demonstrated by conducting a periodic verification, the final rule has been

revised to clarify that not conducting the verification is an excursion.

The final rule also clarifies that exceedances of operating parameters are those times when (1) the parameter level, averaged over the operating day, is above a maximum or below a minimum established during the initial compliance demonstration, or (2) the required operating characteristic is not met (e.g., loss of all pilot flames for a flare). If compliance is demonstrated by conducting a periodic verification, an exceedance occurs any time the daily, or more frequent, demonstration does not confirm that the control device is operating properly.

5. Violations

Several commenters asserted that excursions or exceedances of an operating parameter should not be violations of the emission standard. Another commenter also stated that failure to take corrective action after a bag dump alarm should be a violation of a work practice requirement, not the emission standard. The commenters stated that such incidents should not be violations of an emission limit because the parameters are only indicators of proper operation, they do not prove compliance with an emission standard. Another commenter stated that the proposed provision conflicts with the basis of the compliance assurance monitoring (CAM) regulation. Two commenters also stated that the requirement in § 63.1365(a) to ''operate processes and control devices within the parameters'' must be revised. Both commenters interpreted this statement to mean that each data point must be within the established limit. One commenter indicated that the source must be allowed to demonstrate continued compliance with the emission standard despite exceedance of a monitoring parameter. Another commenter stated that (1) monitoring data collected during any startup, shutdown, or malfunction should be excluded from daily averages; (2) the rule should specify that there is no violation if an event such as a malfunction results in insufficient data or an exceedance of a parameter; and (3) the statement that an excursion is not a violation if it happens during a startup, shutdown, or malfunction and the facility follows it startup, shutdown, and malfunction plan is a concern because it could be interpreted to mean that EPA could assess two penalties if the plan is not followed.

The EPA's policy is that new part 63 rules, in particular those that require the use of a control device to reduce pollutant emissions, will include compliance determinations on two levels. The first level is the ''traditional'' performance test requirement that is based on the use of a specific test method over a set period of time and operating conditions. A performance test is generally conducted at the time the rule is first effective (e.g., at facility startup or after an effective date for an existing facility) and may be repeated periodically thereafter. The results of the performance test are compared with an emission limitation (e.g., concentration, control efficiency, or mass rate). The second level of the compliance determination in part 63 rules is the continuous compliance obligation, which is implemented through monitoring.

In general, EPA recognizes two basic approaches to monitoring. One method is to establish monitoring as a direct measure of continuous compliance. Under this continuous compliance monitoring approach, an enforceable value of the monitored parameters is defined and measured. The Agency has adopted this approach in part 63 standards and is committed to following this approach whenever appropriate in future rulemakings. Another approach is to establish monitoring to provide a reasonable assurance of compliance by documenting continued proper operation of the control devices, indicating excursions from proper operating conditions, and correcting the problems that cause excursions. This second approach is the basis of the CAM rule, which applies to sources that are not currently subject to part 63 standards.

Some part 63 rules specify that compliance be demonstrated continuously using either a continuous emissions monitoring system (CEMS) for a surrogate pollutant or parameter monitoring. In these situations, the rule includes specific limitations and averaging times. The surrogate pollutant or operating parameter limit becomes an enforceable limit for the rule. There is no requirement that an alternative limit, whether a surrogate pollutant or an operational parameter, be statistically correlated with emissions or the compliance level of the regulated pollutant(s). The alternative limit is a separately enforceable requirement of the rule. The alternative is not secondary to the emission limit; rather, it is applied in lieu of a continuous emission limit obligation.

The enforceable level for the surrogate pollutant or operating parameter may be based on measurements made during a performance test or other conditions specified by the part 63 rule. In any case, the alternative limit becomes the continuous compliance obligation and fulfills the second level of compliance for the rule.

The EPA has considered the commenters' argument that an exceedance of a monitoring parameter is not necessarily an exceedance of an emission limit. The Agency acknowledges that a parameter exceedance does not necessarily mean that the source has exceeded the emission limit. However, as discussed above, under the EPA's approach to continuous compliance in part 63 rules, the continuous parameter monitoring limit is a separate requirement that is not rebuttable through contrast with actual or estimated HAP emission values. In addition, EPA believes that given the flexibility the owner or operator has to select operating parameters, including the option that allows the owner or operator to set different parameter levels for different operating conditions, the burden is on the source to remain within the operating limit defined for the parameter or parameters.

To address the potential disparity between parameter limit exceedances and emission limit exceedances, the final rule contains two different types of continuous compliance violations. When a source is using a CEMS to monitor compliance with the 20 ppmv alternative standard, an exceedance is defined as a violation of the emission limit. Similarly, because the exit gas temperature of a condenser is so closely correlated with emissions, a condenser temperature exceedance is considered a violation of the emission limit. Exceedances of other types of parameter limits are defined as violations of an operating limit. Failure to initiate the corrective action plan after a bag leak detector alarm also is a violation of an operating limit.

If monitoring data obtained during a startup, shutdown, or malfunction result in an exceedance, the exceedance is not a violation as long as the facility follows the startup, shutdown, and malfunction plan. If the facility does not follow the plan, an exceedance would be a violation, but it would not be two violations. Thus, the final rule retains the requirement to use data obtained during any startup, shutdown, and malfunction in daily averages.

Similarly, if a startup, shutdown, or malfunction results in the inability to collect monitoring data, it may cause an excursion. This excursion would not be a violation if the facility followed its startup, shutdown, and malfunction plan, but it would be a violation if they did not follow the plan.

As noted above, the final rule requires monitoring when the control device is functioning in achieving the HAP removal required by the rule. Thus, data obtained during time when the process is not operating are not to be used in determining the daily average of the parameter level.

Finally, EPA believes that the language in the final rule is clear regarding the determination of a violation. The final rule no longer contains language specifying that owners and operators ''shall operate within established parameter levels.'' Additionally, EPA believes that the final rule clearly identifies averaging periods for reducing monitoring data and comparing against established parameter levels.

N. Recordkeeping and Reporting

Comments received relating to recordkeeping generally focused on the burden of the extensive recordkeeping required by the regulation. Comments related to reporting focused on dates for submittal of reports, and the burden of submitting all the reports required by the regulation. These comments are discussed below.

1. Recordkeeping Burden

Several commenters took issue with the amount of recordkeeping required by the rule and requested that EPA review the recordkeeping requirements to ensure that the amount of recordkeeping is really necessary. One commenter supports the provisions in § 63.1366(a) and (a)(3) that would require an owner or operator to maintain records of only the daily average of the parameter values not each datapoint, because this reduces the recordkeeping burden. This commenter also stated that the rule should contain a provision similar to the provision in § 63.152(g) of the HON, which allows for retention of only average parameter values, rather than each individual data point.

Detailed records are needed to demonstrate compliance with the regulation. However, prior to proposal, EPA made a concerted effort to eliminate duplicative and unnecessary recordkeeping requirements because EPA recognizes that these requirements would burden both the affected sources and EPA enforcement agencies. Since proposal, EPA has reviewed the recordkeeping provisions and made a number of changes. Many of the changes are editorial revisions designed to clarify the requirements. Some of these clarifications are discussed in more detail in other responses in this chapter. Other clarifications explicitly state recordkeeping requirements that were merely implied in the proposed rule (e.g., records of planned routine maintenance and records of the absolute or hypothetical peak-case conditions for process vent testing).

The final rule also includes additional recordkeeping requirements to document compliance with new or revised provisions in the rule. For example, the final rule includes recordkeeping to document the primary use for material produced by PAI process units if the primary use is not as a PAI (see section 3.2 for a discussion of the new primary use provisions). Another example in the final rule includes procedures to demonstrate ongoing compliance with the annual emission limit for process vents by calculating an annual rolling summation every day, and records of these calculations must be maintained. Finally, § 63.1362(j) was added to the final rule to specify that bypass lines that could divert a vent stream away from a control device must be monitored either with a flow indicator or by visual inspection of the seal or closure mechanism that secures the valve in the closed position; records of any flow or the results of inspections must also be maintained.

One additional change involves the parameter monitoring records in § 63.1366(a) and (a)(3) that were cited by the commenter. After reviewing these requirements, EPA now believes that, even when the daily average is in compliance, it is necessary to maintain all parameter readings, not just the daily averages. This rule requires that owners and operators select only parameter readings that are taken when the control device is controlling HAP emissions from affected emission streams. Emission episodes from batch processes, which predominate in the PAI production industry, are discontinuous. As a result, some monitoring readings may occur during periods of no flow for affected streams (although there may be flow of nonaffected streams). Readings taken during these periods must be excluded from the daily averages. In order to verify that the daily average values were calculated correctly, the rule requires owners and operators to keep all data. The EPA also does not believe that the approach in § 63.152(g) of the HON would be appropriate for this rule because, unlike this rule, the HON regulates emission streams with continuous flow.

2. Reporting Burden

Some commenters stated that the requirement in the proposed rule to submit a Precompliance report should be deleted. Additionally, some commenters requested that the proposed frequency for submitting periodic reports should be changed from quarterly to semiannually to be consistent with other MACT standards.

The final rule retains the requirement to submit a Precompliance report (or Precompliance plan in the final rule). The EPA believes the Precompliance plan is a valuable tool for the regulatory agency that will be making compliance determinations for the affected source. It provides an enforcement official or inspector with some initial background information about the process being controlled, the types of emissions associated with the process, corresponding control equipment, and the monitoring parameters that have been or will be correlated to the process conditions. The Precompliance plan is also the mechanism by which the affected source requests approval to use alternative monitoring parameters and to use calculations or other compliance procedures that differ from those prescribed in the rule. Because many of the compliance procedures for this rule are more complicated than those for the HON, EPA believes the Precompliance plan requirement is warranted for this industry and has retained the provision in the final rule.

The EPA has also reevaluated the overall reporting requirements in the proposed rule and compared the proposed reporting requirements with requirements in rules for similar industries. As a result, the Agency decided to change the periodic reporting from quarterly to semiannually. In those cases where continuous emission monitoring data are used to demonstrate compliance with the 20ppmv alternative standards, and the source experiences excess emissions, quarterly reporting is required until a request to reduce reporting frequency is approved. Section 63.1368(g) in the final rule is now titled ''Periodic reports'' and details the submittal schedule and content of the required Periodic reports. Also, as a result of comments, the final rule now requires that equipment leak reports be included with the Notification of Compliance Status report and the Periodic reports. The final rule requires that the Periodic reports be submitted within 60 operating days after the end of the applicable reporting period.

Other changes made to the final rule as a result of comments include the addition of a new section to address the submittal of information describing process changes or changes made in the information submitted as part of the Notification of Compliance Status

report. This information must be submitted within 90 days after the changes are made. The information may be included as part of a Periodic report, if one is to be submitted within the 90-day period. The information to be reported is to include: a brief description of the process change, a description of any modifications to standard procedures or quality assurance procedures, revisions to any of the information reported in the original Notification of Compliance Status Report, and information required by the Notification of Compliance Status report for changes involving the addition of processes or equipment.

3. Date for Submittal of Notification of Compliance Status Report

One commenter stated that the Notification of Compliance Status report submittal date in the proposed rule conflicts with the requirements of the General Provisions in § 63.7(a)(2) to complete performance testing within 180 days and § 63.10(d)(2) to submit performance test reports within 60 days after tests.

The submittal date for the Notification of Compliance Status report in § 63.1368(f) of the final rule does not conflict with the General Provisions requirements in §§ 63.7(a)(2) and 63.10(d)(2), it supersedes it. As noted in Table 1 to Subpart MMM—General Provisions Applicability to Subpart MMM, ''[T]est results must be submitted in the Notification of Compliance Status report due 150 days after the compliance date.'' This means that the performance testing and the compilation of the test results must be completed and submitted as part of the Notification of Compliance Status report which is due within 150 days after the compliance date. Additional language was added to the final rule under § 63.1368(a) to clarify which of the reporting requirements of subpart A (General Provisions) remain in effect for this rule and which requirements have been superseded.

O. Miscellaneous

1. Environmental Impacts

One commenter believes EPA did not adequately consider the secondary air impacts of nitrogen oxide (NO_X) formation caused by combusting nitrogen-bearing HAP (and non-HAP VOC that may also be present) in process vent streams and wastewater.

The impacts analysis was based on a small number of model streams with characteristics that represent typical or average characteristics of streams at the surveyed facilities. Very little nitrogen-bearing HAP is emitted from the surveyed facilities (less than 5 percent of both the total uncontrolled organic HAP emissions from process vents and the HAP load in wastewater streams), and most of these HAP are controlled to the level of the standard. Therefore, the model emission streams that were used to estimate secondary air impacts did not include nitrogen-bearing HAP. In addition, any small underestimate in the NO_X emissions from nitrogen-bearing HAP is likely more than offset by the use of conservative estimates in the original analysis. For example, the estimated increase in NO_X emissions were based solely on the emissions associated with operation of the more efficient controls needed to achieve the level of the standards; emissions from existing controls that would be replaced were assumed to be negligible.

2. Cost Impacts

Two commenters believe EPA underestimated the costs to comply with the proposed rule. Based on recent experience installing some of the control devices that are used in the cost analysis, one commenter believes the costs are ''significantly'' underestimated, especially when the standard is more stringent than the floor. This commenter also indicated that, based on the additional secondary air impact described in the comment above, the cost analysis should consider the need to install best available control technology (BACT) or RACT to control NO_X emissions.

The other commenter believes none of the models used in the cost analysis adequately address the situation at the commenter's facility. This commenter operates an affected source that emits carbon disulfide, which, when burned, generates a significant amount of sulfur oxides (SO_X). The SO_X is not an issue under the MACT standard, but it is a criteria pollutant that would have to be controlled under State regulations. As a result, the commenter believes EPA's cost analysis underestimates the cost the commenter would face for two reasons. First, the model is based on a thermal incinerator with 70 percent recuperative heat recovery, but the commenter could not use this control device because carbon disulfide has a low auto-ignition temperature; they would have to use either a thermal incinerator with no heat recovery or a regenerative thermal oxidizer with 85 percent heat recovery. Second, the scrubber that follows the incinerator would need to be able to control the SO_X emissions as well as HCl emissions.

The cost impacts were based on models that represent a range of characteristics at actual facilities. The models are expected to overestimate costs at some facilities and to underestimate costs at others.

It is possible that installing a control device could trigger the requirement for a BACT or RACT analysis. Typically, to trigger BACT analysis, the control device would have to cause a net increase in NO_X emissions of 40 tons/yr (or any amount that has an impact of 1 microgram per cubic meter within 10 kilometers of a class I area). To increase emissions by 40 tons/yr would require a very large incinerator; the incinerator to control the largest model process was estimated to increase NO_X emissions by only about 11 tons/yr. Typically, a facility has only two PAI processes. Thus, even if all emission streams are routed to the incinerator and the emission stream contains nitrogen-bearing HAP, it will be a very unusual situation for NO_X emissions to increase by 40 tons/yr. Typically, RACT is applied only to existing sources; thus, a new incinerator installed to comply with today's final rule would not trigger RACT. As a result, EPA did not include BACT or RACT technology in the models used in the impacts analyses.

The SO_X control also was not included in the cost analysis because it is not a typical requirement, the amount of SO_2 control that would be needed is unknown, and the cost is not expected to be significantly different from that for an HCl scrubber. The total annual cost of a thermal incinerator with no heat recovery is approximately equal to that for a thermal incinerator with 70 percent recuperative heat recovery. The annual auxiliary fuel costs would be higher for the incinerator without heat recovery, but these costs are nearly offset by lower capital costs, which would result in lower capital recovery costs. Although the performance of a given scrubber will be better for HCl than for SO_2, a scrubber can easily be designed to obtain excellent SO_2 removal efficiencies.

3. Economic Impacts

One commenter believes EPA has not adequately evaluated the impact of the proposed rule on small businesses. The commenter notes that the regulatory flexibility analysis finds minimal impact on small businesses, but the docket states that the two known small firms for which data were available were not surveyed to find the impact of the regulation on them. The commenter believes a survey of small businesses is needed; otherwise the impact on them is unknown. This issue is important to the commenter because at the time facilities responded to the section 114

information request, the commenter's plant was part of a large business, but it has since been sold and is now classified as a small business.

The EPA reevaluated the economic impact using revenue data for the commenter's facility. Using Dun & Bradstreet data, EPA estimates that the cost-to-revenue ratio for this small business is approximately 2.3 percent. As noted at proposal, the control costs for model small businesses were also estimated to be less than 3 percent of revenue for model plants. This percentage suggests that the final rule will not significantly impact small firms in the PAI manufacturing industry.

4. Standards for Possible Endocrine Disruptors

In the preamble to the proposed rule, EPA solicited comment on whether the risk posed by possible endocrine disruptors warrants more stringent requirements than those proposed. Numerous commenters opposed the development of more stringent requirements; none supported the idea. The commenters cited the following reasons for not developing more stringent requirements: (1) The science for determining disrupting properties of chemicals and their risks is still under development; (2) technology-based standards are not appropriate to address endocrine disruption; (3) endocrine disruption is not an adverse endpoint, but a mechanism of action; (4) the compounds are emitted in small quantities; and (5) this has not been an issue under other MACT standards that address essentially the same materials.

In the proposal preamble, EPA indicated that available information shows emissions of possible endocrine disruptors is very low relative to other HAP emissions. Based on these data and the comments, EPA has decided not to include more stringent requirements for possible endocrine disruptors in today's final rule. Today's final rule does not preclude the possibility that EPA may take action on endocrine disruptors in the future as new information becomes available.

5. Risk-Based Standards for HCl

The preamble to the proposed rule explained that section 112(d)(4) of the CAA provides EPA with authority, at its discretion, to develop risk-based standards for HAP ''for which a health threshold has been established,'' provided that the standard achieves an ''ample margin of safety.'' Because HCl is a threshold pollutant that is emitted from PAI manufacturing facilities, EPA solicited comment on the adequacy, desirability, and feasibility of developing a risk-based standard instead of a MACT standard for HCl emissions from PAI manufacturing facilities. One commenter opposed the development of a risk-based standard for HCl emissions because it would delay promulgation of the rule. Another commenter opposed development of a risk-based standard because the commenter believes the proposed requirements, in conjunction with permit limitations based on ambient concentrations, are protective of the environment and human health. Another commenter supported EPA's determination of HCl as a threshold pollutant.

The EPA agrees with the commenter that a risk-based approach would delay promulgation of the rule. Given the relatively small potential difference between a MACT-based standard and a risk-based standard, EPA believes that the small benefits are substantially outweighed by the burden to EPA and the industry of collecting and analyzing the data needed for a risk-based standard.

VII. Technical Amendment to 40 CFR Part 9

In compliance with the Paperwork Reduction Act (PRA), this technical correction amends the table that lists the OMB control numbers issued under the PRA for this final rule.

The EPA is today amending the table in 40 CFR part 9 (section 9.1) of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The affected regulations are codified at 40 CFR part 63 subpart MMM, §§ 63.1366 and 63.1367 (recordkeeping and reporting requirements, respectively). The OMB control (tracking) number for this final rule is 2060–0370. The EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements and the current OMB control numbers. The listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the PRA (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

VIII. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of the final standards. The principal purposes of the docket are:

(1) To allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process; and

(2) To serve as the record in case of judicial review (except for interagency review materials (section 307(d)(7)(A))).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of this Executive Order. The Executive 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 this Executive Order.

Pursuant to the terms of Executive Order 12866, the OMB has notified EPA that it considers this a ''significant regulatory action'' under criterion number four of the Executive Order. The EPA submitted this action for OMB review. The OMB cleared this action without any comments.

C. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or

EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communication from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities because they do not own or operate sources subject to this rule and therefore are not required to purchase control systems to meet the requirements of this rule. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The rule does not affect these entities because they do not own or operate sources subject to this rule and therefore are not required to purchase control systems to meet the requirements of this rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB Control Number 2060–0370.

The EPA is required under section 112(d) of the CAA to regulate emissions of HAP listed in section 112(b). The requested information is needed as part of the overall compliance and enforcement program. The ICR requires that pesticide active ingredient production facilities retain records of control device monitoring and records of HAP emissions calculations at facilities for a period of 5 years, which is consistent with the General Provisions to 40 CFR part 63 and the operating permit requirements under 40 CFR part 70. All sources subject to this rule will be required to obtain operating permits either through the State-approved permitting program or, if one does not exist, in accordance with the provisions of 40 CFR part 71, when promulgated.

The public reporting burden for this collection of information is estimated to average 289 hours per respondent for each of the first 3 years following promulgation. Beginning in the fourth year after promulgation, existing facilities must comply with the monitoring requirements, which will result in a significant increase in the burden to the industry. It is also estimated that there are approximately 82 facilities that are likely respondents. 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. The EPA is amending Table 9.1 in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information collection requirements contained in this final rule.

F. Regulatory Flexibility

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities.

In screening the potential impacts on small entities, the EPA found that there are three companies operating in the PAI production industry that will be subject to the final rule that are considered ''small'' businesses as defined by the Small Business Administration (SBA). The SBA defines small businesses in SIC 2879 as a firm with fewer than 500 employees. The majority of facilities are owned by large chemical manufacturers having greater than 500 employees. In all instances, the average total annual cost for each of the affected small firms is less than 3 percent of company-wide sales revenues. The screening analysis for this rule is detailed in the Economic Impact Analysis and a subsequent memorandum (see Docket No. A–95–20, Docket item no. II–A–20 and IV–B–7).

G. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section

205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final standards do not include a Federal mandate that may result in expenditures of $100 million or more by either State, local, or tribal governments, in the aggregate, or by the private sector, in any 1 year. The rule does not impose any enforceable duties on State, local, or tribal governments because they do not own or operate sources subject to this rule and therefore are not required to purchase control systems to meet the requirements of this rule. The annual economic impact on the private sector will be far less than $100 million—the estimated cost impact is $39.4 million/yr, as discussed in section IV.D. of today's final rule. The rule also contains no requirements that will significantly or uniquely impact small governments; the rule contains no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the UMRA do not apply to this final rule.

H. Submission to Congress and the Comptroller General Office

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Pub. L. 104–113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards in regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards. This section summarizes the EPA's response to the requirements of the NTTAA for the analytical and test methods to be required by today's final rule.

Consistent with the NTTAA, the EPA conducted a search to identify voluntary consensus standards. The search identified 22 voluntary consensus standards that appeared to have possible use in lieu of EPA standard reference methods in this rule. However, after reviewing available standards, EPA determined that 14 of the candidate consensus standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data or other important technical and policy considerations. Eight of the remaining candidate consensus standards are new standards under development that EPA plans to follow, review, and consider adopting at a later date.

One consensus standard, ASTM Z7420Z, is potentially practical for EPA use in lieu of EPA Method 18 (See 40 CFR Part 60, Appendix A). At the time of EPA's search, the ASTM standard was still under development and EPA had provided comments on the method. The EPA also compared a draft of this ASTM standard to methods previously approved as alternatives to EPA Method 18 with specific applicability limitations. These methods, designated as ALT–017 and CTM–028, are available through EPA's Emission Measurement Center Internet site at www.epa.gov/ttn/emc/tmethods.html. The proposed ASTM Z7420Z standard is very similar to these approved alternative methods. When finalized and adopted by ASTM, the standard may be equally suitable for specific applications. However, this rule does not adopt the ASTM standard as it is not practical to do so until the potential candidate is final and EPA has reviewed the final standard. The EPA plans to continue to follow the progress of the standard and will consider adopting the ASTM standard at a later date.

This final rule requires standard EPA methods known to the industry and States. Approved alternative methods also may be used with prior EPA approval.

J. Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under 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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's final rule falls into that category only in part: the minimum rule stringency is set according to a congressionally-mandated, technology-based lower limit called the ''floor,'' while a decision to increase the stringency beyond this floor can be based on risk considerations only to the extent that the Agency may consider the inherent toxicity of a regulated pollutant, and any differential impact such a pollutant may have on children's health, in deciding whether to adopt control requirements more stringent than floor level.

Today's final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. No children's risk analysis was performed for this rulemaking because no alternative technologies exist that would provide greater stringency at a reasonable cost, and therefore the results of any such analysis would have no impact on the stringency decision. The MACT floor and regulatory alternatives more stringent than the floor for process

vents, storage vessels, equipment leaks, and wastewater systems are presented in Chapters 6 and 8 of the Basis and Purpose Document and related memoranda (Docket A–95–20, Docket items II–B–21, III–B–1, IV–B–2, and IV–B–3). For each of the four types of emission points, the standards are based on the most stringent alternative for which the cost was determined to be reasonable.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 13, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 9 and 63 of title 40, chapter I, of the Code of Federal Regulations are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671g, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding in numerical order a new entry to the table under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * * * *

40 CFR citation	OMB Control No.
* * * * * * *	
National Emission Standards for Hazardous Air Pollutants for Source Categories.[3]	
* * * * * * *	
63.1367–63.1368	2060–0370
* * * * * * *	

[3] The ICR's referenced in this section of the table encompass the applicable General Provisions contained in 40 CFR part 63, subpart A, which are not independent information collection requirements.

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding a new subpart MMM to read as follows:

Subpart MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

Sec.
63.1360 Applicability.
63.1361 Definitions.
63.1362 Standards.
63.1363 Standards for equipment leaks.
63.1364 Compliance dates.
63.1365 Test methods and initial compliance procedures.
63.1366 Monitoring and inspection requirements.
63.1367 Recordkeeping requirements.
63.1368 Reporting requirements.
63.1369 Delegation of authority.

Table 1 to Subpart MMM of part 63—General Provisions Applicability to Subpart MMM.

Table 2 to Subpart MMM of part 63—Standards for New and Existing PAI Production.

Table 3 to Subpart MMM of Part 63—Monitoring Requirements for Control Devices.

Table 4 to Subpart MMM of Part 63—Control Requirements for Items of Equipment that Meet the Criteria of § 63.1362(k).

Subpart MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

§ 63.1360 Applicability.

(a) *Definition of affected source.* The affected source subject to this subpart is the facility-wide collection of pesticide active ingredient manufacturing process units (PAI process units) that process, use, or produce HAP, and are located at a plant site that is a major source, as defined in section 112(a) of the CAA. An affected source also includes waste management units, heat exchange systems, and cooling towers that are associated with the PAI process units. Exemptions from an affected source are specified in paragraph (d) of this section.

(b) *New source applicability.* A new affected source subject to this subpart and to which the requirements for new sources apply is defined according to the criteria in either paragraph (b)(1) or (2) of this section.

(1) An affected source for which construction or reconstruction commenced after November 10, 1997.

(2) Any single PAI process unit that:

(i) Is not part of a process unit group; and

(ii) For which construction, as defined in § 63.1361, commenced after November 10, 1997; and

(iii) Has the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP.

(c) *General provisions.* Table 1 of this subpart specifies the provisions of subpart A of this part that apply to an owner or operator of an affected source subject to this subpart, and clarifies specific provisions in subpart A of this part as necessary for this subpart.

(d) *Exemptions from the requirements of this subpart.* The provisions of this subpart do not apply to:

(1) Research and development facilities;

(2) PAI process units that are subject to subpart F of this part;

(3) Production of ethylene; and

(4) The following emission points listed:

(i) Storm water from segregated sewers;

(ii) Water from fire-fighting and deluge systems, including testing of such systems;

(iii) Spills;

(iv) Water from safety showers;

(v) Noncontact steam boiler blowdown and condensate;

(vi) Laundry water;

(vii) Vessels storing material that contains no organic HAP or contains organic HAP as impurities only; and

(viii) Equipment, as defined in § 63.1363, that is intended to operate in organic HAP service for less than 300 hours during the calendar year.

(e) *Applicability of this subpart except during periods of startup, shutdown, and malfunction.* (1) Each provision set forth in this subpart shall apply at all times except that emission limitations shall not apply during periods of startup, shutdown, and malfunction, as defined in § 63.1361, if:

(i) The startup, shutdown, or malfunction precludes the ability of the owner or operator of an affected source to comply with one or more specific emission limitations to which a particular emission point is subject; and

(ii) The owner or operator follows the provisions for periods of startup, shutdown, and malfunction, as specified in §§ 63.1367(a)(3) and 63.1368(i).

(2) The provisions set forth in § 63.1363 shall apply at all times except during periods of nonoperation of the PAI process unit (or specific portion thereof) in which the lines are drained and depressurized resulting in the cessation of the emissions to which § 63.1363 applies.

(3) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with the emissions limitations of this subpart during times when emissions (or, where applicable, wastewater streams or residuals) are being routed to such items of equipment, if the shutdown would contravene emissions limitations of this subpart applicable to such items of equipment. This paragraph does not apply if the item of equipment is malfunctioning, or if the owner or operator must shut down the equipment to avoid damage due to a malfunction of the PAI process unit or portion thereof.

(4) During startups, shutdowns, and malfunctions when the emissions limitations of this subpart do not apply pursuant to paragraphs (e)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions. For purposes of this paragraph, ''excess emissions'' means emissions in excess of those that would have occurred if there were no startup, shutdown, or malfunction and the owner or operator complied with the relevant provisions of this subpart. The measures to be taken shall be identified in the applicable startup, shutdown, and malfunction plan, and may include, but are not limited to, air pollution control technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the source. Back-up control devices are not required, but may be used if available.

(f) *Storage vessel applicability determination.* An owner or operator shall follow the procedures specified in paragraphs (f)(1) through (4) of this section to determine whether a storage vessel is part of the affected source to which this subpart applies.

(1) If a storage vessel is already subject to another subpart of 40 CFR part 63 on June 23, 1999, the storage vessel shall belong to the process unit subject to the other subpart.

(2) Unless otherwise excluded under paragraph (f)(1) of this section, the storage vessel is part of a PAI process unit if either the input to the vessel from the PAI process unit is greater than or equal to the input from any other PAI or non-PAI process unit, or the output from the vessel to the PAI process unit is greater than or equal to the output to any other PAI or non-PAI process unit. If the greatest input to and/or output from a shared storage vessel is the same for two or more process units, including at least one PAI process unit, the owner or operator may assign the storage vessel to any one of the PAI process units that meet this condition. If the use varies from year to year, then the use for purposes of this subpart for existing sources shall be based on the utilization that occurred during the year preceding June 23, 1999 or, if the storage vessel was not in operation during that year, the use shall be based on the expected use in the 5 years after startup. This determination shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

(3) Unless otherwise excluded under paragraph (f)(1) of this section, where a storage vessel is located in a tank farm (including a marine tank farm), the applicability of this subpart shall be determined according to the provisions in paragraphs (f)(3)(i) through (iv) of this section.

(i) The storage vessel may only be assigned to a process unit that utilizes the storage vessel and does not have an intervening storage vessel for that product (or raw material, as appropriate). With respect to a process unit, an intervening storage vessel means a storage vessel connected by hard-piping to the process unit and to the storage vessel in the tank farm so that product or raw material entering or leaving the process unit flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(ii) If no PAI process unit meets the criteria of paragraph (f)(3)(i) of this section with respect to a storage vessel, this subpart does not apply to the storage vessel.

(iii) If only one PAI process unit, and no non-PAI process unit, meets the criteria of paragraph (f)(3)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to that PAI process unit.

(iv) If two or more process units, including at least one PAI process unit, meet the criteria of paragraph (f)(3)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to one of those process units according to the provisions of paragraph (f)(2) of this section. The input and output shall be determined among only those process units that meet the criteria of paragraph (f)(3)(i) of this section. If the storage vessel is not assigned to a PAI process unit according to the provisions of paragraph (f)(2) of this section, this subpart does not apply to the storage vessel.

(4) If the storage vessel begins receiving material from (or sending material to) another process unit, or ceasing to receive material from (or send material to) a PAI process unit, or if the applicability of this subpart has been determined according to the provisions of paragraph (f)(2) of this section, and there is a significant change in the use of the storage vessel, the owner or operator shall reevaluate the ownership determination for the storage vessel.

(g) *Designating production of an intermediate as a PAI process unit.* Except as specified in paragraph (d) of this section, an owner or operator may elect to designate production of any intermediate that does not meet the definition of integral intermediate as a PAI process unit subject to this subpart. Any storage vessel containing the intermediate is assigned to a PAI process unit according to the procedures in paragraph (f) of this section. Any process tank containing the intermediate is part of the process unit used to produce the intermediate.

(h) *Applicability of process units included in a process unit group.* (1) If any of the products produced in the process unit group are subject to 40 CFR part 63, subpart GGG (Pharmaceuticals MACT), the owner or operator may elect to comply with the requirements of subpart GGG for the PAI process unit(s) within the process unit group, except for the following:

(i) The emission limit standard for process vents in § 63.1362(b)(2)(i) shall apply in place of § 63.1254(a)(1) of subpart GGG of this part;

(ii) When the date of April 2, 1997 is provided in § 63.1254(a)(iii) of subpart GGG of this part, the date of June 23, 1999 shall apply for purposes of this subpart; and

(iii) Requirements in § 63.1367(a)(5) regarding application for approval of construction or reconstruction shall apply in place of the provisions in § 63.1259(a)(5) of subpart GGG of this part.

(2) If the primary product of a process unit group is determined to be a material that is subject to another subpart of 40 CFR part 63 on June 23, 1999 or startup of the process unit group, whichever is later, the owner or operator may elect to comply with the other subpart for any PAI process unit within the process unit group.

(3) The primary product of the process unit group shall be determined according to paragraphs (h)(3)(i) and (ii) of this section.

(i) The primary product is the product that is produced for the greatest operating time over a 5 year period, based on expected utilization for the 5 years following the compliance date or following initial startup of the process unit group, whichever is later; or

(ii) If the process unit group produces multiple products equally based on operating time, then the product with the greatest production on a mass basis over 5 years shall represent the primary product of the process unit, based on expected utilization for the 5 years following the compliance date or following initial startup of the unit or unit group, whichever is later.

(i) *Overlap with other regulations.* (1) *Overlap with other MACT standards.* After the compliance dates specified in § 63.1364, an affected source subject to the provisions of this subpart that is also subject to the provisions of any other subpart of 40 CFR part 63 may elect, to the extent the subparts are consistent, under which subpart to maintain records and report to EPA. The affected source shall identify in the Notification of Compliance Status report required by § 63.1368(f) under which authority such records will be maintained.

(2) *Overlap with RCRA subparts AA, BB, and/or CC.* After the compliance dates specified in § 63.1364, if any affected source subject to this subpart is also subject to monitoring, recordkeeping, and reporting requirements in 40 CFR part 264, subpart AA, BB, or CC, or is subject to monitoring and recordkeeping requirements in 40 CFR part 265, subpart AA, BB, or CC, and the owner or operator complies with the periodic reporting requirements under 40 CFR part 264, subpart AA, BB, or CC that would apply to the device if the facility had final-permitted status, the owner or operator may elect to comply either with the monitoring, recordkeeping, and reporting requirements of this subpart, or with the monitoring, recordkeeping, and reporting requirements in 40 CFR parts 264 and/or 265, as described in this paragraph, which shall constitute compliance with the monitoring, recordkeeping, and reporting requirements of this subpart. If the owner or operator elects to comply with the monitoring, recordkeeping, and reporting requirements in 40 CFR parts 264 and/or 265, the owner or operator shall report all excursions as required by § 63.1368(g). The owner or operator shall identify in the Notification of Compliance Status report required by § 63.1368(f) the monitoring, recordkeeping, and reporting authority under which the owner or operator will comply.

(3) *Overlap with NSPS subpart Kb.* After the compliance dates specified in § 63.1364, a Group 1 or Group 2 storage vessel that is also subject to the provisions of 40 CFR part 60, subpart Kb, is required to comply only with the provisions of this subpart MMM.

(4) *Overlap with subpart I.* After the compliance dates specified in § 63.1364, for all equipment within a process unit that contains equipment subject to subpart I of this part, an owner or operator may elect to comply with either the provisions of this subpart MMM or the provisions of subpart H of this part. The owner or operator shall identify in the Notification of Compliance Status report required by § 63.1368(f) the provisions with which the owner or operator elects to comply.

(5) *Overlap with RCRA regulations for wastewater.* After the compliance dates specified in § 63.1364, the owner or operator of an affected wastewater stream that is also subject to provisions in 40 CFR parts 260 through 272 shall comply with the more stringent control requirements (e.g., waste management units, numerical treatment standards, etc.) and the more stringent testing, monitoring, recordkeeping, and reporting requirements that overlap between the provisions of this subpart and the provisions of 40 CFR parts 260 through 272. The owner or operator shall keep a record of the information used to determine which requirements were the most stringent and shall submit this information if requested by the Administrator.

(6) *Overlap with NSPS subparts III, NNN, and RRR.* After the compliance dates specified in § 63.1364, if an owner or operator of a process vent subject to this subpart MMM that is also subject to the provisions of 40 CFR part 60, subpart III, or subpart NNN, or subpart RRR, elects to reduce organic HAP emissions from the process vent by 98 percent as specified in § 63.1362(b)(2)(iii)(A), then the owner or operator is required to comply only with the provisions of this subpart MMM. Otherwise, the owner or operator shall comply with the provisions in both this subpart MMM and the provisions in 40 CFR part 60, subparts III, NNN, and RRR, as applicable.

(j) *Meaning of periods of time.* All terms in this subpart MMM that define a period of time for completion of required tasks (e.g., weekly, monthly, quarterly, annual), unless specified otherwise in the section or subsection that imposes the requirement, refer to the standard calendar periods.

(1) Notwithstanding time periods specified in the subpart MMM for completion of required tasks, such time periods may be changed by mutual agreement between the owner and operator and the Administrator, as specified in subpart A of this part (e.g., a period could begin on the compliance date or another date, rather than on the first day of the standard period). For each time period that is changed by agreement, the revised period shall remain in effect until it is changed. A new request is not necessary for each recurring period.

(2) Where the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, compliance shall be required according to the schedule specified in paragraph (j)(2)(i) or (ii) of this section, as appropriate.

(i) Compliance shall be required before the end of the standard calendar period within which the compliance deadline occurs, if there remain at least 3 days for tasks that must be performed weekly, at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be performed each quarter, or at least 3 months for tasks that must be performed annually; or

(ii) In all other cases, compliance shall be required before the end of the first full standard calendar period within which the initial compliance deadline occurs.

(3) In all instances where a provision of this subpart MMM requires completion of a task during each of multiple successive periods, an owner or operator may perform the required task at any time during the specified period, provided the task is conducted at a reasonable interval after completion of the task in the previous period.

§ 63.1361 Definitions.

Terms used in this subpart are defined in the CAA, in subpart A of this part, or in this section. If the same term is defined in subpart A of this part and in this section, it shall have the meaning given in this section for the purposes of this subpart MMM.

Air pollution control device or control device means equipment installed on a process vent, storage vessel, wastewater treatment exhaust stack, or combination thereof that reduces the mass of HAP emitted to the air. The equipment may consist of an individual device or a series of devices. Examples include incinerators, carbon adsorption units, condensers, flares, boilers, process heaters, and gas absorbers. Process condensers are not considered air pollution control devices or control devices.

Bag dump means equipment into which bags or other containers containing a powdered, granular, or other solid feedstock material are emptied. A bag dump is part of the process.

Batch emission episode means a discrete venting episode that is associated with a single unit operation. A unit operation may have more than one batch emission episode. For example, a batch distillation unit operation may consist of batch emission episodes associated with charging and heating. Charging the vessel with HAP will result in one discrete batch emission episode that will last through the duration of the charge and will have an average flowrate equal to the rate of the charge. Another discrete batch emission episode will result from the expulsion of expanded vapor as the contents of the vessel are heated.

Batch operation means a noncontinuous operation involving intermittent or discontinuous feed into PAI or integral intermediate manufacturing equipment, and, in general, involves the emptying of the equipment after the batch operation ceases and prior to beginning a new operation. Addition of raw material and withdrawal of product do not occur simultaneously in a batch operation. A batch process consists of a series of batch operations.

Bench-scale batch process means a batch process (other than a research and development facility) that is capable of being located on a laboratory bench top. This bench-scale equipment will typically include reagent feed vessels, a small reactor and associated product separator, recovery and holding equipment. These processes are only capable of producing small quantities of product.

Block means a time period equal to, at a maximum, the duration of a single batch.

Car seal means a seal that is placed on a device that is used to change the position of a valve (e.g., from opened to closed) in such a way that the position of the valve cannot be changed without breaking the seal.

Cleaning operation means routine rinsing, washing, or boil-off of equipment in batch operations between batches.

Closed-loop system means an enclosed system that returns process fluid to the process and is not vented to the atmosphere except through a closed-vent system.

Closed-purge system means a system or combination of system and portable containers, to capture purged liquids. Containers must be covered or closed when not being filled or emptied.

Closed-vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic HAP vapors.

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation. For the purpose of reporting and record keeping, connector means joined fittings that are not inaccessible, ceramic, or ceramic-lined as described in § 63.1255(b)(1)(vii) and 63.1255(f)(3).

Construction means the onsite fabrication, erection, or installation of an affected source or PAI process unit. Addition of new equipment to an existing PAI process unit does not constitute construction.

Consumption means the makeup quantity of HAP entering a process that is not used as reactant. The quantity of material used as reactant is the theoretical amount needed assuming a 100 percent stoichiometric conversion. Makeup is the net amount of material that must be added to the process to replenish losses.

Container, as used in the wastewater provisions, means any portable waste management unit that has a capacity greater than or equal to 0.1 m^3 in which a material is stored, transported, treated, or otherwise handled. Examples of containers are drums, barrels, tank trucks, barges, dumpsters, tank cars, dump trucks, and ships.

Continuous process means a process where the inputs and outputs flow continuously throughout the duration of the process. Continuous processes typically approach steady state.

Continuous seal means a seal that forms a continuous closure that completely covers the space between the wall of the storage vessel and the edge of the floating roof. A continuous seal may be a vapor-mounted, liquid-mounted, or metallic shoe seal.

Controlled HAP emissions means the quantity of HAP components discharged to the atmosphere from an air pollution control device.

Cover, as used in the wastewater provisions, means a device or system which is placed on or over a waste management unit containing wastewater or residuals so that the entire surface area is enclosed to minimize air emissions. A cover may have openings necessary for operation, inspection, and maintenance of the waste management unit such as access hatches, sampling ports, and gauge wells provided that each opening is closed when not in use. Examples of covers include a fixed roof installed on a wastewater tank, a lid installed on a container, and an air-supported enclosure installed over a waste management unit.

Double block and bleed system means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

Duct work means a conveyance system such as those commonly used for heating and ventilation systems. It is often made of sheet metal and often has sections connected by screws or crimping. Hard-piping is not ductwork.

Equipment, for purposes of § 63.1363, means each pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system in organic hazardous air pollutant service.

External floating roof means a pontoon-type or double-deck type cover that rests on the liquid surface in a storage tank or waste management unit with no fixed roof.

FIFRA means the Federal Insecticide, Fungicide, and Rodenticide Act.

Fill or filling means the introduction of organic HAP into a storage tank or the introduction of a wastewater stream or residual into a waste management unit, but not necessarily to complete capacity.

First attempt at repair means to take action for the purpose of stopping or

reducing leakage of organic material to the atmosphere.

Fixed roof means a cover that is mounted on a waste management unit or storage tank in a stationary manner and that does not move with fluctuations in liquid level.

Flame ionization detector (FID) means a device in which the measured change in conductivity of a standard flame (usually hydrogen) due to the insertion of another gas or vapor is used to detect the gas or vapor.

Floating roof means a cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the liquid being contained, and is equipped with a continuous seal or seals to close the space between the roof edge and waste management unit or storage vessel wall.

Flow indicator means a device that indicates whether gas flow is, or whether the valve position would allow gas flow to be, present in a line.

Group 1 process vent means any process vent from a process at an existing or new affected source for which the uncontrolled organic HAP emissions from the sum of all process vents are greater than or equal to 0.15 Mg/yr and/or the uncontrolled hydogen chloride (HCl) and chlorine emissions from the sum of all process vents are greater than or equal to 6.8 Mg/yr.

Group 2 process vent means any process vent that does not meet the definition of a Group 1 process vent.

Group 1 storage vessel means a storage vessel at an existing affected source with a capacity equal to or greater than 75 m^3 and storing material with a maximum true vapor pressure greater than or equal to 3.45 kPa, or a storage vessel at a new affected source with a capacity equal to or greater than 40 m^3 and storing material with a maximum true vapor pressure greater than or equal to 16.5 kPa and with a capacity greater than or equal to 75 m^3 and storing material with a maximum true vapor pressure greater than or equal to 3.45 kPa.

Group 2 storage vessel means a storage vessel that does not meet the definition of a Group 1 storage vessel.

Group 1 wastewater stream means process wastewater at an existing or new source that meets the criteria for Group 1 status in § 63.132(c) of subpart G of this part for compounds in Table 9 of subpart G of this part or a maintenance wastewater stream that contains 5.3 Mg of HAP per discharge event.

Group 2 wastewater stream means any wastewater stream that does not meet the definition of a Group 1 wastewater stream.

Group of processes means all of the equipment associated with processes in a building, processing area, or facility-wide. A group of processes may consist of a single process.

Halogenated compounds means organic compounds that contain chlorine atoms.

Halogenated vent stream means a process, storage vessel, or waste management unit vent stream determined to have a concentration of halogenated compounds of greater than 20 ppmv, as determined through process knowledge, test results using Method 18 of 40 CFR part 60, appendix A, or test results using any other test method that has been validated according to the procedures in Method 301 of appendix A of this part.

Hard-piping means piping or tubing that is manufactured and properly installed using good engineering judgment and standards, such as ANSI B31–3.

Impurity means a substance that is produced coincidentally with the product(s), or is present in a raw material. An impurity does not serve a useful purpose in the production or use of the product(s) and is not isolated.

In gas/vapor service means that a piece of equipment in organic HAP service contains a gas or vapor at operating conditions.

In heavy liquid service means that a piece of equipment in organic HAP service is not in gas/vapor service or in light liquid service.

In light liquid service means that a piece of equipment in organic HAP service contains a liquid that meets the following conditions:

(1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kPa at 20° C;

(2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kPa at 20° C is equal to or greater than 20 percent by weight of the total process stream; and

(3) The fluid is a liquid at operating conditions.

Note: To definition of ''In light liquid service: Vapor pressures may be determined by the methods described in 40 CFR 60.485(e)(1).

In liquid service means that a piece of equipment in organic HAP service is not in gas/vapor service.

In organic hazardous air pollutant or in organic HAP service means that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP as determined according to the provisions of § 63.180(d) of subpart H of this part. The provisions of § 63.180(d) of subpart H of this part also specify how to determine that a piece of equipment is not in organic HAP service.

In vacuum service means that equipment is operating at an internal pressure which is at least 5 kPa below ambient pressure.

In-situ sampling systems means nonextractive samplers or in-line samplers.

Individual drain system means the stationary system used to convey wastewater streams or residuals to a waste management unit or to discharge or disposal. The term includes: hard piping; all process drains and junction boxes; and associated sewer lines, other junction boxes, manholes, sumps, and lift stations conveying wastewater streams or residuals. A segregated stormwater sewer system, which is a drain and collection system designed and operated for the sole purpose of collecting rainfall-runoff at a facility, and which is segregated from all other individual drain systems, is excluded from this definition.

Instrumentation system means a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow, etc.). Valves and connectors are the predominant type of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems. Only valves nominally 0.5 inches and smaller and connectors nominally 0.75 inches and smaller in diameter are considered instrumentation systems for the purposes of this subpart. Valves greater than nominally 0.5 inches and connectors greater than nominally 0.75 inches associated with instrumentation systems are not considered part of instrumentation systems and must be monitored individually.

Integral intermediate means an intermediate for which 50 percent or more of the annual production is used in on-site production of any PAI(s) and that is not stored before being used in the production of another integral intermediate or the PAI(s). For the purposes of this definition, an intermediate is stored if it is discharged to a storage vessel and at least one of the following conditions is met: the processing equipment that discharges to the storage vessel is shutdown before the processing equipment that withdraws from the storage vessel is

started up; during an annual period, the material must be stored in the vessel for at least 30 days before being used to make a PAI; or the processing equipment that discharges to the storage vessel is located in a separate building (or processing area) of the plant than the processing equipment that uses material from the storage vessel as a feedstock, and control equipment is not shared by the two processing areas. Any process unit that produces an intermediate and is subject to subpart F of this part is not an integral intermediate.

Intermediate means an organic compound that is produced by chemical reaction and that is further processed or modified in one or more additional chemical reaction steps to produce another intermediate or a PAI.

Internal floating roof means a cover that rests or floats on the liquid surface (but not necessarily in complete contact with it) inside a storage tank or waste management unit that has a permanently affixed roof.

Junction box means a manhole or access point to a wastewater sewer system line or a lift station.

Large control device means a control device that controls process vents, and the total HAP emissions into the control device from all sources are greater than or equal to 10 tons/yr.

Liquid-mounted seal means a foam- or liquid-filled seal mounted in contact with the liquid between the wall of the storage vessel or waste management unit and the floating roof. The seal is mounted continuously around the tank or unit.

Liquids dripping means any visible leakage from the seal including dripping, spraying, misting, clouding, and ice formation. Indications of liquid dripping include puddling or new stains that are indicative of an existing evaporated drip.

Maintenance wastewater means wastewater generated by the draining of process fluid from components in the PAI process unit into an individual drain system prior to or during maintenance activities. Maintenance wastewater can be generated through planned or unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewaters include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of low legs and high point bleeds, draining of pumps into an individual drain system, and draining of portions of the PAI process unit for repair.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, emissions monitoring equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused all or in part by poor maintenance or careless operation are not malfunctions.

Maximum true vapor pressure means the equilibrium partial pressure exerted by the total organic HAP in the stored or transferred liquid at the temperature equal to the highest calendar-month average of the liquid storage or transferred temperature for liquids stored or transferred above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for liquids stored or transferred at the ambient temperature, as determined:

(1) In accordance with methods described in Chapter 19.2 of the American Petroleum Institute's Manual of Petroleum Measurement Standards, Evaporative Loss From Floating-Roof Tanks (incorporated by reference as specified in § 63.14 in subpart A of this part); or

(2) As obtained from standard reference texts; or

(3) As determined by the American Society for Testing and Materials Method D2879–97, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope (incorporated by reference as specified in § 63.14 of subpart A of this part); or

(4) Any other method approved by the Administrator.

Metallic shoe seal or mechanical shoe seal means metal sheets that are held vertically against the wall of the storage tank by springs, weighted levers, or other mechanisms and connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

Nonrepairable means that it is technically infeasible to repair a piece of equipment from which a leak has been detected without a process shutdown.

Open-ended valve or line means any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side open to atmosphere, either directly or through open piping.

Operating scenario, for the purposes of reporting and recordkeeping, means a description of a PAI process unit, including: identification of each wastewater point of determination (POD) and process vent, their associated emissions episodes and durations, and their associated level of control and control devices, as applicable; calculations and engineering analyses required to demonstrate compliance; and a description of operating and/or testing conditions for any associated control device.

Organic compound, as used in the definitions of intermediate and PAI, means any compound that contains both carbon and hydrogen with or without other elements.

Organic HAP means those HAP listed in section 112(b) of the CAA that are measured according to the procedures of Method 18 or Method 25A, 40 CFR part 60, appendix A.

Pesticide active ingredient or PAI means any material that is an active ingredient within the meaning of FIFRA section 2(a); that is used to produce an insecticide, herbicide, or fungicide end use pesticide product; that consists of one or more organic compounds; and that must be labeled in accordance with 40 CFR part 156 for transfer, sale, or distribution. These materials are typically described by North American Industrial Classification System (NAICS) Codes 325199 and 32532 (i.e., previously known as Standard Industrial Classification System Codes 2869 and 2879). These materials are identified by product classification codes 01, 21, 02, 04, 44, 07, 08, and 16 in block 19 on EPA form 3540–16, the Pesticides Report for Pesticide-Producing Establishments.

Pesticide active ingredient manufacturing process unit (PAI process unit) means a process unit that is used to produce a material that is primarily used as a PAI or integral intermediate. A PAI process unit consists of: the process, as defined in this subpart; associated storage vessels, as determined by the procedures in § 63.1360(f); equipment identified in § 63.1362(l); connected piping and ducts; and components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems. A material is primarily used as a PAI or integral intermediate if more than 50 percent of the projected annual production from a process unit in the 3 years after June 23, 1999 or startup, whichever is later, is used as a PAI or integral intermediate; recordkeeping is required if the material is used as a PAI or integral intermediate, but not as the primary use. If the primary use changes to a PAI or integral intermediate, the process unit becomes a PAI process unit unless it is already subject to the HON. If the primary use changes from a PAI or integral intermediate to another use, the process unit remains a PAI process unit. Any process tank containing an

integral intermediate is part of the PAI process unit used to produce the integral intermediate. A process unit that produces an intermediate that is not an integral intermediate may be designated as a PAI process unit according to the procedures of § 63.1360(g). Formulation of pesticide products is not considered part of a PAI process unit. Quality assurance and quality control laboratories are not considered part of a PAI process unit.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

Point of determination (POD) means each point where a wastewater stream exits the PAI process unit.

Note to definition of ''point of determination'': The regulation allows determination of the characteristics of a wastewater stream: at the point of determination; or downstream of the point of determination if corrections are made for changes in flow rate and annual average concentration of Table 9 compounds as determined in § 63.144 of subpart G of this part. Such changes include: losses by air emissions, reduction of annual average concentration or changes in flow rate by mixing with other water or wastewater streams, and reduction in flow rate or annual average concentration by treating or otherwise handling the wastewater stream to remove or destroy HAP.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period due to a malfunction in the process.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

Process means a logical grouping of processing equipment which collectively function to produce a product. For the purpose of this subpart, a PAI process includes all, or a combination of, reaction, recovery, separation, purification, treatment, cleaning, and other activities or unit operations, which are used to produce a PAI or integral intermediate. A PAI process and all integral intermediate processes for which 100 percent of the annual production is used in the production of the PAI may be linked together and defined as a single PAI process unit.

Process condenser means a condenser whose primary purpose is to recover material as an integral part of a unit operation. The condenser must cause a vapor-to-liquid phase change for periods during which the temperature of liquid in the process equipment is at or above its boiling or bubble point. Examples of process condensers include distillation condensers, reflux condensers, and condensers used in stripping or flashing operation. In a series of condensers, all condensers up to and including the first condenser with an exit gas temperature below the boiling or bubble point of the liquid in the process equipment are considered to be process condensers. All condensers in line prior to the vacuum source are included in this definition.

Process shutdown means a work practice or operational procedure that stops production from a process or part of a process during which it is technically feasible to clear process material from a process or part of a process consistent with safety constraints and during which repairs can be effected. An unscheduled work practice or operational procedure that stops production from a process or part of a process for less than 24 hours is not a process shutdown. An unscheduled work practice or operational procedure that would stop production from a process or part of a process for a shorter period of time than would be required to clear the process or part of the process of materials and start up the process, and would result in greater emissions than delay of repair of leaking components until the next scheduled process shutdown, is not a process shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not process shutdowns.

Process tank means a tank that is used to collect material discharged from a feedstock storage vessel or equipment within the process and transfer of this material to other equipment within the process or a product storage vessel. Processing steps occur both upstream and downstream of the tank within a given process unit. Surge control vessels and bottoms receivers that fit these conditions are considered process tanks.

Process unit means the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product.

Process unit group means a group of process units that manufacture PAI's and products other than PAI's by alternating raw materials or operating conditions, or by reconfiguring process equipment. Only process equipment that has been or could be part of a PAI process unit, because of its function or capacity, is included in a process unit group.

Process vent means a point of emission from processing equipment to the atmosphere or a control device. The vent may be the release point for an emission stream associated with an individual unit operation, or it may be the release point for emission streams from multiple unit operations that have been manifolded together into a common header. Examples of process vents include, but are not limited to, vents on condensers used for product recovery, bottom receivers, surge control vessels, reactors, filters, centrifuges, process tanks, and product dryers. A vent is not considered to be a process vent for a given emission episode if the undiluted and uncontrolled emission stream that is released through the vent contains less than 20 ppmv HAP, as determined through process knowledge that no HAP are present in the emission stream; using an engineering assessment as discussed in § 63.1365(b)(2)(ii); from test data collected using Method 1818 of 40 CFR part 60, appendix A; or from test data collected using any other test method that has been validated according to the procedures in Method 301 of appendix A of this part. Process vents do not include vents on storage vessels regulated under § 63.1362(c), vents on wastewater emission sources regulated under § 63.1362(d), or pieces of equipment regulated under § 63.1363.

Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact with, or results from, the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples include: product tank drawdown or feed tank drawdown; water formed during a chemical reaction or used as a reactant; water used to wash impurities from organic products or reactants; water used to clean process equipment; water used to cool or quench organic vapor streams through direct contact; and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

Product means the compound(s) or chemical(s) that are produced or manufactured as the intended output of a process unit. Impurities and wastes are not considered products.

Product dryer means equipment that is used to remove moisture or other liquid from granular, powdered, or other solid PAI or integral intermediate products prior to storage, formulation, shipment, or other uses. The product dryer is part of the process.

Product dryer vent means a process vent from a product dryer through which a gas stream containing gaseous pollutants (i.e., organic HAP, HCl, or chlorine), particulate matter, or both are released to the atmosphere or are routed to a control device.

Production-indexed HAP consumption factor (HAP factor) is the result of dividing the annual consumption of total HAP by the annual production rate, per process.

Production-indexed VOC consumption factor (VOC factor) is the result of dividing the annual consumption of total VOC by the annual production rate, per process.

Publicly owned treatment works (POTW) is defined at 40 CFR part 403.3(0).

Reactor means a device or vessel in which one or more chemicals or reactants, other than air, are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

Recovery device, as used in the wastewater provisions, means an individual unit of equipment capable of, and normally used for the purpose of, recovering chemicals for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include organic removal devices such as decanters, strippers, or thin-film evaporation units. To be a recovery device, a decanter and any other equipment based on the operating principle of gravity separation must receive only two-phase liquid streams.

Repaired means that equipment is adjusted, or otherwise altered, to eliminate a leak as defined in the applicable paragraphs of § 63.1363.

Research and development facility means any stationary source whose primary purpose is to conduct research and development, where the operations are under the close supervision of technically trained personnel, and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

Residual means any liquid or solid material containing Table 9 compounds (as defined in § 63.111 of subpart G of this part) that is removed from a wastewater stream by a waste management unit or treatment process that does not destroy organics (nondestructive unit). Examples of residuals from nondestructive wastewater management units include the organic layer and bottom residue removed by a decanter or organic-water separator and the overheads from a steam stripper or air stripper. Examples of materials which are not residuals include: silt; mud; leaves; bottoms from a steam stripper or air stripper; and sludges, ash, or other materials removed from wastewater being treated by destructive devices such as biological treatment units and incinerators.

Safety device means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purposes of this subpart, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, combustible, explosive, reactive, or hazardous materials.

Sampling connection system means an assembly of equipment within a process unit used during periods of representative operation to take samples of the process fluid. Equipment used to take nonroutine grab samples is not considered a sampling connection system.

Sensor means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

Set pressure means the pressure at which a properly operating pressure relief device begins to open to relieve atypical process system operating pressure.

Sewer line means a lateral, trunk line, branch line, or other conduit including, but not limited to, grates, trenches, etc., used to convey wastewater streams or residuals to a downstream waste management unit.

Shutdown means the cessation of operation of a continuous PAI process unit for any purpose. Shutdown also means the cessation of a batch PAI process unit or any related individual piece of equipment required or used to comply with this part or for emptying and degassing storage vessels for periodic maintenance, replacement of equipment, repair, or any other purpose not excluded from this definition. Shutdown does not apply to cessation of a batch PAI process unit at the end of a campaign or between batches (e.g., for rinsing or washing equipment), for routine maintenance, or for other routine operations.

Small control device means a control device that controls process vents, and the total HAP emissions into the control device from all sources are less than 10 tons of HAP per year.

Startup means the setting in operation of a continuous PAI process unit for any purpose, the first time a new or reconstructed batch PAI process unit begins production, or, for new equipment added, including equipment used to comply with this subpart, the first time the equipment is put into operation. For batch process units, startup does not apply to the first time the equipment is put into operation at the start of a campaign to produce a product that has been produced in the past, after a shutdown for maintenance, or when the equipment is put into operation as part of a batch within a campaign. As used in § 63.1363, startup means the setting in operation of a piece of equipment or a control device that is subject to this subpart.

Storage vessel means a tank or other vessel that is used to store organic liquids that contain one or more HAP and that has been assigned, according to the procedures in § 63.1360(f) or (g), to a PAI process unit that is subject to this subpart MMM. The following are not considered storage vessels for the purposes of this subpart:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere;

(3) Vessels storing material that contains no organic HAP or contains organic HAP only as impurities;

(4) Wastewater storage tanks;

(5) Process tanks; and

(6) Nonwastewater waste tanks.

Supplemental gases means any nonaffected gaseous streams (streams

that are not from process vents, storage vessels, equipment or waste management units) that contain less than 20 ppmv TOC and less than 20 ppmv total HCl and chlorine, as determined through process knowledge, and are combined with an affected vent stream. Supplemental gases are often used to maintain pressures in manifolds or for fire and explosion protection and prevention. Air required to operate combustion device burner(s) is not considered a supplemental gas.

Surface impoundment means a waste management unit which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or waste containing free liquids. A surface impoundment is used for the purpose of treating, storing, or disposing of wastewater or residuals, and is not an injection well. Examples of surface impoundments are equalization, settling, and aeration pits, ponds, and lagoons.

Total organic compounds (TOC) means those compounds measured according to the procedures of Method 18 or Method 25A, 40 CFR part 60, appendix A.

Treatment process means a specific technique that removes or destroys the organics in a wastewater or residual stream such as a steam stripping unit, thin-film evaporation unit, waste incinerator, biological treatment unit, or any other process applied to wastewater streams or residuals to comply with § 63.138 of subpart G of this part. Most treatment processes are conducted in tanks. Treatment processes are a subset of waste management units.

Uncontrolled HAP emissions means a gas stream containing HAP which has exited the process (or process condenser, if any), but which has not yet been introduced into an air pollution control device to reduce the mass of HAP in the stream. If the process vent is not routed to an air pollution control device, uncontrolled emissions are those HAP emissions released to the atmosphere.

Unit operation means those processing steps that occur within distinct equipment that are used, among other things, to prepare reactants, facilitate reactions, separate and purify products, and recycle materials. Equipment used for these purposes includes, but is not limited to, reactors, distillation units, extraction columns, absorbers, decanters, dryers, condensers, and filtration equipment.

Vapor-mounted seal means a continuous seal that completely covers the annular space between the wall of the storage tank or waste management unit and the edge of the floating roof, and is mounted such that there is a vapor space between the stored liquid and the bottom of the seal.

Volatile organic compounds are defined in 40 CFR 51.100.

Waste management unit means the equipment, structure(s), and/or device(s) used to convey, store, treat, or dispose of wastewater streams or residuals. Examples of waste management units include wastewater tanks, surface impoundments, individual drain systems, and biological wastewater treatment units. Examples of equipment that may be waste management units include containers, air flotation units, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. If such equipment is a recovery device, then it is part of a PAI process unit and is not a waste management unit.

Wastewater means water that meets either of the conditions described in paragraph (1) or (2) of this definition and is discarded from a PAI process unit that is at an affected source:

(1) Is generated from a PAI process and contains either:

(i) An annual average concentration of compounds in Table 9 of subpart G of this part of at least 5 ppmw and has an average flow rate of 0.02 L/min or greater; or

(ii) An annual average concentration of compounds in Table 9 of subpart G of this part of at least 10,000 ppmw at any flow rate;

(2) Is generated from a PAI process unit as a result of maintenance activities and contains at least 5.3 Mg of HAP per individual discharge event.

Wastewater tank means a stationary waste management unit that is designed to contain an accumulation of wastewater or residuals and is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support. Wastewater tanks used for flow equalization are included in this definition.

Water seal controls means a seal pot, p-leg trap, or other type of trap filled with water (e.g., flooded sewers that maintain water levels adequate to prevent air flow through the system) that creates a water barrier between the sewer line and the atmosphere. The water level of the seal must be maintained in the vertical leg of a drain in order to be considered a water seal.

§ 63.1362 Standards.

(a) On and after the compliance dates specified in § 63.1364, each owner or operator of an affected source subject to the provisions of this subpart shall control HAP emissions to the levels specified in this section and in § 63.1363, as summarized in Table 2 of this subpart.

(b) *Process vents.* (1) The owner or operator of an existing source shall comply with the requirements of paragraphs (b)(2) and (3) of this section. The owner or operator of a new source shall comply with the requirements of paragraphs (b)(4) and (5) of this section. Compliance with paragraphs (b)(2) through (b)(5) of this section shall be demonstrated through the applicable test methods and initial compliance procedures in § 63.1365 and the monitoring requirements in § 63.1366.

(2) *Organic HAP emissions from existing sources.* The owner or operator of an existing affected source must comply with the requirements in either paragraph (b)(2)(i) of this section or with the requirements in paragraphs (b)(2)(ii) through (iv) of this section.

(i) The uncontrolled organic HAP emission rate shall not exceed 0.15 Mg/yr from the sum of all process vents within a process.

(ii) (A) Except as provided in paragraph (b)(2)(ii)(B) of this section, uncontrolled organic HAP emissions from a process vent shall be reduced by 98 percent by weight or greater if the flow-weighted average flowrate for the vent as calculated using Equation 1 of this subpart is less than or equal to the flowrate calculated using Equation 2 of this subpart.

$$FR_a = \frac{\sum_{i=1}^{n} (D_i)(FR_i)}{\sum_{i=1}^{n} D_i} \qquad \text{(Eq. 1)}$$

$$FR = 0.02 * (HL) - 1{,}000 \qquad \text{(Eq. 2)}$$

Where:

FR_a=flow-weighted average flowrate for the vent, scfm

D_i=duration of each emission event, min

FR_i=flowrate of each emission event, scfm

n=number of emission events

FR=flowrate, scfm

HL=annual uncontrolled organic HAP emissions, lb/yr, as defined in § 63.1361

(B) If the owner or operator can demonstrate that a control device, installed on or before November 10, 1997 on a process vent otherwise

subject to the requirements of paragraph (b)(2)(ii)(A) of this section, reduces inlet emissions of total organic HAP by greater than or equal to 90 percent by weight but less than 98 percent by weight, then the control device must be operated to reduce inlet emissions of total organic HAP by 90 percent by weight or greater.

(iii) Excluding process vents that are subject to the requirements in paragraph (b)(2)(ii) of this section, uncontrolled organic HAP emissions from the sum of all process vents within a process shall be reduced by 90 percent or greater by weight.

(iv) As an alternative to the requirements in paragraphs (b)(2)(ii) and (iii) of this section, uncontrolled organic HAP emissions from any process vent may be reduced in accordance with any of the provisions in paragraphs (b)(2)(iv)(A) through (D) of this section. All remaining process vents within a process must be controlled in accordance with paragraphs (b)(2)(ii) and (iii) of this section.

(A) To outlet concentrations less than or equal to 20 ppmv as TOC; or

(B) By a flare that meets the requirements of § 63.11(b); or

(C) By a control device specified in § 63.1365(a)(4); or

(D) In accordance with the alternative standard specified in paragraph (b)(6) of this section.

(3) *HCl and Cl_2 emissions from existing sources.* For each process, the owner or operator of an existing source shall comply with the requirements of either paragraph (b)(3)(i) or (ii) of this section.

(i) The uncontrolled HCl and Cl_2 emissions, including HCl generated from the combustion of halogenated process vent emissions, from the sum of all process vents within a process shall not exceed 6.8 Mg/yr.

(ii) HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process shall be reduced by 94 percent or greater or to outlet concentrations less than or equal to 20 ppmv.

(4) *Organic HAP emissions from new sources.* For each process, the owner or operator of a new source shall comply with the requirements of either paragraph (b)(4)(i) or (ii) of this section.

(i) The uncontrolled organic HAP emissions shall not exceed 0.15 Mg/yr from the sum of all process vents within a process.

(ii) The uncontrolled organic HAP emissions from the sum of all process vents within a process at a new affected source that are not controlled according to any of the requirements of paragraphs (b)(4)(ii)(A) through (C) or (b)(6) of this section shall be reduced by 98 weight percent or greater.

(A) To outlet concentrations less than or equal to 20 ppmv as TOC; or

(B) By a flare that meets the requirements of § 63.11(b); or

(C) By a control device specified in § 63.1365(a)(4).

(5) *HCl and Cl_2 emissions from new sources.* For each process, the owner or operator of a new source shall comply with the requirements of either paragraph (b)(5)(i), (ii), or (iii) of this section.

(i) The uncontrolled HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process shall not exceed 6.8 Mg/yr.

(ii) If HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process are greater than or equal to 6.8 Mg/yr and less than 191 Mg/yr, these HCl and Cl_2 emissions shall be reduced by 94 percent or to an outlet concentration less than or equal to 20 ppmv.

(iii) If HCl and Cl_2 emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process are greater than 191 Mg/yr, these HCl and Cl_2 emissions shall be reduced by 99 percent or greater or to an outlet concentration less than or equal to 20 ppmv.

(6) *Alternative standard.* As an alternative to the provisions in paragraphs (b) (2) through (5) of this section, the owner or operator may route emissions from a process vent to a control device or series of control devices achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of HCl and Cl_2 of 20 ppmv or less. Any process vents within a process that are not routed to such a control device or series of control devices must be controlled in accordance with the provisions of paragraphs (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(3)(ii), (b)(3)(iii), (b)(4)(ii), (b)(5)(ii), or (b)(5)(iii) of this section, as applicable.

(c) *Storage vessels.* (1) The owner or operator shall either determine the group status of a storage vessel or designate it as a Group 1 storage vessel. If the owner or operator elects to designate the storage vessel as a Group 1 storage vessel, the owner or operator is not required to determine the maximum true vapor pressure of the material stored in the storage vessel.

(2) *Standard for existing sources.* Except as specified in paragraphs (c) (4) and (5) of this section, the owner or operator of a Group 1 storage vessel at an existing affected source, as defined in § 63.1361, shall equip the affected storage vessel with one of the following:

(i) A fixed roof and internal floating roof, or

(ii) An external floating roof, or

(iii) An external floating roof converted to an internal floating roof, or

(iv) A closed vent system meeting the conditions of paragraph (k) of this section and a control device that meets any of the following conditions:

(A) Reduces organic HAP emissions by 95 percent by weight or greater; or

(B) Reduces organic HAP emissions to outlet concentrations of 20 ppmv or less as TOC; or

(C) Is a flare that meets the requirements of § 63.11(b); or

(D) Is a control device specified in § 63.1365(a)(4).

(3) *Standard for new sources.* Except as specified in paragraphs (c)(4) and (5) of this section, the owner or operator of a Group 1 storage vessel at a new source, as defined in § 63.1361, shall equip the affected storage vessel in accordance with any one of paragraphs (c)(2)(i) through (iv) of this section.

(4) *Alternative standard.* As an alternative to the provisions in paragraphs (c)(2) and (3) of this section, the owner or operator of an existing or new affected source may route emissions from storage vessels to a control device or series of control devices achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of hydrogen chloride and chlorine of 20 ppmv or less.

(5) *Planned routine maintenance.* The owner or operator is exempt from the specifications in paragraphs (c)(2) through (4) of this section during periods of planned routine maintenance of the control device that do not exceed 240 hr/yr.

(6) Compliance with the provisions of paragraphs (c)(2) and (3) of this section is demonstrated using the initial compliance procedures in § 63.1365(d) and the monitoring requirements in § 63.1366. Compliance with the outlet concentrations in paragraph (c)(4) of this section shall be determined by the initial compliance provisions in § 63.1365(a)(5) and the continuous emission monitoring requirements of § 63.1366(b)(5).

(d) *Wastewater.* The owner or operator of each affected source shall comply with the requirements of §§ 63.131 through 63.147 of subpart G of

this part, with the differences noted in paragraphs (d)(1) through (13) of this section for the purposes of this subpart.

(1) When the determination of equivalence criteria in § 63.102(b) is referred to in §§ 63.132, 63.133, and 63.137 of subpart G of this part, the provisions in § 63.6(g) of subpart A of this part shall apply.

(2) When the storage tank requirements contained in §§ 63.119 through 63.123 of subpart G of this part are referred to in §§ 63.132 through 63.148 of subpart G of this part, §§ 63.119 through 63.123 of subpart G of this part are applicable, with the exception of the differences noted in paragraphs (d)(2)(i) through (v) of this section.

(i) When the term ''storage vessel'' is used in §§ 63.119 through 63.123 of subpart G of this part, the definition of the term ''storage vessel'' in § 63.1361 shall apply for the purposes of this subpart.

(ii) When December 31, 1992, is referred to in § 63.119 of subpart G of this part, November 10, 1997 shall apply for the purposes of this subpart.

(iii) When April 22, 1994 is referred to in § 63.119 of subpart G of this part, June 23, 1999 shall apply for the purposes of this subpart.

(iv) When the phrase ''the compliance date specified in § 63.100 of subpart F of this part'' is referred to in § 63.120 of subpart G of this part, the phrase ''the compliance date specified in § 63.1364'' shall apply for the purposes of this subpart.

(v) When the phrase ''the maximum true vapor pressure of the total organic HAP in the stored liquid falls below the values defining Group 1 storage vessels specified in Table 5 or Table 6 of this subpart'' is referred to in § 63.120(b)(1)(iv) of subpart G of this part, the phrase, ''the maximum true vapor pressure of the total organic HAP in the stored liquid falls below the values defining Group 1 storage vessels specified in § 63.1361'' shall apply for the purposes of this subpart.

(3) To request approval to monitor alternative parameters, as referred to in § 63.146(a) of subpart G of this part, the owner or operator shall comply with the procedures in § 63.8(f) of subpart A of this part, as referred to in § 63.1366(b)(4), instead of the procedures in § 63.151(f) or (g) of subpart G of this part.

(4) When the Notification of Compliance Status report requirements contained in § 63.152(b) of subpart G of this part are referred to in § 63.146 of subpart G of this part, the Notification of Compliance Status report requirements in § 63.1368(f) shall apply for the purposes of this subpart.

(5) When the recordkeeping requirements contained in § 63.152(f) of subpart G of this part are referred to in § 63.147(d) of subpart G of this part, the recordkeeping requirements in § 63.1367 shall apply for the purposes of this subpart.

(6) When the Periodic report requirements contained in § 63.152(c) of subpart G of this part are referred to in §§ 63.146 and 63.147 of subpart G of this part, the Periodic report requirements contained in § 63.1368(g) shall apply for the purposes of this subpart.

(7) When the term ''process wastewater'' is referred to in §§ 63.132 through 63.147 of subpart G of this part, the term ''wastewater'' as defined in § 63.1361 shall apply for the purposes of this subpart.

(8) When the term ''Group 1 wastewater stream'' is used in §§ 63.132 through 63.147 of subpart G of this part, the definition of the term ''Group 1 wastewater stream'' in § 63.1361 shall apply for both new sources and existing sources for the purposes of this subpart.

(9) The requirements in §§ 63.132 through 63.147 for compounds listed on Table 8 of subpart G of this part shall not apply for the purposes of this subpart.

(10) When the total load of Table 9 compounds in the sum of all process wastewater from PAI process units at a new affected source is 2,100 Mg/yr (2,300 tons/yr) or more, the owner or operator shall reduce, by removal or destruction, the mass flow rate of all compounds in Table 9 of subpart G of this part in all wastewater (process and maintenance wastewater) by 99 percent or more. Alternatively, the owner or operator may treat the wastewater in a unit identified in and complying with § 63.138(h) of subpart G of this part. The removal/destruction efficiency shall be determined by the procedures specified in § 63.145(c) of subpart G of this part, for noncombustion processes, or § 63.145(d) of subpart G of this part, for combustion processes.

(11) The compliance date for the affected source subject to the provisions of this section is specified in § 63.1364.

(12) The option in § 63.139 of subpart G of this part to reduce emissions from a control device to an outlet HAP concentration of 20 ppmv shall not apply for the purposes of this subpart.

(13) The requirement to correct outlet concentrations from combustion devices to 3 percent oxygen in § 63.139(c)(1)(ii) of subpart H of this part shall apply only if supplemental gases are combined with affected vent streams. If emissions are controlled with a vapor recovery system as specified in § 63.139(c)(2) of subpart H of this part, the owner or operator must correct for supplemental gases as specified in § 63.1365(a)(7)(ii).

(14) If wastewater is sent offsite for biological treatment, the waste management units up to the activated sludge unit must be covered, or the owner or operator must demonstrate that less than 5 percent of the total HAP on list 1 in § 63.145(h) of subpart H of this part is emitted from these units.

(e) *Bag dumps and product dryers.* (1) The owner or operator shall reduce particulate matter emissions to a concentration not to exceed 0.01 gr/dscf from product dryers that dry a PAI or integral intermediate that is a HAP.

(2) The owner or operator shall reduce particulate matter emissions to a concentration not to exceed 0.01 gr/dscf from bag dumps that introduce to a PAI process unit a feedstock that is a solid material and a HAP, excluding bag dumps where the feedstock contains HAP only as impurities.

(3) Gaseous HAP emissions from product dryers and bag dumps shall be controlled in accordance with the provisions for process vent emissions in paragraph (b) of this section.

(f) *Heat exchange systems.* Unless one or more of the conditions specified in § 63.104(a)(1) through (6) of subpart F of this part are met, an owner or operator shall monitor each heat exchange system that is used to cool process equipment in PAI process units that are part of an affected source as defined in § 63.1360(a) according to the provisions in either § 63.104(b) or (c) of subpart F of this part. When the term ''chemical manufacturing process unit'' is used in § 63.104(c) of subpart F of this part, the term ''PAI process unit'' shall apply for the purposes of this subpart. Whenever a leak is detected, the owner or operator shall comply with the requirements in § 63.104(d) of subpart F of this part. Delay of repair of heat exchange systems for which leaks have been detected is allowed in accordance with the provisions of § 63.104(e) of subpart F of this part.

(g) *Pollution prevention alternative.* Except as provided in paragraph (g)(1) of this section, for a process that has an initial startup before November 10, 1997, an owner or operator may choose to meet the pollution prevention alternative requirement specified in either paragraph (g)(2) or (3) of this section for any PAI process unit, in lieu of the requirements specified in paragraphs (b), (c), (d), and (e) of this section and in § 63.1363. Compliance with the requirements of paragraphs (g)(2) and (3) of this section shall be

demonstrated through the procedures in §§ 63.1365(g) and 63.1366(f).

(1) A HAP must be controlled according to the requirements of paragraphs (b), (c), (d), and (e) of this section and § 63.1363 if it is generated in the PAI process unit or an associated control device and it is not part of the production-indexed HAP consumption factor (HAP factor).

(2) The HAP factor shall be reduced by at least 85 percent from a 3-year average baseline beginning no earlier than the 1987 through 1989 calendar years. Alternatively, for a process that has been operating for less than 3 years but more than 1 year, the baseline factor may be calculated for the time period from startup of the process until the present. For any reduction in the HAP factor achieved by reducing a HAP that is also a VOC, an equivalent reduction in the production-indexed VOC consumption factor (VOC factor) is also required (the equivalence is determined on a mass basis, not a percentage basis). For any reduction in the HAP factor that is achieved by reducing a HAP that is not a VOC, the VOC factor may not be increased.

(3) As an alternative to the provisions in paragraph (g)(2) of this section, the owner or operator may combine pollution prevention with emissions control as specified in paragraphs (g)(3)(i) and (ii) of this section.

(i) The HAP factor shall be reduced as specified in paragraph (g)(2) of this section except that a reduction of at least 50 percent shall apply for the purposes of this paragraph.

(ii) The total annual HAP emissions from the PAI process unit shall be reduced by an amount that, when divided by the annual production rate and added to the reduction of the HAP factor yields a value of at least 85 percent of the baseline HAP factor. The total annual VOC emissions from the process unit must be reduced by an amount equivalent to the reduction in HAP emissions for each HAP that is a VOC (the equivalence is determined on a mass basis). For HAP emissions reductions that are achieved by reducing a HAP that is not a VOC, the total annual VOC emissions may not be increased. The reduction in HAP air emissions must be achieved using one of the following control devices:

(A) Combustion control devices such as incinerators, flares, or process heaters.

(B) Control devices such as condensers and carbon adsorbers whose recovered product is destroyed or shipped offsite for destruction.

(C) Any control device that does not ultimately allow for recycling of material back to the PAI process unit.

(D) Any control device for which the owner or operator can demonstrate that the use of the device in controlling HAP emissions will have no effect on the HAP factor for the PAI process unit.

(h) *Emissions averaging provisions.* Except as provided in paragraphs (h)(1) through (7) of this section, the owner or operator of an existing affected facility may choose to comply with the emission standards in paragraphs (b), (c), and (d) of this section by using emissions averaging procedures specified in § 63.1365(h) for organic HAP emissions from any storage vessel, process, or waste management unit that is part of an affected source subject to this subpart.

(1) A State may restrict the owner or operator of an existing source to use only the procedures in paragraphs (b), (c), and (d) of this section to comply with the emission standards where State authorities prohibit averaging of HAP emissions.

(2) Emission points that are controlled as specified in paragraphs (h)(2)(i) through (iii) may not be used to calculate emissions averaging credits, unless a nominal efficiency has been assigned according to the procedures in § 63.150(i) of subpart G of this part. The nominal efficiency must exceed the percent reduction required by paragraphs (b) and (c) of this section for process vents and storage vessels, respectively, and exceed the percent reduction required in § 63.138(e) or (f) of subpart G of this part for wastewater streams.

(i) Group 1 storage vessels controlled with an internal floating roof meeting the specifications of § 63.119(b) of subpart G of this part, an external floating roof meeting the specifications of § 63.119(c) of subpart G of this part, or an external floating roof converted to an internal floating meeting the specifications of § 63.119(d) of subpart G of this part.

(ii) Emission points controlled with a flare.

(iii) Wastewater controlled as specified in paragraphs (h)(2)(iii)(A) or (B) of this section.

(A) With controls specified in § 63.133 through § 63.137 of subpart G of this part;

(B) With a steam stripper meeting the specifications of § 63.138(d) of subpart G of this part.

(3) Process vents and storage vessels controlled with a control device to an outlet concentration of 20 ppmv and wastewater streams controlled in a treatment unit to an outlet concentration of 50 ppmw may not be used in any averaging group.

(4) Maintenance wastewater streams and wastewater streams treated in biological treatment units may not be included in any averaging group.

(5) Processes which have been permanently shut down and storage vessels permanently taken out of HAP service may not be included in any averaging group.

(6) Emission points already controlled on or before November 15, 1990 may not be used to generate emissions averaging credits, unless the level of control has been increased after November 15, 1990. In these cases, credit will be allowed only for the increase in control after November 15, 1990.

(7) Emission points controlled to comply with a State or Federal rule other than this subpart may not be included in an emissions averaging group, unless the level of control has been increased after November 15, 1990, above what is required by the other State or Federal rule. Only the control above what is required by the other State or Federal rule will be credited. However, if an emission point has been used to generate emissions averaging credit in an approved emissions average, and the point is subsequently made subject to a State or Federal rule other than this subpart, the point can continue to generate emissions averaging credit for the purpose of complying with the previously approved average.

(i) *Opening of a safety device.* Opening of a safety device, as defined in § 63.1361, is allowed at any time conditions require it to avoid unsafe conditions.

(j) *Closed-vent systems.* The owner or operator of a closed-vent system that contains bypass lines that could divert a vent stream away from a control device used to comply with the requirements in paragraphs (b) through (d) of this section shall comply with the requirements of Table 3 of this subpart and paragraph (j)(1) or (2) of this section. Equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, rupture disks and pressure relief valves needed for safety purposes are not subject to this paragraph.

(1) Install, calibrate, maintain, and operate a flow indicator that determines whether vent stream flow is present at least once every 15 minutes. Records shall be maintained as specified in § 63.1367(f)(1). The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream away from the control device to the atmosphere; or

(2) Secure the bypass line valve in the closed position with a car seal or lock and key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line. Records shall be maintained as specified in § 63.1367(f)(2).

(k) *Control requirements for certain liquid streams in open systems within a PAI process unit.* (1) The owner or operator shall comply with the provisions of Table 4 of this subpart, for each item of equipment meeting all the criteria specified in paragraphs (k)(2) through (4) of this section and either paragraph (k)(5)(i) or (ii) of this section.

(2) The item of equipment is of a type identified in Table 4 of this subpart;

(3) The item of equipment is part of a PAI process unit as defined in § 63.1361;

(4) The item of equipment is controlled less stringently than in Table 4 of this subpart, and the item of equipment is not otherwise exempt from controls by the provisions of this subpart or subpart A of this part;

(5) The item of equipment:

(i) Is a drain, drain hub, manhole, lift station, trench, pipe, or oil/water separator that conveys water with a total annual average concentration greater than or equal to 10,000 ppm by weight of compounds in Table 9 of subpart G of this part at any flowrate; or a total annual average concentration greater than or equal to 1,000 ppm by weight of compounds in Table 9 of subpart G of this part at an annual average flow rate greater than or equal to 10 liters per minute; or

(ii) Is a tank that receives one or more streams that contain water with a total annual average concentration greater than or equal to 1,000 ppm by weight of compounds in Table 9 of subpart G of this part at an annual average flowrate greater than or equal to 10 liters per minute. The owner or operator of the source shall determine the characteristics of the stream as specified in paragraphs (k)(5)(ii)(A) and (B) of this section.

(A) The characteristics of the stream being received shall be determined at the inlet to the tank.

(B) The characteristics shall be determined according to the procedures in § 63.144(b) and (c) of subpart G of this part.

(l) *Exemption for RCRA treatment units.* An owner or operator shall be exempt from the initial compliance demonstrations and monitoring provisions in §§ 63.1365 and 63.1366 and the associated recordkeeping and reporting requirements in §§ 63.1367 and 63.1368 for emissions from process vents, storage vessels, and waste management units that are discharged to the following devices:

(1) A boiler or process heater burning hazardous waste for which the owner or operator:

(i) Has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or

(ii) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

(2) A hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements of 40 CFR part 265, subpart O.

§ 63.1363 Standards for equipment leaks.

(a) *General equipment leak requirements.* (1) The provisions of this section apply to ''equipment'' as defined in § 63.1361 and any closed-vent systems and control devices required by this subpart.

(2) *Consistency with other regulations.* After the compliance date for a process, equipment subject to both this section and either of the following will be required to comply only with the provisions of this subpart:

(i) 40 CFR part 60.

(ii) 40 CFR part 61.

(3) [Reserved].

(4) The provisions in § 63.1(a)(3) of subpart A of this part do not alter the provisions in paragraph (a)(2) of this section.

(5) Lines and equipment not containing process fluids are not subject to the provisions of this section. Utilities, and other nonprocess lines, such as heating and cooling systems which do not combine their materials with those in the processes they serve, are not considered to be part of a process.

(6) The provisions of this section do not apply to bench-scale processes, regardless of whether the processes are located at the same plant site as a process subject to the provisions of this subpart MMM.

(7) Each piece of equipment to which this section applies shall be identified such that it can be distinguished readily from equipment that is not subject to this section. Identification of the equipment does not require physical tagging of the equipment. For example, the equipment may be identified on a plant site plan, in log entries, or by designation of process boundaries by some form of weatherproof identification. If changes are made to the affected source subject to the leak detection requirements, equipment identification for each type of component shall be updated, if needed, within 15 calendar days of the end of each monitoring period for that component.

(8) Equipment that is in vacuum service is excluded from the requirements of this section.

(9) Equipment that is in organic HAP service, but is in such service less than 300 hours per calendar year, is excluded from the requirements of this section if it is identified as required in paragraph (g)(9) of this section.

(10) When each leak is detected by visual, audible, or olfactory means, or by monitoring as described in § 63.180(b) or (c) of subpart H of this part, the following requirements apply:

(i) A weatherproof and readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.

(ii) The identification on a valve or connector in light liquid or gas/vapor service may be removed after it has been monitored as specified in paragraph (e)(7)(iii) of this section and § 63.174(e) of subpart H of this part, and no leak has been detected during the follow-up monitoring.

(iii) The identification on equipment, except on a valve or connector in light liquid or gas/vapor service, may be removed after it has been repaired.

(b) *References.* The owner or operator shall comply with the provisions of subpart H of this part as specified in paragraphs (b)(1) through (3) of this section. When the term ''process unit'' is used in subpart H of this part, it shall mean any group of processes for the purposes of this subpart. Groups of processes as used in this subpart may be any individual process or combination of processes.

(1) Sections 63.160, 63.161, 63.162, 63.163, 63.167, 63.168, 63.170, 63.173, 63.175, 63.176, 63.181, and 63.182 of subpart H of this part shall not apply for the purposes of this subpart MMM. The owner or operator shall comply with the provisions specified in paragraphs (b)(1)(i) through (viii) of this section.

(i) Sections 63.160 and 63.162 of subpart H of this part shall not apply, instead the owner or operator shall comply with paragraph (a) of this section;

(ii) Section 63.161 of subpart H of this part shall not apply, instead the owner or operator shall comply with § 63.1361;

(iii) Sections 63.163 and 63.173 of subpart H of this part shall not apply,

instead the owner or operator shall comply with paragraph (c) of this section;

(iv) Section 63.167 of subpart H of this part shall not apply, instead the owner or operator shall comply with paragraph (d) of this section;

(v) Section 63.168 of subpart H of this part shall not apply, instead the owner or operator shall comply with paragraph (e) of this section;

(vi) Section 63.170 of subpart H of this part shall not apply, instead the owner or operator shall comply with § 63.1362(b);

(vii) Section 63.181 of subpart H of this part shall not apply, instead the owner or operator shall comply with paragraph (g) of this section; and

(viii) Section 63.182 of subpart H of this part shall not apply, instead the owner or operator shall comply with paragraph (h) of this section.

(2) The owner or operator shall comply with §§ 63.164, 63.165, 63.166, 63.169, 63.177, and 63.179 of subpart H of this part in their entirety, except that when these sections reference other sections of subpart H of this part, the owner or operator shall comply with the revised sections as specified in paragraphs (b)(1) and (3) of this section. Section 63.164 of subpart H of this part applies to compressors. Section 63.165 of subpart H of this part applies to pressure relief devices in gas/vapor service. Section 63.166 of subpart H of this part applies to sampling connection systems. Section 63.169 of subpart H of this part applies to: pumps, valves, connectors, and agitators in heavy liquid service; instrumentation systems; and pressure relief devices in liquid service. Section 63.177 of subpart H of this subpart applies to general alternative means of emission limitation. Section 63.179 of subpart H of this part applies to alternative means of emission limitation for enclosed-vented process units.

(3) The owner or operator shall comply with §§ 63.171, 63.172, 63.174, 63.178, and 63.180 of subpart H of this part with the differences specified in paragraphs (b)(3)(i) through (v) of this section.

(i) Section 63.171, Delay of repair, shall apply except § 63.171(a) shall not apply. Delay of repair of equipment for which leaks have been detected is allowed if one of the following conditions exist:

(A) The repair is technically infeasible without a process shutdown. Repair of this equipment shall occur by the end of the next scheduled process shutdown.

(B) The owner or operator determines that repair personnel would be exposed to an immediate danger if attempting to repair without a process shutdown. Repair of this equipment shall occur by the end of the next scheduled process shutdown.

(ii) Section 63.172, Closed-vent systems and control devices, shall apply for closed-vent systems used to comply with this section, and for control devices used to comply with this section only, except:

(A) Section 63.172(k) and (l) shall not apply. The owner or operator shall instead comply with paragraph (f) of this section.

(B) Owners or operators may, instead of complying with the provisions of § 63.172(f), design a closed-vent system to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the associated control device is operating.

(iii) Section 63.174, Connectors, shall apply except:

(A) Section 63.174(f) and (g) shall not apply. Instead of § 63.174(f) and (g), the owner or operator shall comply with paragraph (f) of this section.

(B) Days that the connectors are not in organic HAP service shall not be considered part of the 3-month period in § 63.174(e).

(C) Section 63.174(b)(3)(ii) of subpart H of this part shall not apply. Instead, if the percent leaking connectors in the group of process units was less than 0.5 percent, but equal to or greater than 0.25 percent, during the last required monitoring period, monitoring shall be performed once every 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors in the first 2 years and the remainder of the connectors within the next 2 years. The percent leaking connectors will be calculated for the total of all monitoring performed during the 4-year period.

(D) Section 63.174(b)(3)(iv) of subpart H of this part shall not apply. Instead, the owner or operator shall increase the monitoring frequency to once every 2 years for the next monitoring period if leaking connectors comprise at least 0.5 percent but less than 1.0 percent of the connectors monitored within the 4 years specified in paragraph (b)(3)(iii)(C) of this section, or the first 4 years specified in § 63.174(b)(3)(iii) of subpart H of this part. At the end of that 2-year monitoring period, the owner or operator shall monitor once per year while the percent leaking connectors is greater than or equal to 0.5 percent; if the percent leaking connectors is less than 0.5 percent, the owner or operator may return to monitoring once every 4 years or may monitor in accordance with § 63.174(b)(3)(iii) of subpart H of this part, if appropriate.

(E) Section 63.174(b)(3)(v) of subpart H of this part shall not apply. Instead, if an owner or operator complying with the requirements of paragraph (b)(3)(iii)(C) and (D) of this section or § 63.174(b)(3)(iii) of subpart H of this part for a group of process units determines that 1 percent or greater of the connectors are leaking, the owner or operator shall increase the monitoring frequency to one time per year. The owner or operator may again elect to use the provisions of paragraphs (b)(3)(iii)(C) or (D) of this section after a monitoring period in which less than 0.5 percent of the connectors are determined to be leaking.

(F) Section 63.174(b)(3)(iii) of subpart H of this part shall not apply. Instead, monitoring shall be required once every 8 years, if the percent leaking connectors in the group of process units was less than 0.25 percent during the last required monitoring period. An owner or operator shall monitor at least 50 percent of the connectors in the first 4 years and the remainder of the connectors within the next 4 years. If the percent leaking connectors in the first 4 years is equal to or greater than 0.35 percent, the monitoring program shall revert at that time to the appropriate monitoring frequency specified in paragraphs (b)(3)(iii)(C), (D), or (E) of this section.

(iv) Section 63.178 of subpart H of this part, Alternative means of emission limitation: Batch processes, shall apply except that § 63.178(b) of subpart H of this part, requirements for pressure testing, shall apply to all processes, not just batch processes;

(v) Section 63.180 of subpart H of this part, Test methods and procedures, shall apply except § 63.180(b)(4)(ii)(A) through (C) of subpart H of this part shall not apply. Calibration gases shall be a mixture of methane and air at a concentration of approximately, but less than, 10,000 parts per million methane for agitators, 2,000 parts per million for pumps, and 500 parts per million for all other equipment, except as provided in § 63.180(b)(4)(iii) of subpart H of this part.

(c) *standards for pumps in light liquid service and agitators in gas/vapor service and in light liquid service.* (1) The provisions of this section apply to each pump that is in light liquid service, and to each agitator in gas/vapor service or in light liquid service.

(2)(i) *Monitoring.* Each pump and agitator subject to this section shall be monitored quarterly to detect leaks by the method specified in § 63.180(b) of subpart H of this part, except as provided in § 63.177 of subpart H of this part, paragraph (f) of this section, and paragraphs (c)(5) through (c)(9) of this section.

(ii) *Leak definition.* The instrument reading, as determined by the method as specified in § 63.180(b) of subpart H of this part, that defines a leak is:

(A) For agitators, an instrument reading of 10,000 parts per million or greater.

(B) For pumps, an instrument reading of 2,000 parts per million or greater.

(iii) *Visual inspections.* Each pump and agitator shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump or agitator seal. If there are indications of liquids dripping from the seal, a leak is detected.

(3) *Repair provisions.* (i) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in paragraph (b)(3)(i) of this section.

(ii) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected. First attempts at repair include, but are not limited to, the following practices where practicable:

(A) Tightening of packing gland nuts.

(B) Ensuring that the seal flush is operating at design pressure and temperature.

(4) *Calculation of percent leakers.* (i) The owner or operator shall decide no later than the end of the first monitoring period what groups of processes will be developed. Once the owner or operator has decided, all subsequent percent calculations shall be made on the same basis.

(ii) If, calculated on a 1 year rolling average, the greater of either 10 percent or three of the pumps in a group of processes leak, the owner or operator shall monitor each pump once per month.

(iii) The number of pumps in a group of processes shall be the sum of all the pumps in organic HAP service, except that pumps found leaking in a continuous process within 1 quarter after startup of the pump shall not count in the percent leaking pumps calculation for that one monitoring period only.

(iv) Percent leaking pumps shall be determined using Equation 3 of this subpart:

$$\%P_L = \left[\left(P_L - P_S\right)/\left(P_T - P_S\right)\right] \times 100 \qquad \text{(Eq. 3)}$$

where:

$\%P_L$ = percent leaking pumps

P_L = number of pumps found leaking as determined through quarterly monitoring as required in paragraphs (c)(2)(i) and (ii) of this section.

P_T = total pumps in organic HAP service, including those meeting the criteria in paragraphs (c)(5) and (6) of this section

P_S = number of pumps in a continuous process leaking within 1 quarter of startup during the current monitoring period

(5) *Exemptions.* Each pump or agitator equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraphs (c)(1) through (c)(4)(iii) of this section, provided the following requirements are met:

(i) Each dual mechanical seal system is:

(A) Operated with the barrier fluid at a pressure that is at all times greater than the pump/agitator stuffing box pressure; or

(B) Equipped with a barrier fluid degassing reservoir that is connected by a closed-vent system to a control device that complies with the requirements of paragraph (b)(3)(ii) of this section; or

(C) Equipped with a closed-loop system that purges the barrier fluid into a process stream.

(ii) The barrier fluid is not in light liquid service.

(iii) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(iv) Each pump/agitator is checked by visual inspection each calendar week for indications of liquids dripping from the pump/agitator seal.

(A) If there are indications of liquids dripping from the pump/agitator seal at the time of the weekly inspection, the pump/agitator shall be monitored as specified in § 63.180(b) of subpart H of this part to determine if there is a leak of organic HAP in the barrier fluid.

(B) If an instrument reading of 2,000 parts per million or greater is measured for pumps, or 10,000 parts per million or greater is measured for agitators, a leak is detected.

(v) Each sensor as described in paragraph (c)(5)(iii) of this section is observed daily or is equipped with an alarm unless the pump is located within the boundary of an unmanned plant site.

(vi)(A) The owner or operator determines, based on design considerations and operating experience, criteria applicable to the presence and frequency of drips and to the sensor that indicate failure of the seal system, the barrier fluid system, or both.

(B) If indications of liquids dripping from the pump/agitator seal exceed the criteria established in paragraph (c)(5)(vi)(A) of this section, or if, based on the criteria established in paragraph (c)(5)(vi)(A) of this section, the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(C) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in paragraph (b)(3)(i) of this section.

(D) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(6) Any pump/agitator that is designed with no externally actuated shaft penetrating the pump/agitator housing is exempt from the requirements of paragraphs (c)(1) through (4) of this section, except for the requirements of paragraph (c)(2)(iii) of this section and, for pumps, paragraph (c)(4)(iv) of this section.

(7) Any pump/agitator equipped with a closed-vent system capable of capturing and transporting any leakage from the seal or seals back to the process or to a control device that complies with the requirements of paragraph (b)(3)(ii) of this section is exempt from the requirements of paragraphs (c)(2) through (5) of this section.

(8) Any pump/agitator that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (c)(2)(iii) and (c)(5)(iv) of this section, and the daily requirements of paragraph (c)(5)(v) of this section, provided that each pump/agitator is visually inspected as often as practicable and at least monthly.

(9) If more than 90 percent of the pumps in a group of processes meet the criteria in either paragraph (c)(5) or (6) of this section, the process is exempt

from the requirements of paragraph (c)(4) of this section.

(d) *Standards: open-ended valves or lines.* (1)(i) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 63.177 of subpart H of this part and paragraphs (d)(4) through (6) of this section.

(ii) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair. The cap, blind flange, plug, or second valve shall be in place within 1 hour of cessation of operations requiring process fluid flow through the open-ended valve or line, or within 1 hour of cessation of maintenance or repair.

(2) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

(3) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (d)(1) of this section at all other times.

(4) Open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirements of paragraphs (d)(1) through (3) of this section.

(5) Open-ended valves or lines containing materials which would autocatalytically polymerize are exempt from the requirements of paragraphs (d)(1) through (3) of this section.

(6) Open-ended valves or lines containing materials which could cause an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in paragraphs (d)(1) through (3) of this section are exempt from the requirements of paragraphs (d)(1) through (3) of this section.

(e) *Standards: valves in gas/vapor service and in light liquid service.* (1) The provisions of this section apply to valves that are either in gas/vapor service or in light liquid service.

(2) For existing and new affected sources, all valves subject to this section shall be monitored, except as provided in paragraph (f) of this section and in § 63.177 of subpart H of this part, by no later than 1 year after the compliance date.

(3) *Monitoring.* The owner or operator of a source subject to this section shall monitor all valves, except as provided in paragraph (f) of this section and in § 63.177 of subpart H of this part, at the intervals specified in paragraph (e)(4) of this section and shall comply with all other provisions of this section, except as provided in paragraph (b)(3)(i) of this section and §§ 63.178 and 63.179 of subpart H of this part.

(i) The valves shall be monitored to detect leaks by the method specified in § 63.180(b) of subpart H of this part.

(ii) An instrument reading of 500 parts per million or greater defines a leak.

(4) *Subsequent monitoring frequencies.* After conducting the initial survey required in paragraph (e)(2) of this section, the owner or operator shall monitor valves for leaks at the intervals specified below:

(i) For a group of processes with 2 percent or greater leaking valves, calculated according to paragraph (e)(6) of this section, the owner or operator shall monitor each valve once per month, except as specified in paragraph (e)(9) of this section.

(ii) For a group of processes with less than 2 percent leaking valves, the owner or operator shall monitor each valve once each quarter, except as provided in paragraphs (e)(4)(iii) through (v) of this section.

(iii) For a group of processes with less than 1 percent leaking valves, the owner or operator may elect to monitor each valve once every 2 quarters.

(iv) For a group of processes with less than 0.5 percent leaking valves, the owner or operator may elect to monitor each valve once every 4 quarters.

(v) For a group of processes with less than 0.25 percent leaking valves, the owner or operator may elect to monitor each valve once every 2 years.

(5) *Calculation of percent leakers.* For a group of processes to which this subpart applies, the owner or operator may choose to subdivide the valves in the applicable group of processes and apply the provisions of paragraph (e)(4) of this section to each subgroup. If the owner or operator elects to subdivide the valves in the applicable group of processes, then the provisions of paragraphs (e)(5)(i) through (viii) of this section apply.

(i) The overall performance of total valves in the applicable group of processes must be less than 2 percent leaking valves, as detected according to paragraphs (e)(3)(i) and (ii) of this section and as calculated according to paragraphs (e)(6)(ii) and (iii) of this section.

(ii) The initial assignment or subsequent reassignment of valves to subgroups shall be governed by the provisions of paragraphs (e)(5)(ii) (A) through (C) of this section.

(A) The owner or operator shall determine which valves are assigned to each subgroup. Valves with less than 1 year of monitoring data or valves not monitored within the last 12 months must be placed initially into the most frequently monitored subgroup until at least 1 year of monitoring data have been obtained.

(B) Any valve or group of valves can be reassigned from a less frequently monitored subgroup to a more frequently monitored subgroup provided that the valves to be reassigned were monitored during the most recent monitoring period for the less frequently monitored subgroup. The monitoring results must be included with the less frequently monitored subgroup's monitoring event and associated next percent leaking valves calculation for that group.

(C) Any valve or group of valves can be reassigned from a more frequently monitored subgroup to a less frequently monitored subgroup provided that the valves to be reassigned have not leaked for the period of the less frequently monitored subgroup (e.g., for the last 12 months, if the valve or group of valves is to be reassigned to a subgroup being monitored annually). Nonrepairable valves may not be reassigned to a less frequently monitored subgroup.

(iii) The owner or operator shall determine every 6 months if the overall performance of total valves in the applicable group of processes is less than 2 percent leaking valves and so indicate the performance in the next Periodic report. If the overall performance of total valves in the applicable group of processes is 2 percent leaking valves or greater, the owner or operator shall revert to the program required in paragraphs (e)(2) through (4) of this section. The overall performance of total valves in the applicable group of processes shall be calculated as a weighted average of the percent leaking valves of each subgroup according to Equation 4 of this subpart:

$$\%V_{LO} = \frac{\sum_{i=1}^{n}\left(\%V_{Li} \times V_i\right)}{\sum_{i=1}^{n} V_i} \qquad \text{(Eq. 4)}$$

where:

$\%V_{LO}$ = overall performance of total valves in the applicable group of processes

$\%V_{Li}$ = percent leaking valves in subgroup i, most recent value calculated according to the procedures in paragraphs (e)(6)(ii) and (iii) of this section

V_i = number of valves in subgroup i

n = number of subgroups

(iv) *Records.* In addition to records required by paragraph (g) of this section, the owner or operator shall maintain records specified in paragraphs (e)(5)(iv)(A) through (D) of this section.

(A) Which valves are assigned to each subgroup,

(B) Monitoring results and calculations made for each subgroup for each monitoring period,

(C) Which valves are reassigned and when they were reassigned, and

(D) The results of the semiannual overall performance calculation required in paragraph (e)(5)(iii) of this section.

(v) The owner or operator shall notify the Administrator no later than 30 days prior to the beginning of the next monitoring period of the decision to subgroup valves. The notification shall identify the participating processes and the valves assigned to each subgroup.

(vi) *Semiannual reports.* In addition to the information required by paragraph (h)(3) of this section, the owner or operator shall submit in the Periodic reports the information specified in paragraphs (e)(5)(vi)(A) and (B) of this section.

(A) Valve reassignments occurring during the reporting period, and

(B) Results of the semiannual overall performance calculation required by paragraph (e)(5)(iii) of this section.

(vii) To determine the monitoring frequency for each subgroup, the calculation procedures of paragraph (e)(6)(iii) of this section shall be used.

(viii) Except for the overall performance calculations required by paragraphs (e)(5)(i) and (iii) of this section, each subgroup shall be treated as if it were a process for the purposes of applying the provisions of this section.

(6)(i) The owner or operator shall decide no later than the implementation date of this subpart or upon revision of an operating permit how to group the processes. Once the owner or operator has decided, all subsequent percentage calculations shall be made on the same basis.

(ii) Percent leaking valves for each group of processes or subgroup shall be determined using Equation 5 of this subpart:

$$\%V_L = \left[V_L / V_T\right] \times 100 \qquad \text{(Eq. 5)}$$

Where:

$\%V_L$ = percent leaking valves

V_L = number of valves found leaking excluding nonrepairables as provided in paragraph (e)(6)(iv)(A) of this section

V_T = total valves monitored, in a monitoring period excluding valves monitored as required by paragraph (e)(7)(iii) of this section

(iii) When determining monitoring frequency for each group of processes or subgroup subject to monthly, quarterly, or semiannual monitoring frequencies, the percent leaking valves shall be the arithmetic average of the percent leaking valves from the last two monitoring periods. When determining monitoring frequency for each group of processes or subgroup subject to annual or biennial (once every 2 years) monitoring frequencies, the percent leaking valves shall be the arithmetic average of the percent leaking valves from the last three monitoring periods.

(iv)(A) Nonrepairable valves shall be included in the calculation of percent leaking valves the first time the valve is identified as leaking and nonrepairable and as required to comply with paragraph (e)(6)(iv)(B) of this section. Otherwise, a number of nonrepairable valves (identified and included in the percent leaking calculation in a previous period) up to a maximum of 1 percent of the total number of valves in organic HAP service at a process may be excluded from calculation of percent leaking valves for subsequent monitoring periods.

(B) If the number of nonrepairable valves exceeds 1 percent of the total number of valves in organic HAP service at a process, the number of nonrepairable valves exceeding 1 percent of the total number of valves in organic HAP service shall be included in the calculation of percent leaking valves.

(7) *Repair provisions.* (i) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in paragraph (b)(3)(i) of this section.

(ii) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(iii) When a leak is repaired, the valve shall be monitored at least once within the first 3 months after its repair. Days that the valve is not in organic HAP service shall not be considered part of this 3-month period.

(8) First attempts at repair include, but are not limited to, the following practices where practicable:

(i) Tightening of bonnet bolts,

(ii) Replacement of bonnet bolts,

(iii) Tightening of packing gland nuts, and

(iv) Injection of lubricant into lubricated packing.

(9) Any equipment located at a plant site with fewer than 250 valves in organic HAP service in the affected source is exempt from the requirements for monthly monitoring specified in paragraph (e)(4)(i) of this section. Instead, the owner or operator shall monitor each valve in organic HAP service for leaks once each quarter, or comply with paragraphs (e)(4)(iii) or (iv) of this section.

(f) *Unsafe to monitor, difficult to monitor, and inaccessible equipment.* (1) Equipment that is designated as unsafe to monitor, difficult to monitor, or inaccessible is exempt from the requirements as specified in paragraphs (f)(1) (i) through (iv) of this section provided the owner or operator meets the requirements specified in paragraph (f) (2), (3), or (4) of this section, as applicable. Ceramic or ceramic-lined connectors are subject to the same requirements as inaccessible connectors.

(i) For pumps and agitators, paragraphs (c) (2), (3), and (4) of this section do not apply.

(ii) For valves, paragraphs (e)(2) through (7) of this section do not apply.

(iii) For closed-vent systems, § 63.172(f)(1), (f)(2), and (g) of subpart H of this part do not apply.

(iv) For connectors, § 63.174(b) through (e) of subpart H of this part do not apply.

(2) *Equipment that is unsafe to monitor.* (i) Equipment may be designated as unsafe to monitor if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements identified in paragraphs (f)(1)(i) through (iv) of this section.

(ii) The owner or operator of equipment that is designated as unsafe-to-monitor must have a written plan that requires monitoring of the equipment as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable.

(3) *Equipment that is difficult to monitor.* (i) Equipment may be designated as difficult to monitor if the owner or operator determines that the equipment cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface or the equipment is not accessible at anytime in a safe manner;

(ii) At an existing source, any equipment within a group of processes that meets the criteria of paragraph (f)(3)(i) of this section may be designated as difficult to monitor. At a new affected source, an owner or operator may designate no more than 3 percent of each type of equipment as difficult to monitor.

(iii) The owner or operator of equipment designated as difficult to monitor must follow a written plan that requires monitoring of the equipment at least once per calendar year.

(4) *Inaccessible equipment and ceramic or ceramic-lined connectors.* (i) A connector, agitator, or valve may be designated as inaccessible if it is:

(A) Buried;

(B) Insulated in a manner that prevents access to the equipment by a monitor probe;

(C) Obstructed by equipment or piping that prevents access to the equipment by a monitor probe;

(D) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold which would allow access to equipment up to 7.6 meters above the ground; or

(E) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(ii) At an existing source, any connector, agitator, or valve that meets the criteria of paragraph (f)(4)(i) of this section may be designated as inaccessible. At a new affected source, an owner or operator may designate no more than 3 percent of each type of equipment as inaccessible.

(iii) If any inaccessible equipment or ceramic or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the leak shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in paragraph (b)(3)(i) of this section.

(g) *Recordkeeping requirements.* (1) An owner or operator of more than one group of processes subject to the provisions of this section may comply with the recordkeeping requirements for the groups of processes in one recordkeeping system if the system identifies with each record the program being implemented (e.g., quarterly monitoring) for each type of equipment. All records and information required by this section shall be maintained in a manner that can be readily accessed at the plant site. This could include physically locating the records at the plant site or accessing the records from a central location by computer at the plant site.

(2) *General recordkeeping.* Except as provided in paragraph (g)(5) of this section, the following information pertaining to all equipment subject to the requirements in this section shall be recorded:

(i)(A) A list of identification numbers for equipment (except instrumentation systems) subject to the requirements of this section. Connectors, except those subject to paragraph (f) of this section, need not be individually identified if all connectors in a designated area or length of pipe subject to the provisions of this section are identified as a group, and the number of subject connectors is indicated. The list for each type of equipment shall be completed no later than the completion of the initial survey required for that component. The list of identification numbers shall be updated, if needed, to incorporate equipment changes within 15 calendar days of the completion of each monitoring survey for the type of equipment component monitored.

(B) A schedule for monitoring connectors subject to the provisions of § 63.174(a) of subpart H of this part and valves subject to the provisions of paragraph (e)(4) of this section.

(C) Physical tagging of the equipment is not required to indicate that it is in organic HAP service. Equipment subject to the provisions of this section may be identified on a plant site plan, in log entries, or by other appropriate methods.

(ii)(A) A list of identification numbers for equipment that the owner or operator elects to equip with a closed-vent system and control device, under the provisions of paragraph (c)(7) of this section or §§ 63.164(h) or 63.165(c) of subpart H of this part.

(B) A list of identification numbers for compressors that the owner or operator elects to designate as operating with an instrument reading of less than 500 parts per million above background, under the provisions of § 63.164(i) of subpart H of this part.

(iii)(A) A list of identification numbers for pressure relief devices subject to the provisions in § 63.165(a) of subpart H of this part.

(B) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions of § 63.165(d) of subpart H of this part.

(iv) Identification of instrumentation systems subject to the provisions of this section. Individual components in an instrumentation system need not be identified.

(v) The following information shall be recorded for each dual mechanical seal system:

(A) Design criteria required by paragraph (c)(5)(vi)(A) of this section and § 63.164(e)(2) of subpart H of this part, and an explanation of the design criteria; and

(B) Any changes to these criteria and the reasons for the changes.

(vi) A list of equipment designated as unsafe to monitor, difficult to monitor, or inaccessible under paragraphs (f) or (b)(3)(i)(B) of this section and a copy of the plan for monitoring or inspecting this equipment.

(vii) A list of connectors removed from and added to the process, as described in § 63.174(i)(1) of subpart H of this part, and documentation of the integrity of the weld for any removed connectors, as required in § 63.174(j) of subpart H of this part. This is not required unless the net credits for removed connectors is expected to be used.

(viii) For batch processes that the owner or operator elects to monitor as provided under § 63.178(c) of subpart H of this part, a list of equipment added to batch product processes since the last monitoring period required in § 63.178(c)(3)(ii) and (iii) of subpart H of this part. This list must be completed for each type of equipment within 15 calendar days of the completion of the each monitoring survey for the type of equipment monitored.

(3) *Records of visual inspections.* For visual inspections of equipment subject to the provisions of paragraphs (c)(2)(iii) and (c)(5)(iv) of this section, the owner or operator shall document that the inspection was conducted and the date of the inspection. The owner or operator shall maintain records as specified in paragraph (g)(4) of this section for leaking equipment identified in this inspection, except as provided in paragraph (g)(5) of this section. These records shall be retained for 5 years.

(4) *Monitoring records.* When each leak is detected as specified in paragraphs (c) and (e) of this section and §§ 63.164, 63.169, 63.172, and 63.174 of subpart H of this part, the owner or operator shall record the information specified in paragraphs (g)(4)(i) through (ix) of this section. All records shall be retained for 5 years, in accordance with the requirements of § 63.10(b)(1) of subpart A of this part.

(i) The instrument and the equipment identification number and the operator name, initials, or identification number.

(ii) The date the leak was detected and the date of first attempt to repair the leak.

(iii) The date of successful repair of the leak.

(iv) If postrepair monitoring is required, maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A, after it is successfully repaired or determined to be nonrepairable.

(v) ''Repair delayed'' and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(A) The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. The written procedures may be included as part of the startup/shutdown/malfunction plan, required by § 63.1367(a), for the source or may be part of a separate document that is maintained at the plant site. Reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

(B) If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked onsite before depletion and the reason for depletion.

(vi) If repairs were delayed, dates of process shutdowns that occur while the equipment is unrepaired.

(vii)(A) If the alternative in § 63.174(c)(1)(ii) of subpart H of this part is not in use for the monitoring period, identification, either by list, location (area or grouping), or tagging of connectors disturbed since the last monitoring period required in § 63.174(b) of subpart H of this part, as described in § 63.174(c)(1) of subpart H of this part.

(B) The date and results of follow-up monitoring as required in § 63.174(c) of subpart H of this part. If identification of disturbed connectors is made by location, then all connectors within the designated location shall be monitored.

(viii) The date and results of the monitoring required in § 63.178(c)(3)(i) of subpart H of this part for equipment added to a batch process since the last monitoring period required in § 63.178(c)(3)(ii) and (iii) of subpart H of this part. If no leaking equipment is found in this monitoring, the owner or operator shall record that the inspection was performed. Records of the actual monitoring results are not required.

(ix) Copies of the periodic reports as specified in paragraph (h)(3) of this section, if records are not maintained on a computerized data base capable of generating summary reports from the records.

(5) *Records of pressure tests.* The owner or operator who elects to pressure test a process equipment train and supply lines between storage and processing areas to demonstrate compliance with this section is exempt from the requirements of paragraphs (g)(2), (3), (4), and (6) of this section. Instead, the owner or operator shall maintain records of the following information:

(i) The identification of each product, or product code, produced during the calendar year. It is not necessary to identify individual items of equipment in the process equipment train.

(ii) Records demonstrating the proportion of the time during the calendar year the equipment is in use in the process that is subject to the provisions of this subpart. Examples of suitable documentation are records of time in use for individual pieces of equipment or average time in use for the process unit. These records are not required if the owner or operator does not adjust monitoring frequency by the time in use, as provided in § 63.178(c)(3)(iii) of subpart H of this part.

(iii) Physical tagging of the equipment to identify that it is in organic HAP service and subject to the provisions of this section is not required. Equipment in a process subject to the provisions of this section may be identified on a plant site plan, in log entries, or by other appropriate methods.

(iv) The dates of each pressure test required in § 63.178(b) of subpart H of this part, the test pressure, and the pressure drop observed during the test.

(v) Records of any visible, audible, or olfactory evidence of fluid loss.

(vi) When a process equipment train does not pass two consecutive pressure tests, the following information shall be recorded in a log and kept for 2 years:

(A) The date of each pressure test and the date of each leak repair attempt.

(B) Repair methods applied in each attempt to repair the leak.

(C) The reason for the delay of repair.

(D) The expected date for delivery of the replacement equipment and the actual date of delivery of the replacement equipment.

(E) The date of successful repair.

(6) *Records of compressor and pressure relief valve compliance tests.* The dates and results of each compliance test required for compressors subject to the provisions in § 63.164(i) of subpart H of this part and the dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.165(a) and (b) of subpart H of this part. The results shall include:

(i) The background level measured during each compliance test.

(ii) The maximum instrument reading measured at each piece of equipment during each compliance test.

(7) *Records for closed-vent systems.* The owner or operator shall maintain records of the information specified in paragraphs (g)(7)(i) through (iii) of this section for closed-vent systems and control devices subject to the provisions of paragraph (b)(3)(ii) of this section. The records specified in paragraph (g)(7)(i) of this section shall be retained for the life of the equipment. The records specified in paragraphs (g)(7)(ii) and (iii) of this section shall be retained for 5 years.

(i) The design specifications and performance demonstrations specified in paragraphs (g)(7)(i)(A) through (D) of this section.

(A) Detailed schematics, design specifications of the control device, and piping and instrumentation diagrams.

(B) The dates and descriptions of any changes in the design specifications.

(C) The flare design (i.e., steam assisted, air assisted, or nonassisted) and the results of the compliance demonstration required by § 63.11(b) of subpart A of this part.

(D) A description of the parameter or parameters monitored, as required in paragraph (b)(3)(ii) of this section, to ensure that control devices are operated and maintained in conformance with their design and an explanation of why that parameter (or parameters) was selected for the monitoring.

(ii) Records of operation of closed-vent systems and control devices.

(A) Dates and durations when the closed-vent systems and control devices required in paragraph (c) of this section and §§ 63.164 through 63.166 of subpart H of this part are not operated as designed as indicated by the monitored parameters, including periods when a flare pilot light system does not have a flame.

(B) Dates and durations during which the monitoring system or monitoring device is inoperative.

(C) Dates and durations of startups and shutdowns of control devices required in paragraph (c) of this section and §§ 63.164 through 63.166 of subpart H of this part.

(iii) Records of inspections of closed-vent systems subject to the provisions of § 63.172 of subpart H of this part.

(A) For each inspection conducted in accordance with the provisions of § 63.172(f)(1) or (2) of subpart H of this part during which no leaks were detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(B) For each inspection conducted in accordance with the provisions of § 63.172(f)(1) or (f)(2) of subpart H of this part during which leaks were detected, the information specified in paragraph (g)(4) of this section shall be recorded.

(8) *Records for components in heavy liquid service.* Information, data, and

analysis used to determine that a piece of equipment or process is in heavy liquid service shall be recorded. Such a determination shall include an analysis or demonstration that the process fluids do not meet the criteria of ''in light liquid or gas/vapor service.'' Examples of information that could document this include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, engineering calculations, or process knowledge.

(9) *Records of exempt components.* Identification, either by list, location (area or group), or other method of equipment in organic HAP service less than 300 hr/yr subject to the provisions of this section.

(10) *Records of alternative means of compliance determination.* Owners and operators choosing to comply with the requirements of § 63.179 of subpart H of this part shall maintain the following records:

(i) Identification of the process(es) and the organic HAP they handle.

(ii) A schematic of the process, enclosure, and closed-vent system.

(iii) A description of the system used to create a negative pressure in the enclosure to ensure that all emissions are routed to the control device.

(h) *Reporting Requirements.* (1) Each owner or operator of a source subject to this section shall submit the reports listed in paragraphs (h)(1)(i) and (ii) of this section.

(i) A Notification of Compliance Status report described in paragraph (h)(2) of this section, and

(ii) Periodic reports described in paragraph (h)(3) of this section.

(2) *Notification of compliance status report.* Each owner or operator of a source subject to this section shall submit the information specified in paragraphs (h)(2)(i) through (iii) of this section in the Notification of Compliance Status report described in § 63.1368(f). Section 63.9(j) of subpart A of this part shall not apply to the Notification of Compliance Status report.

(i) The notification shall provide the information listed in paragraphs (h)(2)(i)(A) through (C) of this section for each group of processes subject to the requirements of paragraphs (b) through (g) of this section.

(A) Identification of the group of processes.

(B) Approximate number of each equipment type (e.g., valves, pumps) in organic HAP service, excluding equipment in vacuum service.

(C) Method of compliance with the standard (for example, ''monthly leak detection and repair'' or ''equipped with dual mechanical seals'').

(ii) The notification shall provide the information listed in paragraphs (h)(2)(ii)(A) and (B) of this section for each process subject to the requirements of paragraph (b)(3)(iv) of this section and § 63.178(b) of subpart H of this part.

(A) Products or product codes subject to the provisions of this section, and

(B) Planned schedule for pressure testing when equipment is configured for production of products subject to the provisions of this section.

(iii) The notification shall provide the information listed in paragraphs (h)(2)(iii)(A) and (B) of this section for each process subject to the requirements in § 63.179 of subpart H of this part.

(A) Process identification.

(B) A description of the system used to create a negative pressure in the enclosure and the control device used to comply with the requirements of paragraph (b)(3)(ii) of this section.

(3) *Periodic reports.* The owner or operator of a source subject to this section shall submit Periodic reports.

(i) A report containing the information in paragraphs (h)(3)(ii), (iii), and (iv) of this section shall be submitted semiannually. The first Periodic report shall be submitted no later than 240 days after the date the Notification of Compliance Status report is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status report is due. Each subsequent Periodic report shall cover the 6-month period following the preceding period.

(ii) For equipment complying with the provisions of paragraphs (b) through (g) of this section, the Periodic report shall contain the summary information listed in paragraphs (h)(3)(ii)(A) through (L) of this section for each monitoring period during the 6-month period.

(A) The number of valves for which leaks were detected as described in paragraph (e)(2) of this section, the percent leakers, and the total number of valves monitored;

(B) The number of valves for which leaks were not repaired as required in paragraph (e)(7) of this section, identifying the number of those that are determined nonrepairable;

(C) The number of pumps and agitators for which leaks were detected as described in paragraph (c)(2) of this section, the percent leakers, and the total number of pumps and agitators monitored;

(D) The number of pumps and agitators for which leaks were not repaired as required in paragraph (c)(3) of this section;

(E) The number of compressors for which leaks were detected as described in § 63.164(f) of subpart H of this part;

(F) The number of compressors for which leaks were not repaired as required in § 63.164(g) of subpart H of this part;

(G) The number of connectors for which leaks were detected as described in § 63.174(a) of subpart H of this part, the percent of connectors leaking, and the total number of connectors monitored;

(H) The number of connectors for which leaks were not repaired as required in § 63.174(d) of subpart H of this part, identifying the number of those that are determined nonrepairable;

(I) The facts that explain any delay of repairs and, where appropriate, why a process shutdown was technically infeasible.

(J) The results of all monitoring to show compliance with §§ 63.164(i), 63.165(a), and 63.172(f) of subpart H of this part conducted within the semiannual reporting period.

(K) If applicable, the initiation of a monthly monitoring program under either paragraph (c)(4)(ii) or paragraph (e)(4)(i)(A) of this section.

(L) If applicable, notification of a change in connector monitoring alternatives as described in § 63.174(c)(1) of subpart H of this part.

(iii) For owners or operators electing to meet the requirements of § 63.178(b) of subpart H of this part, the Periodic report shall include the information listed in paragraphs (h)(3)(iii) (A) through (E) of this section for each process.

(A) Product process equipment train identification;

(B) The number of pressure tests conducted;

(C) The number of pressure tests where the equipment train failed either the retest or two consecutive pressure tests;

(D) The facts that explain any delay of repairs; and

(E) The results of all monitoring to determine compliance with § 63.172(f) of subpart H of this part.

(iv) Any change in the information submitted under paragraph (h)(2) of this section shall be provided in the next Periodic report.

§ 63.1364 Compliance dates.

(a) *Compliance dates for existing sources.* (1) An owner or operator of an existing affected source must comply with the provisions of this subpart within 3 years after June 23, 1999.

(2) Pursuant to section 112(i)(3)(B) of the CAA, an owner or operator of an existing source may request an

extension of up to 1 additional year to comply with the provisions of this subpart if the additional time is needed for the installation of controls.

(i) For purposes of this subpart, a request for an extension shall be submitted no later than 120 days prior to the compliance date specified in paragraph (a)(1) of this section, except as provided in paragraph (a)(2)(ii) of this section. The dates specified in § 63.6(i) of subpart A of this part for submittal of requests for extensions shall not apply to sources subject to this subpart.

(ii) An owner or operator may submit a compliance extension request after the date specified in paragraph (a)(1)(i) of this section provided the need for the compliance extension arose after that date and before the otherwise applicable compliance date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include the data described in § 63.6(i)(8)(A), (B), and (D) of subpart A of this part.

(b) *Compliance dates for new and reconstructed sources.* An owner or operator of a new or reconstructed affected source must comply with the provisions of this subpart on June 23, 1999 or upon startup, whichever is later.

§ 63.1365 Test methods and initial compliance procedures.

(a) *General.* Except as specified in paragraph (a)(4) of this section, the procedures specified in paragraphs (c), (d), (e), (f), and (g) of this section are required to demonstrate initial compliance with § 63.1362(b), (c), (d), (f), and (g), respectively. The provisions in paragraph (a)(1) of this section apply to design evaluations that are used to demonstrate compliance with the standards for process vents and storage vessels. The provisions in paragraph (a)(2) of this section apply to performance tests that are specified in paragraphs (c), (d), and (e) of this section. The provisions in paragraph (a)(3) of this section describe initial compliance procedures for flares. The provisions in paragraph (a)(5) of this section are used to demonstrate initial compliance with the alternative standards specified in § 63.1362(b)(6) and (c)(4). The provisions in paragraph (a)(6) of this section are used to comply with the outlet concentration requirements specified in § 63.1362(b)(2)(iv)(A), (b)(3)(ii), (b)(4)(ii)(A), (b)(5)(ii), and (b)(5)(iii).

(1) *Design evaluation.* To demonstrate that a control device meets the required control efficiency, a design evaluation must address the composition and HAP concentration of the vent stream entering the control device. A design evaluation also must address other vent stream characteristics and control device operating parameters as specified in any one of paragraphs (a)(1)(i) through (vii) of this section, depending on the type of control device that is used. If the vent stream is not the only inlet to the control device, the efficiency demonstration also must consider all other vapors, gases, and liquids, other than fuels, received by the control device.

(i) For an enclosed combustion device used to comply with the provisions of § 63.1362(b)(2)(iv), (b)(4)(ii), (c)(2)(iv)(B), or (c)(3) with a minimum residence time of 0.5 seconds and a minimum temperature of 760 °C, the design evaluation must document that these conditions exist.

(ii) For a combustion control device that does not satisfy the criteria in paragraph (a)(1)(i) of this section, the design evaluation must document control efficiency and address the following characteristics, depending on the type of control device:

(A) For a thermal vapor incinerator, the design evaluation must consider the autoignition temperature of the organic HAP, must consider the vent stream flow rate, and must establish the design minimum and average temperature in the combustion zone and the combustion zone residence time.

(B) For a catalytic vapor incinerator, the design evaluation must consider the vent stream flow rate and must establish the design minimum and average temperatures across the catalyst bed inlet and outlet.

(C) For a boiler or process heater, the design evaluation must consider the vent stream flow rate, must establish the design minimum and average flame zone temperatures and combustion zone residence time, and must describe the method and location where the vent stream is introduced into the flame zone.

(iii) For a condenser, the design evaluation must consider the vent stream flow rate, relative humidity, and temperature, and must establish the design outlet organic HAP compound concentration level, design average temperature of the condenser exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet. The temperature of the gas stream exiting the condenser must be measured and used to establish the outlet organic HAP concentration.

(iv) For a carbon adsorption system that regenerates the carbon bed directly onsite in the control device such as a fixed-bed adsorber, the design evaluation must consider the vent stream flow rate, relative humidity, and temperature, and must establish the design exhaust vent stream organic compound concentration level, adsorption cycle time, number of carbon beds and their capacities, type and working capacity of activated carbon used for the carbon beds, design total regeneration stream mass or volumetric flow over the period of each complete carbon bed regeneration cycle, design carbon bed temperature after regeneration, design carbon bed regeneration time, and design service life of carbon. For vacuum desorption, the pressure drop must be included.

(v) For a carbon adsorption system that does not regenerate the carbon bed directly onsite in the control device such as a carbon canister, the design evaluation must consider the vent stream mass or volumetric flow rate, relative humidity, and temperature, and must establish the design exhaust vent stream organic compound concentration level, capacity of the carbon bed, type and working capacity of activated carbon used for the carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control device and source operating schedule.

(vi) For a scrubber, the design evaluation must consider the vent stream composition, constituent concentrations, liquid-to-vapor ratio, scrubbing liquid flow rate and concentration, temperature, and the reaction kinetics of the constituents with the scrubbing liquid. The design evaluation must establish the design exhaust vent stream organic compound concentration level and must include the additional information in paragraphs (a)(1)(vi)(A) and (B) of this section for trays and a packed column scrubber.

(A) Type and total number of theoretical and actual trays;

(B) Type and total surface area of packing for entire column, and for individual packed sections if column contains more than one packed section.

(vii) For fabric filters, the design evaluation must include the pressure drop through the device and the net gas-to-cloth ratio (i.e., cubic feet of gas per square feet of cloth).

(2) *Calculation of TOC or total organic HAP concentration.* The TOC concentration or total organic HAP concentration is the sum of the concentrations of the individual components. If compliance is being determined based on TOC, the owner or operator shall compute TOC for each run using Equation 6 of this subpart. If compliance with the percent reduction format of the standard is being

determined based on total organic HAP, the owner or operator shall compute total organic HAP using Equation 6 of this subpart, except that only organic HAP compounds shall be summed; when determining compliance with the wastewater provisions of § 63.1363(d), the organic HAP compounds shall consist of the organic HAP compounds in Table 9 of subpart G of this part.

$$CG_T = \frac{1}{m}\sum_{j=1}^{m}\left(\sum_{i=1}^{n} CGS_{i,j}\right) \qquad \text{(Eq. 6)}$$

Where:

CG_T = total concentration of TOC in vented gas stream, average of samples, dry basis, ppmv

$CGS_{i,j}$ = concentration of sample components in vented gas stream for sample j, dry basis, ppmv

n = number of compounds in the sample

m = number of samples in the sample run

(3) *Initial compliance using flares.* When a flare is used to comply with the standards, the owner or operator shall comply with the provisions in § 63.11(b) of subpart A of this part.

(i) The initial compliance determination shall consist of a visible emissions determination using Method 22 of 40 CFR part 60, appendix A, as described in § 63.11(b)(4) of subpart A of this part, and a determination of net heating value of gas being combusted and exit velocity to comply with the requirements of § 63.11(b)(6) through (8) of subpart A of this part. The net heating value and exit velocity shall be based on the results of performance testing under the conditions described in paragraphs (b)(10) and (11) of this section.

(ii) An owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration when a flare is used.

(4) *Exemptions from compliance demonstrations.* An owner or operator using any control device specified in paragraphs (a)(4)(i) through (ii) of this section is exempt from the initial compliance provisions in paragraphs (c), (d), and (e) of this section.

(i) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(ii) A boiler or process heater into which the emission stream is introduced with the primary fuel.

(5) *Initial compliance with alternative standard.* Initial compliance with the alternative standards in § 63.1362(b)(6) and (c)(4) is demonstrated when the outlet TOC concentration is 20 ppmv or less, and the outlet HCl and chlorine concentration is 20 ppmv or less. To demonstrate initial compliance, the owner or operator shall be in compliance with the monitoring provisions in § 63.1366(b)(5) on the initial compliance date. The owner or operator shall use Method 18 of 40 CFR part 60, appendix A to determine the predominant organic HAP in the emission stream if the TOC monitor is calibrated on the predominant HAP.

(6) *Initial compliance with the 20 ppmv outlet limit.* Initial compliance with the 20 ppmv TOC and HCl and chlorine concentration is demonstrated when the outlet TOC concentration is 20 ppmv or less, and the outlet HCl and chlorine concentration is 20 ppmv or less. To demonstrate initial compliance, the operator shall use applicable test methods described in paragraphs (b)(1) through (9) of this section, and test under conditions described in paragraphs (b)(10) or (11) of this section, as applicable. The owner or operator shall comply with the monitoring provisions in § 63.1366(b)(1) through (5) on the initial compliance date.

(7) *Outlet concentration correction for supplemental gases.* If supplemental gases are added to a vent stream for which compliance with an outlet concentration standard in § 63.1362 or 63.1363 will be demonstrated, the owner or operator must correct the outlet concentration as specified in paragraphs (a)(7)(i) and (ii) of this section.

(i) *Combustion device.* If the vent stream is controlled with a combustion device, the owner or operator must comply with the provisions in paragraphs (a)(7)(i)(A) through (C) of this section.

(A) To comply with a TOC outlet concentration standard in § 63.1362(b)(2)(iv)(A), (b)(4)(ii)(A), (b)(6), (c)(2)(iv)(B), (c)(4), (d)(13), or § 63.172 of subpart H of this part, the actual TOC outlet concentration must be corrected to 3 percent oxygen.

(B) If the inlet stream to the combustion device contains any HCl, chlorine, or halogenated compounds, and the owner or operator elects to comply with a total HCl and chlorine outlet concentration standard in § 63.1362(b)(3)(ii), (b)(5)(ii), (b)(5)(iii), (b)(6), or (c)(4), the actual total HCl and chlorine outlet concentration must be corrected to 3 percent oxygen.

(C) The integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A shall be used to determine the actual oxygen concentration ($\%O_{2d}$). The samples shall be taken during the same time that the TOC and HCl and chlorine samples are taken. The concentration corrected to 3 percent oxygen (C_d) shall be computed using Equation 7 of this subpart:

$$C_c = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right) \qquad \text{(Eq. 7)}$$

Where:

C_c = concentration of TOC or total HCl and chlorine corrected to 3 percent oxygen, dry basis, ppmv

C_m = total concentration of TOC or total HCl and chlorine in the vented gas stream, average of samples, dry basis, ppmv

$\%O_{2d}$ = concentration of oxygen measured in vented gas stream, dry basis, percent by volume

(ii) *Noncombustion devices.* If a control device other than a combustion device, and not in series with a combustion device, is used to comply with a TOC or total HCl and chlorine outlet concentration standard, the owner or operator must correct the actual concentration for supplemental gases using Equation 8 of this subpart.

$$C_a = C_m\left(\frac{V_s + V_a}{V_a}\right) \qquad \text{(Eq. 8)}$$

Where:

C_a = corrected outlet TOC or total HCl and chlorine concentration, dry basis, ppmv

C_m = actual TOC or total HCl and chlorine concentration measured at control device outlet, dry basis, ppmv

V_a = total volumetric flow rate of affected streams vented to the control device

V_s = total volumetric flow rate of supplemental gases

(b) *Test methods and conditions.* When testing is conducted to measure emissions from an affected source, the test methods specified in paragraphs (b)(1) through (9) of this section shall be used. Compliance tests shall be performed under conditions specified in paragraphs (b)(10) and (11) of this section. Testing requirements for condensers are specified in paragraph (b)(12) of this section.

(1) Method 1 or 1A of appendix A of 40 CFR part 60 shall be used for sample and velocity traverses.

(2) Method 2, 2A, 2C, or 2D of appendix A of 40 CFR part 60 shall be used for velocity and volumetric flow rates.

(3) Method 3 of appendix A of 40 CFR part 60 shall be used for gas analysis.

(4) Method 4 of appendix A of 40 CFR part 60 shall be used for stack gas moisture.

(5) Concentration measurements shall be adjusted to negate the dilution effects

of introducing nonaffected gaseous streams into the vent streams prior to control or measurement. The following methods are specified for concentration measurements of organic compounds:

(i) Method 18 of appendix A of 40 CFR part 60 may be used to determine HAP concentration in any control device efficiency determination.

(ii) Method 25 of appendix A of 40 CFR part 60 may be used to determine total gaseous nonmethane organic concentration for control efficiency determinations in combustion devices.

(iii) Method 25A of appendix A of 40 CFR part 60 may be used to determine the HAP or TOC concentration for control device efficiency determinations under the conditions specified in Method 25 of appendix A of 40 CFR part 60 for direct measurement of an effluent with a flame ionization detector, or in demonstrating compliance with the 20 ppmv TOC outlet standard. If Method 25A of appendix A of 40 CFR part 60 is used to determine the concentration of TOC for the 20 ppmv standard, the instrument shall be calibrated on methane or the predominant HAP. If calibrating on the predominant HAP, the use of Method 25A of appendix A of 40 CFR part 60 shall comply with paragraphs (b)(5)(i)(A) through (C) of this section.

(A) The organic HAP used as the calibration gas for Method 25A, 40 CFR part 60, appendix A, shall be the single organic HAP representing the largest percent by volume.

(B) The use of Method 25A, 40 CFR part 60, appendix A, is acceptable if the response from the high level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(C) The span value of the analyzer must be less than 100 ppmv.

(6) The methods in either paragraph (b)(6)(i) or (ii) of this section shall be used to determine the concentration, in mg/dscm, of total HCl and chlorine. Concentration measurements shall be adjusted to negate the dilution effects of introducing nonaffected gaseous streams into the vent streams prior to control or measurement.

(i) Method 26 or 26A of 40 CFR part 60, appendix A.

(ii) Any other method if the method or data have been validated according to the applicable procedures of Method 301 of appendix A of this part.

(7) Method 5 of appendix A of 40 CFR part 60 shall be used to determine the concentration of particulate matter in exhaust gas streams from bag dumps and product dryers.

(8) Wastewater analysis shall be conducted in accordance with § 63.144(b)(5)(i) through (iii) of subpart G of this part.

(9) Method 22 of appendix A of 40 CFR part 60 shall be used to determine visible emissions from flares.

(10) *Testing conditions for continuous processes.* Testing of process vents on equipment operating as part of a continuous process shall consist of three one-hour runs. Gas stream volumetric flow rates shall be measured every 15 minutes during each 1-hour run. Organic HAP concentration shall be determined from samples collected in an integrated sample over the duration of each one-hour test run, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. For continuous gas streams, the emission rate used to determine compliance shall be the average emission rate of the three test runs.

(11) *Testing conditions for batch processes.* Except as provided in paragraph (b)(12) of this section for condensers, testing of emissions on equipment where the flow of gaseous emissions is intermittent (batch operations) shall be conducted at absolute peak-case conditions or hypothetical peak-case conditions, as specified in paragraphs (b)(11)(i) and (ii) of this section, respectively. Gas stream volumetric flow rates shall be measured at 15-minute intervals. Organic HAP, TOC, or HCl and chlorine concentration shall be determined from samples collected in an integrated sample over the duration of the test, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. In all cases, a site-specific test plan shall be submitted to the Administrator for approval prior to testing in accordance with § 63.7(c) of subpart A of this part. The test plan shall include the emissions profile described in paragraph (b)(11)(iii) of this section. The term ''HAP mass loading'' as used in paragraphs (b)(11)(i) through (iii) of this section refers to the class of HAP, either organic or HCl and chlorine, that the control device is intended to control.

(i) *Absolute peak-case.* If the most challenging conditions for the control device occur under maximum HAP load, the absolute peak-case conditions shall be characterized by the criteria presented in paragraph (b)(11)(i)(A) or (B) of this section. Otherwise, absolute peak-case conditions are defined by the conditions in paragraph (b)(11)(i)(C) of this section.

(A) The period in which the inlet to the control device will contain at least 50 percent of the maximum HAP mass load that may be vented to the control device over any 8-hour period. An emission profile as described in paragraph (b)(11)(iii)(A) of this section shall be used to identify the 8-hour period that includes the maximum projected HAP load.

(B) A 1-hour period of time in which the inlet to the control device will contain the highest hourly HAP mass loading rate that may be vented to the control device. An emission profile as described in paragraph (b)(11)(iii)(A) of this section shall be used to identify the 1-hour period of maximum HAP loading.

(C) The period of time when a condition other than the maximum HAP load is most challenging for the control device. These conditions include, but are not limited to the following:

(*1*) Periods when the streams contain the highest combined VOC and HAP hourly load, as described by the emission profiles in paragraph (b)(11)(iii) of this section; or

(*2*) Periods when the streams contain HAP constituents that approach the limits of solubility for scrubbing media; or

(*3*) Periods when the streams contain HAP constituents that approach the limits of adsorptivity for carbon adsorption systems.

(ii) *Hypothetical peak-case.* Hypothetical peak-case conditions are simulated test conditions that, at a minimum, contain the highest total average hourly HAP load of emissions that would be predicted to be vented to the control device from the emissions profile described in either paragraph (b)(11)(iii)(B) or (C) of this section.

(iii) *Emissions profile.* The owner or operator may choose to perform tests only during those periods of the peak-case episode(s) that the owner or operator selects to control as part of achieving the required emission reduction. The owner or operator shall develop an emission profile for the vent to the control device that describes the characteristics of the vent stream at the inlet to the control device under either absolute or hypothetical peak-case conditions. The emissions profile shall be developed based on the applicable procedures described in paragraphs (b)(11)(iii)(A) through (C) of this section, as required by paragraphs (b)(11)(i) and (ii) of this section.

(A) *Emissions profile by process.* The emissions profile must consider all emission episodes that could contribute to the vent stack for a period of time that is sufficient to include all processes venting to the stack and shall consider production scheduling. The profile shall describe the HAP load to the device that equals the highest sum of emissions from the episodes that can vent to the control device during the period of absolute peak-case conditions specified in paragraph (b)(11)(i)(A), (B), or (C) as appropriate. Emissions per episode shall be calculated using the procedures specified in paragraph (c)(2) of this section. When complying with paragraph (b)(1)(i)(B) of this section, emissions per episode shall be divided by the duration of the episode if the duration of the episode is longer than 1 hour.

(B) *Emission profile by equipment.* The emission profile must consist of emissions that meet or exceed the highest hourly HAP load that would be expected under actual processing conditions. The profile shall describe equipment configurations used to generate the emission events, volatility of materials processed in the equipment, and the rationale used to identify and characterize the emission events. The emissions may be based on using a compound more volatile than compounds actually used in the process(es), and the emissions may be generated from all equipment in the process(es) or only selected equipment.

(C) *Emission profile by capture and control device limitation.* The emission profile shall consider the capture and control system limitations and the highest hourly emissions that can be routed to the control device, based on maximum flow rate and concentrations possible because of limitations on conveyance and control equipment (e.g., fans, LEL alarms and safety bypasses).

(iv) *Test duration.* Three runs, at a minimum of 1 hour each, are required for performance testing. Each run must occur over the same absolute or hypothetical peak-case conditions, as defined in paragraph (b)(11)(i) or (ii) of this section.

(12) *Testing requirements for condensers.* For emission streams controlled using condensers, the owner or operator shall calculate the condenser outlet gas temperature that is needed to meet the required percent reduction.

(c) *Initial compliance with process vent provisions.* The owner or operator of an affected source shall demonstrate compliance with the process vent standards in § 63.1362(b) using the procedures described in paragraphs (c)(1) through (3) of this section.

(1) Compliance with the process vent standards in § 63.1362(b) shall be demonstrated in accordance with the provisions specified in paragraphs (c)(1)(i) through (viii) of this section.

(i) Initial compliance with the emission limit cutoffs in § 63.1362(b)(2)(i) and (b)(4)(i) is demonstrated when the uncontrolled organic HAP emissions from the sum of all process vents within a process are less than or equal to 0.15 Mg/yr. Uncontrolled HAP emissions shall be determined using the procedures described in paragraph (c)(2) of this section.

(ii) Initial compliance with the emission limit cutoffs in § 63.1362(b)(3)(i) and (b)(5)(i) is demonstrated when the uncontrolled HCl and Cl_2 emissions from the sum of all process vents within a process are less than or equal to 6.8 Mg/yr. Initial compliance with the emission limit cutoffs in § 63.1362(b)(5)(ii) and (iii) is demonstrated when the uncontrolled HCl and Cl_2 emissions are greater than or equal to 6.8 Mg/yr or greater than or equal to 191 Mg/yr, respectively. Uncontrolled emissions shall be determined using the procedures described in paragraph (c)(2) of this section.

(iii) Initial compliance with the organic HAP percent reduction requirements specified in § 63.1362(b)(2)(ii), (b)(2)(iii), and (b)(4)(ii) is demonstrated by determining controlled HAP emissions using the procedures described in paragraph (c)(3) of this section, determining uncontrolled HAP emissions using the procedures described in paragraph (c)(2) of this section, and calculating the applicable percent reduction.

(iv) Initial compliance with the HCl and Cl_2 percent reduction requirements specified in § 63.1362(b)(3)(ii), (b)(5)(ii), and (b)(5)(iii) is demonstrated by determining controlled emissions of HCl and Cl_2 using the procedures described in paragraph (c)(3) of this section, determining uncontrolled emissions of HCl and Cl_2 using the procedures described in paragraph (c)(2) of this section, and calculating the applicable percent reduction.

(v) Initial compliance with the outlet concentration limits in § 63.1362(b)(2)(iv)(A), (b)(3)(ii), (b)(4)(ii)(A), (b)(5)(ii), and (b)(5)(iii) is demonstrated when the outlet TOC concentration is 20 ppmv or less and the outlet HCl and chlorine concentration is 20 ppmv or less. The owner or operator shall demonstrate compliance by fulfilling the requirements in paragraph (a)(6) of this section. If an owner or operator elects to develop an emissions profile by process as described in paragraph (b)(11)(iii)(A) of this section, uncontrolled emissions shall be determined using the procedures in paragraph (c)(2) of this section.

(vi) Initial compliance with the alternative standard in § 63.1362(b)(6) is demonstrated by fulfilling the requirements in paragraph (a)(5) of this section.

(vii) Initial compliance when using a flare is demonstrated by fulfilling the requirements in paragraph (a)(3) of this section.

(viii) No initial compliance demonstration is required for control devices specified in § 63.1362(l).

(2) *Uncontrolled emissions.* The owner or operator referred to from paragraphs (c)(1)(i) through (v) of this section shall calculate uncontrolled emissions according to the procedures described in paragraph (c)(2)(i) or (ii) of this section, as appropriate.

(i) *Emission estimation procedures.* The owner or operator shall determine uncontrolled HAP emissions using emission measurements and/or calculations for each batch emission episode according to the engineering evaluation methodology in paragraphs (c)(2)(i)(A) through (H) of this section.

(A) Individual HAP partial pressures in multicomponent systems shall be determined in accordance with the methods specified in paragraphs (c)(2)(i)(A)(*1*) through (*3*) of this section. Chemical property data may be obtained from standard references.

(1) If the components are miscible in one another, use Raoult's law to calculate the partial pressures;

(2) If the solution is a dilute aqueous mixture, use Henry's law constants to calculate partial pressures;

(3) If Raoult's law or Henry's law are not appropriate or available, use any of the methods specified in paragraphs (c)(2)(i)(A)(*3)(i)* through *(iii)* of this section.

(i) Use experimentally obtained activity coefficients;

(ii) Use models such as the group-contribution models to predict activity coefficients;

(iii) Assume the components of the system behave independently and use the summation of all vapor pressures from the HAP as the total HAP partial pressure;

(B) *Charging or filling.* Emissions from vapor displacement due to transfer of material to a vessel shall be calculated using Equation 9 of this subpart:

$$E = \frac{(V)}{(R)(T)} \times \sum_{i=1}^{n} (P_i)(MW_i) \qquad \text{(Eq. 9)}$$

Where:

E = mass of HAP emitted
P_i = partial pressure of the individual HAP
V = volume of gas displaced from the vessel
R = ideal gas law constant
T = temperature of the vessel vapor space; absolute
MW_i = molecular weight of the individual HAP

(C) *Purging.* Emissions from purging shall be calculated using Equation 10 of this subpart, except that for purge flow rates greater than 100 scfm, the mole fraction of HAP will be assumed to be 25 percent of the saturated value.

$$E = \sum_{i=1}^{n} P_i MW_i \times \frac{(V)(t)}{(R)(T)} \times \frac{P_T}{P_T - \sum_{j=1}^{m}\left(P_j\right)} \qquad \text{(Eq. 10)}$$

Where:

E = mass of HAP emitted
V = purge flow rate at the temperature and pressure of the vessel vapor space
R = ideal gas law constant
T = temperature of the vessel vapor space; absolute
P_i = partial pressure of the individual HAP
P_j = partial pressure of individual condensable VOC compounds (including HAP)
P_T = pressure of the vessel vapor space
MW_i = molecular weight of the individual HAP
t = time of purge
n = number of HAP compounds in the emission stream
m = number of condensable VOC compounds (including HAP) in the emission stream

(D) *Heating.* Emissions caused by heating the contents of a vessel to a temperature less than the boiling point shall be calculated using the procedures in either paragraph (c)(2)(i)(D)(*1*), (*2*), or (*4*) of this section, as appropriate. If the contents of a vessel are heated to the boiling point, emissions while boiling are assumed to be zero if the owner or operator is complying with the provisions in paragraph (d)(2)(i)(C)(*3*) of this section.

(1) If the final temperature to which the vessel contents are heated is lower than 50 K below the boiling point of the HAP in the vessel, then emissions shall be calculated using Equations 11 through 14 of this subpart.

(i) The mass of HAP emitted per episode shall be calculated using Equation 11 of this subpart:

$$E = \frac{\dfrac{\sum_{i=1}^{n}\left(P_i\right)_{T1}}{Pa_1} + \dfrac{\sum_{i=1}^{n}\left(P_i\right)_{T2}}{Pa_2}}{2} \times \Delta\eta \times MW_{HAP} \qquad \text{(Eq. 11)}$$

Where:

E = mass of HAP vapor displaced from the vessel being heated
$(P_i)_{Tn}$ = partial pressure of each HAP in the vessel headspace at initial (n = 1) and final (n = 2) temperatures
Pa_1 = initial noncondensable gas pressure in the vessel, as calculated using Equation 13 of this subpart
Pa_2 = final noncondensable gas pressure in the vessel, as calculated using Equation 13 of this subpart
$\Delta\eta$ = number of moles of noncondensable gas displaced, as calculated using Equation 12 of this subpart
MW_{HAP} = The average molecular weight of HAP present in the vessel, as calculated using Equation 14 of this subpart:
n = number of HAP compounds in the displaced vapor

(ii) The moles of noncondensable gas displaced shall be calculated using Equation 12 of this subpart:

$$\Delta\eta = \frac{V}{R}\left[\left(\frac{Pa_1}{T_1}\right) - \left(\frac{Pa_2}{T_2}\right)\right] \qquad \text{(Eq. 12)}$$

where:

$\Delta\eta$ = number of moles of noncondensable gas displaced
V = volume of free space in the vessel
R = ideal gas law constant
Pa_1 = initial noncondensable gas pressure in the vessel, as calculated using Equation 13 of this subpart
Pa_2 = final noncondensable gas pressure in the vessel, as calculated using Equation 13 of this subpart
T_1 = initial temperature of vessel contents, absolute
T_2 = final temperature of vessel contents, absolute

(iii) The initial and final pressure of the noncondensable gas in the vessel shall be calculated according to Equation 13 of this subpart:

$$Pa_n = Pa_{atm} - \sum_{j=1}^{m}\left(P_j\right)_{Tn} \qquad \text{(Eq. 13)}$$

Where:

Pa_n = partial pressure of noncondensable gas in the vessel headspace at initial (n = 1) and final (n = 2) temperatures
P_{atm} = atmospheric pressure
$(P_j)_{Tn}$ = partial pressure of each condensable volatile organic compound (including HAP) in the vessel headspace at the initial temperature (n = 1) and final (n = 2) temperature

(*iv*) The average molecular weight of HAP in the displaced gas shall be calculated using Equation 14 of this subpart:

$$MW_{HAP} = \sum_{i=1}^{n} \frac{\left((P_i)_{T_1} + (P_i)_{T_2}\right) MW_i}{\sum_{i=1}^{n}\left((P_i)_{T_1} + (P_i)_{T_2}\right)} \qquad \text{(Eq. 14)}$$

Where:

MW_{HAP} = average molecular weight of HAP in the displaced gas

$(P_i)_{Tn}$ = partial pressure of each HAP in the vessel headspace at the initial (T_1) and final (T_2) temperatures

MW_i = molecular weight of each HAP

n = number of HAP compounds in the emission stream

(*2*) If the vessel contents are heated to a temperature greater than 50 K below the boiling point, then emissions from the heating of a vessel shall be calculated as the sum of the emissions calculated in accordance with paragraphs (c)(2)(i)(D)(*2*)(*i*) and (*ii*) of this section.

(*i*) For the interval from the initial temperature to the temperature 50 K below the boiling point, emissions shall be calculated using Equation 11 of this subpart, where T_2 is the temperature 50 K below the boiling point.

(*ii*) For the interval from the temperature 50 K below the boiling point to the final temperature, emissions shall be calculated as the summation of emissions for each 5 K increment, where the emission for each increment shall be calculated using Equation 11 of this subpart. If the final temperature of the heatup is lower than 5 K below the boiling point, the final temperature for the last increment shall be the final temperature of the heatup, even if the last increment is less than 5 K. If the final temperature of the heatup is higher than 5 K below the boiling point, the final temperature for the last increment shall be the temperature 5 K below the boiling point, even if the last increment is less than 5 K.

(*3*) While boiling, the vessel must be operated with a properly operated process condenser. An initial demonstration that a process condenser is properly operated is required for vessels that operate process condensers without secondary condensers that are air pollution control devices. The owner or operator must either measure the condenser exhaust gas temperature and show it is less than the boiling point of the substance(s) in the vessel, or perform a material balance around the vessel and condenser to show that at least 99 percent of the material vaporized while boiling is condensed. Uncontrolled emissions are assumed to be zero under these conditions. The initial demonstration shall be conducted for all appropriate operating scenarios and documented in the Notification of Compliance Status report as specified in § 63.1368(f).

(*4*)(*i*) As an alternative to the procedures described in paragraphs (c)(2)(i)(D)(*1*) and (*2*) of this section, emissions caused by heating a vessel to any temperature less than the boiling point may be calculated using Equation 15 of this subpart.

$$E = MW_{HAP} \times \left(N_{avg} \times \ln\left(\frac{P_T - \sum_{j=1}^{m}\left(P_{j,1}\right)}{P_T - \sum_{j=1}^{m}\left(P_{j,2}\right)} \right) - \left(n_{HAP,2} - n_{HAP,1}\right) \right) \qquad \text{(Eq. 15)}$$

Where:

E = mass of HAP vapor displaced from the vessel being heated

N_{avg} = average gas space molar volume during the heating process, as calculated using Equation 16 of this subpart

P_T = total pressure in the vessel

$P_{i,1}$ = partial pressure of the individual HAP compounds at T_1

$P_{i,2}$ = partial pressure of the individual HAP compounds at T_2

MW_{HAP} = average molecular weight of the HAP compounds, as calculated using Equation 14 of this subpart

$n_{HAP,1}$ = number of moles of total HAP in the vessel headspace at T_1

$n_{HAP,2}$ = number of moles of total HAP in the vessel headspace at T_2

m = number of condensable VOC compounds (including HAP) in the emission stream

(*ii*) The average gas space molar volume during the heating process is calculated using Equation 16 of this subpart.

$$N_{avg} = \frac{VP_T}{2R}\left(\frac{1}{T_1} + \frac{1}{T_2}\right) \qquad \text{(Eq. 16)}$$

Where:

N_{avg} = average gas space molar volume during the heating process

V = volume of free space in vessel

P_T = total pressure in the vessel

R = ideal gas law constant

T_1 = initial temperature of the vessel contents, absolute

T_2 = final temperature of the vessel contents, absolute

(*iii*) The difference in the number of moles of total HAP in the vessel headspace between the initial and final temperatures is calculated using Equation 17 of this subpart.

$$\left(n_{HAP,2} - n_{HAP,1}\right) = \frac{V}{(R)(T_2)}\sum_{i=1}^{n} P_{i,2} - \frac{V}{(R)(T_1)}\sum_{i=1}^{n} P_{i,1} \qquad \text{(Eq. 17)}$$

Where:

$n_{HAP,2}$ = number of moles of total HAP in the vessel headspace at T_2

$_{HAP,1}$ = number of moles of total HAP in the vessel headspace at T_1

V = volume of free space in vessel

R = ideal gas law constant

T_1 = initial temperature of the vessel contents, absolute

T_2 = final temperature of the vessel contents, absolute

$P_{i,1}$ = partial pressure of the individual HAP compounds at T_1

$P_{i,2}$=partial pressure of the individual HAP compounds at T_2

n=number of HAP compounds in the emission stream

(E) *Depressurization*. Emissions from depressurization shall be calculated using the procedures in paragraphs (c)(2)(i)(E)(*1*) through (*5*) of this section. Alternatively, the owner or operator may elect to calculate emissions from depressurization using the procedures in paragraph (c)(2)(i)(E)(*6*) of this section.

(*1*) The moles of HAP vapor initially in the vessel are calculated using Equation 18 of this subpart:

$$n_{HAP} = \frac{V}{R\,T} \times \sum_{i=1}^{n} \left(P_i\right) \qquad \text{(Eq. 18)}$$

Where:

n_{HAP}=moles of HAP vapor in the vessel

P_i=partial pressure of each HAP in the vessel vapor space

V=free volume in the vessel being depressurized

R=ideal gas law constant

T=absolute temperature in vessel

n=number of HAP compounds in the emission stream

(*2*) The initial and final moles of noncondensable gas present in the vessel are calculated using Equations 19 and 20 of this subpart:

$$n_1 = \frac{VP_{nc_1}}{RT} \qquad \text{(Eq. 19)}$$

$$n_2 = \frac{VP_{nc_2}}{RT} \qquad \text{(Eq. 20)}$$

Where:

n_1=initial number of moles of noncondensable gas in the vessel

n_2=final number of moles of noncondensable gas in the vessel

V=free volume in the vessel being depressurized

P_{nc1}=initial partial pressure of the noncondensable gas, as calculated using Equation 21 of this subpart

P_{nc2}=final partial pressure of the noncondensable gas, as calculated using Equation 22 of this subpart

R=ideal gas law constant

T=temperature, absolute

(*3*) The initial and final partial pressures of the noncondensable gas in the vessel are determined using Equations 21 and 22 of this subpart.

$$P_{ncl} = P_1 - \sum_{j=1}^{m} \left(P_j *\right)\left(X_j\right) \qquad \text{(Eq. 21)}$$

$$P_{nc2} = P_2 - \sum_{j=1}^{m} \left(P_j *\right)\left(x_j\right) \qquad \text{(Eq. 22)}$$

where:

P_{nc1}=initial partial pressure of the noncondensable gas

P_{nc2}=final partial pressure of the noncondensable gas

P_1 = initial vessel pressure

P_2=final vessel pressure

P_{j*}=vapor pressure of each condensable VOC (including HAP) in the emission stream

X_j=mole fraction of each condensable VOC (including HAP) in the emission stream

m=number of condensable VOC compounds (including HAP) in the emission stream

(*4*) The moles of HAP emitted during the depressurization are calculated by taking an approximation of the average ratio of moles of HAP to moles of noncondensable and multiplying by the total moles of noncondensables released during the depressurization, using Equation 23 of this subpart:

Where:

$n_{HAP,e}$=moles of HAP emitted

$$n_{HAP,e} = \frac{\left(\frac{n_{HAP,1}}{n_1} + \frac{n_{HAP,2}}{n_2}\right)}{2}\left[n_1 - n_2\right] \qquad \text{(Eq. 23)}$$

$n_{HAP,1}$=moles of HAP vapor in vessel at the initial pressure, as calculated using Equation 18 of this subpart

$n_{HAP,2}$=moles of HAP vapor in vessel at the final pressure, as calculated using Equation 18 of this subpart

n_1=initial number of moles of noncondensable gas in the vessel, as calculated using Equation 19 of this subpart

n_2=final number of moles of noncondensable gas in the vessel, as calculated using Equation 19 of this subpart

(*5*) Use Equation 24 of this subpart to calculate the mass of HAP emitted:

$$E = n_{HAP,e} * MW_{HAP} \qquad \text{(Eq. 24)}$$

Where:

E=mass of HAP emitted

$n_{HAP,e}$=moles of HAP emitted, as calculated using Equation 23 of this subpart

MW_{HAP}=average molecular weight of the HAP as calculated using Equation 14 of this subpart

(*6*) As an alternative to the procedures in paragraphs (c)(2)(i)(E)(1) through (5) of this section, emissions from depressurization may be calculated using Equation 25 of this subpart:

$$E = \frac{V}{(R)\,(T)} \times \ln\left(\frac{P_1 - \sum_{j=1}^{m}\left(P_j\right)}{P_2 - \sum_{j=1}^{m}\left(P_j\right)}\right) \times \sum_{i=1}^{n}\left(P_i\right)\left(MW_i\right) \qquad \text{(Eq. 25)}$$

where:

V=free volume in vessel being depressurized

R=ideal gas law constant

T=temperature of the vessel, absolute

P_1=initial pressure in the vessel

P_2=final pressure in the vessel

P_i=partial pressure of the individual HAP compounds

P_j=partial pressure of individual condensable VOC compounds (including HAP)
MW_i=molecular weight of the individual HAP compounds
n=number of HAP compounds in the emission stream
m=number of condensable VOC compounds (including HAP) in the emission stream

(F) *Vacuum systems.* Calculate emissions from vacuum systems using Equation 26 of this subpart:

$$E = \frac{(MWs)(La)(t)}{MW_{nc}}\left(\frac{\sum_{i=1}^{n} P_i}{P_T - \sum_{j=1}^{m} P_j}\right) \qquad \text{(Eq. 26)}$$

Where:
E=mass of HAP emitted
P_T=absolute pressure of receiving vessel or ejector outlet conditions, if there is no receiver
P_i=partial pressure of individual HAP at the receiver temperature or the ejector outlet conditions
P_j=partial pressure of individual condensable VOC compounds (including HAP) at the receiver temperature or the ejector outlet conditions
L_a=total air leak rate in the system, mass/time
MW_{nc} = molecular weight of noncondensable gas
t=time of vacuum operation
MW_{HAP}=average molecular weight of HAP in the emission stream, as calculated using Equation 14 of this subpart, with HAP partial pressures calculated at the temperature of the receiver or ejector outlet, as appropriate
n=number of HAP components in the emission stream
m=number of condensable VOC compounds (including HAP) in the emission stream

(G) *Gas evolution.* Emissions from gas evolution shall be calculated using Equation 10 of this subpart with V calculated using Equation 27 of this subpart:

$$V = \frac{(W_g)(R)(T)}{(P_T)(MW_g)} \qquad \text{(Eq. 27)}$$

Where:
V=volumetric flow rate of gas evolution
W_g=mass flow rate of gas evolution
R=ideal gas law constant
T=temperature at the exit, absolute
P_T=vessel pressure
MW_g=molecular weight of the evolved gas

(H) *Air drying.* Use Equation 28 of this subpart to calculate emissions from air drying:

$$E = B \times \left(\frac{PS_1}{100 - PS_1} - \frac{PS_2}{100 - PS_2}\right) \qquad \text{(Eq. 28)}$$

Where:
E=mass of HAP emitted
B=mass of dry solids
PS_1=HAP in material entering dryer, weight percent
PS_2=HAP in material exiting dryer, weight percent.

(ii) *Engineering assessments.* The owner or operator shall conduct an engineering assessment to determine uncontrolled HAP emissions for each emission episode that is not due to vapor displacement, purging, heating, depressurization, vacuum systems, gas evolution, or air drying. For a given emission episode caused by any of these seven types of activities, the owner or operator also may request approval to determine uncontrolled HAP emissions based on an engineering assessment. All data, assumptions, and procedures used in the engineering assessment shall be documented in the Precompliance plan in accordance with § 63.1367(b). An engineering assessment includes, but is not limited to, the information and procedures described in paragraphs (c)(2)(ii)(A) through (D) of this section:

(A) Test results, provided the tests are representative of current operating practices at the process unit. If test data show a greater than 20 percent discrepancy between the test value and the estimated value, the owner or operator may estimate emissions based on the test data, and the results of the engineering assessment shall be included in the Notification of Compliance Status report.

(B) Bench-scale or pilot-scale test data representative of the process under representative operating conditions.

(C) Maximum flow rate, HAP emission rate, concentration, or other relevant parameter specified or implied within a permit limit applicable to the process vent.

(D) Design analysis based on accepted chemical engineering principles, measurable process parameters, or physical or chemical laws or properties. Examples of analytical methods include, but are not limited to:

(*1*) Use of material balances based on process stoichiometry to estimate maximum organic HAP concentrations;

(*2*) Estimation of maximum flow rate based on physical equipment design such as pump or blower capacities; and

(*3*) Estimation of HAP concentrations based on saturation conditions.

(3) *Controlled emissions.* Except for condensers, the owner or operator shall determine controlled emissions using the procedures in either paragraph (c)(3)(i) or (ii) of this section, as applicable. For condensers, controlled emissions shall be calculated using the emission estimation equations described in paragraph (c)(3)(iii) of this section. The owner or operator is not required to calculate controlled emissions from devices described in paragraph (a)(4) of this section or from flares for which compliance is demonstrated in accordance with paragraph (a)(3) of this section. If the owner or operator is complying with an outlet concentration standard and the control device uses supplemental gases, the outlet concentrations shall be corrected in accordance with the procedures described in paragraph (a)(7) of this section.

(i) *Small control devices, except condensers.* Controlled emissions for each process vent that is controlled using a small control device, except for a condenser, shall be determined by using the design evaluation described in paragraph (c)(3)(i)(A) of this section, or by conducting a performance test in accordance with paragraph (c)(3)(ii) of this section.

(A) *Design evaluation.* The design evaluation shall include documentation demonstrating that the control device being used achieves the required control efficiency under absolute or hypothetical peak-case conditions, as determined from the emission profile described in paragraph (b)(11)(iii) of this section. The control efficiency determined from this design evaluation shall be applied to uncontrolled emissions to estimate controlled emissions. The documentation must be conducted in accordance with the provisions in paragraph (a)(1) of this section. The design evaluation shall also include the value(s) and basis for the parameter(s) monitored under § 63.1366.

(B) Whenever a small control device becomes a large control device, the owner or operator must comply with the provisions in paragraph (c)(3)(ii) of this section and submit the test report in the next Periodic report.

(ii) *Large control devices, except condensers.* Controlled emissions for each process vent that is controlled using a large control device, except for a condenser, shall be determined by applying the control efficiency of the large control device to the estimated uncontrolled emissions. The control efficiency shall be determined by conducting a performance test on the control device as described in paragraphs (c)(3)(ii)(A) through (C) of this section, or by using the results of a previous performance test as described in paragraph (c)(3)(ii)(D) of this section. If the control device is intended to control only HCl and chlorine, the owner or operator may assume the control efficiency of organic HAP is 0 percent. If the control device is intended to control only organic HAP, the owner or operator may assume the control efficiency for HCl and chlorine is 0 percent.

(A) Except for control devices that are intended to meet outlet TOC or HCl and chlorine concentrations of 20 ppmv, the performance test shall be conducted by performing emission testing on the inlet and outlet of the control device following the test methods and procedures of paragraph (b) of this section. For control devices that meet outlet TOC or HCl and chlorine concentrations of 20 ppmv, the performance testing shall be conducted by performing emission testing on the outlet of the control device following the test methods and procedures of paragraph (b) of this section. Concentrations shall be calculated from the data obtained through emission testing according to the procedures in paragraph (a)(2) of this section.

(B) Performance testing shall be conducted under absolute or hypothetical peak-case conditions, as defined in paragraphs (b)(11)(i) and (ii) of this section.

(C) The owner or operator may elect to conduct more than one performance test on the control device for the purpose of establishing more than one operating condition at which the control device achieves the required control efficiency.

(D) The owner or operator is not required to conduct a performance test for any control device for which a previous performance test was conducted, provided the test was conducted using the same procedures specified in paragraphs (b)(1) through (11) of this section over conditions typical of the absolute or hypothetical peak-case, as defined in paragraphs (b)(11)(i) and (ii) of this section. The results of the previous performance test shall be used to demonstrate compliance.

(iii) *Condensers.* The owner or operator using a condenser as a control device shall determine controlled emissions using exhaust gas temperature measurements and calculations for each batch emission episode according to the engineering methodology in paragraphs (c)(3)(iii)(A) through (G) of this section. Individual HAP partial pressures shall be calculated as specified in paragraph (c)(2)(i) of this section.

(A) Emissions from vapor displacement due to transfer of material to a vessel shall be calculated using Equation 9 of this subpart with T set equal to the temperature of the receiver and the HAP partial pressures determined at the temperature of the receiver.

(B) Emissions from purging shall be calculated using Equation 10 of this subpart with T set equal to the temperature of the receiver and the HAP partial pressures determined at the temperature of the receiver.

(C) Emissions from heating shall be calculated using Equation 29 of this subpart. In Equation 29 of this subpart, $\Delta\eta$ is equal to the number of moles of noncondensable displaced from the vessel, as calculated using Equation 12 of this subpart. In Equation 29 of this subpart, the HAP average molecular weight shall be calculated using Equation 14 with the HAP partial pressures determined at the temperature of the receiver.

$$E = \Delta\eta \times \frac{\sum_{i=1}^{n} P_i}{P_T - \sum_{j=1}^{m} P_j} \times MW_{HAP} \qquad \text{(Eq. 29)}$$

Where:

E=mass of HAP emitted

$\Delta\eta$=moles of noncondensable gas displaced

P_T=pressure in the receiver

P_i=partial pressure of the individual HAP at the receiver temperature

P_j=partial pressure of the individual condensable VOC (including HAP) at the receiver temperature

n=number of HAP compounds in the emission stream

MW_{HAP}=the average molecular weight of HAP in vapor exiting the receiver, as calculated using Equation 14 of this subpart

m=number of condensable VOC (including HAP) in the emission stream

(D)(*1*) Emissions from depressurization shall be calculated using Equation 30 of this subpart.

$$E = (V_{nc1} - V_{nc2}) \times \frac{\sum_{i=1}^{n} (P_i)}{P_T - \sum_{j=1}^{m} (P_j)} \times \frac{P_T}{RT} \times MW_{HAP} \qquad \text{(Eq. 30)}$$

Where:

E=mass of HAP vapor emitted

V_{nc1}=initial volume of noncondensable in the vessel, corrected to the final pressure, as calculated using Equation 31 of this subpart

V_{nc2}=final volume of noncondensable in the vessel, as calculated using Equation 32 of this subpart

P_i=partial pressure of each individual HAP at the receiver temperature

P_j=partial pressure of each condensable VOC (including HAP) at the receiver temperature

P_T=receiver pressure

T=temperature of the receiver, absolute

R=ideal gas law constant

MW_{HAP}=the average molecular weight of HAP calculated using Equation 14 of this subpart with partial pressures determined at the receiver temperature

n=number of HAP compounds in the emission stream

m=number of condensable VOC (including HAP) in the emission stream

(2) The initial and final volumes of noncondensable gas present in the vessel, adjusted to the pressure of the receiver, are calculated using Equations 31 and 32 of this subpart.

$$V_{ncl} = \frac{VP_{nc_1}}{P_T} \qquad \text{(Eq. 31)}$$

$$V_{nc2} = \frac{VP_{nc_2}}{P_T} \qquad \text{(Eq. 32)}$$

Where:

V_{nc1}=initial volume of noncondensable gas in the vessel

V_{nc2}=final volume of noncondensable gas in the vessel

V=free volume in the vessel being depressurized

P_{nc1}=initial partial pressure of the noncondensable gas, as calculated using Equation 33 of this subpart

P_{nc2}=final partial pressure of the noncondensable gas, as calculated using Equation 34 of this subpart

P_T=pressure of the receiver

(3) Initial and final partial pressures of the noncondensable gas in the vessel are determined using Equations 33 and 34 of this subpart.

$$P_{nc1} = P_1 - \sum_{j=1}^{m} P_j \qquad \text{(Eq. 33)}$$

$$P_{nc2} = P_2 - \sum_{j=1}^{m} P_j \qquad \text{(Eq. 34)}$$

Where:

P_{nc1}=initial partial pressure of the noncondensable gas in the vessel

P_{nc2}=final partial pressure of the noncondensable gas in the vessel

P_1=initial vessel pressure

P_2=final vessel pressure

P_j=partial pressure of each condensable VOC (including HAP) in the vessel

m=number of condensable VOC (including HAP) in the emission stream

(E) Emissions from vacuum systems shall be calculated using Equation 26 of this subpart.

(F) Emissions from gas evolution shall be calculated using Equation 8 with V calculated using Equation 27 of this subpart, T set equal to the receiver temperature, and the HAP partial pressures determined at the receiver temperature. The term for time, t, in Equation 10 of this subpart is not needed for the purposes of this calculation.

(G) Emissions from air drying shall be calculated using Equation 9 of this subpart with V equal to the air flow rate and P_i determined at the receiver temperature.

(d) *Initial compliance with storage vessel provisions.* The owner or operator of an existing or new affected source shall demonstrate initial compliance with the storage vessel standards in § 63.1362(c)(2) through (4) by fulfilling the requirements in either paragraph (d)(1), (2), (3), (4), (5), or (6) of this section, as applicable. The owner or operator shall demonstrate initial compliance with the planned routine maintenance provision in § 63.1362(c)(5) by fulfilling the requirements in paragraph (d)(7) of this section.

(1) *Percent reduction requirement for control devices.* If the owner or operator equips a Group 1 storage vessel with a closed vent system and control device, the owner or operator shall demonstrate initial compliance with the percent reduction requirement of § 63.1362(c)(2)(iv)(A) or (c)(3) either by calculating the efficiency of the control device using performance test data as specified in paragraph (d)(1)(i) of this section, or by preparing a design evaluation as specified in paragraph (d)(1)(ii) of this section.

(i) *Performance test option.* If the owner or operator elects to demonstrate initial compliance based on performance test data, the efficiency of the control device shall be calculated as specified in paragraphs (d)(1)(i)(A) through (D) of this section.

(A) At the reasonably expected maximum filling rate, Equations 35 and 36 of this subpart shall be used to calculate the mass rate of total organic HAP at the inlet and outlet of the control device.

$$E_i = K_2 \left(\sum_{j=1}^{n} C_{ij} M_{ij} \right) Q_i \qquad \text{(Eq. 35)}$$

$$E_o = K_2 \left(\sum_{j=1}^{n} C_{oj} M_{oj} \right) Q_o \qquad \text{(Eq. 36)}$$

Where:

C_{ij}, C_{oj}=concentration of sample component j of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppmv

E_i, E_o=mass rate of total organic HAP at the inlet and outlet of the control device, respectively, dry basis, kg/hr

M_{ij}, M_{oj}=molecular weight of sample component j of the gas stream at the inlet and outlet of the control device, respectively, g/gmole

Q_i, Q_o=flow rate of gas stream at the inlet and outlet of the control device, respectively, dscmm

K_2=constant, 2.494×10^{-6} (parts per million)$^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature is 20 °C

(B) The percent reduction in total organic HAP shall be calculated using Equation 37 of this subpart:

$$R = \frac{E_i - E_o}{E_i}(100) \qquad \text{(Eq. 37)}$$

Where:

R=control efficiency of control device, percent

E_i=mass rate of total organic HAP at the inlet to the control device as calculated under paragraph (d)(l)(i)(A) of this section, kilograms organic HAP per hour

E_o=mass rate of total organic HAP at the outlet of the control device, as calculated under paragraph (d)(1)(i)(A) of this section, kilograms organic HAP per hour

(C) A performance test is not required to be conducted if the control device used to comply with § 63.1362(c) (storage tank provisions) is also used to comply with § 63.1362(b) (process vent provisions), provided compliance with § 63.1362(b) is demonstrated in accordance with paragraph (c) of this section and the demonstrated percent reduction is equal to or greater than 95 percent.

(D) A performance test is not required for any control device for which a previous test was conducted, provided the test was conducted using the same procedures specified in paragraph (b) of this section.

(ii) *Design evaluation option.* If the owner or operator elects to demonstrate initial compliance by conducting a design evaluation, the owner or operator shall prepare documentation in accordance with the design evaluation provisions in paragraph (a)(1) of this section, as applicable. The design evaluation shall demonstrate that the control device being used achieves the required control efficiency when the storage vessel is filled at the reasonably expected maximum filling rate.

(2) *Outlet concentration requirement for control devices.* If the owner or operator equips a Group 1 storage vessel with a closed vent system and control device, the owner or operator shall demonstrate initial compliance with the outlet concentration requirements of § 63.1362(c)(2)(iv)(B) or (c)(3) by fulfilling the requirements of paragraph (a)(6) of this section.

(3) *Floating roof.* If the owner or operator equips a Group 1 storage vessel with a floating roof to comply with the provisions in § 63.1362(c)(2) or (c)(3), the owner or operator shall demonstrate initial compliance by complying with the procedures described in paragraphs (d)(3)(i) and (ii) of this section.

(i) Comply with § 63.119(b), (c), or (d) of subpart G of this part, as applicable, with the differences specified in § 63.1362(d)(2)(i) through (iii).

(ii) Comply with the procedures described in § 63.120(a), (b), or (c) of subpart G of this part, as applicable, with the differences specified in § 63.1362(d)(2)(i), (iv), and (v).

(4) *Flares.* If the owner or operator controls the emissions from a Group 1 storage vessel with a flare, initial compliance is demonstrated by fulfilling the requirements in paragraph (a)(3) of this section.

(5) *Exemptions from initial compliance.* No initial compliance demonstration is required for control devices specified in paragraph (a)(4) of this section.

(6) *Initial compliance with alternative standard.* If the owner or operator equips a Group 1 storage vessel with a closed-vent system and control device, the owner or operator shall demonstrate initial compliance with the alternative standard in § 63.1362(c)(4) by fulfilling the requirements of paragraph (a)(5) of this section.

(7) *Planned routine maintenance.* The owner or operator shall demonstrate initial compliance with the planned routine maintenance provisions of § 63.1362(c)(5) by including the anticipated periods of planned routine maintenance for the first reporting period in the Notification of Compliance Status report as specified in § 63.1368(f).

(e) *Initial compliance with wastewater provisions.* The owner or operator shall demonstrate initial compliance with the wastewater requirements by complying with the applicable provisions in § 63.145 of subpart G of this part, except that the owner or operator need not comply with the requirement to determine visible emissions that is specified in § 63.145(j)(1) of subpart G of this part, and references to compounds in Table 8 of subpart G of this part are not applicable for the purposes of this subpart.

(f) *Initial compliance with the bag dump and product dryer provisions.* Compliance with the particulate matter concentration limits specified in § 63.1362(e) is demonstrated when the concentration of particulate matter is less than 0.01 gr/dscf, as measured using the method described in paragraph (b)(7) of this section.

(g) *Initial compliance with the pollution prevention alternative standard.* The owner or operator shall demonstrate initial compliance with § 63.1362(h)(2) and (3) for a PAI process unit by preparing the demonstration summary in accordance with paragraph (g)(1) of this section and by calculating baseline and target annual HAP and VOC factors in accordance with paragraphs (g)(2) and (3) of this section. To demonstrate initial compliance with § 63.1362(h)(3), the owner or operator must also comply with the procedures for add-on control devices that are specified in paragraph (g)(4) of this section.

(1) *Demonstration summary.* The owner or operator shall prepare a pollution prevention demonstration summary that shall contain, at a minimum, the information in paragraphs (g)(1)(i) through (iii) of this section. The demonstration summary shall be included in the Precompliance report as specified in § 63.1368(e)(4).

(i) Descriptions of the methodologies and forms used to measure and record consumption of HAP and VOC compounds.

(ii) Descriptions of the methodologies and forms used to measure and record production of the product(s).

(iii) Supporting documentation for the descriptions provided in accordance with paragraphs (g)(1)(i) and (ii) of this section including, but not limited to, operator log sheets and copies of daily, monthly, and annual inventories of materials and products. The owner or operator must show how this documentation will be used to calculate the annual factors required in § 63.1366(f)(1).

(2) *Baseline factors.* The baseline HAP and VOC factors shall be calculated by dividing the consumption of total HAP and total VOC by the production rate, per process, for the first 3-year period in which the process was operational, beginning no earlier than the period consisting of the 1987 through 1989 calendar years. Alternatively, for a process that has been operational for less than 3 years, but more than 1 year, the baseline factors shall be established for the time period from startup of the process until the present.

(3) *Target annual factors.* The owner or operator must calculate target annual factors in accordance with either paragraph (g)(3)(i) or (ii) of this section.

(i) To demonstrate initial compliance with § 63.1362(h)(2), the target annual HAP factor must be equal to or less than 15 percent of the baseline HAP factor. For each reduction in a HAP that is also a VOC, the target annual VOC factor must be lower than the baseline VOC factor by an equivalent amount on a mass basis. For each reduction in a HAP that is not a VOC, the target annual factor must be equal to or less than the baseline VOC factor.

(ii) To demonstrate initial compliance with § 63.1362(h)(3)(i), the target annual HAP and VOC factors must be calculated as specified in paragraph (g)(3)(i) of this section, except that when ''15 percent'' is referred to in paragraph (g)(3)(i) of this section, ''50 percent'' shall apply for the purposes of this paragraph.

(4) *Requirements for add-on control devices.* Initial compliance with the requirements for add-on control devices in § 63.1362(h)(3)(ii) is demonstrated when the requirements in paragraphs (g)(4)(i) through (iii) of this section are met.

(i) The yearly reductions associated with add-on controls that meet the criteria of § 63.1362(h)(3)(ii)(A) through (D), must be equal to or greater than the amounts calculated using Equations 38 and 39 of this subpart:

$$HAP_{reduced} = \left(HF_{base}\right)\left(0.85 - R_{P2}\right)\left(M_{prod}\right) \qquad \text{(Eq. 38)}$$

$$VOC_{reduced} = \left(VF_{base} - VF_{P2} - VF_{annual}\right) \times M_{prod} \qquad \text{(Eq. 39)}$$

Where:

$HAP_{reduced}$ = the annual HAP emissions reduction required by add-on controls, kg/yr

HF_{base} = the baseline HAP factor, kg HAP consumed/kg product

R_{P2} = the fractional reduction in the annual HAP factor achieved using pollution prevention where R_{P2} is ≥ 0.5

$VOC_{reduced}$ = required VOC emission reduction from add-on controls, kg/yr

VF_{base} = baseline VOC factor, kg VOC emitted/kg production

VF_{P2} = reduction in VOC factor achieved by pollution prevention, kg VOC emitted/kg production

VF_{annual} = target annual VOC factor, kg VOC emitted/kg production

M_{prod} = production rate, kg/yr

(ii) Demonstration that the criteria in § 63.1362(i)(3)(ii)(A) through (D) are met shall be accomplished through a description of the control device and of the material streams entering and exiting the control device.

(iii) The annual reduction achieved by the add-on control shall be quantified using the methods described in paragraph (c) of this section.

(h) *Compliance with emissions averaging provisions.* An owner or operator shall demonstrate compliance with the emissions averaging provisions of § 63.1362(h) by fulfilling the requirements of paragraphs (h)(1) through (6) of this section.

(1) The owner or operator shall develop and submit for approval an Emissions Averaging Plan containing all the information required in § 63.1367(d). The Emissions Averaging Plan shall be submitted no later than 18 months prior to the compliance date of the standard. The Administrator shall determine within 120 calendar days whether the Emissions Averaging Plan submitted by sources using emissions averaging presents sufficient information. The Administrator shall either approve the Emissions Averaging Plan, request changes, or request that the owner or operator submit additional information. Once the Administrator receives sufficient information, the Administrator shall approve, disapprove, or request changes to the plan within 120 days. If the Emissions Averaging Plan is disapproved, the owner or operator must still be in compliance with the standard by the compliance date.

(2) For all points included in an emissions average, the owner or operator shall comply with the procedures that are specified in paragraphs (h)(2)(i) through (v) of this section.

(i) Calculate and record monthly debits for all Group 1 emission points that are controlled to a level less stringent than the standard for those emission points. Equations in paragraph (h)(5) of this section shall be used to calculate debits.

(ii) Calculate and record monthly credits for all Group 1 and Group 2 emission points that are overcontrolled to compensate for the debits. Equations in paragraph (h)(6) of this section shall be used to calculate credits. All process vent, storage vessel, and wastewater emission points except those specified in § 63.1362(h)(1) through (6) may be included in the credit calculation.

(iii) Demonstrate that annual credits calculated according to paragraph (h)(6) of this section are greater than or equal to debits calculated according to paragraph (h)(5) of this section for the same annual compliance period. The initial demonstration in the Emissions Averaging Plan or operating permit application that credit-generating emission points will be capable of generating sufficient credits to offset the debit-generating emission points shall be made under representative operating conditions. After the compliance date, actual operating data shall be used for all debit and credit calculations.

(iv) Demonstrate that debits calculated for a quarterly (3-month) period according to paragraph (h)(5) of this section are not more than 1.30 times the credits for the same period calculated according to paragraph (h)(6) of this section. Compliance for the quarter shall be determined based on the ratio of credits and debits from that quarter, with 30 percent more debits than credits allowed on a quarterly basis.

(v) Record and report quarterly and annual credits and debits as required in §§ 63.1367(d) and 63.1368(d).

(3) Credits and debits shall not include emissions during periods of malfunction. Credits and debits shall not include periods of startup and shutdown for continuous processes.

(4) During periods of monitoring excursions, credits and debits shall be adjusted as specified in paragraphs (h)(4)(i) through (iii) of this section.

(i) No credits shall be assigned to the credit-generating emission point.

(ii) Maximum debits shall be assigned to the debit-generating emission point.

(iii) The owner or operator may demonstrate to the Administrator that full or partial credits or debits should be assigned using the procedures in § 63.150(l) of subpart G of this part.

(5) Debits are generated by the difference between the actual emissions from a Group 1 emission point that is uncontrolled or controlled to a level less stringent than the applicable standard and the emissions allowed for the Group 1 emission point. Debits shall be calculated in accordance with the procedures specified in paragraphs (h)(5)(i) through (iv) of this section.

(i) Source-wide debits shall be calculated using Equation 40 of this subpart.

Debits and all terms of Equation 40 of this subpart are in units of Mg/month

Where:

$$\text{Debits} = \sum_{i=1}^{n}\left[EPV_{iA} - (0.10)(EPV_{iU})\right] + \sum_{i=1}^{n}\left[ES_{iA} - (0.05)(ES_{iU})\right] + \sum_{i=1}^{n}\left[EWW_{iA} - (EWW_{iC})\right] \qquad \text{(Eq. 40)}$$

EPV_{iU} = uncontrolled emissions from process i calculated according to the procedures specified in paragraph (h)(5)(ii) of this section

EPV_{iA} = actual emissions from each Group 1 process i that is uncontrolled or is controlled to a level less stringent than the applicable standard. EPV_{iA} is calculated using the procedures in paragraph (h)(5)(ii) of this section

ES_{iU} = uncontrolled emissions from storage vessel i calculated according to the procedures specified in paragraph (h)(5)(iii) of this section

ES_{iA} = actual emissions from each Group 1 storage vessel i that is uncontrolled or is controlled to a level less stringent than the applicable standard. ES_{iA} is calculated using the procedures in paragraph (h)(5)(iii) of this section

EWW_{iC} = emissions from each Group 1 wastewater stream i if the standard had been applied to the uncontrolled emissions. EWW_{iC} is calculated using the procedures in paragraph (h)(5)(iv) of this section

EWW_{iA} = actual emissions from each Group 1 wastewater stream i that is uncontrolled or is controlled to a level less stringent than the applicable standard. EWW_{iA} is calculated using the procedures in paragraph (h)(5)(iv) of this section

n = the number of emission points being included in the emissions average; the value of n is not necessarily the same for process vents, storage tanks, and wastewater

(ii) Emissions from process vents shall be calculated in accordance with the procedures specified in paragraphs (h)(5)(ii)(A) through (C) of this section.

(A) Except as provided in paragraph (h)(5)(ii)(C) of this section, uncontrolled emissions for process vents shall be calculated using the procedures that are specified in paragraph (c)(2) of this section.

(B) Except as provided in paragraph (h)(5)(ii)(C) of this section, actual emissions for process vents shall be calculated using the procedures specified in paragraphs (c)(2) and (c)(3) of this section, as applicable.

(C) As an alternative to the procedures described in paragraphs (h)(5)(ii)(A) and (B) of this section, for continuous processes, uncontrolled and actual emissions may be calculated by the procedures described in § 63.150(g)(2) of subpart G of this part. For purposes of complying with this paragraph, a 90 percent reduction shall apply instead of the 98 percent reduction in § 63.150(g)(2)(iii) of subpart G of this part, and the term ''process condenser'' shall apply instead of the term ''recovery device'' in § 63.150(g)(2) for the purposes of this subpart.

(iii) Uncontrolled emissions from storage vessels shall be calculated in accordance with the procedures described in paragraph (d)(1) of this section. Actual emissions from storage vessels shall be calculated using the procedures specified in § 63.150(g)(3)(ii), (iii), or (iv) of subpart G of this subpart, as appropriate, except that when § 63.150(g)(3)(ii)(B) refers to the procedures in § 63.120(d) for determining percent reduction for a control device, § 63.1365(d)(2) or (3) shall apply for the purposes of this subpart.

(iv) Emissions from wastewater shall be calculated using the procedures specified in § 63.150(g)(5) of subpart G of this part.

(6) Credits are generated by the difference between emissions that are allowed for each Group 1 and Group 2 emission point and the actual emissions from that Group 1 or Group 2 emission point that have been controlled after November 15, 1990 to a level more stringent than what is required in this subpart or any other State or Federal rule or statute. Credits shall be calculated in accordance with the procedures specified in paragraphs (h)(6)(i) through (v) of this section.

(i) Source-wide credits shall be calculated using Equation 41 of this subpart. Credits and all terms in Equation 41 of this subpart are in units of Mg/month, the baseline date is November 15, 1990, the terms consisting of a constant multiplied by the uncontrolled emissions are the emissions from each emission point subject to the standards in § 63.1362(b) and (c) that is controlled to a level more stringent than the standard.

Where:

$$\text{Credits} = D\sum_{i=1}^{n}\left[(0.10)(EPV1_{iU}) - EPV1_{iA}\right] + D\sum_{i=1}^{m}(EPV2_{iB} - EPV2_{iA}) + D\sum_{i=1}^{n}\left[(0.05)(ES1_{iU}) - ES1_{iA}\right] +$$
$$D\sum_{i=1}^{m}(ES2_{iB} - ES2_{iA}) + D\sum_{i=1}^{n}(EWW1_{iC} - EWW1_{iA}) + D\sum_{i=1}^{m}(EWW2_{iB} - EWW2_{iA}) \qquad \text{(Eq. 41)}$$

$EPV1_{iU}$ = uncontrolled emissions from each Group 1 process i calculated according to the procedures in paragraph (h)(6)(iii)(A) of this section

$EPV1_{iA}$ = actual emissions from each Group 1 process i that is controlled to a level more stringent than the applicable standard. $EPV1_{iA}$ is calculated according to the procedures in paragraph (h)(6)(iii)(B) of this section

$EPV2_{iB}$ = emissions from each Group 2 process i at the baseline date. $EPV2_{iB}$ is calculated according to the procedures in paragraph (h)(6)(iii)(C) of this section

$EPV2_{iA}$ = actual emissions from each Group 2 process i that is controlled. $EPV2_{iA}$ is calculated according to the procedures in paragraph (h)(6)(iii)(C) of this section

$ES1_{iU}$ = uncontrolled emissions from each Group 1 storage vessel i calculated according to the procedures in paragraph (h)(6)(iv) of this section

$ES1_{iA}$ = actual emissions from each Group 1 storage vessel i that is controlled to a level more stringent that the applicable standard. $ES1_{iA}$ is calculated according to the procedures in paragraph (h)(6)(iv) of this section

$ES2_{iB}$ = emissions from each Group 2 storage vessel i at the baseline date. $ES2_{iB}$ is calculated according to the procedures in paragraph (h)(6)(iv) of this section

$ES2_{iA}$ = actual emissions from each Group 2 storage vessel i that is controlled. $ES2_{iA}$ is calculated according to the procedures in paragraph (h)(6)(iv) of this section

$EWW1_{iC}$ = emissions from each Group 1 wastewater stream i if the standard had been applied to the uncontrolled emissions. $EWW1_{iC}$ is calculated according to the procedures in paragraph (h)(6)(v) of this section

$EWW1_{iA}$= emissions from each Group 1 wastewater stream i that is controlled to a level more stringent that the applicable standard. $EWW1_{iA}$ is calculated according to the procedures in paragraph (h)(6)(v) of this section

$EWW2_{iB}$ = emissions from each Group 2 wastewater stream i at the baseline date. $EWW2_{iB}$ is calculated according to the procedures in paragraph (h)(6)(v) of this section

$EWW2_{iA}$ = actual emissions from each Group 2 wastewater stream i that is controlled. $EWW2_{iA}$ is calculated according to the procedures in paragraph (h)(6)(v) of this section

n = number of Group 1 emission points that are included in the emissions average. The value of n is not necessarily the same for process vents, storage tanks, and wastewater

m = number of Group 2 emission points included in the emissions average. The value of m is not necessarily the same for process vents, storage tanks, and wastewater

D = discount factor equal to 0.9 for all credit-generating emission points except those controlled by a pollution prevention measure, which will not be discounted

(ii) For an emission point controlled using a pollution prevention measure, the nominal efficiency for calculating credits shall be as determined as described in § 63.150(j) of subpart G of this part.

(iii) Emissions from process vents shall be calculated in accordance with the procedures specified in paragraphs (h)(6)(iii)(A) through (C) of this section.

(A) Uncontrolled emissions from Group 1 process vents shall be calculated according to the procedures in paragraph (h)(5)(ii)(A) or (C) of this section.

(B) Actual emissions from Group 1 process vents with a nominal efficiency greater than the applicable standard or a pollution prevention measure that achieves reductions greater than the applicable standard shall be calculated using Equation 42 of this subpart:

$$EPV1_{iA} = EPV1_{iU} \times \left[1 - N_{eff}/100\right] \qquad \text{(Eq. 42)}$$

Where:

$EPV1_{iA}$ = actual emissions from each Group 1 process i that is controlled to a level more stringent than the applicable standard

$EPV1_{iU}$ = uncontrolled emissions from each Group 1 process i

N_{eff} = nominal efficiency of control device or pollution prevention measure, percent

(C) Baseline and actual emissions from Group 2 process vents shall be calculated according to the procedures in § 63.150(h)(2)(iii) and (iv) with the following modifications:

(*1*) The term ''90 percent reduction'' shall apply instead of the term ''98 percent reduction''; and

(*2*) When the phrase ''paragraph (g)(2)'' is referred to in § 63.150(h)(2)(iii) and (iv), the provisions in paragraph (h)(5)(ii) of this section shall apply for the purposes of this subpart.

(iv) Uncontrolled emissions from storage vessels shall be calculated according to the procedures described in paragraph (d)(1) of this section. Actual and baseline emissions from storage tanks shall be calculated according to the procedures specified in § 63.150(h)(3) of subpart G of this part, except when § 63.150(h)(3) refers to § 63.150(g)(3)(i), paragraph (d)(1) of this section shall apply for the purposes of this subpart.

(v) Emissions from wastewater shall be calculated using the procedures in § 63.150(h)(5) of subpart G of this part.

§ 63.1366 Monitoring and inspection requirements.

(a) To provide evidence of continued compliance with the standard, the owner or operator of any existing or new affected source shall install, operate, and maintain monitoring devices as specified in this section. During the initial compliance demonstration, maximum or minimum operating parameter levels, or other design and operating characteristics, as appropriate, shall be established for emission sources that will indicate the source is in compliance. Test data, calculations, or information from the evaluation of the control device design, as applicable, shall be used to establish the operating parameter level or characteristic.

(b) *Monitoring for control devices.* (1) *Parameters to monitor.* Except as specified in paragraph (b)(1)(i) of this section, for each control device, the owner or operator shall install and operate monitoring devices and operate within the established parameter levels to ensure continued compliance with the standard. Monitoring parameters are specified for control scenarios in paragraphs (b)(1)(ii) through (xii) of this section, and are summarized in Table 3 of this subpart.

(i) *Periodic verification.* For control devices that control vent streams containing total HAP emissions less than 0.91 Mg/yr, before control, monitoring shall consist of a periodic verification that the device is operating properly. This verification shall include, but not be limited to, a daily or more frequent demonstration that the unit is working as designed and may include the daily measurements of the parameters described in paragraphs (b)(1)(ii) through (xii) of this section. This demonstration shall be included in the Precompliance plan, to be submitted 6 months prior to the compliance date of the standard.

(ii) *Scrubbers.* For affected sources using liquid scrubbers, the owner or operator shall establish a minimum scrubber liquid flow rate or pressure drop as a site-specific operating parameter which must be measured and recorded at least once every 15 minutes during the period in which the scrubber is controlling HAP from an emission stream as required by the standards in § 63.1362. If the scrubber uses a caustic solution to remove acid emissions, the pH of the effluent scrubber liquid shall also be monitored once a day. The minimum scrubber liquid flow rate or pressure drop shall be based on the conditions under which the initial compliance demonstration was conducted.

(A) The monitoring device used to determine the pressure drop shall be certified by the manufacturer to be accurate to within a gage pressure of ±10 percent of the maximum pressure drop measured.

(B) The monitoring device used for measurement of scrubber liquid flowrate shall be certified by the manufacturer to

be accurate to within ±10 percent of the design scrubber liquid flowrate.

(C) The monitoring device shall be calibrated annually.

(iii) *Condensers.* For each condenser, the owner or operator shall establish the maximum condenser outlet gas temperature as a site-specific operating parameter which must be measured and recorded at least once every 15 minutes during the period in which the condenser is controlling HAP from an emission stream as required by the standards in § 63.1362.

(A) The temperature monitoring device must be accurate to within ±2 percent of the temperature measured in degrees Celsius or ±2.5°C, whichever is greater.

(B) The temperature monitoring device must be calibrated annually.

(iv) *Regenerative carbon adsorbers.* For each regenerative carbon adsorber, the owner or operator shall comply with the provisions in paragraphs (b)(1)(iv)(A) through (F) of this section.

(A) Establish the regeneration cycle characteristics specified in paragraphs (b)(1)(iv)(A) (*1*) through (*4*) of this section under absolute or hypothetical peak-case conditions, as defined in § 63.1365(b)(11)(i) or (ii).

(*1*) Minimum regeneration frequency (i.e., operating time since last regeneration);

(*2*) Minimum temperature to which the bed is heated during regeneration;

(*3*) Maximum temperature to which the bed is cooled, measured within 15 minutes of completing the cooling phase; and

(*4*) Minimum regeneration stream flow.

(B) Monitor and record the regeneration cycle characteristics specified in paragraphs (b)(1)(iv)(B) (*1*) through (*4*) of this section for each regeneration cycle.

(*1*) Regeneration frequency (i.e., operating time since end of last regeneration);

(*2*) Temperature to which the bed is heated during regeneration;

(*3*) Temperature to which the bed is cooled, measured within 15 minutes of the completion of the cooling phase; and

(*4*) Regeneration stream flow.

(C) Use a temperature monitoring device that is accurate to within ±2 percent of the temperature measured in degrees Celsius or ±2.5°C, whichever is greater.

(D) Use a regeneration stream flow monitoring device capable of recording the total regeneration stream flow to within ±10 percent of the established value (i.e., accurate to within ±10 percent of the reading).

(E) Calibrate the temperature and flow monitoring devices annually.

(F) Conduct an annual check for bed poisoning in accordance with manufacturer's specifications.

(v) *Nonregenerative carbon adsorbers.* For each nonregenerative carbon adsorption system such as a carbon canister that does not regenerate the carbon bed directly onsite in the control device, the owner or operator shall replace the existing carbon bed in the control device with fresh carbon on a regular schedule based on one of the following procedures:

(A) Monitor the TOC concentration level in the exhaust vent stream from the carbon adsorption system on a regular schedule, and replace the existing carbon with fresh carbon immediately when carbon breakthrough is indicated. The monitoring frequency shall be daily or at an interval no greater than 20 percent of the time required to consume the total carbon working capacity under absolute or hypothetical peak-case conditions as defined in § 63.1365(b)(11)(i) or (ii), whichever is longer.

(B) Establish the maximum time interval between replacement, and replace the existing carbon before this time interval elapses. The time interval shall be established based on the conditions anticipated under absolute or hypothetical peak-case, as defined in § 63.1365(b)(11)(i) or (ii).

(vi) *Flares.* For each flare, the presence of the pilot flame shall be monitored at least once every 15 minutes during the period in which the flare is controlling HAP from an emission stream subject to the standards in § 63.1362. The monitoring device shall be calibrated annually.

(vii) *Thermal incinerators.* For each thermal incinerator, the owner or operator shall monitor the temperature of the gases exiting the combustion chamber as the site-specific operating parameter which must be measured and recorded at least once every 15 minutes during the period in which the combustion device is controlling HAP from an emission stream subject to the standards in § 63.1362.

(A) The temperature monitoring device must be accurate to within ±0.75 percent of the temperature measured in degrees Celsius or ±2.5°C, whichever is greater.

(B) The monitoring device must be calibrated annually.

(viii) *Catalytic incinerators.* For each catalytic incinerator, the parameter levels that the owner or operator shall establish are the minimum temperature of the gas stream immediately before the catalyst bed and the minimum temperature difference across the catalyst bed. The owner or operator shall monitor the temperature of the gas stream immediately before and after the catalyst bed, and calculate the temperature difference across the catalyst bed, at least once every 15 minutes during the period in which the catalytic incinerator is controlling HAP from an emission stream subject to the standards in § 63.1362.

(A) The temperature monitoring devices must be accurate to within ±0.75 percent of the temperature measured in degrees Celsius or ±2.5°C, whichever is greater.

(B) The temperature monitoring devices must be calibrated annually.

(ix) *Process heaters and boilers.* (A) Except as specified in paragraph (b)(1)(ix)(B) of this section, for each boiler or process heater, the owner or operator shall monitor the temperature of the gases exiting the combustion chamber as the site-specific operating parameter which must be monitored and recorded at least every 15 minutes during the period in which the boiler or process heater is controlling HAP from an emission stream subject to the standards in § 63.1362.

(*1*) The temperature monitoring device must be accurate to within ±0.75 percent of the temperature measured in degrees Celsius or ±2.5°C, whichever is greater.

(*2*) The temperature monitoring device must be calibrated annually.

(B) The owner or operator is exempt from the monitoring requirements specified in paragraph (b)(1)(ix)(A) of this section if either:

(*1*) All vent streams are introduced with primary fuel; or

(*2*) The design heat input capacity of the boiler or process heater is 44 megawatts or greater.

(x) *Continuous emission monitor.* As an alternative to the parameters specified in paragraphs (b)(1)(ii) through (ix) of this section, an owner or operator may monitor and record the outlet HAP concentration or both the outlet TOC concentration and outlet total HCl and chlorine concentration at least every 15 minutes during the period in which the control device is controlling HAP from an emission stream subject to the standards in § 63.1362. The owner or operator need not monitor the total HCl and chlorine concentration if the owner or operator determines that the emission stream does not contain HCl or chlorine. The owner or operator need not monitor the TOC concentration if the owner or operator determines the emission stream does not contain organic compounds. The HAP or TOC monitor must meet the requirements of Performance

Specification 8 or 9 of appendix B of part 60 and must be installed, calibrated, and maintained, according to § 63.8 of subpart A of this part. As part of the QA/QC Plan, calibration of the device must include, at a minimum, quarterly cylinder gas audits. If supplemental gases are introduced before the control device, the monitored concentration shall be corrected as specified in § 63.1365(a)(7).

(xi) *Fabric filters.* For each fabric filter used to control particulate matter emissions from bag dumps and product dryers subject to § 63.1362(e), the owner or operator shall install, calibrate, maintain, and continuously operate a bag leak detection system that meets the requirements in paragraphs (b)(1)(xi)(A) through (G) of this section.

(A) The bag leak detection system sensor must provide output of relative particulate matter emissions.

(B) The bag leak detection system must be equipped with an alarm system that will sound when an increase in particulate matter emissions over a preset level is detected.

(C) For positive pressure fabric filters, a bag leak detector must be installed in each fabric filter compartment or cell. If a negative pressure or induced air filter is used, the bag leak detector must be installed downstream of the fabric filter. Where multiple bag leak detectors are required (for either type of fabric filter), the system instrumentation and alarm may be shared among detectors.

(D) The bag leak detection system shall be installed, operated, calibrated and maintained in a manner consistent with available guidance from the U.S. Environmental Protection Agency or, in the absence of such guidance, the manufacturer's written specifications and instructions.

(E) Calibration of the system shall, at a minimum, consist of establishing the relative baseline output level by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(F) Following initial adjustment, the owner or operator shall not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as established in an operation and maintenance plan that is to be submitted with the Precompliance plan. In no event shall the sensitivity be increased more than 100 percent or decreased by more than 50 percent over a 365-day period unless such adjustment follows a complete baghouse inspection which demonstrates the baghouse is in good operating condition.

(G) If the alarm on a bag leak detection system is triggered, the owner or operator shall, within 1 hour of an alarm, initiate the procedures to identify the cause of the alarm and take corrective action as specified in the corrective action plan.

(xii) For each waste management unit, treatment process, or control device used to comply with § 63.1362(d), the owner or operator shall comply with the procedures specified in § 63.143 of subpart G of this part, except that when the procedures to request approval to monitor alternative parameters according to the procedures in § 63.151(f) are referred to in § 63.143(d)(3), the procedures in paragraph (b)(4) of this section shall apply for the purposes of this subpart.

(xiii) *Closed-vent system visual inspections.* The owner or operator shall perform monthly visual inspections of each closed vent system as specified in § 63.1362(j).

(2) *Averaging periods.* Averaging periods for parametric monitoring levels shall be established according to paragraphs (b)(2)(i) through (iii) of this section.

(i) Except as provided in paragraph (b)(2)(iii) of this section, a daily (24-hour) or block average shall be calculated as the average of all values for a monitored parameter level set according to the procedures in (b)(3)(iii) of this section recorded during the operating day or block.

(ii) The operating day or block shall be defined in the Notification of Compliance Status report. The operating day may be from midnight to midnight or another continuous 24-hour period. The operating block may be used as an averaging period only for vents from batch operations, and is limited to a period of time that is, at a maximum, equal to the time from the beginning to end of a series of consecutive batch operations.

(iii) Monitoring values taken during periods in which the control devices are not controlling HAP from an emission stream subject to the standards in § 63.1362, as indicated by periods of no flow or periods when only streams that are not subject to the standards in § 63.1362 are controlled, shall not be considered in the averages. Where flow to the device could be intermittent, the owner or operator shall install, calibrate and operate a flow indicator at the inlet or outlet of the control device to identify periods of no flow.

(3) *Procedures for setting parameter levels for control devices used to control emissions from process vents.* (i) *Small control devices.* Except as provided in paragraph (b)(1)(i) of this section, for devices controlling less than 10 tons/yr of HAP for which a performance test is not required, the parameteric levels shall be set based on the design evaluation required in § 63.1365(c)(3)(i)(A). If a performance test is conducted, the monitoring parameter level shall be established according to the procedures in paragraph (b)(3)(ii) of this section.

(ii) *Large control devices.* For devices controlling greater than or equal to 10 tons/yr of HAP for which a performance test is required, the parameter level must be established as follows:

(A) If the operating parameter level to be established is a maximum or minimum, it must be based on the average of the average values from each of the three test runs.

(B) The owner or operator may establish the parametric monitoring level(s) based on the performance test supplemented by engineering assessments and/or manufacturer's recommendations. Performance testing is not required to be conducted over the entire range of expected parameter values. The rationale for the specific level for each parameter, including any data and calculations used to develop the level(s) and a description of why the level indicates proper operation of the control device shall be provided in the Precompliance plan. Determination of the parametric monitoring level using these procedures is subject to review and approval by the Administrator.

(iii) *Parameter levels for control devices controlling batch process vents.* For devices controlling batch process vents alone or in combination with other streams, the level(s) shall be established in accordance with paragraph (b)(3)(iii)(A) or (B) of this section.

(A) A single level for the batch process(es) shall be calculated from the initial compliance demonstration.

(B) The owner or operator may establish separate levels for each batch emission episode or combination of emission episodes selected to be controlled. If separate monitoring levels are established, the owner or operator must provide a record indicating at what point in the daily schedule or log of processes required to be recorded per the requirements of § 63.1367(b)(7), the parameter being monitored changes levels and must record at least one reading of the new parameter level, even if the duration of monitoring for the new parameter level is less than 15 minutes.

(4) *Requesting approval to monitor alternative parameters.* The owner or operator may request approval to monitor parameters other than those required by paragraphs (b)(1)(ii) through (xiii) of this section. The request shall be submitted according to the

procedures specified in § 63.8(f) of subpart A of this part or in the Precompliance report (as specified in § 63.1368(e)).

(5) *Monitoring for the alternative standards.* For control devices that are used to comply with the provisions of § 63.1362(b)(6) and (c)(4), the owner or operator shall monitor and record the outlet TOC concentration and the outlet total HCl and chlorine concentration at least once every 15 minutes during the period in which the device is controlling HAP from emission streams subject to the standards in § 63.1362. A TOC monitor meeting the requirements of Performance Specification 8 or 9 of appendix B of 40 CFR part 60 shall be installed, calibrated, and maintained, according to § 63.8 of subpart A of this part. The owner or operator need not monitor the total HCl and chlorine concentration if the owner or operator determines that the emission stream does not contain HCl or chlorine. The owner or operator need not monitor for TOC concentration if the owner or operator determines that the emission stream does not contain organic compounds. If supplemental gases are introduced before the control device, the monitored concentration shall be corrected as specified in § 63.1365(a)(7).

(6) *Exceedances of operating parameters.* An exceedance of an operating parameter is defined as one of the following:

(i) If the parameter level, averaged over the operating day or block, is below a minimum value established during the initial compliance demonstration.

(ii) If the parameter level, averaged over the operating day or block, is above the maximum value established during the initial compliance demonstration.

(iii) A loss of all pilot flames for a flare during an operating day or block. Multiple losses of all pilot flames during an operating day constitutes one exceedance.

(iv) Each operating day or block for which the time interval between replacement of a nonregenerative carbon adsorber exceeds the interval established in paragraph (b)(1)(v) of this section.

(v) Each instance in which procedures to initiate the response to a bag leak detector alarm within 1 hour of the alarm as specified in the corrective action plan.

(7) *Excursions.* Excursions are defined by either of the two cases listed in paragraph (b)(7)(i) or (ii) of this section. An excursion also occurs if the periodic verification for a small control device is not conducted as specified in paragraph (b)(1)(i) of this section.

(i) When the period of control device operation is 4 hours or greater in an operating day or block and monitoring data are insufficient to constitute a valid hour of data, as defined in paragraph (b)(7)(iii) of this section, for at least 75 percent of the operating hours.

(ii) When the period of control device operation is less than 4 hours in an operating day or block and more than 1 of the hours during the period of operation does not constitute a valid hour of data due to insufficient monitoring data.

(iii) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (b)(7)(i) and (ii) of this section, if measured values are unavailable for any of the required 15-minute periods within the hour.

(8) *Violations.* Exceedances of parameters monitored according to the provisions of paragraphs (b)(1)(ii) and (b)(1) (iv) through (ix) of this section or excursions as defined by paragraphs (b)(7) (i) and (ii) of this section constitute violations of the operating limit according to paragraphs (b)(8) (i), (ii), and (iv) of this section. Exceedances of the temperature limit monitored according to the provisions of paragraph (b)(1)(iii) of this section or exceedances of the outlet concentrations monitored according to the provisions of paragraph (b)(1)(x) of this section constitute violations of the emission limit according to paragraphs (b)(8) (i), (ii), and (iv) of this section. Exceedances of the outlet concentrations monitored according to the provisions of paragraph (b)(5) of this section constitute violations of the emission limit according to the provisions of paragraphs (b)(8) (iii) and (iv) of this section.

(i) Except as provided in paragraph (b)(8)(iv) of this section, for episodes occurring more than once per day, exceedances of established parameter limits or excursions will result in no more than one violation per operating day for each monitored item of equipment utilized in the process.

(ii) Except as provided in paragraph (b)(8)(iv) of this section, for control devices used for more than one process in the course of an operating day, exceedances or excursions will result in no more than one violation per operating day, per control device, for each process for which the control device is in service.

(iii) Except as provided in paragraph (b)(8)(iv) of this section, exceedances of the 20 ppmv TOC outlet emission limit, averaged over the operating day, will result in no more than one violation per day per control device. Except as provided in paragraph (b)(8)(iv) of this section, exceedances of the 20 ppmv HCl and chlorine outlet emission limit, averaged over the operating day, will result in no more than one violation per day per control device.

(iv) Periods of time when monitoring measurements exceed the parameter values as well as periods of inadequate monitoring data do not constitute a violation if they occur during a startup, shutdown, or malfunction, and the facility follows its startup, shutdown, and malfunction plan.

(c) *Monitoring for uncontrolled emission rates.* The owner or operator shall demonstrate continuous compliance with the emission limit in § 63.1362 (b)(2)(i) or (b)(4)(i) by calculating daily a 365-day rolling summation of uncontrolled emissions based on the uncontrolled emissions per emission episode, as calculated using the procedures in § 63.1365(c)(2), and records of the number of batches produced. Each day that the summation for a process exceeds 0.15 Mg/yr is considered a violation of the emission limit.

(d) *Monitoring for equipment leaks.* The standard for equipment leaks is based on monitoring. All monitoring requirements for equipment leaks are specified in § 63.1363.

(e) *Monitoring for heat exchanger systems.* The standard for heat exchanger systems is based on monitoring. All monitoring requirements for heat exchanger systems are specified in § 63.1362(f).

(f) *Monitoring for the pollution prevention alternative standard.* The owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(g) (2) or (3) shall calculate annual rolling average values of the HAP and VOC factors in accordance with the procedures specified in paragraph (f)(1) of this section. If complying with § 63.1362(g)(3), the owner or operator shall also comply with the monitoring requirements specified in paragraph (b) of this section for the applicable add-on air pollution control device.

(1) *Annual factors.* The annual HAP and VOC factors shall be calculated in accordance with the procedures specified in paragraphs (f)(1) (i) through (iii) of this section.

(i) The consumption of both total HAP and total VOC shall be divided by the production rate, per process, for 12-month periods at the frequency specified in either paragraph (f)(1) (ii) or (iii) of this section, as applicable.

(ii) For continuous processes, the annual factors shall be calculated every 30 days for the 12-month period preceding the 30th day (annual rolling

average calculated every 30 days). A process with both batch and continuous operations is considered a continuous process for the purposes of this section.

(iii) For batch processes, the annual factors shall be calculated every 10 batches for the 12-month period preceding the 10th batch (annual rolling average calculated every 10 batches). Additional annual factors shall be calculated every 12 months during the period before the 10th batch if more than 12 months elapse before the 10th batch is produced.

(2) *Violations.* Each rolling average that exceeds the target value established in § 63.1365(g)(3) is considered a violation of the emission limit.

(g) *Monitoring for emissions averaging.* The owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(h) shall meet all monitoring requirements specified in paragraph (b) of this section, as applicable, for all processes, storage tanks, and waste management units included in the emissions average.

§ 63.1367 Recordkeeping requirements.

(a) *Requirements of subpart A of this part.* The owner or operator of an affected source shall comply with the recordkeeping requirements in subpart A of this part as specified in Table 1 of this subpart and in paragraphs (a)(1) through (5) of this section.

(1) *Data retention.* Each owner or operator of an affected source shall keep copies of all records and reports required by this subpart for at least 5 years, as specified in § 63.10(b)(1) of subpart A of this part.

(2) *Records of applicability determinations.* The owner or operator of a stationary source that is not subject to this subpart shall keep a record of the applicability determination, as specified in § 63.10(b)(3) of subpart A of this part.

(3) *Startup, shutdown, and malfunction plan.* The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan as specified in § 63.6(e)(3) of subpart A of this part. This plan shall describe, in detail, procedures for operating and maintaining the affected source during periods of startup, shutdown, and malfunction and a program for corrective action for a malfunctioning process, air pollution control, and monitoring equipment used to comply with this subpart. The owner or operator of an affected source shall keep the current and superseded versions of this plan onsite, as specified in § 63.6(e)(3)(v) of subpart A of this part. The owner or operator shall keep the startup, shutdown, and malfunction records specified in paragraphs (b)(3)(i) through (iii) of this section. Reports related to the plan shall be submitted as specified in § 63.1368(i).

(i) The owner or operator shall record the occurrence and duration of each malfunction of air pollution control equipment used to comply with this subpart, as specified in § 63.6(e)(3)(iii) of subpart A of this part.

(ii) The owner or operator shall record the occurrence and duration of each malfunction of continuous monitoring systems used to comply with this subpart.

(iii) For each startup, shutdown, or malfunction, the owner or operator shall record all information necessary to demonstrate that the procedures specified in the affected source's startup, shutdown, and malfunction plan were followed, as specified in § 63.6(e)(3)(iii) of subpart A of this part; alternatively, the owner or operator shall record any actions taken that are not consistent with the plan, as specified in § 63.6(e)(3)(iv) of subpart A of this part.

(4) *Recordkeeping requirements for sources with continuous monitoring systems.* The owner or operator of an affected source who installs a continuous monitoring system to comply with the alternative standards in § 63.1362(b)(6) or (c)(4) shall maintain records specified in § 63.10(c)(1) through (14) of subpart A of this part.

(5) *Application for approval of construction or reconstruction.* For new affected sources, each owner or operator shall comply with the provisions regarding construction and reconstruction in § 63.5 of subpart A of this part.

(b) *Records of equipment operation.* The owner or operator must keep the following records up-to-date and readily accessible:

(1) Each measurement of a control device operating parameter monitored in accordance with § 63.1366 and each measurement of a treatment process parameter monitored in accordance with the provisions of § 63.1362(d).

(2) For processes subject to § 63.1362(g), records of consumption, production, and the rolling average values of the HAP and VOC factors.

(3) For each continuous monitoring system used to comply with the alternative standards in § 63.1362(b)(6) and (c)(4), records documenting the completion of calibration checks and maintenance of the continuous monitoring systems.

(4) For processes in compliance with the 0.15 Mg/yr emission limit of § 63.1362(b)(2)(i) or (b)(4)(i), records of the rolling annual calculations of uncontrolled emissions.

(5) For each bag leak detector used to monitor particulate HAP emissions from a fabric filter, the owner or operator shall maintain records of any bag leak detection alarm, including the date and time, with a brief explanation of the cause of the alarm and the corrective action taken.

(6) The owner or operator of an affected source that complies with the standards for process vents, storage tanks, and wastewater systems shall maintain up-to-date, readily accessible records of the information specified in paragraphs (b)(6)(i) through (vii) of this section to document that HAP emissions or HAP loadings (for wastewater) are below the limits specified in § 63.1362:

(i) The initial calculations of uncontrolled and controlled emissions of gaseous organic HAP and HCl per batch for each process.

(ii) The wastewater concentrations and flow rates per POD and process.

(iii) The number of batches per year for each batch process.

(iv) The operating hours per year for continuous processes.

(v) The number of batches and the number of operating hours for processes that contain both batch and continuous operations.

(vi) The number of tank turnovers per year, if used in an emissions average or for determining applicability of a new PAI process unit.

(vii) A description of absolute or hypothetical peak-case operating conditions as determined using the procedures in § 63.1365(b)(11).

(viii) Periods of planned routine maintenance as described in § 63.1362(c)(5).

(7) Daily schedule or log of each operating scenario prior to its operation.

(c) *Records of equipment leak detection and repair.* The owner or operator of an affected source subject to the equipment leak standards in § 63.1363 shall implement the recordkeeping requirements specified in § 63.1363(g). All records shall be retained for a period of 5 years, in accordance with the requirements of § 63.10(b)(1) of subpart A of this part.

(d) *Records of emissions averaging.* The owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(h) shall maintain up-to-date records of the following information:

(1) An Emissions Averaging Plan which shall include in the plan, for all emission points included in each of the emissions averages, the information listed in paragraphs (d)(1)(i) through (v) of this section.

(i) The identification of all emission points in each emissions average.

(ii) The values of all parameters needed for input to the emission debits and credits equations in § 63.1365(h).

(iii) The calculations used to obtain the debits and credits.

(iv) The estimated values for all parameters required to be monitored under § 63.1366(g) for each emission point included in an average. These parameter values, or as appropriate, limited ranges for parameter values, shall be specified as enforceable operating conditions for the operation of the process, storage vessel, or waste management unit, as appropriate. Changes to the parameters must be reported as required by § 63.1368(k).

(v) A statement that the compliance demonstration, monitoring, inspection, recordkeeping and reporting provisions in § 63.1365(h), § 63.1366(g), and § 63.1368(k) that are applicable to each emission point in the emissions average will be implemented beginning on the date of compliance.

(2) The Emissions Averaging Plan shall demonstrate that the emissions from the emission points proposed to be included in the average will not result in greater hazard or, at the option of the operating permit authority, greater risk to human health or the environment than if the emission points were controlled according to the provisions in § 63.1362(b) through (d).

(i) This demonstration of hazard or risk equivalency shall be made to the satisfaction of the operating permit authority.

(A) The Administrator may require an owner or operator to use specific methodologies and procedures for making a hazard or risk determination.

(B) The demonstration and approval of hazard or risk equivalency shall be made according to any guidance that the Administrator makes available for use or any other technically sound information or methods.

(ii) An Emissions Averaging Plan that does not demonstrate hazard or risk equivalency to the satisfaction of the Administrator shall not be approved. The Administrator may require such adjustments to the Emissions Averaging Plan as are necessary in order to ensure that the average will not result in greater hazard or risk to human health or the environment than would result if the emission points were controlled according to § 63.1362(b) through (d).

(iii) A hazard or risk equivalency demonstration must satisfy the requirements specified in paragraphs (d)(2)(iii) (A) through (C) of this section.

(A) Be a quantitative, comparative chemical hazard or risk assessment;

(B) Account for differences between averaging and nonaveraging options in chemical hazard or risk to human health or the environment; and

(C) Meet any requirements set by the Administrator for such demonstrations.

(3) Records as specified in paragraphs (a) and (b) of this section.

(4) A calculation of the debits and credits as specified in § 63.1365(h) for the last quarter and the prior four quarters.

(e) The owner or operator of an affected source subject to the requirements for heat exchanger systems in § 63.1362(g) shall retain the records as specified in § 63.104(f)(1)(i) through (iv) of subpart G of this part.

(f) For each vapor collection system or closed-vent system that contains bypass lines that could divert a vent stream away from the control device and to the atmosphere, the owner or operator shall keep a record of the information specified in either paragraph (f) (1) or (2) of this section.

(1) Hourly records of whether the flow indicator specified under § 63.1362(j)(1) was operating and whether a diversion was detected at any time during the hour, as well as records of the times and durations of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(2) Where a seal mechanism is used to comply with § 63.1362(j)(2), hourly records of flow are not required. In such cases, the owner or operator shall record that the monthly visual inspection of the seals or closure mechanism has been done, and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

(g) *Records of primary use.* For a PAI process unit that is used to produce a given material for use as a PAI as well as for other purposes, the owner or operator shall keep records of the total production and the production for use as a PAI on a semiannual or more frequent basis if the use as a PAI is not the primary use.

§ 63.1368 Reporting requirements.

(a) The owner or operator of an affected source shall comply with the reporting requirements of paragraphs (b) through (l) of this section. The owner or operator shall also comply with applicable paragraphs of §§ 63.9 and 63.10 of subpart A of this part, as specified in Table 1 of this subpart.

(b) *Initial notification.* The owner or operator shall submit the applicable initial notification in accordance with § 63.9(b) or (d) of subpart A of this part.

(c) *Application for approval of construction or reconstruction.* The owner or operator who is subject to § 63.5(b)(3) of subpart A of this part shall submit to the Administrator an application for approval of the construction of a new major source, the reconstruction of a major affected source, or the reconstruction of a major affected source subject to the standards. The application shall be prepared in accordance with § 63.5(d) of subpart A of this part.

(d) *Notification of continuous monitoring system performance evaluation.* An owner or operator who is required by the Administrator to conduct a performance evaluation for a continuous monitoring system that is used to comply with the alternative standard in § 63.1362(b)(6) or (c)(4) shall notify the Administrator of the date of the performance evaluation as specified in § 63.8(e)(2) of subpart A of this part.

(e) *Precompliance plan.* The Precompliance plan shall be submitted at least 6 months prior to the compliance date of the standard. For new sources, the Precompliance plan shall be submitted to the Administrator with the application for approval of construction or reconstruction. The Administrator shall have 90 days to approve or disapprove the Precompliance plan. The Precompliance plan shall be considered approved if the Administrator either approves it in writing, or fails to disapprove it in writing within the 90-day time period. The 90-day period shall begin when the Administrator receives the Precompliance plan. If the Precompliance plan is disapproved, the owner or operator must still be in compliance with the standard by the compliance date. To change any of the information submitted in the Precompliance plan, the owner or operator shall notify the Administrator at least 90 days before the planned change is to be implemented; the change shall be considered approved if the Administrator either approves the change in writing, or fails to disapprove the change in writing within 90 days of receipt of the change. The Precompliance plan shall include the information specified in paragraphs (e)(1) through (5) of this section.

(1) Requests for approval to use alternative monitoring parameters or requests to set monitoring parameters according to § 63.1366(b)(4).

(2) Descriptions of the daily or per batch demonstrations to verify that control devices subject to

§ 63.1366(b)(1)(i) are operating as designed.

(3) Data and rationale used to support the parametric monitoring level(s) that are set according to § 63.1366(b)(3)(ii)(B).

(4) For owners and operators complying with the requirements of § 63.1362(i), the pollution prevention demonstration summary required in § 63.1365(g)(3).

(5) Data and rationale used to support an engineering assessment to calculate uncontrolled emissions from process vents as required in § 63.1365(c)(2)(ii).

(6) For fabric filters that are monitored with bag leak detectors, an operation and maintenance plan that describes proper operation and maintenance procedures, and a corrective action plan that describes corrective actions to be taken, and the timing of those actions, when the particulate matter concentration exceeds the setpoint and activates the alarm.

(f) *Notification of compliance status report.* The Notification of Compliance Status report required under § 63.9(h) shall be submitted no later than 150 calendar days after the compliance date and shall include the information specified in paragraphs (f)(1) through (7) of this section.

(1) The results of any applicability determinations, emission calculations, or analyses used to identify and quantify HAP emissions from the affected source.

(2) The results of emissions profiles, performance tests, engineering analyses, design evaluations, or calculations used to demonstrate compliance. For performance tests, results should include descriptions of sampling and analysis procedures and quality assurance procedures.

(3) Descriptions of monitoring devices, monitoring frequencies, and the values of monitored parameters established during the initial compliance determinations, including data and calculations to support the levels established.

(4) Operating scenarios.

(5) Descriptions of absolute or hypothetical peak-case operating and/or testing conditions for control devices.

(6) Identification of emission points subject to overlapping requirements described in § 63.1360(h) and the authority under which the owner or operator will comply, and identification of emission sources discharging to devices described by § 63.1362(l).

(7) Anticipated periods of planned routine maintenance during which the owner or operator would not be in compliance with the provisions in § 63.1362(c)(1) through (4).

(8) Percentage of total production from a PAI process unit that is anticipated to be produced for use as a PAI in the 3 years after either June 23, 1999 or startup, whichever is later.

(g) *Periodic reports.* The owner or operator shall prepare Periodic reports in accordance with paragraphs (g)(1) and (2) of this section and submit them to the Administrator.

(1) *Submittal schedule.* Except as provided in paragraphs (g)(1)(i) and (ii) of this section, the owner or operator shall submit Periodic reports semiannually, beginning 60 operating days after the end of the applicable reporting period. The first report shall be submitted no later than 240 days after the date the Notification of Compliance Status report is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status report is due.

(i) The Administrator may determine on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the affected source.

(ii) Quarterly reports shall be submitted when the monitoring data are used to comply with the alternative standards in § 63.1362(b)(6) or (c)(4) and the source experiences excess emissions. Once an affected source reports excess emissions, the affected source shall follow a quarterly reporting format until a request to reduce reporting frequency is approved. If an owner or operator submits a request to reduce the frequency of reporting, the provisions in § 63.10(e)(3) (ii) and (iii) of subpart A of this part shall apply, except that the term ''excess emissions and continuous monitoring system performance report and/or summary report'' shall mean ''Periodic report'' for the purposes of this section.

(2) *Content of periodic report.* The owner or operator shall include the information in paragraphs (g)(2)(i) through (vi) of this section, as applicable.

(i) Each Periodic report must include the information in § 63.10(e)(3)(vi)(A) through (M) of subpart A of this part, as applicable.

(ii) If the total duration of excess emissions, parameter exceedances, or excursions for the reporting period is 1 percent or greater of the total operating time for the reporting period, or the total continuous monitoring system downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the Periodic report must include the information in paragraphs (g)(2)(ii)(A) through (D) of this section.

(A) Monitoring data, including 15-minute monitoring values as well as daily average values of monitored parameters, for all operating days when the average values were outside the ranges established in the Notification of Compliance Status report or operating permit.

(B) Duration of excursions, as defined in § 63.1366(b)(7).

(C) Operating logs and operating scenarios for all operating days when the values are outside the levels established in the Notification of Compliance Status report or operating permit.

(D) When a continuous monitoring system is used, the information required in § 63.10(c)(5) through (13) of subpart A of this part.

(iii) For each vapor collection system or closed vent system with a bypass line subject to § 63.1362(j)(1), records required under § 63.1366(f) of all periods when the vent stream is diverted from the control device through a bypass line. For each vapor collection system or closed vent system with a bypass line subject to § 63.1362(j)(2), records required under § 63.1366(f) of all periods in which the seal mechanism is broken, the bypass valve position has changed, or the key to unlock the bypass line valve was checked out.

(iv) The information in paragraphs (g)(2)(iv)(A) through (D) of this section shall be stated in the Periodic report, when applicable.

(A) No excess emissions.

(B) No exceedances of a parameter.

(C) No excursions.

(D) No continuous monitoring system has been inoperative, out of control, repaired, or adjusted.

(v) For each storage vessel subject to control requirements:

(A) Actual periods of planned routine maintenance during the reporting period in which the control device does not meet the specifications of § 63.1362(c)(5); and

(B) Anticipated periods of planned routine maintenance for the next reporting period.

(vi) For each PAI process unit that does not meet the definition of primary use, the percentage of the production in the reporting period produced for use as a PAI.

(viii) Updates to the corrective action plan.

(h) *Notification of process change.* (1) Except as specified in paragraph (h)(2) of this section, whenever a process change is made, or any of the information submitted in the Notification of Compliance Status report changes, the owner or operator shall

submit a report quarterly. The report may be submitted as part of the next Periodic report required under paragraph (g) of this section. The report shall include:

(i) A brief description of the process change;

(ii) A description of any modifications to standard procedures or quality assurance procedures;

(iii) Revisions to any of the information reported in the original Notification of Compliance Status report under paragraph (f) of this section; and

(iv) Information required by the Notification of Compliance Status report under paragraph (f) of this section for changes involving the addition of processes or equipment.

(2) The owner or operator must submit a report 60 days before the scheduled implementation date of either of the following:

(i) Any change in the activity covered by the Precompliance report.

(ii) A change in the status of a control device from small to large.

(i) *Reports of startup, shutdown, and malfunction.* For the purposes of this subpart, the startup, shutdown, and malfunction reports shall be submitted on the same schedule as the Periodic reports required under paragraph (g) of this section instead of the schedule specified in § 63.10(d)(5)(i) of subpart A of this part. These reports shall include the information specified in § 63.1367(a)(3)(i) through (iii) and shall contain the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy. Reports are only required if a startup, shutdown, or malfunction occurred during the reporting period. Any time an owner or operator takes an action that is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall submit an immediate startup, shutdown, and malfunction report as specified in § 63.10(d)(5)(ii) of subpart A of this part.

(j) *Reports of equipment leaks.* The owner or operator of an affected source subject to the standards in § 63.1363, shall implement the reporting requirements specified in § 63.1363(h). Copies of all reports shall be retained as records for a period of 5 years, in accordance with the requirements of § 63.10(b)(1) of subpart A of this part.

(k) *Reports of emissions averaging.* The owner or operator of an affected source that chooses to comply with the requirements of § 63.1362(h) shall submit all information as specified in § 63.1367(d) for all emission points included in the emissions average. The owner or operator shall also submit to the Administrator all information specified in paragraph (g) of this section for each emission point included in the emissions average.

(1) The reports shall also include the information listed in paragraphs (k)(1)(i) through (iv) of this section:

(i) Any changes to the processes, storage tanks, or waste management unit included in the average.

(ii) The calculation of the debits and credits for the reporting period.

(iii) Changes to the Emissions Averaging Plan which affect the calculation methodology of uncontrolled or controlled emissions or the hazard or risk equivalency determination.

(iv) Any changes to the parameters monitored according to § 63.1366(g).

(2) Every second semiannual or fourth quarterly report, as appropriate, shall include the results according to § 63.1367(d)(4) to demonstrate the emissions averaging provisions of § 63.1362(h), § 63.1365(h), § 63.1366(g), and § 63.1367(d) are satisfied.

(l) *Reports of heat exchange systems.* The owner or operator of an affected source subject to the requirements for heat exchange systems in § 63.1362(f) shall submit information about any delay of repairs as specified in § 63.104(f)(2) of subpart F of this part, except that when the phrase ''periodic reports required by § 63.152(c) of subpart G of this part'' is referred to in § 63.104(f)(2) of subpart F of this part, the periodic reports required in paragraph (g) of this section shall apply for the purposes of this subpart.

(m) *Notification of performance test and test Plan.* The owner or operator of an affected source shall notify the Administrator of the planned date of a performance test at least 60 days before the test in accordance with § 63.7(b) of subpart A of this part. The owner or operator also must submit the test Plan required by § 63.7(c) of subpart A of this part and the emission profile required by § 63.1365(b)(10)(ii) with the notification of the performance test.

(n) *Request for extension of compliance.* The owner or operator may submit to the Administrator a request for an extension of compliance in accordance with § 63.1364(a)(2).

(o) The owner or operator who submits an operating permit application before the date the Emissions Averaging Plan is due shall submit the information specified in paragraphs (o)(1) through (3) of this section with the operating permit application instead of the Emissions Averaging Plan.

(1) The information specified in § 63.1367(d) for emission points included in the emissions average;

(2) The information specified in § 63.9(h) of subpart A of this part, as applicable; and

(3) The information specified in paragraph (e) of this section, as applicable.

§ 63.1369 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 112(d) of the CAA, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) The authority conferred in § 63.177 of subpart H of this part, the authority to approve applications for determination of equivalent means of emission limitation, and the authority to approve alternative test methods shall not be delegated to any State.

TABLE 1 TO SUBPART MMM OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM

Reference to subpart A	Applies to subpart MMM	Explanation
§ 63.1(a)(1)	Yes	Additional terms are defined in § 63.1361.
§ 63.1(a)(2)–(3)	Yes	
§ 63.1(a)(4)	Yes	Subpart MMM (this table) specifies applicability of each paragraph in subpart A to subpart MMM.
§ 63.1(a)(5)	N/A	Reserved.
§ 63.1(a)(6)–(7)	Yes	
§ 63.1(a)(8)	No	Discusses State programs.
§ 63.1(a)(9)	N/A	Reserved.
§ 63.1(a)(10)–(14)	Yes	

TABLE 1 TO SUBPART MMM OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM—Continued

Reference to subpart A	Applies to subpart MMM	Explanation
§ 63.1(b)(1)	No	§ 63.1360 specifies applicability.
§ 63.1(b)(2)–(3)	Yes	
§ 63.1(c)(1)	Yes	Subpart MMM (this table) specifies the applicability of each paragraph in subpart A to sources subject to subpart MMM.
§ 63.1(c)(2)	No	Area sources are not subject to subpart MMM.
§ 63.1(c)(3)	N/A	Reserved.
§ 63.1(c)(4)–(5)	Yes	
§ 63.1(d)	N/A	Reserved.
§ 63.1(e)	Yes	
§ 63.2	Yes	Additional terms are defined in § 63.1361; when overlap between subparts A and MMM occurs, subpart MMM takes precedence.
§ 63.3	Yes	Other units used in subpart MMM are defined in that subpart.
§ 63.4(a)(1)–(3)	Yes	
§ 63.4(a)(4)	N/A	Reserved.
§ 63.4(a)(5)–(c)	Yes	
§ 63.5(a)	Yes	Except the term ''affected source'' shall apply instead of the terms ''source'' and ''stationary source'' in § 63.5(a)(1) of subpart A.
§ 63.5(b)(1)	Yes	
§ 63.5(b)(2)	N/A	Reserved.
§ 63.5(b)(3)–(5)	Yes	
§ 63.5(b)(6)	No	§ 63.1360(g) specifies requirements for determining applicability of added PAI equipment.
§ 63.5(c)	N/A	Reserved.
§ 63.5(d)–(e)	Yes	
§ 63.5(f)(1)	Yes	Except ''affected source'' shall apply instead of ''source'' in § 63.5(f)(1) of subpart A.
§ 63.5(f)(2)	Yes	
§ 63.6(a)	Yes	
§ 63.6(b)(1)–(2)	No	§ 63.1364 specifies compliance dates.
§ 63.6(b)(3)–(4)	Yes	
§ 63.6(b)(5)	Yes.	
§ 63.6(b)(6)	N/A	Reserved.
§ 63.6(b)(7)	Yes	
§ 63.6(c)(1)–(2)	Yes	Except ''affected source'' shall apply instead of ''source'' in § 63.6(c)(1)–(2) of subpart A.
§ 63.6(c)(3)–(4)	N/A	Reserved.
§ 63.6(c)(5)	Yes	
§ 63.6(d)	N/A	Reserved.
§ 63.6(e)	Yes	Except § 63.1360 specifies that the standards in subpart MMM apply during startup and shutdown for batch processes; therefore, these activities would not be covered in the startup, shutdown, and malfunction Plan.
§ 63.6(f)	Yes	Except § 63.1360 specifies that the standards in subpart MMM also apply during startup and shutdown for batch processes.
§ 63.6(g)	Yes	An alternative standard has been proposed; however, affected sources will have the opportunity to demonstrate other alternatives to the Administrator.
§ 63.6(h)	No	Subpart MMM does not contain any opacity or visible emissions standards.
§ 63.6(i)(1)	Yes	
§ 63.6(i)(2)	Yes	Except ''affected source'' shall apply instead of ''source'' in § 63.6(i)(2)(i) and (ii) of subpart A.
§ 63.6(i)(3)–(14)	Yes	
§ 63.6(i)(15)	N/A	Reserved.
§ 63.6(i)(16)	Yes	
§ 63.6(j)	Yes	
§ 63.7(a)(1)	Yes	
§ 63.7(a)(2)(i)–(vi)	Yes	§ 63.1368 specifies that test results must be submitted in the Notification of Compliance Status due 150 days after the compliance date.
§ 63.7(a)(2)(vii)–(viii)	N/A	Reserved.
§ 63.7(a)(2)(ix)–(c)	Yes	
§ 63.7(d)	Yes	Except ''affected source'' shall apply instead of ''source'' in § 63.7(d) of subpart A.
§ 63.7(e)(1)	Yes	§ 63.1365 contains test methods specific to PAI sources.
§ 63.7(e)(2)	Yes	
§ 63.7(e)(3)	Yes	Except § 63.1365 specifies less than 3 runs for certain tests.
§ 63.7(e)(4)	Yes.	
§ 63.7(f)	Yes	
§ 63.7(g)(1)	Yes	Except § 63.1368(a) specifies that the results of the performance test be submitted with the Notification of Compliance Status report
§ 63.7(g)(2)	N/A	Reserved.
§ 63.7(g)(3)	Yes	
§ 63.7(h)	Yes	
§ 63.8(a)(1)–(2)	Yes	

TABLE 1 TO SUBPART MMM OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM—Continued

Reference to subpart A	Applies to subpart MMM	Explanation
§ 63.8(a)(3)	N/A	Reserved.
§ 63.8(a)(4)	Yes	
§ 63.8(b)(1)	Yes	
§ 63.8(b)(2)	No	§ 63.1366 specifies CMS requirements.
§ 63.8(b)(3)–(c)(3)	Yes	Except the submittal date of the immediate startup, shutdown, and malfunction reports for CMS events shall be 2 days as in § 63.6(e)(3)(iv).
§ 63.8(c)(4)	No	§ 63.1366 specifies monitoring frequencies.
§ 63.8(c)(5)–(8)	No	
§ 63.8(d)–(f)(3)	Yes	
§ 63.8(f)(4)	Yes	Except § 63.1368(b) specifies that requests may also be included in the Precompliance report.
§ 63.8(f)(5)	Yes	
§ 63.8(f)(6)	No	Subpart MMM does not require CEM's.
§ 63.8(g)	No	§ 63.1366 specifies data reduction procedures.
§ 63.9(a)–(d)	Yes	
§ 63.9(e)	No	
§ 63.9(f)	No	Subpart MMM does not contain opacity and visible emission standards.
§ 63.9(g)	No	
§ 63.9(h)(1)	Yes	
§ 63.9(h)(2)(i)	Yes	Except § 63.1368(a)(1) specifies additional information to include in the Notification of Compliance Status report.
§ 63.9(h)(2)(ii)	No	§ 63.1368 specifies the Notification of Compliance Status report is to be submitted within 150 days after the compliance date.
§ 63.9(h)(3)	Yes	
§ 63.9(h)(4)	N/A	Reserved.
§ 63.9(h)(5)–(6)	Yes	
§ 63.9(i)–(j)	Yes	Except § 63.9(j) does not apply for changes in information in the notification of compliance status report on equipment leaks as specified in § 63.1363(h)(2).
§ 63.10(a)–(b)(1)	Yes	
§ 63.10(b)(2)	No	§ 63.1367 specifies recordkeeping requirements.
§ 63.10(b)(3)	Yes	
§ 63.10(c)	Yes	
§ 63.10(d)(1)	Yes	
§ 63.10(d)(2)	Yes	
§ 63.10(d)(3)	No	Subpart MMM does not include opacity and visible emission standards.
§ 63.10(d)(4)	Yes	
§ 63.10(d)(5)	Yes	Except that actions and reporting for batch processes do not apply during startup and shutdown.
§ 63.10(e)(1)–(2)(i)	Yes	
§ 63.10(e)(2)(ii)	No	Subpart MMM does not include opacity monitoring requirements.
§ 63.10(e)(3)	Yes	
§ 63.10(e)(4)	No	Subpart MMM does not include opacity monitoring requirements.
§ 63.10(f)	Yes	
§ 63.11–§ 63.15	Yes.	

TABLE 2 TO SUBPART MMM OF PART 63—STANDARDS FOR NEW AND EXISTING PAI SOURCES

Emission source	Applicability	Requirement
Process vents	Existing:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	90% for organic HAP per process or to outlet concentration of ≤20 ppmv TOC.
	Processes having uncontrolled HCl and chlorine emissions ≥6.8 Mg/yr.	94% for HCl and chlorine per process or to outlet HCl and chlorine concentration of ≤20 ppmv.
	Individual process vents meeting flow and mass emissions criteria that have gaseous organic HAP emissions controlled to less than 90% on or after November 10, 1997.	98% gaseous organic HAP control per vent or ≤20 ppmv TOC outlet limit.
	New:	
	Processes having uncontrolled organic HAP emissions ≥0.15 Mg/yr.	98% for organic HAP per process or ≤20 ppmv TOC.
	Processes having uncontrolled HCl and chlorine emissions ≥6.8 Mg/yr and <191 Mg/yr.	94% for HCl and chlorine per process or to outlet concentration of ≤20 ppmv HCl and chlorine.
	Processes having uncontrolled HCl and chlorine emissions ≥191 Mg/yr.	99% for HCl and chlorine per process or to outlet concentration of ≤20 ppmv HCl and chlorine.
Storage vessels	Existing: ≥75 m^3 capacity and vapor pressure ≥3.45 kPa	Install a floating roof, reduce HAP by 95% per vessel, or to outlet concentration of ≤20 ppmv TOC.
	New: ≥38 m^3 capacity and vapor pressure ≥16.5 kPa	Same as for existing sources.
	≥75 m^3 capacity and vapor pressure ≥3.45 kPa	Same as for existing sources.

TABLE 2 TO SUBPART MMM OF PART 63—STANDARDS FOR NEW AND EXISTING PAI SOURCES—Continued

Emission source	Applicability	Requirement
Wastewater [a]	Existing: Process wastewater with ≥10,000 ppmw Table 9 compounds at any flowrate or ≥1,000 ppmw Table 9 compounds at ≥10 L/min, and maintenance wastewater with HAP load ≥5.3 Mg per discharge event.	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	New:	
	Same criteria as for existing sources	Reduce concentration of total Table 9 compounds to <50 ppmw (or other options).
	Total HAP load in wastewater POD streams ≥2,100 Mg/yr..	99% reduction of Table 9 compounds from all streams.
Equipment leaks	Subpart H	Subpart H with minor changes, including monitoring frequencies consistent with the proposed CAR.
Product dryers and bag dumps.	Dryers used to dry PAI that is also a HAP, and bag dumps used to introduce feedstock that is a solid and a HAP.	Particulate matter concentration not to exceed 0.01 gr/dscf.
Heat exchange systems.	Each heat exchange system used to cool process equipment in PAI manufacturing operations.	Monitoring and leak repair program as in HON.

[a] Table 9 is listed in the appendix to subpart G of 40 CFR part 63.

TABLE 3 TO SUBPART MMM OF PART 63—MONITORING REQUIREMENTS FOR CONTROL DEVICES [a]

Control device	Monitoring equipment required	Parameters to be monitored	Frequency
All control devices	1. Flow indicator installed at all bypass lines to the atmosphere and equipped with continuous recorder or.	1. Presence of flow diverted from the control device to the atmosphere or.	Hourly records of whether the flow indicator was operating and whether a diversion was detected at any time during each hour.
	2. Valves sealed closed with car-seal or lock-and-key configuration.	2. Monthly inspections of sealed valves.	Monthly.
Scrubber	Liquid flow rate or pressure drop mounting device. Also a pH monitor if the scrubber is used to control acid emissions..	1. Liquid flow rate into or out of the scrubber or the pressure drop across the scrubber..	1. Every 15 minutes.
		2. pH of effluent scrubber liquid	2. Once a day.
Thermal incinerator	Temperature monitoring device installed in firebox or in ductwork immediately downstream of firebox [b].	Firebox temperature	Every 15 minutes.
Catalytic incinerator	Temperature monitoring device installed in gas stream immediately before and after catalyst bed.	Temperature difference across catalyst bed.	Every 15 minutes.
Flare	Heat sensing device installed at the pilot light.	Presence of a flame at the pilot light.	Every 15 minutes.
Boiler or process heater <44 megawatts and vent stream is not mixed with the primary fuel.	Temperature monitoring device installed in firebox [b].	Combustion temperature	Every 15 minutes.
Condenser	Temperature monitoring device installed at condenser exit.	Condenser exit (product side) temperature.	Every 15 minutes.
Carbon adsorber (nonregenerative)	None	Operating time since last replacement.	N/A.
Carbon adsorber (regenerative)	Stream flow monitoring device, and.	1. Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle(s).	1. For each regeneration cycle, record the total regeneration stream mass or volumetric flow.
	Carbon bed temperature monitoring device.	2. Temperature of carbon bed after regeneration.	2. For each regeneration cycle, record the maximum carbon bed-temperature.
		3. Temperature of carbon bed within 15 minutes of completing any cooling cycle(s).	3. Within 15 minutes of completing any cooling cycle, record the carbon bed temperature.
		4. Operating time since end of last regeneration.	4. Operating time to be based on worst-case conditions.
		5. Check for bed poisoning	5. Yearly.

[a] As an alternative to the monitoring requirements specified in this table, the owner or operator may use a CEM meeting the requirements of Performance Specifications 8 or 9 of appendix B of part 60 to monitor TOC every 15 minutes.

[b] Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.

TABLE 4 TO SUBPART MMM OF PART 63—CONTROL REQUIREMENTS FOR ITEMS OF EQUIPMENT THAT MEET THE CRITERIA OF § 63.1362(K)

Item of equipment	Control requirement [a]
Drain or drain hub	(a) Tightly fitting solid cover (TFSC); or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.1256(h)(2); or (c) Water seal with submerged discharge or barrier to protect discharge from wind.
Manhole [b]	(a) TFSC; or (b) TFSC with a vent to either a process, or to a fuel gas system, or to a control device meeting the requirements of § 63.1256(h)(2); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
Lift station	(a) TFSC; or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.1256(h)(2); or (c) If the lift station is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter. The lift station shall be level controlled to minimize changes in the liquid level.
Trench	(a) TFSC; or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.1256(h)(2); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
Pipe	Each pipe shall have no visible gaps in joints, seals, or other emission interfaces.
Oil/Water separator	(a) Equip with a fixed roof and route vapors to a process, or equip with a closed-vent system that routes vapors to a control device meeting the requirements of § 63.1256(h)(2); or (b) Equip with a floating roof that meets the equipment specifications of § 60.693 (a)(1)(i), (a)(1)(ii), (a)(2), (a)(3), and (a)(4).
Tank	Maintain a fixed roof.[c] If the tank is sparged [d] or used for heating or treating by means of an exothermic reaction, a fixed roof and a system shall be maintained that routes the organic hazardous air pollutants vapors to other process equipment or a fuel gas system, or a closed-vent system that routes vapors to a control device that meets the requirements of 40 CFR § 63.119(e)(1) or (e)(2).

[a] Where a tightly fitting solid cover is required, it shall be maintained with no visible gaps or openings, except during periods of sampling, inspection, or maintenance.
[b] Manhole includes sumps and other points of access to a conveyance system.
[c] A fixed roof may have openings necessary for proper venting of the tank, such as pressure/vacuum vent, j-pipe vent.
[d] The liquid in the tank is agitated by injecting compressed air or gas.

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federal register

Wednesday
June 23, 1999

Part III

Department of Housing and Urban Development

24 CFR Part 968

Comprehensive Improvement Assistance Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 968

[Docket No. FR–4462–F–02]

RIN 2577–AB97

Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the Comprehensive Improvement Assistance Program (CIAP) to permit the non-competitive distribution of CIAP funds to all eligible public housing authorities (PHAs) based on two equally-weighted factors: a PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). The purpose of this amendment is to provide small PHAs the opportunity of a transition period to become familiar with a non-competitive, capital funding process in anticipation of formula funding in Federal Fiscal Year (FFY) 2000 under new statutory authority.

DATES: Effective date: July 23, 1999.

FOR FURTHER INFORMATION CONTACT: William J. Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4134, Washington, DC 20410. Telephone (202) 708–1640. (This is not a toll free number.) Persons with hearing or speech impediments may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Comprehensive Improvement Assistance Program (CIAP) is authorized under section 14 of the United States Housing Act of 1937 (1937 Act). CIAP provides modernization funds to public housing authorities (PHAs) that own or operate less than 250 units of public housing, to enable them to improve the physical condition and upgrade the management and operations of existing public housing developments to assure their continued availability for low-income families. In FFY 1999, a total of $2.895 billion is available for Modernization Programs (CIAP and Comprehensive Grant Program (CGP)), of which approximately $364 million will be available to CIAP PHAs.

On April 30, 1999 (64 FR 23484), HUD published and requested comment on a proposed rule to amend the CIAP regulations to permit the distribution of funds, after the formula allocation described in 24 CFR 968.103, to all eligible PHAs on a non-competitive basis.

II. Response to Public Comments

HUD received a total of 18 public comments on the April 30, 1999 proposed rule, 15 from PHAs and three from industry associations. The comments were almost entirely positive and in support of the proposed rule stating, for example, that the rule would allow PHAs to plan improvements each year based on funding they know they will receive rather than hope they will receive as in the past.

A few comments suggested changes to the proposal, primarily to the formula factors. Suggested as alternative or additional factors to use in the formula were: age of units; management performance; prior unfunded CIAP applications; geographic location; availability of other government funding; market competition with other federal rent subsidized units; need, generally; and counting each studio unit as a half-bedroom, rather than a one-bedroom, unit. HUD acknowledges that many more or different factors could be considered, but for purposes of the FFY 1999 distribution, the final year of CIAP funding which this rule addresses, basically agrees with the comment that commended HUD for not complicating the formula with a multitude of other factors and stated: ''Basing the formula only on the number of units and the bedroom distribution appears simple and straightforward.'' Section 519 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1998) (the ''Public Housing Reform Act''), authorizes a new system of funding capital improvement needs for all PHAs, large and small, on a formula basis beginning in FFY 2000.

Other comments focused on the vacancy preference provided in the proposed rule. One comment explicitly supported the retention of preferences for emergency modernization and vacancy reduction. Another comment stated that a vacancy factor of 25% is too high for a small PHA, and the presence of such a high rate suggests severe physical conditions, poor management, or design or area factors that would not be overcome with minor amounts of CIAP funding. HUD presently considers this factor an appropriate threshold as the determinant of an emergency that merits additional funding, but will monitor the requests for and use of emergency funds for future reconsideration.

In consideration of the strong positive response to the proposed rule, HUD is adopting it as final without change.

Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements of the Comprehensive Improvement Assistance Program have been approved by the Office of Management and Budget under OMB Approval No. 2577–0044. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(2) of the HUD regulations, this rule amends an existing document, the regulations at 24 CFR part 968, which as a whole would not fall within an exclusion, but the amendment by itself would do so. Therefore, the actions in this document are determined not to have the potential of having a significant impact on the quality of the human environment and further review under the National Environmental Policy Act is not necessary. A Finding of No Significant Impact (FONSI) is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh

Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule would only modify the funding process for the final year of the CIAP to provide small PHAs with a transition period to become familiar with a non-competitive capital funding process.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. The rule would only modify the funding process for the final year of the CIAP to provide small PHAs with a transition period to become familiar with a non-competitive capital funding process.

Catalog of Domestic Assistance Numbers

The Catalog of Domestic Assistance numbers for the Comprehensive Improvement Assistance Program is 14.852.

List of Subjects

24 CFR Part 968

Grant programs—housing and community development, Indians, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, part 968 of title 24 of the Code of Federal Regulations is amended as follows:

PART 968—PUBLIC HOUSING MODERNIZATION

1. The authority citation for 24 CFR part 968 continues to read as follows:

Authority: 42 U.S.C. 1437d, 1437l, and 3535(d).

2. In § 968.110, paragraph (a) is revised to read as follows:

§ 968.110 Other program requirements.

* * * * *

(a) *Nondiscrimination and equal opportunity.* The PHA shall comply with Title II of the Americans with Disabilities Act and 28 CFR part 35; section 504 of the Rehabilitation Act of 1973 and 41 CFR part 60–471; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) and 24 CFR part 40.

* * * * *

3. Section 968.210 is revised to read as follows:

§ 968.210 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* After modernization funds for a particular FFY become available, HUD will notify PHAs of the time frame for submission of the CIAP application and other pertinent information.

(b) *Distribution of funding.* HUD will distribute the available funding under this subpart to every eligible PHA that responds to the notice issued pursuant to paragraph (a) of this section based on two equally-weighted factors: a PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). HUD will also provide a vacancy preference, consisting of an additional increment of funding, to PHAs that have modernization capability and demonstrate that at least 25% of their units are vacant, substandard units (where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at § 968.205.

(c) *ACC amendment.* HUD and the PHA shall enter into an ACC amendment in order for the PHA to draw down modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). The PHA Executive Director, where authorized by the Board of Commissioners and permitted by State law, may sign the ACC amendment on behalf of the PHA. HUD has the authority to condition an ACC amendment (e.g., to require a PHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(d) *Declaration of trust.* As HUD may require, the PHA shall execute and file for record a Declaration of Trust, as provided under the ACC, to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

Dated: June 15, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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federal register

Wednesday
June 23, 1999

Part IV

Department of Housing and Urban Development

24 CFR Part 960

Pet Ownership in Public Housing; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 960

[Docket No. FR–4437–P–01]

RIN 2577–AB94

Pet Ownership in Public Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish pet ownership requirements for residents of public housing other than federally assisted rental housing for the elderly or persons with disabilities. Regulations covering pet ownership requirements for residents of federally assisted rental housing for the elderly or persons with disabilities are located at 24 CFR part 5, subpart C. This proposed rule would not alter or affect these current regulations in any way.

DATES: *Comments Due Date:* August 23, 1999.

ADDRESSES: Submit your comments about this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Your comments should refer to the above docket number and title. We do not accept facsimile (FAX) comments. A copy of each comment submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia S. Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Room 4222, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–5000; telephone (202) 708–0744 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

a. Pet Ownership in Public Housing—Section 31 of the United States Housing Act of 1937

Section 526 of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105–276, 112 Stat. 2461, 2568)(the Public Housing Reform Act of 1998) added new section 31 (captioned ''Pet Ownership in Public Housing'') to the United States Housing Act of 1937 (42 U.S.C. 1437z–3)(the 1937 Act). Section 31 establishes pet ownership requirements for residents of public housing other than federally assisted rental housing for the elderly or persons with disabilities.[1] Section 31(a) of the 1937 Act (captioned ''Ownership Conditions'') states that:

> A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

Section 31(b) of the 1937 Act (captioned ''Reasonable Requirements'') lists a number of requirements that are reasonable for the purposes of section 31(a) and that a public housing agency may impose on residents who own or have pets in their dwelling units. These requirements may include:

(1) Requiring the payment of a non-refundable nominal fee, a refundable pet deposit, or both;

(2) Limitations on the number of animals in a unit based on unit size;

(3) Prohibitions against dangerous animals and other animals based on certain factors including size and weight; and

(4) Restrictions and prohibitions based on size and type of building or project or other relevant conditions.

b. Pet Ownership for the Elderly and Persons With Disabilities—Section 227 of the Housing and Urban-Rural Recovery Act of 1983

It is important to note that section 31 of the 1937 Act does not apply to public housing that is federally assisted rental housing for the elderly or persons with disabilities. Section 227 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r–1) (the 1983 Act) covers pet ownership requirements for this type of housing. There are existing regulations that implement section 227 of the 1983 Act located at 24 CFR part 5, subpart C. This proposed rule would not alter or affect these regulations in any way, nor would the regulations at part 5, subpart C apply in any way to public housing that is covered by section 31 of the 1937 Act. This proposed rule is not related in any way to section 227 of the 1983 Act nor the regulations that implement section 227 located at 24 CFR part 5, subpart C. This proposed rule would implement section 31 of the 1937 Act in 24 CFR part 960, rather than part 5, in part, to make this distinction clear.

c. This Proposed Rule

This proposed rule would implement new section 31 of the 1937 Act by adding new subpart G to 24 CFR part 960. The proposed rule would add four new sections to subpart G. These sections would comprise the entire subpart. New § 960.701 (captioned ''Purpose'') would state that the purpose of subpart G is to implement section 31 of the 1937 Act. New § 960.703 (captioned ''Applicability'') would limit the applicability of the subpart G regulations to public housing other than federally assisted rental housing for the elderly or persons with disabilities. New § 960.703 would also direct readers to 24 CFR part 5, subpart C, for regulations covering pet ownership requirements for federally assisted rental housing for the elderly or persons with disabilities.

New § 960.707 (captioned ''Pet ownership'') would implement the primary requirements of section 31 of the 1937 Act. The structure of new § 960.707 closely follows the structure of section 31. This proposed rule would implement section 31 in this way in order to provide public housing agencies (PHAs) with discretion to fashion pet requirements that reflect local needs. HUD's decision to allow PHAs this discretion derives from the basic policy, reflected in section 502(b) of the Public Housing Reform Act of 1998 (42 U.S.C. 1437 note), of deregulating and decontrolling PHAs.

In addition to the primary requirements of section 31, new § 960.707 would clarify that the non-refundable nominal fee that public housing agencies may require residents to pay is intended to cover the reasonable operating costs to the project, and that the refundable pet deposit is intended to cover additional costs not otherwise covered. New § 960.707 would also clarify that if public housing agencies require a resident to pay a pet deposit, the deposit must be placed in an escrow account and the public housing agency must refund the unused portion of the deposit, plus any accrued interest, to the resident within a reasonable time after the resident moves from the project or no longer owns or

[1] Section 31 of the 1937 Act uses the term ''federally assisted rental housing for the elderly or handicapped.'' HUD prefers to use the term ''persons with disabilities'' in place of the term ''handicapped.'' Accordingly, this preamble uses the term ''persons with disabilities'' wherever possible. However, because HUD's regulations must comply with the statutory authority upon which they are based, the text of the regulations proposed by this rule retains the language of the 1937 Act.

has a pet present in the resident's dwelling unit.

d. Service Animals That Assist Persons With Disabilities

New § 960.705 (captioned ''Service animals that assist persons with disabilities'') would clarify that the regulations that would be added by this proposed rule would not apply to service animals that assist persons with disabilities. New § 960.705 would clarify that this exclusion would apply to both service animals that reside in public housing, covered under section 31 of the 1937 Act, and service animals that visit these projects. New § 960.705 would also clarify that nothing in new subpart G limits or impairs the rights of persons with disabilities, authorizes PHAs to limit or impair the rights of persons with disabilities, or affects any authority PHAs may have to regulate service animals that assist persons with disabilities.

II. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190, 83 Stat. 852, 853, codified as amended at 42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule implements section 31 of the United States Housing Act of 1937, which establishes pet ownership requirements for public housing other than federally assisted rental housing for the elderly or persons with disabilities.

Section 31, and the regulations proposed by this rule, allow public housing agencies to require residents that own or have pets in their dwelling units to pay a non-refundable nominal fee to cover the reasonable operating costs to the project relating to the presence of pets, a refundable pet deposit to cover additional costs not otherwise covered, or both. Consequently, HUD does not believe that this proposed rule would have a significant economic impact on a substantial number of small entities.

While HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities, we welcome any comments regarding alternatives to this rule that would meet HUD's objectives, as described in this preamble, and would be less burdensome to small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, 109 Stat. 48, 64, codified at 2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (captioned ''Federalism''), has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government.

Regulatory Planning and Review

The Office of Management and Budget (OMB) has reviewed this rule under Executive Order 12866 (captioned ''Regulatory Planning and Review'') and determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) at the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

List of Subjects in 24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Pets, Public housing.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 960 as follows:

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

1. The authority citation for 24 CFR part 960 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z–3, and 3535(d).

2. Add subpart G to read as follows:

Subpart G—Pet Ownership in Public Housing

Sec.
960.701 Purpose.
960.703 Applicability.
960.705 Service animals that assist persons with disabilities.
960.707 Pet ownership.

Subpart G—Pet Ownership in Public Housing

§ 960.701 Purpose.

The purpose of this subpart is to implement section 31 of the United States Housing Act of 1937 (42 U.S.C. 1437z–3).

§ 960.703 Applicability.

This subpart applies to public housing as that term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 227(d) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r–1(d)). Regulations that apply to pet ownership in federally assisted rental housing for the elderly or handicapped are located at 24 CFR part 5, subpart C.

§ 960.705 Service animals that assist persons with disabilities.

(a) This subpart G does not apply to service animals that assist persons with disabilities. Public housing agencies may not apply or enforce any policies established under this subpart against service animals that assist persons with disabilities. This exclusion applies to both service animals that reside in public housing, as that term is used in § 960.703, and service animals that visit these projects.

(b) Nothing in this subpart G:

(1) Limits or impairs the rights of persons with disabilities;

(2) Authorizes public housing agencies to limit or impair the rights of persons with disabilities; or

(3) Affects any authority that public housing agencies may have to regulate service animals that assist persons with

disabilities, under Federal, State, or local law.

§ 960.707 Pet ownership.

(a) *Ownership Conditions.* A resident of a dwelling unit in public housing, as that term is used in § 960.703, may own one or more common household pets or have one or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet:

(1) Responsibly;

(2) In accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations; and

(3) In accordance with the policies established in the public housing agency plan for the agency.

(b) *Reasonable requirements.* Reasonable requirements may include but are not limited to:

(1) Requiring payment of a non-refundable nominal fee to cover the reasonable operating costs to the project relating to the presence of pets, a refundable pet deposit to cover additional costs not otherwise covered, or both;

(2) Limitations on the number of animals in a unit, based on unit size;

(3) Prohibitions on types of animals that are classified as dangerous, and prohibitions on individual animals, based on certain factors, including the size and weight of animals; and

(4) Restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) *Pet deposit.* A public housing agency that requires a resident to pay a pet deposit must place the deposit in an escrow account, and the public housing agency must refund the unused portion of the deposit, plus any accrued interest, to the resident within a reasonable time after the resident moves from the project or no longer owns or has a pet present in the dwelling unit of such resident.

(d) *Public Housing Agency Plan.* Any policies established under this section must be included in the public housing agency's public housing agency plan.

Dated: June 8, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–15734 Filed 6–22–99; 8:45 am]

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federal register

Wednesday
June 23, 1999

Part V

Department of Housing and Urban Development

24 CFR Part 964

Public Housing Agency Organization; Required Resident Membership on Board of Directors or Similar Governing Body; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 964

[Docket No. FR–4502–P–01]

RIN 2577–AC13

Public Housing Agency Organization; Required Resident Membership on Board of Directors or Similar Governing Body

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement section 2(b) of the United States Housing Act of 1937, which was added by section 505 of the Quality Housing and Work Responsibility Act of 1998 (the Public Housing Reform Act of 1998). Section 2(b) requires, with certain exceptions, that the membership of the board of directors or similar governing body of a public housing agency must contain not less than one member who is directly assisted by the public housing agency.

DATES: *Comments Due Date:* August 23, 1999.

ADDRESSES: Submit your comments about this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Your comments should refer the above docket number and title. We do not accept facsimile (FAX) comments. A copy of each comment submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives, Room 4116, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410–5000; telephone (202) 708–0713 (this is not a toll-free number) or Paula Blunt, Associate Deputy Assistant Secretary for Community Relations and Involvement, Room 4226, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410–5000; telephone (202) 619–8201 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

a. Public Housing Reform

Section 505 of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105–276, 112 Stat. 2461)(the Public Housing Reform Act of 1998) amended section 2 of the United States Housing Act of 1937 (42 U.S.C. 1437)(the 1937 Act). New section 2(b)(1) of the 1937 Act requires, except in certain cases, that:

> the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—(A) who is directly assisted by the public housing agency; and (B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

New section 2(b)(2) of the 1937 Act establishes two exceptions to the resident board member requirement. First, public housing agencies that are located in a State that requires the members of a board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis are excepted from the resident board member requirement. Second, public housing agencies with less than 300 units are excepted from the resident board member requirement if they meet two conditions:

(1) The public housing agency must provide reasonable notice to the resident advisory board of the opportunity for residents to serve on the agency's board of directors or similar governing body; and

(2) The public housing agency must wait a reasonable time after the resident advisory board has received this notice.

If the public housing agency has not been notified within this reasonable time that any resident intends to participate on the board of directors, then the public housing agency is excepted from the resident board member requirement.

Section 2(b) also makes clear that no person may be prohibited from serving on the board of directors or similar governing body of the public housing agency because that person is a public housing resident or is assisted under section 8 of the 1937 Act (42 U.S.C. 1437f)(section 8).

b. This Proposed Rule

This proposed rule would implement section 2(b) of the 1937 Act in a new subpart E (captioned ''Resident board members'') in 24 CFR part 964 (captioned ''Tenant Participation and Tenant Opportunities in Public Housing''). In addition, this proposed rule would also revise § 964.3 (captioned ''Applicability and scope'') to clarify that while part 964 generally applies only to public housing residents, new subpart E would apply to both public housing residents and persons assisted under section 8.

The proposed rule would implement the requirements of section 2(b) discussed above. In addition, the proposed rule would clarify a number of issues raised by section 2(b) as follows:

(1) *Exception for public housing agencies not governed by board.* Public housing agencies that are not governed by a board of directors or similar governing body would be excepted.

(2) *Resident is full member.* A resident board member would be a full member of the board of directors or similar governing body. The board would not be able to exclude a resident board member from participating in any matter before the board on the grounds that the resident board member's lease with the public housing agency either results or may result in a conflict of interest, unless the matter is clearly applicable to the resident board member only in a personal capacity.

(3) *Initial implementation of requirement.* A board of directors or similar governing body would be required to comply with the following deadlines, unless the membership of the board already contains at least one resident board member. If the board consists of appointed board members, the first seat on the board that becomes open on or after October 1, 1999, would have to be filled by an eligible resident. If the board consists of elected board members, the chief executive officer of the unit of general local government whose jurisdiction coincides most directly with the jurisdiction of the public housing agency would have to create at least one additional seat on the board, by December 31, 1999, and would have to fill that seat with an eligible resident. In the case of multi-jurisdictional public housing agencies, the chief executive officers of each unit of general local government that comprises the jurisdiction of the public housing agency would be jointly responsible for creating and filling any additional seats. For the purposes of this rule, the term ''elected board member'' means:

(1) A board member who is elected directly to the board; or

(2) An elected official who serves on the board as a result of being elected to another office (i.e. county commissioner, city council member, etc.).

(4) *Filling open seats.* When the term of a resident board member expires or a seat occupied by, or intended for, a

resident board member otherwise becomes open, the open seat would have to be filled with an eligible resident, unless the membership of the board would continue to have at least one resident board member after the seat becomes open. If the loss of a resident board member would leave the membership of the board with no resident board member, the open seat would have to be filled with an eligible resident and would have to be filled according to the following procedures.

If the public housing agency plan does not provide for an elected resident board member, the board's normal appointing authority would have to appoint an eligible resident to fill the open seat. If there are no eligible residents who wish to serve on the board at the time the seat becomes open, the board would have to continue to make reasonable efforts to identify an eligible resident, until an eligible resident is appointed to board.

If the public housing agency plan provides for an elected resident board member, the board would have to initiate an election process. If there are no eligible residents who wish to stand for election to the board at the time the seat becomes open, the board would have to cancel the election and initiate a new election process when the board identifies an eligible resident who wishes to stand for election. The board would have to continue to make reasonable efforts to identify an eligible resident until an eligible resident is elected to the board.

II. Findings and Certifications

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, under HUD's regulations at 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule implements section 505 of the Public Housing Reform Act of 1998 (42 U.S.C. 1437), which requires with certain exceptions, that the board of directors or similar governing body of a public housing agency contain not less than one member who is directly assisted by the public housing agency. Section 505 and this proposed rule provide flexibility for smaller public housing agencies through an exception for public housing agencies that have less than 300 public housing units. Consequently, HUD does not believe that this proposed rule would have a significant economic impact on a substantial number of small entities.

While HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities, we welcome any comments regarding alternatives to this rule that would meet HUD's objectives, a described in this preamble, and would be less burdensome to small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (captioned ''Federalism''), has determined that the policies contained in this proposed rule would have federalism implications. Specifically, the requirement that the membership of the board of directors or similar governing body of a public housing agency must contain not less than one member who is directly assisted by the public housing agency would have direct effects on any state or local laws that govern the organization of public housing agencies. HUD has prepared and submitted to the Office of Management and Budget a Federalism Assessment that addresses the federalism implications raised by this proposed rule.

Regulatory Planning and Review

The Office of Management and Budget has reviewed this rule under Executive Order 12866 (captioned ''Regulatory Planning and Review'') and determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) at the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

List of Subjects in 24 CFR Part 964

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 964 as follows:

PART 964—TENANT PARTICIPATION AND TENANT OPPORTUNITIES IN PUBLIC HOUSING

1. The authority citation for 24 CFR part 964 is revised to read as follows:

Authority: 42 U.S.C. 1437, 1437d, 1437g, 1437l, 1437r, 1437t, and 3535(d).

2. Revise § 964.3 as follows:

a. Revise paragraph (a) to read as follows;

b. Redesignate paragraph (e) as paragraph (f); and

c. Add new paragraph (e) to read as follows.

§ 964.3 Applicability and scope.

(a) The policies and procedures contained in this part apply to any HA that has a Public Housing Annual Contributions Contract (ACC) with HUD. This part, except for subpart E, does not apply to PHAs with housing assistance payments contracts with HUD under section 8 of the U.S. Housing Act of 1937.

* * * * *

(e) Subpart E of this part implements section 2(b) of the United States Housing Act of 1937 (42 U.S.C. 1437), which provides for resident membership on the board of directors or similar governing body of a public housing agency. Subpart E applies to any public housing agency that has a public housing annual contributions contract with HUD or a housing assistance payments contract with HUD under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

* * * * *

2. Add subpart E to read as follows:

Subpart E—Resident Board Members

Sec.
964.400 Purpose.
964.405 Applicability.

964.410 Additional definitions.
964.415 Resident board members.
964.420 Resident board member may be elected.
964.425 Exceptions.
964.430 Nondiscrimination.
964.435 Initial implementation of resident board member requirement.
964.440 Filling an open board member seat.

Subpart E—Resident Board Members

§ 964.400 Purpose.

The purpose of this subpart is to implement section 2(b) of the United States Housing Act of 1937 (42 U.S.C. 1437).

§ 964.405 Applicability.

This subpart applies to any public housing agency that has a public housing annual contributions contract with HUD or a housing assistance payments contract with HUD under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

§ 964.410 Additional definitions.

The following additional definitions apply to this subpart only:

(a) *Directly assisted.* Directly assisted means a public housing resident or a participant in the tenant-based section 8 program.

(b) *Governing board.* Governing board means the board of directors or similar governing body of a public housing agency.

(c) *Resident board member.* A resident board member is a member of the governing board who is directly assisted by that public housing agency.

(d) *Related unit of general local government.* A related unit of general local government is the unit of State or local government whose jurisdiction coincides most directly with the jurisdiction of the public housing agency, or in the case of a multi-jurisdictional public housing agency, a unit of State or local government whose jurisdiction comprises the jurisdiction of the public housing agency.

(e) *Elected board member.* An elected board member is either a member of the governing board who is elected directly to the governing board or who serves on the board as a result of being elected to another office.

(f) *Eligible resident.* An eligible resident is a resident who is directly assisted by a public housing agency and is eighteen years of age or older.

§ 964.415 Resident board members.

Except as provided in § 964.425, the membership of the governing board of each public housing agency must contain not less than one resident board member.

§ 964.420 Resident board member may be elected.

Residents directly assisted by a public housing agency may elect a resident board member if provided for in the public housing agency plan.

§ 964.425 Exceptions.

The requirements of this subpart do not apply to any public housing agency that:

(a) Is located in a State that requires the members of a governing board to be salaried and to serve on a full-time basis;

(b) Is not governed by a governing board; or

(c) Has less than 300 public housing units provided that the public housing agency has:

(1) Provided reasonable notice to the resident advisory board of the opportunity for residents to serve on the governing board;

(2) Not been notified of the intention of any resident to participate on the governing board within a reasonable time of the resident advisory board receiving the notice described in paragraph (c)(1) of this section; and

(3) Repeated the requirements of paragraphs (c)(1) and (c)(2) of this section at least once every year.

§ 964.430 Nondiscrimination.

(a) *Membership status.* A resident board member is a full member of the governing board.

(b) *Residence status.* A governing board may not prohibit any person from serving on the governing board because that person is a resident of a public housing project or is assisted under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) *Conflict of Interest.* A governing board may not exclude any resident board member from participating in any matter before the governing board on the grounds that the resident board member's lease with the public housing agency either results or may result in a conflict of interest, unless the matter is clearly applicable to the resident board member only in a personal capacity.

§ 964.435 Initial implementation of resident board member requirement.

Unless the membership of its governing board already contains not less than one resident board member, a public housing agency must comply with the following deadlines, as applicable:

(a) *If the governing board consists of appointed board members.* If the governing board consists of appointed board members, the first seat on the governing board that becomes open on or after October 1, 1999, must be filled by an eligible resident according to the requirements of § 964.440.

(b) *If the governing board consists of elected board members.* If the governing board consists of elected board members, the chief executive officer of the related unit of general local government must create at least one additional seat on the governing board, by December 31, 1999, and must fill that seat with an eligible resident according to the requirements § 964.440. In the case of multi-jurisdictional public housing agencies, the chief executive officers of each related unit of general local government are jointly responsible for creating and filling any additional seats.

§ 964.440 Filling an open board member seat.

When the term of a resident board member expires or when a seat occupied by, or intended for, a resident board member otherwise becomes open, the open seat must be filled with an eligible resident, unless the membership of the governing board would continue to contain not less than one resident board member if the open seat were not filled with an eligible resident. An open seat that does not meet this requirement must be filled with an eligible resident according to the following procedures, as applicable:

(a) *If the public housing agency plan does not provide for an elected resident board member.* If the public housing agency plan does not provide for an elected resident board member, the governing board's normal appointing authority must appoint an eligible resident to fill the open seat. If there are no eligible residents who wish to serve on the governing board at the time the seat becomes open, the governing board must continue to make reasonable efforts to identify an eligible resident who wishes to serve on the governing board, until an eligible resident is appointed to the governing board.

(b) *If the public housing agency plan provides for an elected resident board member.* If the public housing agency plan provides for an elected resident board member, the governing board must initiate an election process. If there are no eligible residents who wish to stand for election to the governing board at the time the seat becomes open, the governing board must cancel the election and initiate a new election process when the governing board identifies an eligible resident who wishes to stand for election to the governing board. The governing board must continue to make reasonable efforts to identify an eligible resident

who wishes to stand for election to the governing board until an eligible resident is elected to the governing board.

Dated: June 15, 1999.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–15736 Filed 6–22–99; 8:45 am]

BILLING CODE 4210–33–P

federal register

Wednesday
June 23, 1999

Part VI

Department of Housing and Urban Development

Public Housing Assessment System, Physical Condition Scoring Process; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4509–N–07]

Public Housing Assessment System, Physical Condition Scoring Process

AGENCY: Office of the Director of the Real Estate Assessment Center, HUD.

ACTION: Notice.

SUMMARY: This notice provides additional information to public housing agencies and members of the public about HUD's process for issuing scores under the Physical Condition Indicator of the Public Housing Assessment System (PHAS).

FOR FURTHER INFORMATION CONTACT: For further information contact Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024; telephone Customer Service Center at 1–888–245–4860 (this is a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC Internet Site, http://www.hud.gov/reac.

SUPPLEMENTARY INFORMATION:

Purpose of This Notice

The purpose of this notice is to provide additional information about the scoring process for PHAS Indicator #1, Physical Condition. The purpose of the Physical Condition assessment is to ensure that public housing units are safe, decent, sanitary and in good repair, using HUD's uniform physical condition standards for the assessment. The physical condition assessment under the PHAS utilizes uniform physical inspection procedures to determine compliance with the uniform standards and is an important indicator of a PHA's performance.

Of the total 100 points available for a PHAS score, a PHA may receive up to 30 points under PHAS Indicator #1. The physical condition score is included in the aggregate PHAS score.

The information provided in this notice was originally published on May 13, 1999 (64 FR 26166). HUD is publishing this information again since it relates to the Public Housing Assessment System proposed rule, published in the **Federal Register** on June 22, 1999. This notice is different from the May 13, 1999 notice in the following respects: the information concerning common areas and building exteriors or building systems has been expanded; a new paragraph 16 is added to Section I, and previous paragraph 16 is now paragraph 17; and another inspection summary report model is provided.

The PHAS/REAC Physical Inspection and the HQS Inspection

The PHAS physical inspection is performed by HUD's Real Estate Assessment Center (REAC), and is also referred to as the REAC physical inspection. The REAC physical inspection encompasses virtually everything covered by the Housing Quality Standards (HQS) inspection. The REAC physical inspection, however, is more objective and more defined in identifying and classifying deficiencies. While the HQS inspection generates a reasonably subjective ''pass/fail'' designation, the REAC inspection generates much more comprehensive results, such as:

- Physical scores reported at the property level;
- Area level scores for each of the five REAC physical inspection areas; and
- Observations of deficiencies recorded by the inspector electronically at the time of the inspection.

The Physical Inspection Scoring Process

1. Definitions

The following are the important definitions of terms used in the physical condition scoring process:

Score means a number between 0 and 100 that reflects the physical condition of a property, inspectable area, or sub-area:

- To record a health or safety problem, a letter is added to the property score (a, b, or c); and
- To note that smoke detectors are inoperable or missing, an asterisk (*) is added to the property score.

Inspectable area means any of the five major components of the property, which are:

- Site
- Building exteriors
- Building systems
- Common areas
- Dwelling units

Sub-area means an inspectable area for one building. For example, if a property has more than one building, each inspectable area for each building in the property is treated as a sub-area.

Inspectable items refer to walls, kitchens, bathrooms, and other things to be inspected in an inspectable area. The number of inspectable items may vary from 8 to 17 items for each area. Weights are assigned to each item as shown in Appendix 1 (Item Weights and Criticality Levels).

Deficiencies refer to specific problems, comparable to HQS, that can be recorded for the inspectable items, such as a hole in a wall or a damaged refrigerator in the kitchen.

Criticality means one of five levels that reflect the relative importance of the deficiencies for an inspectable item. Appendix 1 also lists all deficiencies with their designated levels, which vary from 1 to 5, with 5 as the most critical. The deficiencies also have assigned values used in scoring as follows:

Criticality	Level	Value
Critical	5	5.00
Very important	4	3.00
Important	3	2.25
Contributes	2	1.25
Slight contribution	1	0.50

Based on the importance of the deficiency, reflected in its criticality value, points are deducted from the property score. For example, a clogged drain in the kitchen is more critical than a damaged surface on a counter top. Therefore, more points will be deducted for a clogged drain than for a damaged surface.

Severity means one of three levels that reflect the extent of damage associated with each deficiency, with values assigned as follows:

Severity	Value
Severe	1.00
Major	0.50
Minor	0.25

Appendix 1 shows the severity levels that are possible for each deficiency. Based on the severity of each deficiency, the score is reduced. Points deducted are calculated as the product of the item weight and the values for criticality and severity, as described below. For specific definitions of each severity level, see the REAC's ''Dictionary of Deficiency Definitions,'' which is available from REAC's Internet Site, http://www.hud.gov/reac and is reproduced in this Notice as Appendix 2 (Dictionary of Deficiency Definitions).

Normalized area weights mean weights used with area scores to create property level scores. The weights are adjusted to reflect the inspectable items that are present.

2. Scoring Process Input

To generate accurate scores, it is crucial to determine the appropriate relative weights of the various components of the inspection; that is, which components are the most important, the next most important, and so on. To develop the scoring

methodology for the PHAS physical inspection, HUD utilized information provided by several knowledgeable parties, including:

- Professionals experienced in assessing the physical condition of properties;
- Representatives from the housing and public housing industries; and
- HUD professionals.

In an extensive series of meetings, these parties gave HUD valuable advice and comments on the relative weights and values for inspectable areas, items, criticality of deficiencies, and severity levels of deficiencies.

3. Equity Principles

In addition to determining the appropriate relative weights, HUD also took into consideration several issues concerning equity between properties:

Proportionality. The scoring methodology includes an important control, which does not allow any sub-area scores to be negative. If a sub-area, such as the building exterior for a given building, has so many deficiencies that the sub-area score is negative, the score is set to zero. This control mechanism ensures that no single building or dwelling unit can affect the overall score more than its proportionate share of the whole.

Configuration of property. The scoring methodology takes into account that properties have different numbers of units in buildings. To fairly score properties with different numbers of units in buildings, the area scores are calculated for building exteriors and systems by using weighted averages of the sub-area scores, where the weights are based on the number of units in each building.

Differences between properties. The scoring methodology also takes into account that properties have different features and amenities. To ensure that the overall score reflects only items are present to be inspected, weights to calculate area and property scores are adjusted depending on how many items are there to be inspected.

4. Deficiency Definitions

During a physical inspection of a property, the inspector looks for deficiencies for each inspectable item within the inspectable areas, such as the walls (item) of a dwelling unit (area). A specific criticality level is assigned to each deficiency. The criticality level reflects the importance of the deficiency relative to all deficiencies for the item. One of three severity levels is also assigned based on the observed condition.

The REAC's ''Dictionary of Deficiency Definitions'' specifically defines the three levels of severity: severe, major, and minor. As noted earlier, this dictionary is found in Appendix 2 to this notice, and is also available on the REAC Internet Site.

5. Health and Safety Deficiencies

The REAC physical inspection emphasizes health and safety (H&S) deficiencies because of their crucial importance to the well-being of residents. H&S deficiencies can substantially reduce the overall property score. As noted earlier, the H&S deficiencies are highlighted by adding a letter to the numeric score. Letters to the numeric score are added as follows:

- If there are no H&S deficiencies, add a;
- If there are H&S deficiencies that are not life-threatening (NLT), add b; and
- If there are exigent H&S deficiencies that are life threatening(LT), i.e., calling for immediate attention or remedy—or fire safety H&S deficiencies, add c.

Appendix 1 lists all H&S deficiencies with an ''LT'' designation for exigent/fire safety and ''NLT'' for non-life threatening deficiencies.

To ensure prompt correction of H&S deficiencies, the inspector gives the property representative the list of every observed exigent/fire safety H&S deficiency before leaving the site. The property representative acknowledges receipt of the deficiency report by signature. The inspector also transmits the deficiency report to HUD not later than the morning after completing the inspection. HUD sends to all PHAs inspection reports that summarize the H&S deficiencies recorded by the inspector. These reports clearly show:

- The number of H&S deficiencies (exigent/fire safety and non-life threatening) that the inspector observed;
- All observed smoke detector deficiencies; and
- A projection of the total number of H&S problems that the inspector potentially would see in an inspection of all buildings and all units.

If there are smoke detector deficiencies, the physical condition score will include an asterisk. However, problems with smoke detectors do not currently affect the overall score. When there is an asterisk indicating the property has at least one smoke detector deficiency, that part of the score may be identified as ''risk.'' For example, ''93a, risk'' for 93a* and ''71c, risk'' for 71c*.

There are six distinct letter grade combinations: a, a*, b, b*, c and c*. For example:

- A score of 90c* means that the property contains at least one exigent/fire safety H&S deficiency to be corrected, including some smoke detector; deficiencies, but is otherwise in excellent condition.
- A score of 55a means that the property is in poor condition, even though there are no H&S deficiencies; and
- A property in excellent physical condition with no H&S deficiencies would have a score of 90a to 100a.

6. Scoring Process Elements

The physical condition scoring process is based on three elements within a property:

- Inspectable areas;
- Inspectable items; and
- Observed deficiencies.

7. Scoring as Weighted Averages

The score for a property is the weighted average of area scores, with the area weights adjusted to take into account how many of an area's inspectable items are actually present to be inspected.

The area scores are calculated by deriving weighted averages of sub-area scores over buildings or dwelling units as appropriate.

The sub-area scores are calculated by deducting points for deficiencies, based on criticality and severity levels. (Sub-area scores may not be less than zero.) Points are also deducted for H&S deficiencies.

8. Essential Weights and Levels

The process of scoring a property's physical condition depends on the weights, levels, and associated values of several quantities:

- Weights for inspectable areas (5 areas);
- Weights for inspectable items within areas (8 to 17 per area);
- Criticality levels and their associated values for the possible deficiencies within items inspected;
- Severity levels and their associated values for deficiencies; and
- Health and safety deductions (exigent/fire safety and non-life threatening) for site, buildings, and dwelling units.

9. Normalized Area Weights

A property's overall physical condition score is a weighted average of area scores. Approximate relative weights appeared in the PHAS final rule, published on September 1, 1998 (see 63 FR 46596, pages 46598–46599):

Area	Weight (percent)
Site	15
Building exterior	15
Building systems	20
Common areas	15
Dwelling units	35

These weights are assigned if all inspectable items are present for each area for each building and unit. Typically, some areas are missing a number of inspectable items for some or all buildings or units. For example, common areas may be missing in some buildings. When items are missing for an area, the area weight is reduced to reflect the missing item weights and then all area weights are ''normalized'' so that they again add up to 100%. As an example, if there were no common areas, the weights of the other four areas would be reduced to a total of 85%. Each area's weight then would be divided by 0.85, resulting in normalized weights of 17.6%, 17.6%, 23.5%, 0% and 41.2% for site, building exterior, building systems, common areas and units, respectively. These new weights add to 100%.

10. Site, Unit and Sub-Area Scores

These are the steps to arrive at site, unit and sub-area scores for a site, building, or unit:

Step 1: Calculate an ''initial proportionate score''—the difference between the possible points for the site, a building sub-area, or a unit and the deductions associated with the deficiencies recorded. The number of possible points is the total of the inspectable item weights, ignoring the H&S item, for the site, or a building sub-area, or unit.

Step 2: Calculate the deduction for an observed deficiency by multiplying the relevant item weight by the criticality value and by the severity value.

Step 3: In a similar manner, reduce the scores for any health and safety (H&S) deficiencies observed, including those in the H&S item and those in other non-H&S items. (The item weight for deficiencies included in the H&S item is equal to the largest weight among the items present.) At this point, the control to prevent negative scores is applied. Thus, no one building or unit may affect an area score more than its proportionate share would justify.

Step 4: Normalize the resulting proportionate scores to scores based on 100 points by dividing by the total of weights of items present to be inspected, other than the H&S item.

11. Area Scores

Within each area involving either multiple buildings or units, the area score is a weighted average of the building sub-area scores or unit scores. To calculate these weighted averages, follow these guidelines:

Dwelling units: The area score is the weighted average of sub-area scores for each unit, weighted by the total of item weights present to be inspected in each unit.

Common areas: Like the dwelling unit score, the area score for common areas is the weighted average of sub-area common area scores weighted by the total weights for items inspected in the common areas for each building. When computing area scores for common areas, there may be special considerations when there are common buildings with no units. All common buildings with no units are inspected. In those cases where a sample is taken of buildings with units, the effect of common buildings on the common area score should be reduced. This reduction is accomplished by multiplying the weights for common buildings by the number of units in inspected buildings, divided by the total number of units in the property.

Building exteriors or building systems: The area scores for building exteriors and building systems are weighted averages of sub-area scores. The weights are the product of the total weights for items, ignoring the H&S item, inspected for each building exterior or systems times the total number of units for each building. (Note: the total number of units is all units, not just units inspected.) When computing area scores for building exterior or building systems, a number of adjustments are made for common buildings without units. In a manner identical to that for common areas, if buildings with units are sampled, the weights of common building scores are reduced. Also for weighting purposes, a common building is assigned the average number of units in all buildings, including all common buildings and all buildings with units, whether inspected or not. Finally, to adjust for differences in size between common buildings, a common building's weight is multiplied by the total weight of items present to be inspected for the building's common areas.

12. Overall Property Score

To calculate the overall property score, the normalized area weights are applied to the area scores.

13. Possible Points

Normalized area weights reflect both the initial weights and the relative weights between areas of inspectable items actually present. For reporting purposes, normalized weights are presented as the maximum point contributions for each of the five inspectable areas. In the Physical Inspection Report, sent to all PHAs, the following items are listed:

- Normalized weights as the ''possible points'' by area;
- The area scores, taking into account the points deducted for observed deficiencies;
- The deductions for H&S for site, buildings and units, where H&S deductions for buildings are combined for exteriors, systems and common areas; and
- The overall property score.

The Physical Inspection Report allows the PHA to see the magnitude of the points lost by inspectable area, and the impact on the score of the H&S deficiencies.

14. Examples of Physical Condition Score Calculations

To illustrate how physical condition scores are calculated, three examples are provided below.

Example #1: Example #1 illustrates how the score for a sub-area is calculated based on the following features:

#1a. Ignoring the H&S item, the other seven items have a total weight of 100%, as shown in Appendix 1. If the building had no fire escapes, an item with a nominal weight of 16.7%, then the total item weight for the remaining non-H&S items would be 83.3%, which is then the base (83.3 points) from which deductions are made to create the ''initial proportionate score'' as described, above, under *Sub-Area Scores.*

#1b. Assume damaged vents were found in the roof. The criticality level for this deficiency is provided in Appendix 1 as a 4, which has a value of 3.00 as given, above, under *Definitions.* If, based on the Dictionary of Deficiency Definitions (Appendix 2), it is determined that the damaged vents seen are minor deficiencies, then the amount of points deducted is the item weight (16.7) times the criticality value (3.00), times the severity value (0.25), which equals 12.5 points.

#1c. If this is the only deficiency observed, then the initial proportionate score for this sub-area would be 83.3 − 12.5 or 70.8 points.

#1d. Additional deficiencies or H&S deficiencies (calculated in the same

manner) would further decrease the sub-area score and if the score dropped below zero, then it would be changed to zero.

#1e. The initial proportionate sub-area score is then normalized to a 100 point basis by dividing by the total of the non-H&S item weights (0.833), which would create the final score of (70.8)/(0.833) = 85.0

Example #2

Example #2 illustrates how the score for an area is calculated based on the following features:

#2a. Consider a property with 2 buildings with the following characteristics:

- Building #1 (from Example #1, above):

—10 units
—83.3% of the weight for the items that were present in building exterior
—Building exterior score is 85 points

- Building #2:

—20 units
—100% of the weight for the items that were present in building exterior
—Building exterior score is 70 points

#2b. The building exterior score for the building exterior area is the weighted average of the individual scores. Each building exterior score is weighted by the number of units and the percent of the weight for items present in the building exterior.

#2c. The scores for buildings #1 and #2, above, are calculated using the following formula: Building Exterior Score = sum of [(Building score) times (Building weight divided by the sum of Building weights)]

- Building #1 weight: [(10 units)*(83.3% weight)] = 8.33
- Building #2 weight: [(20 units)*(100% weight)] = 20
- Total weight = 8.33 + 20, or 28.33
- Building exterior score = (85 points)*(8.33/28.33) + (70 points)*(20/28.33)
  = 25.0 + 49.4
  = 74.4

Example #3

Example #3 illustrates how the score for a property is calculated based on the following:

#3a. Consider a property with the following characteristics:

- Site:

—Score: 90 points
—100% of weight of items present
—Nominal weight: 15%

- Building Exteriors (from example #2, above):

—Score: 74 points
—92% of weight of items present
—Nominal weight: 15%

- Building Systems:

—Score: 70 points
—80% of weight of items present
—Nominal weight: 20%

- Common Areas:

—Score: 60 points
—30% of weight of items present
—Nominal weight: 15%

- Dwelling Units:

—Score: 80 points
—80% of weight of items present
—Nominal weight: 35%

#3b. First, adjust the area weights for each area. Multiply the weight of items present by the nominal weight for each area and add the total:

• Site:	15*100%	= 15
• Building Exteriors:	15*92%	= 13.8
• Building Systems:	20*80%	= 16.0
• Common Areas:	15*30%	= 4.5
• Dwelling Units:	35*80%	= 28.0
• Total:		= 77.3

#3c. Adjust the area weights to ''normalize'' so that they add to 100. Divide each adjusted area weight by the total and multiply by 100 (this also results in the maximum possible points reported for each area):

• Site:	(15/77.3)*10	=19.4
• Building Exteriors:	(13.8/77.3)*100	=17.9
• Building Systems:	(16/77.3)*100	=20.7
• Common Areas:	(4.5/77.3)*100	= 5.8
• Dwelling Units:	(28/77.3)*100	= 36.2

#3d. Multiply the new ''normalized'' weights by the area scores, above, divide by 100, and add the results:

	Points
• Site: 19.4 * 90/100	= 17.5
• Building Exteriors: 17.9 * 74/100	= 13.2
• Building Systems: 20.7 * 70/100	= 14.5
• Common Areas: 5.8 * 60/100	= 3.5
• Dwelling Units: 36.2 * 80/100	= 29.0
• Total Property Score	= 77.6

15. Computing the PHAS Overall Physical Inspection Score

The physical inspection score for the PHAS for a PHA is the weighted average of the PHA's individual project physical inspection scores, where the weights are the number of units in each project divided by the total number of units in all projects for the PHA.

Example:

Project 1 has a score of 60 and has 100 units.

Project 2 has a score of 80 and has 900 units.

The overall PHAS score is computed as follows:

Score = [60 × 100/(100+900)] + [80 × 900/(100+900)]
= 6 + 72
= 78

16. Accessibility Questions

For public housing developments for which accessibility requirements are applicable, the physical inspection will include determining if: (1) There is a wheelchair accessible route to and from the main ground floor entrance of the buildings inspected; (2) the main entrance for every building inspected is at least 32'' wide, measured between the door and the opposite door jamb; (3) there is an accessible route to all exterior common areas; and (4) for multistory buildings that are inspected, the interior hallways to all inspected units and common areas are at least 36'' wide.

17. Inspection Summary Report

Appendix 3 includes an inspection summary report which provides another example of the information sent to PHAs.

Dated: June 14, 1999.

Donald J. LaVoy,

Acting Director, Real Estate Assessment Center.

BILLING CODE 4210–32–P

Appendix1 - Item Weights and Criticality Levels
Area:Site

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Fencing and Retaining Walls	12.5%	Damaged or Missing Gates	4		X	X	NLT
	12.5%	Damaged/Falling/Leaning	2		X	X	NLT
	12.5%	Holes	3	X		X	NLT
	12.5%	Missing Sections	3	X		X	NLT
Grounds	12.5%	Erosion Areas	4		X	X	NLT
	12.5%	Overgrown/Penetrating Vegetation	3		X	X	
	12.5%	Ponding/Site Drainage	4	X	X	X	
	12.5%	Rutting	2		X	X	
Health & Safety	12.5%	Air Quality - Sewer Odor Detected	3			X	NLT
	12.5%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	12.5%	Flammable Materials - Improperly Stored	3			X	NLT
	12.5%	Garbarge and Debris - Outdoors	3			X	NLT
	12.5%	Hazards - Other	3			X	NLT
	12.5%	Hazards - Sharp Edges	3			X	NLT
	12.5%	Hazards - Tripping	3			X	NLT
	12.5%	Infestation - Insects	3			X	NLT
	12.5%	Infestation - Rats/Mice/Vermin	3			X	NLT
Lighting	8.0%	Broken Fixtures	4		X	X	
	8.0%	Missing/Broken Bulbs	4		X	X	
Mailboxes/Project Signs	1.0%	Mailbox Missing/Damaged	2	X		X	
	1.0%	Signs Missing/Damaged	2	X		X	
Market Appeal	8.0%	Graffiti	4	X	X	X	
	8.0%	Litter	4		X		
Parking Lots/Driveways/Roads	8.0%	Cracks	3		X	X	
	8.0%	Ponding	4	X	X	X	
	8.0%	Potholes/Loose Material	4	X	X	X	
	8.0%	Settlement/Heaving	4	X	X	X	
Play Areas and Equipment	12.5%	Damaged/Broken Equipment	3	X	X	X	NLT
	12.5%	Deteriorated Play Area Surface	3	X	X	X	
Refuse Disposal	12.5%	Broken/Damaged Enclosure	3		X	X	
	12.5%	Inadequate Outside Storage Space	3	X		X	
Storm Drainage	12.5%	Damaged/Broken/Cracked	4		X	X	
	12.5%	Debris/Obstruction/Sediment	5		X	X	
Walkways/Stairs	12.5%	Broken/Missing Hand Railing	3			X	NLT
	12.5%	Broken/Missing Steps	3			X	NLT
	12.5%	Cracks/Settlement/Heaving	3		X	X	
	12.5%	Spalling	3	X		X	

Note:1.) Nominal item weight assumes that all items for the Site are present. Item weights would be adjusted accordingly when items are not applicable (N/A)

2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 12.5%

3.) "X" in the severity column indicates which severity levels are applicable.

4.) In the severity column, MI is minor, MA major and SE severe. Only severe is applied to H&S deficiencies.

5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Building Exterior

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Doors	16.0%	Broken/Missing Glazing/Glass	4	X		X	NLT
	16.0%	Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	16.0%	Damaged Hardware/Locks	3	X	X	X	
	16.0%	Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	16.0%	Damaged/Missing Screen/Storm/Security Door	3	X	X	X	NLT
	16.0%	Deteriorated/Missing Caulking/Seals	4	X	X	X	
	16.0%	Missing Door	5			X	
Fire Escapes	16.0%	Blocked Egress/Ladders	5			X	LT
	16.0%	Visibly Missing Components	5			X	LT
Foundations	16.0%	Cracks/Gaps	5	X	X	X	
	16.0%	Spalling/Exposed Rebar	4	X	X	X	
Health and Safety	16.0%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	16.0%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	16.0%	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	5			X	LT
	16.0%	Emergency Fire Exits - Missing Exit Signs	3			X	NLT
	16.0%	Flammable Materials - Improperly Stored	3			X	NLT
	16.0%	Garbage and Debris - Indoors	3			X	NLT
	16.0%	Garbage and Debris - Outdoors	3			X	NLT
	16.0%	Hazards - Other	3			X	NLT
	16.0%	Hazards - Sharp Edges	3			X	NLT
	16.0%	Hazards - Tripping	3			X	NLT
	16.0%	Infestation - Insects	3			X	NLT
	16.0%	Infestation - Rats/Mice/Vermin	3			X	NLT
Lighting	10.0%	Broken Fixtures	4		X	X	
	10.0%	Missing/Broken Bulbs	4		X	X	
Roofs	16.0%	Damaged Soffits/Fascia	4	X		X	
	16.0%	Damaged Vents	4	X		X	
	16.0%	Damaged/Clogged Drains	5		X	X	
	16.0%	Damaged/Torn Membrane/Missing Ballast	5		X	X	
	16.0%	Missing/Damaged Components from Downspout/Gutter	3	X		X	
	16.0%	Missing/Damaged Shingles	5		X	X	
	16.0%	Ponding	4			X	
Walls	13.0%	Cracks/Gaps	5	X	X	X	
	13.0%	Damaged Chimneys	4		X	X	NLT
	13.0%	Missing/Damaged Caulking/Mortar	4	X	X		
	13.0%	Missing Pieces/Holes/Spalling	4		X	X	
	13.0%	Stained/Peeling/Needs Paint	3	X	X		
Windows	13.0%	Broken/Missing/Cracked Panes	3	X		X	NLT
	13.0%	Damaged Sills/Frames/Lintels/Trim	5		X	X	
	13.0%	Damaged/Missing Screens	2	X			
	13.0%	Missing/Deteriorated Caulking/Glazing Compound	5	X	X	X	
	13.0%	Peeling/Needs Paint	2	X			
	13.0%	Security Bars Prevent Ingress/Egress	5			X	LT

Note: 1.) Nominal item weight assumes that all items for the Building Exterior are present. Item weights would be adjusted accordingly when items are not applicable (N/A)
2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 16.0%
3.) "X" in the severity column indicates which severity levels are applicable.
4.) In the severity column, MI is minor, MA major and SE severe. Only severe is applied to H&S deficiencies.
5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Building Systems

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Domestic Water	15.5%	Central Hot Water Supply Inoperable	5			X	NLT
	15.5%	Leaking Central Water Supply	4			X	
	15.5%	Misaligned Ventilation System	5			X	LT
	15.5%	Missing Pressure Relief Valve	5			X	NLT
	15.5%	Rust/Corrosion on Heater Chimney	2			X	NLT
	15.5%	Rust/Corrosion-Central Water Components	3		X	X	
	15.5%	Water Supply Inoperable	5			X	NLT
Electrical System	15.5%	Blocked Access/Improper Storage	3			X	NLT
	15.5%	Burnt Breakers	4			X	NLT
	15.5%	Evidence of Leaks/Corrosion	5			X	NLT
	15.5%	Frayed Wiring	5			X	
	15.5%	Missing Breakers	5			X	LT
	15.5%	Missing Covers	5			X	LT
Elevators	5.0%	Not Operable	5			X	NLT
Emergency Power	2.0%	Auxiliary Lighting Inoperable	5			X	
	2.0%	Run-Up Records/Documentation Not Available	4		X	X	
Exhaust System	15.5%	Roof Exhaust Fan Inoperable	3			X	
Fire Protection	15.5%	Missing (Sprinkler Head)	5			X	NLT
	15.5%	Missing/Damaged/Expired Extinguishers	5			X	LT
Health & Safety	15.5%	Air Quality - Mold and/or Mildew Observed	3			X	NLT
	15.5%	Air Quality - Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	15.5%	Air Quality - Sewer Odor Detected	3			X	NLT
	15.5%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	15.5%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	15.5%	Elevator - Tripping	3			X	NLT
	15.5%	Flammable Materials - Improperly Stored	3			X	NLT
	15.5%	Garbage and Debris - Indoors	3			X	NLT
	15.5%	Garbage and Debris - Outdoors	3			X	NLT
	15.5%	Hazards - Other	3			X	NLT
	15.5%	Hazards - Sharp Edges	3			X	NLT
	15.5%	Hazards - Tripping	3			X	NLT
	15.5%	Infestation - Insects	3			X	NLT
	15.5%	Infestation - Rats/Mice/Vermin	3			X	NLT
HVAC	15.5%	Boiler/Pump Leaks	4			X	
	15.5%	Fuel Supply Leaks	4			X	NLT
	15.5%	Gas Fired Unit-Missing/Misaligned Chimney	5			X	LT
	15.5%	General Rust/Corrosion	2		X	X	NLT
Sanitary System	15.5%	Broken/Leaking/Clogged Pipes or Drains	5			X	NLT
	15.5%	Missing Drain/Cleanout/Manhole Covers	3		X	X	

Note: 1.) Nominal item weight assumes that all items for the Building System are present. Item weights would be adjusted accordingly when items are not applicable (N/A)

2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 15.5%

3.) "X" in the severity column indicates which severity levels are applicable.

4.) In the severity column, MI is minor, MA major and SE severe. Only severe is applied to H&S deficiencies.

5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Basement/Garage/Carport	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	3	X	X	X	
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	4	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	5			X	
	5.0%	Doors - Missing Door	4	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Closet/Utility/Mechanical	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	NLT
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Community Room	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	NLT
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damage	4	X	X	X	
	10.0%	Floors - Missing Flooring	4	X	X	X	
	10.0%	Floors - Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	10.0%	HVAC - Rusted/Corroded	2		X		
	10.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Day Care	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	10.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damage	4	X	X	X	
	10.0%	Floors - Missing Flooring	4	X	X	X	
	10.0%	Floors - Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	10.0%	HVAC - Rusted/Corroded	2		X		
	10.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Halls/Corridors/Stairs	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	10.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damage	4	X	X	X	
	10.0%	Floors - Missing Flooring	4	X	X	X	
	10.0%	Floors - Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	Graffiti	4	X	X	X	
	10.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4		X		

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	10.0%	HVAC - Rusted/Corroded	2		X		
	10.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	10.0%	Mailbox Missing/Damaged	2	X		X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Health & Safety	10.0%	Air Quality - Mold and/or Mildew Observed	3			X	NLT
	10.0%	Air Quality - Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	10.0%	Air Quality - Sewer Odor Detected	3			X	NLT
	10.0%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	10.0%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	10.0%	Flammable Materials - Improperly Stored	3			X	NLT
	10.0%	Garbage and Debris - Indoors	3			X	NLT
	10.0%	Garbage and Debris - Outdoors	3			X	NLT
	10.0%	Hazards - Other	3			X	NLT
	10.0%	Hazards - Sharp Edges	3			X	NLT
	10.0%	Hazards - Tripping	3			X	NLT
	10.0%	Infestation - Insects	3			X	NLT
	10.0%	Infestation - Rats/Mice/Vermin	3			X	NLT
Kitchen	10.0%	Cabinets - Missing/Damaged	2	X	X	X	
	10.0%	Call for Aid - Inoperable	3			X	NLT
	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Countertops - Missing/Damaged	2	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	10.0%	Dishwasher/Garbage Disposal - Inoperable	2		X		
	10.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	10.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Exhaust Sys.-Excessive Grease/Inoperable	2	X		X	NLT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damage	4	X	X	X	
	10.0%	Floors - Missing Flooring	4	X	X	X	
	10.0%	Floors - Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	GFI - Inoperable	5			X	NLT
	10.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	10.0%	HVAC - Rusted/Corroded	2		X		
	10.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	10.0%	Plumbing - Clogged Drains	4	X		X	NLT
	10.0%	Plumbing - Leaking Faucet/Pipes	3	X		X	NLT
	10.0%	Range/Stove - Missing/Damaged/Inoperable	3	X		X	
	10.0%	Range Hood /Exhaust Fans - Excessive Grease/Inoperable	2	X		X	
	10.0%	Refrigerator - Missing/Damaged/Inoperable	3	X		X	
	10.0%	Sink - Damaged/Missing	5	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Laundry Room	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	10.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Dryer Vent Missing/Damaged/Inoperable	3			X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damage	4	X	X	X	
	10.0%	Floors - Missing Flooring	4	X	X	X	
	10.0%	Floors - Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	GFI - Inoperable	5			X	NLT
	10.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4		X		

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	10.0%	HVAC - Rusted/Corroded	2		X		
	10.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Lobby	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5				LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	5.0%	HVAC - Rusted/Corroded	2		X		
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Office	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	5.0%	HVAC - Rusted/Corroded	2		X		
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Other Community Spaces	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	5.0%	HVAC - Rusted/Corroded	2		X		
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Patio/Porch/Balcony	5.0%	Baluster/Side Railing Damaged	3			X	
	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Pools and Related Structure	5.0%	Fencing - Damaged/Not Intact	5			X	
	5.0%	Pool - Not Operational	2			X	
Restrooms/Pool Structures	5.0%	Call for Aid - Inoperable	3			X	NLT
	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	GFI - Inoperable	5			X	NLT
	5.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	5.0%	HVAC - Rusted/Corroded	2		X		
	5.0%	Lavatory Sink - Damaged/Missing	3	X		X	NLT
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	5.0%	Plumbing - Clogged Drains	5	X		X	NLT
	5.0%	Plumbing - Leaking Faucet/Pipes	4	X		X	NLT
	5.0%	Restroom Cabinet - Damaged/Missing	2	X		X	
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Shower/Tub - Damaged/Missing	4		X	X	
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Ventilation/Exhaust System - Inoperable	4			X	
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Water Closet - Damaged/Clogged/Missing	5		X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Storage	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Broken/Missing Glazing/Glass	4	X		X	NLT
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3	X	X	X	
	5.0%	Doors - Damaged/Missing Screen/Strom/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damage	4	X	X	X	
	5.0%	Floors - Missing Flooring	4	X	X	X	
	5.0%	Floors - Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Gas Fired Unit - Missing/Misaligned Chimney	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4		X		
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	5.0%	HVAC - Rusted/Corroded	2		X		
	5.0%	Lighting - Missing/Inoperable Fixture	4	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Deteriorated/Missing Caulking/Seals	5	X	X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Trash Collection Areas	5.0%	Chutes Damaged/Missing Components	3		X	X	

Note: 1.) Nominal item weight assumes that all items for the Common Area are present. Item weights would be adjusted accordingly when items are not applicable (N/A)

2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 10.0%

3.) "X" in the severity column indicates which severity levels are applicable.

4.) In the severity column, MI is minor, MA major and SE severe. Only severe is applied to H&S deficiencies.

5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Unit

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
Bathroom	15.0%	Bathroom Cabinets - Damaged/Missing	2	X		X	
	15.0%	Lavatory Sink - Damaged/Missing	3	X		X	NLT
	15.0%	Plumbing - Clogged Drains	5	X		X	NLT
	15.0%	Plumbing - Leaking Faucet/Pipes	4	X		X	NLT
	15.0%	Shower/Tub - Damaged/Missing	4		X	X	NLT
	15.0%	Ventilation/Exhaust System - Inoperable	4			X	
	15.0%	Water Closet/Toilet - Damaged/Clogged/Missing	5		X	X	NLT
Call-for-Aid	2.0%	Inoperable	3			X	NLT
Ceiling	4.5%	Bulging/Buckling	4			X	
	4.5%	Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	4.5%	Needs Paint	1	X	X		
	4.5%	Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
Doors	4.5%	Broken/Missing Glazing/Glass	4	X		X	NLT
	4.5%	Damaged Frames/Threshold/Lintels/Trim	2	X	X	X	NLT
	4.5%	Damaged Hardware/Locks	3	X	X	X	
	4.5%	Damaged Surface - Holes/Paint/Rusting	3	X	X	X	
	4.5%	Damaged/Missing Screen/Storm/Security Door	3	X	X	X	NLT
	4.5%	Deteriorated/Missing Seals (Entry Only)	4			X	
	4.5%	Missing Door	5	X	X	X	NLT
Electrical System	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Burnt Breakers	4			X	NLT
	10.0%	Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Frayed Wiring	5			X	
	10.0%	GFI - Inoperable	5			X	NLT
	10.0%	Missing Breakers	5			X	LT
	10.0%	Missing Covers	5			X	LT
Floors	4.5%	Bulging/Buckling	4			X	
	4.5%	Floor Covering Damage	4	X	X	X	
	4.5%	Missing Flooring	4	X	X	X	
	4.5%	Needs Paint	1	X	X		
	4.5%	Rot/Deteriorated Subfloor	4		X	X	
	4.5%	Water Stains/Water Damage/Mold/Mildew	2		X	X	
Health & Safety	15.0%	Air Quality - Mold and/or Mildew Observed	3			X	NLT
	15.0%	Air Quality - Sewer Odor Detected	3			X	NLT
	15.0%	Air Quality- Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	15.0%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT

Appendix 1 - Item Weights and Criticality Levels
Area: Unit

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	15.0%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	15.0%	Flammable Materials - Improperly Stored	3			X	NLT
	15.0%	Garbage and Debris - Indoors	3			X	NLT
	15.0%	Garbage and Debris - Outdoors	3			X	NLT
	15.0%	Hazards - Other	3			X	NLT
	15.0%	Hazards - Sharp Edges	3			X	NLT
	15.0%	Hazards - Tripping	3			X	NLT
	15.0%	Infestation - Insects	3			X	NLT
	15.0%	Infestation - Rats/Mice/Vermin	3			X	NLT
Hot Water Heater	10.0%	Gas Fired Unit-Missing/Misaligned Chimney	5			X	LT
	10.0%	Inoperable Unit/Components	5			X	NLT
	10.0%	Leaking Valves/Tanks/Pipes	4			X	
	10.0%	Pressure Relief Valve Missing	5			X	NLT
	10.0%	Rust/Corrosion	3	X	X	X	NLT
HVAC System	15.0%	Convection/Radiant Heat System Covers Missing/Damaged	2		X	X	
	15.0%	Gas Fired Unit - Missing/Misalign Chimney	5			X	LT
	15.0%	Inoperable	5			X	
	15.0%	Noisy/Vibrating/Leaking	4		X		
	15.0%	Rust/Corrosion	2		X	X	
Kitchen	15.0%	Cabinets Missing/Damaged	2	X	X	X	NLT
	15.0%	Countertops Missing/Damaged	2	X	X	X	NLT
	15.0%	Dishwasher/Garbage Disposal - Inoperable	2		X		
	15.0%	Plumbing - Clogged Drains	4	X		X	NLT
	15.0%	Plumbing - Leaking Faucet/Pipes	3	X		X	NLT
	15.0%	Range Hood/Exhaust Fans - Excessive Grease/Inoperable	2	X		X	
	15.0%	Range/Stove - Missing/Damaged/Inoperable	3	X		X	
	15.0%	Refrigerator- Missing/Damaged/Inoperable	3	X		X	NLT
	15.0%	Sink - Damaged/Missing	5	X		X	NLT
Lighting	2.0%	Missing/Inoperable Fixture	4	X	X	X	NLT
Outlets/Switches	4.5%	Missing	3			X	
	4.5%	Missing/Broken Cover Plates	3	X		X	
Patio/Porch/Balcony	2.0%	Baluster/Side Railings Damaged	3			X	
Smoke Detector	0.0%	Missing/Inoperable	5			X	LT
Stairs	2.0%	Broken/Damaged/Missing Steps	3			X	NLT
	2.0%	Broken/Missing Hand Railing	3			X	NLT
Walls	4.5%	Bulging/Buckling	4			X	

Appendix 1 - Item Weights and Criticality Levels
Area: Unit

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality Level	Severity MI	MA	SE	H&S
	4.5%	Damaged	3	X	X	X	
	4.5%	Damaged/Deteriorated Trim	1	X	X	X	
	4.5%	Needs Paint	1	X	X		
	4.5%	Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
Windows	4.5%	Cracked/Broken/Missing Panes	3	X		X	NLT
	4.5%	Damaged Window Sill	4	X	X		
	4.5%	Deteriorated/Missing Caulking/Seals	5	X	X	X	
	4.5%	Inoperable/Not Lockable	3	X		X	NLT
	4.5%	Peeling/Needs Paint	1	X			
	4.5%	Security Bars Prevent Egress	5			X	LT

Note: 1.) Nominal item weight assumes that all items for the Unit are present. Item weights would be adjusted accordingly when items are not applicable (N/A)
2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 15.0%
3.) "X" in the severity column indicates which severity levels are applicable.
4.) In the severity column, MI is minor, MA major and SE severe. Only severe is applied to H&S deficiencies.
5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

BILLING CODE 4210–32–C

Appendix 2—Dictionary of Deficiency Definitions

Site Inspectable Items

Items to inspect for ''Site'' are as follows:

Fencing and Retaining Walls
Grounds
Lighting
Mailboxes/Project Signs
Market Appeal
Parking Lots/Driveways/Roads
Play Areas and Equipment
Refuse Disposal
Storm Drainage
Walkways/Stairs

Fencing and Retaining Walls (Site)

A structure functioning as a boundary or barrier. An upright structure serving to enclose, divide or protect an area.

Note: This does not include swimming pool fences. Swimming Pool Fences are covered under Common Areas—Pools and Related Structures.

This inspectable item can have the following deficiencies:

Damaged or Missing Gates
Damaged/Falling/Leaning
Holes
Missing Sections

Grounds (Site)

The improved land adjacent to or surrounding the housing and related structures. This does not include land not owned or under the control of the housing provider.

This inspectable item can have the following deficiencies:

Erosion Areas
Overgrown/Penetrating Vegetation
Ponding/Site Drainage
Rutting

Lighting (Site)

System to provide illumination of the community grounds. Includes fixtures, lamps, stanchions, poles, supports, and electrical supply.

This inspectable item can have the following deficiencies:

Broken Fixtures
Missing/Broken Bulbs

Mailboxes/Project Signs (Site)

Mailbox is a public container where mail is deposited for distribution and collection. This does not include mailboxes owned and maintained by the US Postal Service, such as the ''Blue Boxes.''

Project signs are boards, posters, or placards displayed in a public place to advertise, impart information, or give directions. This does not include signs owned and maintained by the city.

This inspectable item can have the following deficiencies:

Mailbox Missing/Damaged
Signs Missing/Damaged

Market Appeal (Site)

Evaluate only those areas or structures that are under the control of the housing provider.

This inspectable item can have the following deficiencies:

Graffiti
Litter

Parking Lots/Driveways/Roads (Site)

An area for parking motorized vehicles begins at the curbside and includes all parking lots, driveways or roads within the property lines that are under the control of the housing provider.

This inspectable item can have the following deficiencies:

Cracks
Ponding
Potholes/Loose Material
Settlement/Heaving

Play Areas and Equipment (Site)

An outdoor area set aside for recreation or play, especially one containing equipment such as seesaws and swings.

This inspectable item can have the following deficiencies:

Damaged/Broken Equipment
Deteriorated Play Area Surface

Refuse Disposal (Site)

Collection areas for trash/garbage common pick-up.

This inspectable item can have the following deficiencies:

Broken/Damaged Enclosure
Inadequate Outside Storage Space

Storm Drainage (Site)

System used to collect and dispose of surface runoff water through the use of culverts, underground structures, or natural drainage features, e.g., swales, ditches, etc.

This inspectable item can have the following deficiencies:

Damaged/Broken/Cracked
Debris/Obstruction/Sediment

Walkways/Stairs (Site)

Passages for walking and the structures that allow for changes in vertical orientation.

This inspectable item can have the following deficiencies:
Broken/Missing Hand Railing
Cracks/Settlement/Heaving
Spalling

Damaged or Missing Gates (Fencing and Retaining Walls)

Gate structure is damaged or missing and does not prevent passage.

This does not include gates for swimming pool fences. Gates for swimming pool fences are covered under Common Areas—Pools and Related Structures.

Note: Deficiency level depends on the fence's purpose. Perimeter/Security Fences

are assessed at a higher level than interior fences.

Severity Defined

Minor: N/A.

Major: Absence or damage to an interior fence gate which renders a gate inoperable/ineffective.

OR

Damage to a perimeter or a security fence gate that is still operational.

Severe: Absence or damage to a perimeter or security gate which renders the gate inoperable/ineffective and potentially compromises safety and/or security.

Damaged/Falling/Leaning (Fencing and Retaining Walls)

Structure is rusted, deteriorated, uprooted presents threat to security and/or health and safety.

Note: Deficiency level depends on the fence's purpose. Perimeter/Security Fences are assessed at a higher level than interior fences.

Severity Defined

Minor: N/A.

Major: An interior fence is damaged so that it does not satisfy its designed purpose.

OR

A perimeter/security fence and/or a retaining wall shows signs of deterioration, but still serves its designed purpose and presents no security/safety risk.

Severe: A perimeter/security fence and/or a retaining wall is damaged to the point that it does not satisfy its designed purpose.

Holes (Fencing and Retaining Walls)

An opening or penetration.

Note: Some fences are not designed to keep intruders out or children in such as rail fences, and these type of fences should not be evaluated for holes.

Severity Defined

Minor: Hole is smaller than 6″ x 6″ piece of paper.

Major: N/A.

Severe: Hole is larger than 6″ x 6″ which allows passage of animals and can pose a threat to the safety of children.

Missing Sections (Fencing and Retaining Walls)

Structure does not present an obstacle against intrusion or egress—damaged by the destruction or removal of section.

Note: Deficiency level depends on the fence's purpose. Perimeter/Security fences are assessed at a higher level than interior fences.

Severity Defined

Minor: An interior fence has section missing.

Major: N/A.

Severe: A perimeter/security fence has a section missing which compromises safety/security.

Erosion Areas (Grounds)

An area subjected to natural processes, such as weathering or gravity, by which material is moved on the earth's surface.

Note: This does not include erosion from a defined storm drainage system or in a play area. This type of erosion would be covered under Site—Storm Drainage and/or Site—Play Areas and Equipment.

Severity Defined

Minor: N/A.

Major: Visible collection of surface material indicated by visible erosion deposits leading to a degraded surface condition that would likely cause water to pool in a confined area, especially next to structures, paved areas or walkways.

Severe: Extensive displacement of soil caused by runoff. Condition is responsible for visible damage or the potential failure of adjoining structures or systems, e.g., pipes, pavements, foundations, building, etc.

OR

Advanced erosion in an area which creates an unsafe pedestrian condition and/or renders an area of the grounds unusable.

Overgrown/Penetrating Vegetation (Grounds)

Plant life that has infiltrated unacceptable areas and/or has grown beyond established parameters.

Severity Defined

Minor: N/A.

Major: Vegetation is of such size or density as to make the visibility of hazards, such as broken glass, holes, etc., difficult.

OR

Plant life is in contact with an unintended surface, such as, buildings, gutters, walkways, roads, fences/walls, roofs, HVAC units, etc.

OR

Vegetation is of such size or density that it obstructs intended walkways.

Severe: Plants have rendered visible damage to a component, area, or system of the property or have made them unusable.

Ponding/Site Drainage (Grounds)

An accumulation of water and/or ice is observed to be collecting in a depressed area or has collected on the grounds for which ponding was not intended.

Note: This does not include detention/retention basins NOR ponding on paved areas. Detention/retention basins are covered under Site—Storm Drainage and ponding on paved areas is covered under Roads, Walkways, and Parking Lots/Driveways.

Severity Defined

Minor: Shallow accumulation of water (less than 3 inches).

Major: An accumulation of water (from 3 to 5 inches in depth) that affects the use of a section of the grounds; however, the grounds are generally usable.

Severe: An accumulation of more than 5 inches in depth.

OR

An accumulation that has rendered a section of the grounds unusable.

Rutting (Grounds)

A man made sunken track or groove/depression.

Note: These are typically made by a car, bike or other machine.

Severity Defined

Minor: N/A.

Major: Condition that is 6–8″ wide x 3–5″ deep.

Severe: Condition larger than 6–8″ wide x 3–5″ deep and has the potential to cause serious injury.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards'').

Broken Fixtures (Lighting)

All or a portion of the lighting that is associated with the site itself. This includes lighting attached to the building which is utilized for such purposes as lighting the site, but does not include exterior lighting, associated with the building.

Note: If a damaged fixture or fixtures presents a safety hazard, rate it as severe, and recorded manually as a health and safety concern. This includes, but is not limited to, broken fixtures that have the potential to fall on pedestrians, or fixtures that could lead to electrocution.

Severity Defined

Minor: N/A.

Major: Between 10% and 50% of the lighting fixtures surveyed are visibly broken. The broken portion of the system does not constitute an obvious safety hazard.

Severe: Over 50% of the lighting fixtures surveyed are visibly broken; or the broken portion of the system constitutes an obvious safety hazard.

Comments

Severe: If condition is a health and safety concern, it must be recorded. (Includes but not limited to ''Electrical Hazards'' or ''Hazards'.)

Missing/Broken Bulbs (Lighting)

Lamps are missing or are broken from fixtures. May include incandescent, fluorescent, mercury vapor, or others.

Note: This does not include building exterior lighting. Building exterior lighting is covered under Building Exterior—Lighting.

Severity Defined

Minor: N/A.

Major: Between 10% and 50% of the fixtures surveyed have at least a single bulb missing or broken.

Severe: Over 50% of the fixtures surveyed have at least a single bulb missing or broken.

Comment

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards.'')

Mailbox Missing/Damaged (Mailbox/Project Signs)

Mailbox does not function properly due to deterioration, damage, or is absent.

Severity Defined

Minor: Mailbox is damaged, vandalized, or deteriorated, but functional.

Major: N/A.

Severe: Mailbox is damaged, vandalized, or deteriorated, and as a result, is not functional.

OR

Mailbox is missing.

Signs Missing/Damaged (Mailbox/Project Signs)

Project sign is not readable due to deterioration, damage, or is absent. This does not include locations that do not require a project sign.

Severity Defined

Minor: Sign is damaged, vandalized, or deteriorated, but readable.
Major: N/A.
Severe: Sign is damaged, vandalized, or deteriorated, and as a result, is not readable.
OR
Sign is missing.

Comments

Severe: Missing signs should only be recorded where a sign is required. This would follow from evidence that a sign has been removed through vandalism and/or neglect, etc.

Graffiti (Market Appeal)

Visual observation of a crude, (not recognizable as an art form), inscription or drawing scratched, painted or sprayed on a building surface, retaining wall, or fence so as to be seen by the public.

Note: Do not count full wall murals and similar art forms as graffiti.

Severity Defined

Minor: Visual graffiti observed in at least one location/area.
Major: Graffiti observed in 2–5 locations/areas.
Severe: Graffiti observed in 6 or more locations/areas.

Litter (Market Appeal)

Subject to disorderly accumulation of objects, especially carelessly discarded trash located on the property.

Note: *Excessive* litter should be judged as you would view a city park in America.

Severity Defined

Minor: N/A.
Major: Excessive litter is observed on the property.
Severe: N/A.

Cracks (Parking Lots/Driveways/Roads)

Visible faults in the pavement, including longitudinal, lateral, alligator, etc. This does not include cracks from settlement/heaving.

Severity Defined

Minor: N/A.
Major: A crack which is up to ½″ wide.
Severe: A crack larger than ½″ or multiple cracks accompanied by surface deterioration.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Ponding (Parking Lots/Driveways/Roads)

A visible accumulation of water and/or ice collecting in a depression on an otherwise flat plane.

Severity Defined

Minor: Shallow accumulation of water (less than 3″).
Major: An accumulation of water that affects the use of a section of a parking lot/driveway more than 3″ in depth. Parking lot/driveway is passable.
Severe: An accumulation of water that has rendered a parking lot/driveway unusable.

Potholes/Loose Material (Parking Lots/Driveways/Roads)

A hole resulting from road surface failure; or loose, freestanding aggregate material is observed resulting from deterioration.

Severity Defined

Minor: Failure of pavement due to potholes or loose material that has not penetrated to or exposed the subsurface.
Major: Failure of pavement due to potholes or loose material that has penetrated to or exposed the subsurface.
Severe: Loose material and/or potholes that render a parking lot/driveway unusable/unpassable.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Settlement/Heaving (Parking Lots/Driveways/Roads)

Pavement that sinks and/or rises due to failure of subbase materials.

Note: If there is a visible accumulation of water and/or ice collecting in the depression, record the observation under ponding.

Severity Defined

Minor: Visual indication of settlement/heaving with no visible surface cracks.
Major: Visual indication of settlement/heaving evidenced by cracks and deteriorated surface material.
Severe: Settlement/Heaving that renders a parking lot/driveway unusable/unpassable and/or creates unsafe pedestrian conditions.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Damaged/Broken Equipment (Play Areas and Equipment)

Forcibly fractured into pieces or shattered, incomplete, inoperable, or missing.

Severity Defined

Minor: Visual estimate indicates some equipment (less than 50%) does not operate correctly or is missing but pose no safety risk.
Major: Visual estimate indicates most of the equipment (more than 50%) does not operate correctly or is missing but pose no safety risk.
Severe: Equipment poses a threat to safety capable of causing injury.

Deteriorated Play Area Surface (Play Areas and Equipment)

Damage to play area caused by cracking, heaving, settling, ponding, potholes, loose materials, erosion, rutting, etc.

Severity Defined

Minor: Up to 10% of total surveyed play area surface shows signs of deterioration.
Major: Deterioration of 10 to 50% of total surveyed play area surface.
Severe: Deterioration of more than 50% of the surveyed play area surface.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Broken/Damaged Enclosure (Refuse Disposal)

The outdoor enclosed area which serves as a trash/refuse site is broken or damaged including its walls.

Note: This does not include areas not designed as trash/refuse enclosures such as curb pick-up. Address condition of slab at parking lots/driveways/roads.

Severity Defined

Minor: N/A.
Major: A single wall or gate has holes or missing components.
Severe: A single wall or gate of the enclosure has collapsed or is leaning and in danger of falling.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Inadequate Outside Storage Space (Refuse Disposal)

Insufficient capacity for the proper storage of refuse until disposal.

Note: This does not include curb side pick-up areas.

Severity Defined

Minor: Appearance of storage area is unsightly and needs improvement, or the area surrounding the refuse storage area is impacted by the presence of unpleasant odors.
Major: N/A.
Severe: Trash cannot be stored in the designated area due to under-capacity of refuse storage.

Damaged/Broken/Cracked (Storm Drainage)

Separated into pieces. Broken, but not into parts (fractured).

Severity Defined

Minor: N/A.
Major: Visible structural damage/failure impacting the system's effectiveness. Significant visible fracture evidence by large, visible cracks.
Severe: Visible deterioration or failure of a large section yielding an inoperable system.

Debris/Obstruction/Sediment (Storm Drainage)

Partial or complete blockage by broken or collapsed pipe, infiltration of tree roots, accumulation of sediment, or other obstructions.

Severity Defined

Minor: N/A.
Major: Accumulation of debris or sediment which causes or has the estimated potential of significantly reducing the flow of storm water.
Severe: Complete blockage of the system due to accumulation of a large quantity of debris causing backups into adjacent area(s).

Broken/Missing Hand Railing (Walkways/Steps)

The hand rail is damaged or non-existent.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The hand-rail for four or more stairs is completely missing or damaged, loose or otherwise unusable.

Cracks/Settlement/Heaving (Walkways/Steps)

Visible faults in the pavement, including longitudinal, lateral, alligator, etc. Pavement that sinks and/or rises due to failure of subbase materials.

Note: This does not include cracks on parking lots/driveways or roads.

Severity Defined

Minor: N/A.
Major: Evidence of cracks or other defects which do not affect traffic ability.
Severe: Cracks/hinging/tilting and/or missing sections that affect traffic ability.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Spalling (Walkways/Steps)

A concrete or masonry walkway that is flaking, chipping or crumbling, possible exposing underlying reinforcing material.

Severity Defined

Minor: Small areas, (4″ x 4″ or less), of walkway/stairs are affected.
Major: N/A.
Severe: Large areas, (greater than 4″ x 4″), of walkway/stairs are impacted and affects traffic ability.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Building Exterior Inspectable Items

Items to inspect for ''Building Exterior'' are as follows:

Doors
Fire Escapes
Foundations
Lighting
Roofs
Walls
Windows

Doors (Building Exterior)

Means of access to the interior of a building or structure. Doors provide privacy, control passage, maintain security, provide fire and weather resistance. Includes entry to maintenance areas, boiler and mechanical rooms, electrical vaults, storage areas, etc.

Note: This does not include unit doors.

This inspectable item can have the following deficiencies:

Broken/Missing Glazing/Glass
Damaged Frames/Threshold/Lintels/Trim
Damaged Hardware/Locks
Damaged Surface (Holes/Paint/Rusting)
Deteriorated/Missing Caulking Seals
Missing Door
Damaged/Missing Screen/Storm/Security Door

Fire Escapes (Building Exterior)

All buildings must have acceptable fire exits. This includes both stairway access doors & external exits. These can include external fire escapes, fire towers, operable windows on the lower floors with easy access to the ground or a back door opening onto a porch with a stairway leading to the ground.

This inspectable item can have the following deficiencies:

Blocked Egress/Ladders
Visibly Missing Components

Foundations (Building Exterior)

Lowest level structural wall or floor responsible for transferring the building's load to the appropriate footings and soil. Materials may include concrete, stone, masonry and wood.

This inspectable item can have the following deficiencies:

Cracks/Gaps
Spalling/Exposed Rebar

Lighting (Building Exterior)

System to provide illumination of building exteriors and surrounding grounds. Includes fixtures, lamps, stanchions, poles, supports, and electrical supply that are associated with the building itself.

Note: This does not include site lighting.

This inspectable item can have the following deficiencies:

Broken Fixtures
Missing/Broken Bulbs

Roofs (Building Exterior)

Roof system consists of the structural deck, weathering surface, flashing, parapet, and drainage system. They may be flat or pitched.

This inspectable item can have the following deficiencies:

Damaged/Clogged Drains
Damaged Soffits/Fascia
Damaged Vents
Damaged/Torn Membrane/Missing Ballast
Missing/Damaged Shingles
Ponding (Roofs)
Missing/Damaged Components from Downspout/Gutter

Walls (Building Exterior)

The exterior enclosure of the building or structure. Materials for construction include concrete, masonry block, brick, stone, wood, glass block. Surface finish materials include metal, wood, vinyl, stucco.

Note: This does not include foundation walls.

This inspectable item can have the following deficiencies:

Cracks/Gaps
Damaged Chimneys
Missing Pieces/Holes/Spalling
Stained/Peeling/Needs Paint
Missing/Damaged Caulking/Mortar

Windows (Building Exterior)

Window systems provide light, security, and exclusion of exterior noise, dust, heat, and cold. Frame materials include wood, aluminum, vinyl, etc.

Note: This does not include windows that have defects noted from inspection from inside the unit.

This inspectable item can have the following deficiencies:

Broken/Missing/Cracked Panes
Damaged/Missing Screens
Damaged Sills/Frames/Lintels/Trim
Security Bars Prevent Egress
Missing/Deteriorated Caulking/Glazing Compound
Peeling/Needs Paint

Broken/Missing Glazing/Glass (Doors)

The glass and/or compound/structure to support and hold glass or other materials within a frame are missing or broken.

Severity Defined

Minor: For one or more doors, glazing is inadequate to secure glass, but door is usable and presents no immediate security risk.
Major: N/A.
Severe: For at least one door, the operation, function, or security of the door is destroyed by the missing or broken glazing and/or glass. One door in this condition is sufficient to classify the door system as severe.

Damaged Frames/Threshold/Lintels/Trim (Doors)

The frame, header, jamb, threshold, lintels, or trim, is visibly warped, split, cracked, or broken in some manner.

Severity Defined

Minor: A single door's frame/threshold/lintel and/or trim is damaged but does not hinder door operation. The damaged door frame does not prevent door from being locked.
Major: More than one door has the minor damage defined above.
Severe: At least one door is rendered inoperable and/or unlockable due to damage to the door's frame/threshold/lintel and/or trim.

Damaged Hardware/Locks (Doors)

The attachments to a door to provide hinging, hanging, opening, closing, or security are damaged or missing. Includes locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Severity Defined

Minor: A single door's hardware, as defined above, is damaged but does not hinder current door operation. The door functions, is lockable, and the door's panic hardware is operable.
Major: More than one building exterior door has minor damaged hardware as defined above.
Severe: A single door is rendered inoperable and/or unlockable (if locking is required) due to damage to the door's hardware.

OR

A single building exterior door's panic hardware is not operable.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually.

(Includes but not limited to ''Hazards.'')

Damaged Surface (Holes/Paint/Rusting) (Doors)

Damage in the door surface that may affect either the surface protection or the strength of the door, or it may compromise building security. Includes holes, peeling/cracking/no paint, or significant rust.

Severity Defined

Minor: Any one door has either: small holes (less than ¼ inch in diameter); cracking/peeling paint; and/or the door or its components are rusting.

Major: If more than one door has minor surface damage as defined above.

OR

Any single door that has a hole or holes ranging in size from ¼ inch up to 1 inch in diameter.

Severe: Any single door has a hole or holes larger than 1 inch in diameter, or significant peeling/cracking/no paint or rust that affects the integrity of the door surface.

Deteriorated/Missing Caulking/Seals (Doors)

Sealant and stripping designed to provide weather resistance or caulking is missing or deteriorated.

Severity Defined

Minor: For a single door, missing or deteriorated caulk is confined to small areas with no evidence of damage to the door and/or surrounding structure.

Major: For a single door, missing or deteriorated caulk is consistently evident for the majority of the door with no evidence of damage to the door and/or surrounding structure.

OR

2 or more of the doors surveyed have minor deficiencies.

Severe: For at least one door, missing or deteriorated caulking is evident along with evidence of leaks or damage to the door or surrounding structure; or more than half the total door surveyed have minor caulking deficiencies.

OR

The seal is missing.

Missing Door (Doors)

Door is absent.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: A single missing building exterior door constitutes a severe condition.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Blocked Egress/Ladders (Fire Escapes)

Any part of the fire escape, including ladders, is visibly blocked in a way that limits or restricts clear egress. (Note: This may include actual fire escapes themselves, fire towers, windows on the ground floor level that would be used in case of an emergency, etc.)

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Items are stored or barriers are present such that clear egress is restricted or blocked.

Visibly Missing Components (Fire Escapes)

Any components that affect functionality of the fire escape are visibly missing.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Functional components are visibly missing (such as one section of a ladder is not present or a railing is missing).

Cracks/Gaps (Foundations)

Visible split in the exterior of the lowest structural wall.

Note: Cracks that show evidence of water penetration should be evaluated here.

Severity Defined

Minor: Visible hairline cracks that do not appear to provide opportunity for water penetration.

OR

Minor broken pieces from settlement (e.g., a single brick).

Major: Cracks that exceed ⅛″ in width or depth. May also provide opportunities for water penetration.

OR

Large pieces, such as numerous bricks, that are separated from the wall/floor.

Severe: Large cracks or gaps visibly estimated to exceed 3/8'' in width or depth possibly indicating a serious structural problem.

OR

Cracks that are the full depth of the wall and/or provide opportunity for water penetration.

OR

Wall/floor sections that are broken apart.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Spalling/Exposed Rebar (Foundations)

The concrete or masonry wall that is flaking, chipping, or crumbling possibly exposing underlying reinforcing material (rebar).

Severity Defined

Minor: Spalling is confined to areas affecting less than 10% of the foundation wall area inspected.

Major: Obvious large spalled area(s) affecting 10% to 50% of any individual foundation wall.

Severe: Obvious significant spalled area(s) affecting 50% or more of any individual foundation wall.

OR

Spalling which causes any reinforcing material (rebar or other) to be exposed.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Broken Fixtures (Lighting)

All or a portion of the lighting that is associated with the building itself. This does not include lighting attached to the building utilized for purposes such as lighting the site.

Note: If a damaged fixture or fixtures presents a safety hazard, rate it as severe, and recorded manually as a health and safety concern. This includes, but is not limited to, broken fixtures that have the potential to fall on pedestrians, or fixtures that could lead to electrocution.

Severity Defined

Minor: N/A.

Major: Between 10% and 50% of the lighting fixtures surveyed are visibly broken. The broken portion of the system does not constitute an obvious safety hazard.

Severe: Over 50% of the lighting fixtures surveyed are visibly broken; or the broken portion of the system constitutes an obvious safety hazard.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually.

(Includes but not limited to ''Electrical Hazards'' or ''Hazards.'')

Missing/Broken Bulbs (Lighting)

Lamps are missing or broken from fixtures. May include incandescent, fluorescent, mercury vapor, or others.

Note: This does not include SITE Lighting. Site Lighting is covered under Site—Lighting.

Severity Defined

Minor: N/A.

Major: Between 10% and 50% of the fixtures surveyed have at least a single bulb visibly missing or broken.

Severe: Over 50% of the fixtures surveyed have at least a single bulb visibly missing or broken.

Comments

Major: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards.'')

Damaged/Clogged Drains (Roofs)

The drainage system does not effectively remove water.

Note: Generally, this deficiency applies to flat roofs. This does not include gutters and downspouts. Refer to Building Exterior—Roofs—Missing Components from Downspouts/Gutters.

Severity Defined

Minor: N/A.

Major: Debris around or in a drain is observed with no evidence of ponding observed.

OR

Drain is damaged but still functions.

Severe: Debris around or in a drain is observed with evidence of ponding observed.

OR

Damage is such that drain no longer functions.

Comments

Severe: Inspection by roofing specialist is recommended if doubt of the severity of the condition exists.

Damaged Soffits/Fascia (Roofs)

Soffit fascia and/or associated components are damaged. May provide visible

opportunity for water penetration or other damage from natural elements.

Severity Defined

Minor: Damage to soffit/fascia is visible but no obvious opportunities for water penetration are observed.
Major: N/A.
Severe: Soffits/Fascia are missing (from where required) or damaged so that water penetration is visibly possible.

Comments

Severe: Inspection by roofing specialist is recommended if doubt of the severity of the condition exists.

Damaged Vents (Roofs)

Damaged vents on or extending through the roof surface or components are damaged and/or missing. Vents may include, but is not limited to, ridge vents, soffit vents, gable vents, plumbing vents, or gas vent. (NOTE: This does not include exhaust fans located on the roof. Exhaust fans are covered under building systems—exhaust system.)

Severity Defined

Minor: The vents are visibly damaged but do not present an obvious risk to promote subsequent roof damage.
Major: N/A.
Severe: Vents are missing or visibly damaged to the extent that subsequent roof damage is possible.

Damaged/Torn Membrane/Missing Ballast (Roofs)

Visible rip or wear in the membrane. Includes punctures, holes, cracks, blistering, and separated seams.

Note: Includes flashing.

Severity Defined

Minor: N/A.
Major: Ballast has shifted and no longer performs function.
Severe: Visible damage to the membrane with visible signs of current damage and/or leaks.

Comments

Severe: Inspection by roofing specialist is recommended if doubt of severity of the condition exists.

Missing/Damaged Components from Downspout/Gutter (Roofs)

Components of the drainage system are visibly missing. The system includes gutters, leaders, downspouts, splashblocks and drain openings.

Note: This does not include clogged drains. Refer to Building Exterior—Roofs—Clogged Drains.

Severity Defined

Minor: Splashblocks are missing or damaged.
Major: N/A.
Severe: Drainage system components are visibly missing or damaged providing opportunities for damage to the roof, structure, exterior wall surface, interior, or surrounding grounds.

Missing/Damaged/Shingles (Roofs)

The shingles are missing or damaged which includes, but is not limited to, cracking, warping, cupping or deteriorated.

Note: A square is defined as 100 square feet.

Severity Defined

Minor: N/A.
Major: Up to 2 squares of surface material or shingles are missing.
Severe: More than 2 squares of shingles are observed to be missing from surveyed roofing areas.

Ponding (Roofs)

Evidence of areas of standing water exists.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Evidence of standing water on roof causing potential or visible damage to roof surface or underlying materials.

Comments

Severe: Inspection by roofing specialist is recommended if doubt of the severity of the condition exists.

Cracks/Gaps (Walls)

Visible split, separation, or gap in the exterior walls.

Severity Defined

Minor: Crack that is less than ⅛ inch in width or depth.
Major: Crack that exceeds ⅛ inch in width or depth. May also provide opportunities for water penetration.
OR
Pieces, such as numerous bricks, that are separated from the wall.
Severe: Large crack or gap visibly estimated to exceed ⅜ inch in width or depth possibly indicating a serious structural problem.
OR
Crack that is the full depth of the wall and/or provides opportunity for water penetration.
OR
Wall sections that are broken apart.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Damaged Chimneys (Walls)

The chimney, including the portion extending above the roof line, has separated from the wall or has cracks, spalling, missing pieces, or broken sections.

Severity Defined

Minor: N/A.
Major: Surface of chimney is cracking, spalling, or otherwise showing visible surface damage.
Severe: Part or all of the chimney has visibly separated from the adjacent wall. Cracked or fallen pieces or sections may currently be present or there is a risk of falling pieces creating a safety hazard.

Missing Pieces/Holes/Spalling (Walls)

Deterioration, such as missing pieces, holes or spalling in the exterior wall surface. May also be attributed to rotting materials; or, concrete, stucco, or masonry wall is flaking, chipping, or crumbling.

Severity Defined

Minor: N/A.
Major: Any missing piece, such as, a single brick or section of siding, or hole.
OR
Deterioration that affects an area up to 8½″ x 11″.
Severe: Deterioration that causes any reinforcing material (re-bar) to be exposed.
OR
More than one missing piece, such as a few bricks, or section of siding or holes that affects an area larger than 8½″ x 11″.
OR
Any size hole that completely penetrates the exterior wall.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Missing/Damaged Caulking/Mortar (Walls)

Caulking designed to provide weather resistance or mortar is missing or deteriorated.

Note: This doesn't include caulking relative to doors and windows as they are covered in other areas. All other caulking, etc. should be addressed here.

Severity Defined

Minor: Mortar is missing around a single masonry unit.
OR
Deteriorated caulk is confined to less than 12 inches.
Major: Mortar is missing in around more than one contiguous masonry unit.
OR
Deteriorated caulking is evident in an area longer than 12 inches.
Severe: N/A.

Stained/Peeling/Needs Paint (Walls)

Paint is cracking, flaking, otherwise deteriorated. Water damage or related problems have stained the paint.

Note: This does not include walls that are not intended to have paint, such as most brick walls, etc.

Severity Defined

Minor: Visible observations estimate that less than 50% of a single building exterior wall is affected.
Major: Visible observations estimate that more than 50% of a single building exterior wall is affected.
Severe: N/A.

Broken/Missing/Cracked Panes (Windows)

Glass pane is broken, missing or cracked.

Severity Defined

Minor: Glass pane is cracked, but no sharp edges are present.
Major: N/A.
Severe: Glass pane is missing or broken.

Damaged/Missing Screens (Windows)

Screen is punctured, torn, is otherwise damaged or is missing.

Severity Defined

Minor: Screen has significant punctures, tears, is otherwise damaged or is missing.
Major: N/A.
Severe: N/A.

Damaged Sills/Frames/Lintels/Trim (Windows)

Window sills, frames, sash lintels, or trim are damaged by decay, rust, rot, corrosion, or other deterioration.

Severity Defined

Minor: N/A.
Major: Damage does not affect the window's intended operation.
Severe: Damage affects the window's intended operation.

Missing/Deteriorated Caulking/Glazing Compound (Windows)

Caulking or glazing compound to provide weather resistance is missing or deteriorated.

Note: This also includes Thermopane or insulated windows that have failed.

Severity Defined

Minor: Missing or deteriorated caulk or glazing compound is confined to small areas with no evidence of damage to the window and/or surrounding structure.
Major: Missing or deteriorated caulk or glazing compound is consistently evident for the majority of the window with no evidence of damage to the window and/or surrounding structure.
OR
2 or more of the windows surveyed have minor deficiencies.
Severe: Evidence of leaks or damage to the window or surrounding structure.

Peeling/Needs Paint (Windows)

Paint covering the window assembly/trim is cracking, flaking, or otherwise failing; or window assembly/trim is not painted or is exposed to the elements.

Note: This does not include windows that are not intended to be painted.

Severity Defined

Minor: Peeling paint and/or a window in need of paint is observed.

Major: N/A.

Severe: N/A.

Security Bars Prevent Egress (Windows)

Security bars are damaged, constructed or installed, such that egress is severely limited or impossible.

Note: This does not include windows not designed or intended for egress.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The ability to exit through the window is limited by security bars that do not function properly and, therefore, pose safety risks.

Deteriorated/Missing Caulking/Seals (Doors)

Sealant and stripping designed to provide weather resistance or caulking is missing or deteriorated.

Severity Defined

Minor: For a single window, missing or deteriorated caulk is confined to small areas with no evidence of damage to the door and/or surrounding structure.
Major: For a single door, missing or deteriorated caulk is consistently evident for the majority of the door with no evidence of damage to the door and /or surrounding structure.
OR
2 or more of the doors surveyed have minor deficiencies.
Severe: For at least one door missing or deteriorated caulking is evident along with evidence of leaks or damage to the door surrounding structure; or more than half of the total door surveyed have minor caulking deficiencies.
OR
The seal is missing.

Building Systems Inspectable Items

Items to inspect for ''Building Systems'' are as follows:

Domestic Water
Electrical System
Elevators
Emergency Power
Exhaust System
Fire Protection
HVAC
Sanitary System

Domestic Water (Building Systems)

Portion of the building system that provides potable water conditioning, heating, and distribution taking its source from outside the building and terminating in domestic plumbing fixtures. The system typically consists of water conditioners (filters and softeners), water heaters, transfer and circulating pumps, strainers, and connecting piping, fittings, valves, and supports.

Note: This does not include portion of water supply that connects to the heating and cooling system. Also, the delivery points of the system such as sinks and faucets in units or common areas.

This inspectable item can have the following deficiencies:

Central Hot Water Supply Inoperable
Leaking Central Water Supply
Misaligned Ventilation System
Missing Pressure Relief Valve
Rust/Corrosion on Heater Chimney
Water Supply Inoperable
Rust/Corrosion on Central Water Components

Electrical System (Building Systems)

Portion of the building system that safely provides electrical power throughout the building. Including equipment that provides control, protection, metering, and service.

Note: This does not include transformers or metering that belongs to the providing utility. Equipment that is part of any emergency power generating system. Terminal equipment such as receptacles, switches, or panelboards that are located in the units or common areas.

This inspectable item can have the following deficiencies:

Blocked Access/Improper Storage
Burnt Breakers
Evidence of Leaks/Corrosion
Frayed Wiring
Missing Breakers
Missing Covers

Elevators (Building Systems)

Vertical conveyance system for moving personnel, equipment, materials, household goods, etc.
This inspectable item can have the following deficiency: Not Operable.

Emergency Power (Building Systems)

Standby/backup equipment intended to supply illumination or power or both, (battery or generator set) during utility outage.
This inspectable item can have the following deficiencies:
Run-Up Records/Documentation Not Available

Exhaust System (Building Systems)

The system used to primarily exhaust stale air from the building. Primarily from the kitchen and bathroom areas.

Note: This does not include elements related to the HVAC system.

This inspectable item can have the following deficiencies: Roof Exhaust Fans Inoperable

Fire Protection (Building Systems)

Building System designed to minimize the effects of a fire. May include the following: fire walls and doors, portable fire extinguishers, and permanent sprinkler systems.

Note: This does not include fire detection, alarm, and control devices.

This inspectable item can have the following deficiencies:

Missing Sprinkler Head
Missing/Damaged/Expired Extinguishers

HVAC (Building Systems)

Portion of the building system that provides ability to heat or cool the air within the building. Includes equipment such as boilers, burners, furnaces, fuel supply, hot water and steam distribution, and associated piping, filters, and equipment. Also includes air handling equipment and associated ventilation ducting.
This inspectable item can have the following deficiencies:

Boiler/Pump Leaks
Fuel Supply Leaks
General Rust/Corrosion
Gas Fired Unit '' Missing/Misaligned Chimney

Sanitary System (Building Systems)

Portion of the building system that provides for the disposal of waste products with discharge to the local sewage system. Can include sources such as domestic plumbing fixtures, floor drains, and other area drains. Consists of floor drains and traps, collection sumps, sewage ejectors, sewage pumps, and collection piping, fittings, valves, and supports.

Note: This does not include site storm drainage. Refer to *Site—Storm Drainage.*

This inspectable item can have the following deficiencies:

Broken/Leaking/Clogged Pipes or Drains (Sanitary System)
Missing Drain/Cleanout/Manhole Covers

Leaking Central Water Supply (Domestic Water)

Water visibly leaking from any water system component. Includes valve flanges, stems, bodies, hose bibbs or from any domestic water tank or its pipe or pipe connections.

Note: This includes both hot and cold water.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Water is visibly leaking.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards''.)

Misaligned Ventilation System (Domestic Water)

The ventilation system on a gas/oil fired water heater is misaligned.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any misalignment/damaged which may cause improper or dangerous venting of exhaust gases.

Missing Pressure Relief Valve (Domestic Water)

Pressure relief valve on central hot water heating system is not present.

Note: This does not include the pipe from the PRV to the floor.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: No pressure relief valve present.

Rust/Corrosion on Central Water Components (Domestic Water)

The material condition of the equipment and/or associated piping shows evidence of flaking, discoloration, pitting or crevices.

Severity Defined

Minor: N/A.
Major: Significant formations of metal oxides are visible or a noticeable pit or crevice has developed.
Severe: Condition has rendered equipment and/or piping inoperable.

Rust/Corrosion on Heater Chimney (Domestic Water)

The material condition of the water heater chimney shows evidence of flaking, discoloration, pitting or crevices.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The water heater chimney shows evidence of flaking, discoloration, pitting or crevices which may result in holes, ultimately, allowing leaks of toxic gases from the chimney.

Water Supply Inoperable (Domestic Water)

Water is unavailable at unit or common area faucets.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Running water is unavailable within any area of the building.

Blocked Access/Improper Storage (Electrical System)

The placing of any object that will delay or prevent access to any panelboard or main power switch.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: One or more items are placed in front of the building systems' electrical panel.

Burnt Breakers (Electrical System)

Breakers having carbon on the plastic body, or plastic body is melted and scarred.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any signs of carbon residue or breaker is melted and/or has arcing scars.

Evidence of Leaks/Corrosion (Electrical System)

Liquid stains, rust marks or other signs of corrosion are found on electrical enclosures or hardware.

Note: Do not address surface rust if it does not affect the condition of the electrical enclosure.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any corrosion that affects the condition of the current carrying components. Stains and/or rust on the interior of electrical enclosures or evidence of water leaks are present in the enclosure or hardware.

Frayed Wiring (Electrical System)

Insulation may be frayed, stripped, or removed resulting in a potentially dangerous condition.

Note: This does not include any wires not intended to be insulated, such as grounding wires.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Nicks, abrasions or fraying of the insulation.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards.'')

Missing Breakers (Electrical System)

An open circuit breaker position in a panel-board, main panel board or other electrical box containing circuit breakers; not appropriately blanked-off.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Open breaker port.

Missing Covers (Electrical System)

Missing covers on any electrical device box, panel box, switch gear box, control panel, etc., where visible electrical connections are exposed.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Cover is missing resulting in exposed visible electrical connections.

Not Operable (Elevators)

Elevator will not ascend or descend. Door will not open or close. Door opens without cab being present.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any elevator that is either inoperable or doors open without cab present.

Auxiliary Lighting Inoperable (Emergency Power)

Emergency lighting which provides illumination during periods of power outage.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Auxiliary lighting does not function.

Severity Defined

Minor: N/A.
Major: Current records (within the last 12 months) are lost but old records demonstrate proper use.
Severe: No records are available.

Roof Exhaust Fans Inoperable (Exhaust System)

The ventilation system to exhaust kitchen and/or bathroom air is inoperable.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Roof exhaust fan unit is inoperable.

Missing Sprinkler Head (Fire Protection)

Any sprinkler head connected to the central fire protection system is missing, visibly disabled, blocked, and/or capped.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any sprinkler head is missing, visibly disabled, blocked, and/or capped.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Missing/Damaged/Expired Extinguishers (Fire Protection)

A portable fire extinguisher is not in its proper location, is damaged or the extinguisher certification has expired.

Note: This includes fire hoses in fire cabinets.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Missing or damaged extinguisher, or expired extinguisher certificate is observed.

Boiler/Pump Leaks (HVAC)

Escaping of water/steam from unit casing or system piping.

Note: This does not include fuel supply leaks. See Building Systems—HVAC fuel supply leaks. Also, don't include steam escaping from pressure relief valves.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Visible leak is observed.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Include but not limited to ''Hazards.'')

Fuel Supply Leaks (HVAC)

There is evidence of fuel escaping from a fuel storage tank or fuel line.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any leakage of fuel from the supply tank or piping.

Gas Fired Unit—Missing/Misaligned Chimney (HVAC)

The exhaust system on a gas/oil fired unit is misaligned.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any misalignment which causes improper or dangerous venting of gases.

General Rust/Corrosion (HVAC)

The material condition of the equipment and/or associated piping/ducting shows evidence of flaking, discoloration, pitting or crevices.

Severity Defined

Minor: N/A.
Major: Significant formations of metal oxides are visible or a noticeable pit or crevice has developed.
Severe: Condition has rendered equipment and/or piping inoperable.

Broken/Leaking/Clogged Pipes or Drains (Sanitary System)

Any visible leaks in sanitary system components or visibly clogged drains.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Visible active leaks are observed within or around the system components. Standing water, puddles, or ponding have occurred which is indicative of leaks or clogged drains.

Missing Drain/Cleanout/Manhole Covers (Sanitary System)

The protective covers are not present.

Note: This also includes covers observed while walking the site.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Cover is missing.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Include but is not limited to ''Air Quality'', ''Hazards.'')

Common Areas Inspectable Items

Items to inspect for ''Common Areas'' are as follows:

Basement/Garage/Carport
Closet/Utility/Mechanical
Community Room
Day Care
Halls/Corridors/Stairs
Kitchen
Laundry Room
Lobby
Office
Other Community Spaces
Patio/Porch/Balcony
Pools and Related Structures
Restrooms/Pool Structures
Storage
Trash Collection Areas

Basement/Garage/Carport (Common Areas)

Basement: the lowest habitable story of a building, usually below ground level. Garage: a building or wing of a building in which to park a car. Carport: a roof projecting from the side of a building or free standing, used to shelter an automobile.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Closet/Utility/Mechanical (Common Areas)

An enclosed room or closet housing machines and/or equipment that service the building.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Community Room (Common Areas)

Meeting place used by members of a community for social, cultural, or recreational purposes.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Outlets/Switches
Smoke Detector
Stairs/Hand Railings
Walls Damaged
Lighting Damaged/Inoperable
Windows Damaged

Day Care (Common Area)

Place that provides daytime supervision, training, and medical services for preschool children or for the elderly.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Halls/Corridors/Stairs (Common Areas)

Passageway in a building, which organizes its rooms, apartments and staircases.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Damaged
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged
Graffiti
Mailboxes Damaged

Kitchen (Common Areas)

A place where food is cooked or prepared. The facilities and equipment used in preparing and serving food.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
Kitchen
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Laundry Room (Common Areas)

Place where soiled clothes and linens are washed and/or dried.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Laundry Room
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Lobby (Common Area)

A foyer, hall, or waiting room at or near the entrance of a building.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Office (Common Areas)

Place in which business, professional, or clerical activities are conducted. This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Other Community Spaces (Common Areas)

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Patio/Porch/Balcony (Common Areas)

Covered entrance to a building, usually with a separate roof or a recreation area that adjoins a unit.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Patio/Porch/Balcony
Stairs/Hand Railings Damaged
Walls Damage
Windows Damaged

Pools and Related Structures (Common Areas)

Swimming pools and related structures including fencing, etc.

This inspectable item can have the following deficiencies: Pool and Related Structures—Damaged/Not Operational.

Restrooms/Pool Structures (Common Area)

A room equipped with a water closet or toilet, tub and/or shower, sink, cabinet(s) and/or closet. This includes locker rooms or bathhouses associated with swimming pools.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Restrooms
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Storage (Common Areas)

A room in which items are kept for future use.

This inspectable item can have the following deficiencies:

Ceiling Damaged
Doors Damaged
Floors Damaged
HVAC System Inoperable
Lighting Damaged/Inoperable
Outlets/Switches Damaged
Smoke Detector Inoperable
Stairs/Hand Railings Damaged
Walls Damaged
Windows Damaged

Trash Collection Areas (Common Areas)

Collection areas for trash/garbage common pick-up.

This inspectable item can have the following deficiencies: Trash Collection Areas.

Electrical—Blocked Access/Improper Storage (Common Areas)

The placing of any object that will delay or prevent access to any panelboard or main power switch.

Severity Defined

Minor: N/A.
Major: N/A
Severe: One or more items are placed in front of the unit's electrical panel, impeding accessibility in time of an emergency.

Electrical—Burnt Breakers (Common Areas)

Breakers having carbon on the plastic body, or plastic body is melted or scarred.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any signs of carbon residue or breaker is melted and/or has arcing scars.

Electrical—Evidence of Leaks/Corrosion (Common Areas)

Liquid stains, rust marks or other signs of corrosion are found on electrical enclosures or hardware.

Note: Do not address surface rust if it does not affect the condition of the electrical enclosure.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any corrosion that affects the condition of the current carrying components. Stains and/or rust on the interior of electrical enclosures or evidence of water leaks are present in the enclosure or hardware.

Electrical—Frayed Wiring (Common Areas)

Insulation may be frayed, stripped, or removed resulting in a potentially dangerous condition.

Note: This does not include any wires not intended to be insulated, such as grounding wires.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Nicks, abrasions or fraying of the insulation.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards.'')

Electrical—Missing Breakers (Common Areas)

An open circuit breaker position in a panel-board, main panel board or other electrical box containing circuit breakers; not appropriately blanked-off.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Open breaker port.

Electrical—Missing Covers (Common Areas)

Missing covers on any electrical device box, panel box, switch gear box, control panel, etc., where visible electrical connections are exposed.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Cover is missing resulting in exposed visible electrical connections.

Ceiling—Bulging/Buckling (Common Areas)

Ceiling has bowed, deflected, is sagging, or has deviated from original horizontal alignment.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Bulging, buckling, or sagging is observed.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Ceiling—Holes/Missing Tiles/Panels/Cracks (Common Areas)

Punctures in the ceiling surface. May or may not penetrate completely. Panels or tiles may be missing or damaged.

Severity Defined

Minor: Small holes or missing tile/panel found in a ceiling, visually estimated at no larger than a sheet of paper (8½ x 11 inches). Hole does not fully penetrate into the area above (cannot see through it).

Major: A hole or missing tile/panel is found which is visually estimated to be larger than a sheet of paper (8½ x 11 inches) but does not fully penetrate into the area above (cannot see through it).

OR

A crack greater than ⅛″ wide and a minimum of 11″ long.

Severe: Any hole is found which fully penetrates into the area above (can see through the hole to upper space).

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Hazards.'')

Ceiling—Needs Paint (Common Areas)

Paint is peeling, cracking, flaking, otherwise deteriorated, or surface is not painted.

Severity Defined

Minor: Area affected is less than 4 square feet.

Major: Area affected is greater than 4 square feet.

Severe: N/A.

Ceiling—Water Stains/Water Damage/Mold/Mildew (Common Areas)

Visible evidence of water infiltration, mold, or mildew exists. Damage such as saturation or surface failure may have occurred.

Severity Defined

Minor: For a single ceiling, visible indication of a leak, mold, or mildew, such as a darkened area, exists over a small area (less than 4 sq. ft.). Water may or may not be evident. Visual observations estimate that less than 10% of the ceiling surface area is affected.

Major: For a single ceiling, visible indication of a leak mold or mildew, such as a darkened area, exists over a large area (more than 4 sq. ft.). Water may or may not be evident.

OR

Visual observations estimate that 10% to 50% of the ceiling area has minor damage.

Severe: Visual observations estimate that a large portion (50% of its surface area) of one ceiling has been exposed to substantial saturation or damage due to water, mold, or mildew. Visible cracks, moist areas, mold, or mildew are evident. The ceiling surface may have failed.

OR

Cases where visual observations estimate that more than 50% of the ceiling area shows minor defined signs of damage, stains, mold, or mildew.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Air Quality.'')

Doors—Broken/Missing Glazing/Glass (Common Areas)

The glass and/or compound/structure to support and hold glass or other materials within a frame are missing or broken.

Severity Defined

Minor: For one or more doors, glazing is inadequate to secure glass, but door is usable and presents no immediate security risk.

Major: N/A.

Severe: For at least one door, the operation, function, or security of the door is destroyed by the missing or broken glazing and/or glass. One door in this condition is sufficient to classify the door system as severe.

Doors—Damaged Surface (Holes/Paint/Rusting) (Common Areas)

Damage in the door surface that may affect either the surface protection or the strength of the door, or it may compromise building security or privacy. Includes holes, peeling/cracking/no paint, or significant rust.

Note: A restroom, fire door, or entry door impacted is severe.

Severity Defined

Minor: Any one door has either: small holes (less than ¼ inch in diameter); cracking/peeling paint; and/or the door or its components are rusting.

Major: If more than one door has minor surface damage as defined above.

OR

Any single door that has a hole or holes ranging in size from ¼ inch up to 1 inch diameter.

Severe: Any single door has a hole or holes larger than 1 inch in diameter or significant peeling/cracking/no paint or rust that affects the integrity of the door surface.

Doors—Damaged Frames/Threshold/Lintels/Trim (Common Areas)

The frame, header, jamb, threshold, lintels, or trim, is visibly warped, split, cracked, or broken in some manner.

Severity Defined

Minor: A single door's frame/threshold/lintel and/or trim is damaged but does not hinder door operation. The damaged door frame does not prevent door from being locked.

Major: More than one door has the minor damage defined above.

Severe: At least one door is rendered inoperable and/or unlockable due to damage to the door's frame/threshold/lintel and/or trim.

OR

Minor damage as defined above affects a restroom, entry, or fire door.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Doors—Damaged Hardware/Locks (Common Areas)

The attachments to a door to provide hinging, hanging, opening, closing, or security are damaged or missing. Includes locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Severity Defined

Minor: A single door's hardware, as defined above, is damaged but does not hinder current door operation. The door functions, is lockable, and the door's panic hardware is operable.

Major: More than one door has minor damaged hardware as defined above.

Severe: A single door is rendered inoperable and/or unlockable due to damage to the door's hardware.

OR

Minor damaged as defined above affects a restroom, entry or fire door.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Doors—Deteriorated/Missing Seals (Common Areas)

The seals and stripping around the door(s) designed to provide fire resistance are damaged or missing.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: For a single door the seals are missing. Seals are damaged to the point that they no longer serve the intended purpose.

Doors—Missing Door (Common Areas)

Door is absent.

Note: A restroom, entry or fire door impacted is severe.

Severity Defined

Minor: The missing door is not a restroom, entry, or fire door.

Major: Missing doors are not an entry, restroom, or fire door. They present no hazard and visual observation shows two doors or up to 50% of the doors are missing.

Severe: The missing door is a restroom, entry, or fire door.

OR

Visual observation estimates more than 50% of the doors are missing.

Comments

Severe: If condition is a health and safety concern it must be recorded manually. (Includes but not limited to ''Hazards.'')

Floors—Bulging/Buckling (Common Areas)

Floor has bowed, deflected, is sagging, or has deviated from original horizontal alignment.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Bulging, buckling, or sagging is observed.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Floors—Floor Covering Damaged (Common Areas)

Damage to the carpet, tiles, wood, sheet vinyl, or other floor covering.

Severity Defined

Minor: For a single floor, floor covering may have stains, surface burns, shallow cuts, small holes, tears, loose areas or exposed seams. The covering is fully functional. Visual observation estimates that less than 10% of the floor area is affected. Does not present a safety hazard.

Having minor damage as described above are affected. Visual observations estimate that 10% to 50% of the floors are affected.

Severe: For a single floor, large sections of the covering are damaged estimated at more than 50% of the floor area.

OR

Floor covering damage that exposes the underlying material.

OR

Covering that has failed in most traffic areas.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Floors—Missing Flooring (Common Areas)

Flooring such terrazzo, hardwood, ceramic tile or other flooring material is missing.

Severity Defined

Minor: For a single floor small holes in areas of the floor surface. Visual observations estimate less than 10% of the floors surveyed are affected. No safety problems exist due to this condition.

Major: Visual observations estimate 10% to 50% of the floors have minor holes/damage. No safety problem exists due to this condition.

Severe: Visual observations estimate more than 50% of the floors are affected by minor holes/damage; or the holes are sufficient for safety to be compromised. One concern involving compromised safety is sufficient to classify the floor system as severe.

Floors—Needs Paint (Common Areas)

For floors that are painted, paint is peeling, cracking, flaking, or otherwise deteriorated.

Note: This applies to any painted floor surface, typically concrete.

Severity Defined

Minor: For a single floor, a peeling condition exists. Up to or less than 50% of the floor is affected.

Major: For a single floor, a peeling condition exists. More than 50% of the floor is affected.

Severe: N/A.

Floors—Rot/Deteriorated Subfloor (Common Areas)

Subfloor has decayed or is decaying.

Severity Defined

Minor: N/A.

Major: Condition is slightly noticeable. Small areas of rot or spongy flooring are found. Inspection observations estimate less than 10% of the floors are affected.

Severe: Large areas of rot are readily visible. Application of weight causes noticeable deflection. Inspection observations estimate more than 10% of floors are affected.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Floors—Water Stains/Water Damage/Mold/Mildew (Common Areas)

Visible evidence of water infiltration, mold, or mildew exists. Damage such as saturation or surface failure may have occurred.

Severity Defined

Minor: N/A.

Major: Visible indication of a water stain, mold, or mildew, such as darkened area, exists over a small area (4 sq. ft. or less). Water may or may not be evident.

Severe: Visual observations estimate that a large portion of floor has been exposed to substantial saturation or damage due to water, mold, or mildew. Visible cracks, mold, moist areas and flaking are evident. The floor surface may have failed.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Air Quality,'' ''Hazards.'')

Lighting Damaged/Inoperable (Common Areas)

Lighting fixture is damaged, inoperable, or missing.

Severity Defined

Minor: N/A.

Major: The permanent lighting fixture is damaged, inoperable or missing.

Severe: N/A.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards,'' ''Hazards.'')

Outlets/Switches/Cover Plates—Missing/Broken (Common Areas)

The flush plate used to cover the opening surrounding a switch or outlet is damaged or does not exist. Switch or outlet is missing.

Severity Defined

Minor: Outlet or switch has broken cover plate which does not result in exposed wiring.

Major: N/A.

Severe: An outlet or switch is missing.

OR

A cover plate is missing or broken resulting in exposed wiring.

Smoke Detector—Missing/Inoperable (Common Areas)

Smoke detector will not activate, or is missing.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: A single missing or inoperable smoke detector is severe.

Stairs—Broken/Missing Hand Railing (Halls/Corridors/Stairs)

The hand rail is damaged or non-existent.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: The hand-rail for four or more stairs is completely missing or damaged, loose or otherwise unusable.

Stairs—Broken/Damaged/Missing Steps (Halls/Corridors/Stairs)

The horizontal tread or stair surface is damaged or non-existent.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Step is broken, damaged or missing.

Mailbox Missing/Damaged (Halls/Corridors/Stairs)

Mailbox does not function properly due to deterioration, damage, or is absent.

Severity Defined

Minor: Mailbox is damaged, vandalized, or deteriorated, but functional.

Major: N/A.

Severe: Mailbox is damaged, vandalized, or deteriorated, and as a result, is not functional.

OR

Mailbox is missing.

Graffiti (Halls/Corridors/Stairs)

Visual observation of a crude, (not recognizable as an art form), inscription or drawing scratched, painted or sprayed on a building surface, retaining wall, or fence so as to be seen by the public.

Note: Do not count full wall murals and similar art forms as graffiti.

Severity Defined

Minor: Visual graffiti observed in at least one location/area.

Major: Graffiti observed in 2–5 locations/areas.

Severe: Graffiti observed in 6 or more locations/areas.

Walls—Bulging/Buckling (Common Areas)

Wall has bowed, deflected, sagged or has deviated from original vertical alignment.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Bulging/Buckling or sagging is observed.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Walls—Damaged/Deteriorated Trim (Common Areas)

Cove molding, chair rail, base molding or other decorative trim is damaged or has decayed.

Severity Defined

Minor: Small areas of deterioration in the trim surfaces. Visual observations estimate that less than 10% of the wall area surveyed is affected.

Major: Large areas of deterioration in the trim surfaces. Visual observation estimate that 10% to 50% in any of the wall area surveyed is affected.

Severe: Significant areas of deterioration in the wall surfaces. Visual observations estimate that more than 50% of the wall area surveyed is affected.

Walls—Damaged (Common Areas)

Punctures in the wall surface. May or may not penetrate completely. Panels or tiles may be missing or damaged. Does not include small holes created by hanging pictures, etc.

Severity Defined

Minor: A hole missing tile/panel, or other damage found in a wall, visually estimated at no larger than 8½ x 11 inches. Hole does

not fully penetrate into the adjoining room (cannot see through it).

Major: A hole missing tile/panel or other damage wall that is larger than a sheet of paper (8½ x 11).

OR

A crack greater than ⅛″ in wide and a minimum of 11″ long.

Severe: A hole of any size is found in one or more walls which fully penetrates into an adjoining room (can see through the hole).

OR

Two or more walls have major holes.

Walls—Needs Paint (Common Areas)

Paint is peeling, cracking, flaking, otherwise deteriorated.

Severity Defined

Minor: Area affected is less than 4 square feet.

Major: Area affected is greater than 4 square feet.

Severe: N/A.

Walls—Water Stains/Water Damage/Mold/Mildew (Common Areas)

Walls are not watertight. Visible evidence of water infiltration, mold, or mildew exists. Damage such as saturation or surface failure may have occurred.

Severity Defined

Minor: For a single wall, visible indication of a leak, mold, or mildew, such as darkened area, exists over a small area. (less than 4 sq. ft. by visual estimate). Water may or may not be evident.

Major: For a single wall, visible indication of a leak exists over a large area (visually estimated at more than 4 sq. ft.). Water is probably evident.

Major: Visual observation estimates that a large portion (more than 50% of the surface) of one or more walls have been exposed to substantial saturation or damage due to water, mold, or mildew. Visible cracks, moisture area, mold and flaking are evident. The wall surface may have failed. One occurrence of this condition is sufficient to classify the wall system as severe.

OR

Visual observations estimate that more than 50% of the wall surface in any one area shows signs of water damage, stains, mold, or mildew.

Windows—Cracked/Broken/Missing Panes (Common Areas)

Glass or pane is cracked, broken or missing.

Severity Defined

Minor: Cracked window pane is observed.

Major: N/A.

Severe: Glass pane is broken or missing.

Windows—Damaged Window Sill (Common Areas)

The horizontal member of the window that bears the upright portion of the frame is damaged.

Severity Defined

Minor: Sill is damaged but still present. The inside of the surrounding wall is not exposed. No impact to window operation or weather tightness is visually apparent.

Major: Sill is missing or damaged enough to expose the inside of the surrounding walls and/or compromise its weather tightness.

Severe: N/A.

Windows—Security Bars Prevent Egress (Common Areas)

Security bars are damaged, constructed or installed such that egress is severely limited or impossible.

Note: This does not include windows not designed or intended for egress.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: The ability to exit through the window is limited by security bars that do not function properly and, therefore, pose safety risks.

HVAC—Gas Fired Unit—Missing/Misaligned Chimney (Common Areas)

The exhaust system on a gas fired unit is misaligned.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Any misalignment which causes improper or dangerous venting of gases.

HVAC—Inoperable (Common Areas)

The heating, cooling, or ventilation system is inoperable.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: The HVAC does not function, providing neither necessary heating or cooling as designed. System does not respond when the controls are engaged.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

HVAC—Noisy/Vibrating/Leaking (Common Areas)

The HVAC distribution components, including fans, are the source of abnormal noise, unusual vibration, or leaks.

Severity Defined

Minor: N/A.

Major: The HVAC system exhibits or shows signs of abnormal vibration, other noise or leaks when engaged. The condition does not prevent the system from providing heating or cooling sufficient to maintain a minimum temperature range in the major living areas of the unit.

Severe: N/A.

HVAC—Radiator Covers Missing/Damaged (Common Areas)

Radiator cover is missing, damaged or inoperable.

Severity Defined

Minor: N/A.

Major: Radiator is damaged, impeding proper heating and cooling, but not creating any type of safety hazard.

Severe: Radiator is missing, damaged or substantially not installed to burn, fan or other potentially serious hazards.

HVAC—Rusted/Corroded (Common Areas)

The material condition of the equipment and/or associated piping/ducting shows evidence of flaking, discoloration or pitting.

Severity Defined

Minor: N/A.

Major: Significant formations of metal oxides are visible or a noticeable pit or crevice has developed.

Severe: Condition has rendered equipment and/or piping inoperable.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Call-for-Aid Inoperable (Common Areas)

Call-for-Aid is inoperable.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: System does not function as intended.

Countertops—Missing/Damaged (Common Areas)

A flat work surface in a kitchen often integral to lower cabinet space is missing or deteriorated.

Severity Defined

Minor: Counter-top surface is discolored; materials have begun to separate or minor scratching and chipping is present.

Major: Surface shows advanced stage of deterioration and/or scratching, chipping.

Severe: Countertop working surface is missing or deteriorated and/or damaged and does not provide a sanitary surface to prepare food.

Cabinets—Missing/Damaged (Common Areas)

A case, box or piece of furniture with sets of drawers or shelves, with doors, primarily used for storage, mounted on walls or mounted on floors.

Severity Defined

Minor: Cabinet is discolored; materials have begun to separate or minor scratching and chipping is present. Cabinet assembly is present; up to two cabinets may be only marginally functional.

Major: Several (up to 50%) cabinets are either missing, damaged, or lacking adequate doors and/or shelves.

Severe: A significant number (more than 50%) of cabinets are either missing, damaged, or lacking adequate doors and/or shelves.

Dishwasher/Garbage Disposal—Inoperable (Kitchen) (Day Care) (Other Community Spaces)

A dishwasher or garbage disposal, if provided, does not work.

Severity Defined

Minor: N/A.

Major: The dishwasher or garbage disposal does not work.

Severe: N/A.

Exhaust Systems—Excessive Grease/Inoperable (Kitchen)

Failure of apparatus to draw cooking exhaust.

Severity Defined

Minor: Accumulation of dirt threatens the free passage of air.
Major: N/A.
Severe: Exhaust fan is inoperable or flue may be completely blocked based on visual estimation.

GFI—Inoperable (Kitchen)(Restrooms/Pool Structures)

GFI is present and inoperable.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: GFI is present and is found inoperable.

Fencing—Damaged/Not Intact (Pools and Related Structures)

Fencing surrounding the swimming pool was observed to be damaged.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any damage that compromises the integrity of the fence.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Hazards.'')

Pool—Not Operational (Pools and Related Structures)

Pool was not in operation during the inspection.

Note: If not operational due to seasonal changes the observation should still be recorded that the pool was not in operation.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Pool was observed not to be operational.

Lavatory Sink—Damaged/Missing (Restrooms/Pool Structures)

Sink, faucet, or accessories are missing, damaged or inoperable.

Severity Defined

Minor: Presence of extensive discoloration and/or cracks in the basin. Sink is still usable.

Major: N/A.

Severe: Absence or failure of the sink and/or associated hardware. Sink is unusable.

Plumbing—Clogged Drains (Kitchen) (Restrooms/Pool Structures)

Water does not drain adequately in shower, sink, tub or basin.

Severity Defined

Minor: Water does not drain freely when stopper is disengaged. Sink is usable.
Major: N/A.
Severe: Drain is completely clogged or has suffered extensive deterioration. Sink is not usable.

Plumbing—Leaking Faucet/Pipes (Kitchen) (Restrooms/Pool Structures)

Sink faucet or piping leaks.

Severity Defined

Minor: Leak or drip that is contained by basin. Faucet is usable.
Major: N/A.
Severe: Faucet leak and surrounding area is adversely affected.
OR
Piping leaks and surrounding area is adversely affected.

Range/Stove—Missing/Damaged/Inoperable (Kitchen)

Unit is absent or damaged.

Severity Defined

Minor: Unit's surface is dented, chipped or scratched. Operation of doors or drawers is impeded but stove is operational. Burner is misaligned and flame is not distributed equally. Pilot light is out on one or more burners.
Major: N/A.
Severe: The unit is missing, or any burners and/or oven is inoperable.

Refrigerator—Missing/Damaged/Inoperable (Kitchen)

The refrigerator does not perform adequately.

Severity Defined

Minor: Refrigerator has excessive accumulation of ice.
OR
Seals around doors are deteriorated.
OR
Operation of doors or drawers is impeded but refrigerator is operational.
Major: N/A.
Severe: Refrigerator is missing or does not cool at all.

Sink—Damaged/Missing (Kitchen)

Sink, faucet or accessories are missing, damaged, or inoperable.

Severity Defined

Minor: Presence of extensive discoloration and/or cracks in the basin. Sink & hardware are still usable for food preparation.
Major: N/A.
Severe: Sink or hardware is missing or is totally unusable for food preparation.

Dryer Vent Missing/Damaged/Inoperable (Laundry Room)

Inadequate means is available to vent accumulated heat to outside.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Dryer vent is missing or is visually determined to be inoperable (blocked). Dryer exhaust is not effectively vented to the outside.

Baluster/Side Railings Damaged (Patio/Porch/Balcony)

Baluster or side railing on this exterior improvement is loose, damaged or inoperable, limiting the safe use of this area.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The baluster and/or side rails enclosing this area are loose, damaged or missing, impeding the safe use of this area.

Restroom Cabinet—Damaged/Missing (Restrooms/Pool Structures)

Damaged or missing cabinets, vanity tops, drawers, shelves, and doors to include medicine cabinets and vanities.

Severity Defined

Minor: One or more cabinets/vanities have missing and/or damaged shelves, vanity tops, drawers, and/or doors, but all cabinets are fully usable.
Major: N/A.
Severe: One or more cabinets are missing or are not usable for storage due to their poor condition.

Shower/Tub—Damaged/Missing (Restrooms/Pool Structures)

Shower/tub or components are damaged or non-existent.
Minor: N/A.
Major: Presence of extensive discoloration and/or cracks in the basin. Shower/tub is usable.
Severe: Absence or failure of the shower, tub, faucets or drains and/or associated hardware. Shower or tub are unusable for any reason.

Ventilation/Exhaust System—Inoperable (Restrooms/Pool Structure)

Failure of apparatus to exhaust air.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Exhaust fan is inoperable or restroom window cannot be opened.

Water Closet/Toilet—Damaged/Clogged/Missing (Restrooms/Pool Structures)

Water closet/toilet is damaged or non-existent.

Severity Defined

Minor: N/A.
Major: Fixture elements, such as but not limited to the seat, the flush handle, the cover, etc., are missing or damaged.
Severe: Fractured or broken bowl will not retain water. Fixture may not exist or a hazardous condition exists. Absence of all flushing ability due to obstruction or other defect.

Chutes Damaged/Missing Components (Trash Collection Areas)

Structure that is utilized to direct garbage into the appropriate storage container. Components include but are not limited to the chute, the chute door.
Note: Do not evaluate the door that leads to the trash room.

Severity Defined

Minor: N/A.
Major: Substantially reduced capacity to dispose of refuse.
Severe: Broken or inadequate collection structure causes garbage to backup into chutes. Compactors or components have failed.

Unit Inspectable Items

Items to inspect for ''Unit'' are as follows:

Bathroom
Call-for-Aid
Ceiling
Doors
Electrical System
Floors
Hot Water Heater
HVAC System
Kitchen
Lighting
Outlets/Switches
Patio/Porch/Balcony
Smoke Detector
Stairs
Walls
Windows

Call-for-Aid (Unit)

System to summon help. May be visual, audible, or both. May be activated manually or automatically when pre-programmed conditions are met.

This inspectable item can have the following deficiency: Inoperable

Ceiling (Unit)

The visible overhead structure lining the inside of a room or area.

This inspectable item can have the following deficiencies:

Bulging/Buckling
Holes/Missing Tiles/Panels
Needs Paint
Water Stains/Water Damage/Mold/Mildew

Doors (Unit)

Means of access to the interior of a unit, room within the unit, or closet. Doors provide privacy and security, control passage, provide fire and weather resistance.

This inspectable item can have the following deficiencies:

Damaged Surface Holes/Paint/Rusting
Damaged Frames/Threshold/Lintels/Trim
Damaged Hardware/Locks
Damaged/Missing Screen/Storm/Security Door
Deteriorated/Missing Seals (Entry Only)
Missing Door

Electrical System (Unit)

Portion of the building system that safely provides electrical power throughout the building. Includes equipment that provides control, protection, metering, and service.

This inspectable item can have the following deficiency:

Blocked Access to Electric Panel
Burnt Breakers
Evidence of Leaks Corrosion
Frayed Wiring
GFI Inoperable
Missing Breakers
Missing Covers

Floors (Unit)

The visible horizontal surface system within a room or area underfoot; the horizontal division between two stories of a structure.

This inspectable item can have the following deficiencies:

Bulging/Buckling Floor
Covering Damage
Missing Flooring
Needs Paint
Rot/Deteriorated Subfloor
Water Stains/Water Damage/Mold/Mildew

Hot Water Heater (Unit)

This inspectable item can have the following deficiencies:

Gas Fired Unit—Missing/Misaligned Chimney
Inoperable Unit/Components
Leaking Valves/Tanks/Pipes
Pressure Relief Valve Missing
Rust/Corrosion

HVAC System (Unit)

System to provide heating, cooling and ventilation to the unit.

This does not include building heating or cooling system deficiencies such as boilers, chillers, circulating pumps, distribution lines, fuel supply, etc., OR occupant owned or supplied heating sources.

This inspectable item can have the following deficiencies:

Inoperable
Noisy/Vibrating/Leaking
Rust/Corrosion
Gas Fired Unit—Missing/Misaligned Chimney
Convection/Radiant Heat System/Covers Missing/Damaged

Kitchen (Unit)

A place where food is cooked or prepared. The facilities and equipment used in preparing and serving food.

This inspectable item can have the following deficiencies:

Cabinets—Missing/Damaged
Plumbing—Clogged Drains
Plumbing—Leaking Faucets/Pipes
Range/Stove—Missing/Damaged/Inoperable
Refrigerator—Missing/Damaged/Inoperable
Dishwasher/Garbage Disposal—Inoperable
Range Hoods/Exhaust Fans—Excessive Grease/Inoperable
Countertops—Missing/Damaged
Sink—Missing/Damaged

Lighting (Unit)

System to provide illumination to a room or area. Includes fixtures, lamps, and supporting accessories. This inspectable item can have the following deficiencies:

Missing/Inoperable Fixture

Outlets/Switches (Unit)

The receptacle connected to a power supply or method to control the flow of electricity. Includes two and three prong outlets, ground fault interrupters, pull cords, two & three pole switches, and dimmer switches.

This inspectable item can have the following deficiencies:

Missing
Missing/Broken Cover Plates

Patio/Porch/Balcony (Unit)

Adjoining patio, porch, or balcony.

This inspectable item can have the following deficiency:

Baluster/Side Railings Damaged

Smoke Detector (Unit)

Sensor to detect the presence of smoke and activate an alarm. May be battery operated or hard-wired to electrical system. May provide visual signal, audible signal, or both. Smoke detector must be located on every floor.

This inspectable item can have the following deficiencies: Missing/Inoperable

Stairs (Unit)

Series of 4 or more steps or flights of steps joined by landings connecting levels of a unit. Includes supports, frame, treads, handrails.

This inspectable item can have the following deficiencies:

Broken/Missing Hand Railing
Broken/Damaged/Missing Steps

Walls (Unit)

The enclosure of the unit and rooms. Materials for construction include concrete, masonry block, brick, wood, glass block, plaster, sheet-rock. Surface finish materials include paint, wall-coverings.

This inspectable item can have the following deficiencies:

Bulging/Buckling
Damaged
Damaged/Deteriorated Trim
Needs Paint
Water Stains/Water Damage/Mold/Mildew

Windows (Unit)

Window systems provide light, security, and exclusion of exterior noise, dust, heat, and cold. Frame materials include wood, aluminum, and vinyl.

This inspectable item can have the following deficiencies:

Cracked/Broken/Missing Panes
Damaged Window Sill
Deteriorated/Missing Caulking/Seals
Inoperable/Not Lockable
Peeling/Needs Paint
Security Bars Prevent Egress

Bathroom Cabinets—Damaged/Missing (Bathroom)

Damaged or missing cabinets, vanity tops, drawers, shelves, and doors. Includes medicine cabinets and vanities.

Severity Defined

Minor: Cabinet or vanity has missing and/or damaged shelves, vanity tops, drawers, and/or doors, but is fully usable.

Major: N/A.

Severe: Cabinet is missing or is not usable for storage due to its poor condition.

Lavatory Sink—Damaged/Missing (Bathroom)

Basin (sink) that shows signs of deterioration, distress, and/or is non-existent.

Severity Defined

Minor: Presence of extensive discoloration and/or cracks in the basin. Sink is still usable.

Major: N/A.

Severe: Absence or failure of the sink and/or associated hardware. Sink is unusable.

Plumbing—Clogged Drains (Bathroom)

Water does not drain adequately in shower, tub, or basin (sink).

Severity Defined

Minor: Water does not drain freely when stopper is disengaged; however, sink or tub is usable.
Major: N/A.
Severe: Drain is completely clogged or has suffered extensive deterioration. Sink or tub is not usable.

Plumbing—Leaking Faucet/Pipes (Bathroom)

Basin, shower, water closet, or tub faucet and/or associated pipes leak water.

Severity Defined

Minor: Leak or drip that is contained by basin. Plumbing fixture is usable.
Major: N/A.
Severe: Leak is steady and surrounding area is adversely affected.
OR
Piping leaks and surrounding area is adversely affected.

Shower/Tub—Damaged/Missing (Bathroom)

Shower/tub or components are damaged or non-existent.
Note: This does not include Leaks.

Severity Defined

Minor: N/A.
Major: Presence of extensive discoloration and/or cracks in the basin. Shower/Tub is usable.
Severe: Absence or failure of the shower, tub, faucets or drains and/or associated hardware. Shower or tub is unusable for any reason.

Ventilation/Exhaust System—Inoperable (Bathroom)

Failure of apparatus to exhaust air.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Exhaust fan is inoperable or bathroom window cannot be opened.

Water Closet/Toilet—Damaged/Clogged/Missing (Bathroom)

Water closet/toilet is damaged or non-existent.

Severity Defined

Minor: N/A.
Major: Fixture elements, such as but not limited to the seat, the flush handle, the cover etc., are missing or damaged.
OR
Toilet runs constantly.
Severe: Fractured or broken bowl will not retain water. Fixture may not exist or a hazardous condition exists. Absence of all flushing ability due to obstruction or other defect.

Inoperable (Call-for-Aid)

The system does not function.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: System does not function as intended.

Bulging/Buckling (Ceiling)

Ceiling has bowed, deflected, is sagging, or has deviated from original horizontal alignment.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Bulging, bucking or sagging is observed.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Holes/Missing Tiles/Panels (Ceiling)

Punctures in the ceiling surface. May or may not penetrate completely. Panels or tiles may be missing or damaged.

Severity Defined

Minor: Small holes or missing tile/panel found in a ceiling, visually estimated at no larger than a sheet of paper (8½ x 11 inches). Hole does not fully penetrate into the area above (cannot see through it).
Major: A hole or missing tile/panel is found which is visually estimated to be larger than a sheet of paper (8½ x 11 inches) but does not fully penetrate into the area above (cannot see through it).
OR
A crack greater than ⅛″ wide and a minimum of 11″ long.
Severe: Any hole is found which fully penetrates into the area above (can see through the hole to upper space).

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Hazards.'')

Needs Paint (Ceiling)

Paint is peeling, cracking, flaking, otherwise deteriorated, or surface is not painted.

Severity Defined

Minor: Area affected is less than 4 square feet.
Major: Area affected is greater than 4 square feet.
Severe: N/A.

Water Stains/Water Damage/Mold/Mildew (Ceiling)

Visible evidence of water infiltration, mold, or mildew exists. Damage such as saturation or surface failure may have occurred.

Severity Defined

Minor: For a single ceiling, visible indication of a leak, mold, or mildew, such as a darkened area, exists over a small area (less than 4 sq. ft.). Water may or may not be evident. Visual observations estimate that less than 10% of the ceiling surface area is affected.
Major: For a single ceiling, visible indication of a leak mold or mildew, such as a darkened area, exists over a large area (more than 4 sq. ft.). Water may or may not be evident.
OR
Visual observations estimate that 10% to 50% of the ceiling area has minor damage.
Severe: Visual observations estimate that a large portion (50% of its surface area) of one ceiling has been exposed to substantial saturation or damage due to water, mold, or mildew. Visible cracks, moist areas, mold, or mildew are evident. The ceiling surface may have failed.
OR
Cases where visual observations estimate that more than 50% of the ceiling area shows minor defined signs of damage, stains, mold, or mildew.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Air Quality.'')

Damaged Surface—Holes/Paint/Rusting (Doors)

Damage in the door surface that may affect either the surface protection or the strength of the door, or it may compromise building security or privacy. Includes holes, peeling/cracking/no paint, or significant rust.

Note: A bathroom, bedroom, or entry door impacted is severe.

Severity Defined

Minor: Any one door has either: small holes (less than ¼ inch in diameter); cracking/peeling paint; and/or the door or its components are rusting.
Major: If more than one building exterior door has minor surface damage as defined above.
OR
Any single unit door except bathroom/bedroom and/or entry doors, has a hole or holes ranging in size from ¼ inch up to 1 inch diameter.
Severe: If any unit door has a hole or holes larger than 1 inch in diameter, or significant peeling/cracking/no paint or rust that affects the integrity of the door surface.
OR
If bathroom, bedroom and/or entry door has either minor or major damage as defined above.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Damaged Frames/Threshold/Lintels/Trim (Doors)

The frame, header, jamb, threshold, lintels, or trim, is visibly warped, split, cracked, or broken in some manner.

Severity Defined

Minor: A single door's frame/threshold/lintel and/or trim is damaged but does not hinder door operation. The damaged door frame does not prevent door from being locked.
Major: More than one door has the minor damage defined above.
Severe: At least one door is rendered inoperable and/or unlockable due to damage to the door's frame/threshold/lintel and/or trim.

Damaged Hardware/Locks (Doors)

The attachments to a door to provide hinging, hanging, opening, closing, or security are damaged or missing. Includes locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Severity Defined

Minor: A single door's hardware, as defined above, is damaged but does not hinder current door operation. The door functions, is lockable, and the door's panic hardware is operable.

Major: More than one door has minor damaged hardware as defined above.

Severe: A single door is rendered inoperable and/or unlockable due to damage to the door's hardware.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Damaged/Missing Screen/Storm/Security Door (Doors)

Visible damage to surfaces including screens, glass, frames, hardware, and door surface.

Severity Defined

Minor: One or more screen/storm doors has damage or is missing screens/glass.

Major: One or more security doors has damage, but is still operational and the security door still serves its design purpose.

Severe: A single security door is inoperable or missing. (Missing only applies to those situations where a security door is supposed to be present but is observed not to be there.)

Deteriorated/Missing Seals (Entry Only) (Doors)

The seals and stripping around the entry door(s) designed to provide weather and fire resistance are damaged or missing.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: For a single entry door the seals are missing. Seals are damaged to the point that they no longer serve the intended purpose.

Deteriorated/Missing Caulking/Seals (Windows)

The caulking or seal is missing, poorly installed, or deteriorated.

Note: This also includes Thermopane or insulated windows that have failed.

Severity Defined

Minor: Missing or deteriorated caulk or seals are observed. No evidence of damage to window or surrounding structure exists.

Major: Missing or deteriorated caulk or seals are observed, with some evidence of leaks or damage to the window or surrounding structure visible.

OR

A Thermopane or insulated window has failed. (Typically indicated by being fogged up.)

Severe: Missing or deteriorated caulk or seals are observed and the window is not weather-tight. Evidence of leaks or damage to the window or surrounding structure is readily apparent.

Missing Door (Door)

Door is absent.

Note: A bathroom, bedroom, or entry door impacted is severe.

Severity Defined

Minor: The missing door is not a bathroom, bedroom or entry door.

Major: Missing doors are not an entry, bedroom, or bathroom. They present no hazard and visual observation shows two doors or up to 50% of the doors are missing.

Severe: The missing door is a bathroom, bedroom or entry door.

OR

Visual observation estimates more than 50% of the unit doors are missing from areas other than the bathroom, bedroom, or entry door.

Blocked Access to Electric Panel (Electrical System)

The placing of any object that will delay or prevent the access to any panelboard or main power switch in an emergency and cause a fire hazard.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: One or more items are placed in front of the unit's electrical panel, impeding accessibility in time of an emergency.

Burnt Breakers (Electrical System)

Breakers having carbon on the plastic body, or plastic body is melted or scarred.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any signs of carbon residue or breaker is melted and/or has arcing scars.

Evidence of Leaks/Corrosion (Electrical System)

Liquid stains, rust marks, or other signs of corrosion are found on electrical enclosures or hardware.

Note: Do not address surface rust if it does not affect the condition of the electrical enclosure.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Any corrosion that affects the condition of the current carrying components. Stains and/or rust on the interior of electrical enclosures or evidence of water leaks are present in the enclosure or hardware.

Frayed Wiring (Electrical System)

Insulation may be frayed, stripped, or removed resulting in a potentially dangerous condition.

Note: This does not include any wires not intended to be insulated, such as grounding wires.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Nicks, abrasions or fraying of the insulation.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Electrical Hazards.'')

GFI—Inoperable (Electrical System)

GFI is present and inoperable.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: GFI is present and inoperable.

Comments

Severe: This creates a health and safety concern.

Missing Breakers (Electrical System)

An open circuit breaker position in a panel-board, main panel board or other electrical box containing circuit breakers; not appropriately blanked-off.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Open breaker port.

Missing Covers (Electrical System)

Missing covers on any electrical device box, panel box, switch gear box, control panel, etc., where visible electrical connections are exposed.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Cover is missing resulting in exposed visible electrical connections.

Bulging/Buckling (Floors)

Floor has bowed, deflected, is sagging, or has deviated from original horizontal alignment.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Bulging, buckling, or sagging is observed.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Floor Covering Damage (Floors)

Damage to the carpet tiles, wood, sheet vinyl or other floor covering.

Severity Defined

Minor: Floor covering may have stains, surface burns, shallow cuts, small holes or tears in non-traffic areas, loose areas, exposed seams. The covering is fully functional. Visual observation estimates that less than 10% of the floor area is affected. Does not present a safety hazard.

Major: Floor covering may have burn marks, cuts, tears, holes, or large sections of exposed seams exposing the underlying material. The covering does not present a safety hazard. Visual observations estimate that 10% to 50% of the floors are affected.

Severe: Large sections of the floor covering are damaged estimated at more than 50% of the floor area.

OR

Floor covering damage that exposes the underlying material.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but not limited to ''Hazards.'')

Missing Flooring Tiles (Floors)

Flooring such as VCT, sheet vinyl, carpet or other flooring material is missing.

Severity Defined

Minor: For a single floor small holes in areas of the floor surface are missing. Visual observations estimate less than 10% of the floors surveyed are affected. No safety problems exist due to this condition.

Major: Visual observations estimate 10% to 50% of the floors have missing flooring. No safety problem exists due to this condition.

Severe: Visual observations estimate more than 50% of the floors are affected missing flooring; or the missing flooring is sufficient for safety to be compromised. One concern involving compromised safety is sufficient to classify the floor system as severe.

Needs Paint (Floors)

For floors that are painted, paint is peeling, cracking, flaking, or otherwise deteriorated.

Severity Defined

Minor: Area affected is less than 4 square feet.

Major: Area affected is greater than 4 square feet.

Severe: N/A.

Rot/Deteriorated Subfloor (Floors)

Subfloor has decayed or is decaying.

Severity Defined

Minor: N/A.

Major: Condition is slightly noticeable. Small areas of rot or spongy flooring are found.

Severe: Large areas of rot are readily visible, application of weight causes noticeable deflection.

Comments

Severe: Request an inspection by a structural engineer if doubt about severity exists.

Water Stains/Water Damage/Mold/Mildew (Floors)

Visible evidence of water infiltration, mold, or mildew exists. Damage such as saturation or surface failure may have occurred.

Severity Defined

Minor: N/A.

Major: Visible indication of a water stain, mold, or mildew, such as darkened area, exists over a small area (4 sq. ft. or less). Water may or may not be evident.

Severe: Visual observations estimate that a large portion (more than 10%) of floor has been exposed to substantial saturation or damage due to water, mold, or mildew. Visible cracks, mold, moist areas and flaking are evident. The floor surface may have failed.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Air Quality'', ''Hazards.'')

Gas Fired Unit—Missing/Misaligned Chimney (Hot Water Heater)

The exhaust system on a gas or fired unit is misaligned.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Any misalignment which causes improper or dangerous venting of gases.

Inoperable Unit/Components (Hot Water Heater)

Hot water supply is unavailable due to system or system component malfunction.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: After running for several minutes, water from the hot water taps is not warmer than room temperature.

Leaking Valves/Tanks/Pipes (Hot Water Heater)

Water visibly leaking from any hot water system component. Includes valve flanges, stems, bodies, or from any domestic hot water tank or its piping.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Water is visibly leaking.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Electrical Hazards.'')

Pressure Relief Valve Missing (Hot Water Heater)

Valve that regulates the temperature and pressure of the water heater is missing.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: No pressure relief valve is present.

Rust/Corrosion (Hot Water Heater)

The material condition of the equipment and/or associated piping shows evidence of flaking, discoloration, reduction in wall thickness, pitting, or crevices.

Severity Defined

Minor: Patches of noticeable formations of metal oxides.

Major: Significant formations of metal oxides are visible and a noticeable pit or crevice has developed.

Severe: Equipment and/or piping integrity has been compromised, (e.g., leaks are visible).

Gas Fired Unit—Missing/Misaligned Chimney (HVAC)

The exhaust system on a gas or fired unit is misaligned.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: Any misalignment which causes improper or dangerous venting of gases.

Inoperable (HVAC)

The heating or cooling system is inoperable in the unit.

Severity Defined

Minor: N/A.

Major: N/A.

Severe: The HVAC in the unit does not function, providing neither necessary heating or cooling as designed. System does not respond when the unit controls are engaged.

Noisy/Vibrating/Leaking (HVAC)

The HVAC distribution components in the unit, including fans, are the source of abnormal noise, unusual vibration, or leaks.

Severity Defined

Minor: N/A.

Major: The HVAC system in the unit exhibits or shows signs of abnormal vibration, other noise or leaks when engaged. The condition does not prevent the system from providing heating or cooling sufficient to maintain a minimum temperature range in the major living areas of the unit.

Severe: N/A.

Convection/Radiant Heat System Covers Missing/Damaged (HVAC)

Convection/Radiant heat system cover is missing or damaged.

Severity Defined

Minor: N/A.

Major: One or more covers are damaged, impeding proper heating, but not creating any type of safety hazard.

Severe: One or more covers are missing, or substantially not installed, enabling exposure to burn, fan or other potentially serious hazards. A single occurrence constitutes a safety hazard.

Rust/Corrosion (HVAC)

A component(s) of the system show visible deterioration due to oxidation or corrosion of system parts.

Severity Defined

Minor: N/A.

Major: Deterioration from rust and corrosion is observed on the HVAC units in the unit. The condition does not prevent the system from providing sufficient heating or cooling.

Severe: N/A.

Cabinets—Missing/Damaged (Kitchen)

A case, box or piece of furniture with sets of drawers or shelves, with doors, primarily used for storage, mounted on walls or mounted on floors.

Severity Defined

Minor: Cabinet is discolored; materials have begun to separate or minor scratching and chipping is present. Cabinet assembly is present; up to two cabinets may be only marginally functional.

Major: Several (up to 50%) cabinets are either missing, damaged, or lacking adequate doors and/or shelves.

Severe: A significant number (more than 50%) of cabinets are either missing, damaged, or lacking adequate doors and/or shelves.

Countertops—Missing/Damaged (Kitchen)

A flat work surface in a kitchen often integral to lower cabinet space is missing or deteriorated.

Severity Defined

Minor: Counter-top surface is discolored; materials have begun to separate or minor scratching and chipping is present.

Major: Surface shows advanced stage of deterioration and/or scratching, chipping.
Severe: Countertop working surface is missing or deteriorated and/or damaged and does not provide a sanitary surface to prepare food.

Dishwasher/Garbage Disposal—Inoperable (Kitchen)

A dishwasher or garbage disposal, if provided, does not work.

Severity Defined

Minor: N/A.
Major: The dishwasher or garbage disposal does not work.
Severe: N/A.

Range Hood/Exhaust Fans—Excessive Grease/Inoperable (Kitchen)

Failure of apparatus to draw out cooking exhaust due to excess dirt, excessive grease, and/or other operational problems.

Severity Defined

Minor: Accumulation of dirt or grease threatens the free passage of air.
Major: N/A.
Severe: Range hood/ exhaust fan is inoperable or presents serious electrical hazard to health or property. Flue may be completely blocked based on visual estimation.

Plumbing—Clogged Drains (Kitchen)

Water does not drain adequately.

Severity Defined

Minor: Basin does not drain freely when stopper is disengaged.
Major: N/A.
Severe: Drain is completely clogged or has suffered extensive deterioration

Inoperable/Not Lockable (Windows)

Window cannot be opened or closed due to frame damage, faulty hardware, or other reason.

Severity Defined

Minor: Window is inoperable, but can be secured. Other operable windows are present in the immediate area.
Major: N/A.
Severe: Window is inoperable and cannot be secured. No operable windows are present in the immediate area.

Cracked/Broken/Missing Panes (Windows)

Glass or pane is cracked, broken or missing.

Severity Defined

Minor: Cracked window pane is observed.
Major: N/A.
Severe: Glass pane is broken or missing.

Damaged Window Sill (Windows)

The horizontal member of the window that bears the upright portion of the frame is damaged.

Severity Defined

Minor: Sill is damaged, but still present. The inside of the surrounding wall is not exposed. No impact to window operation or weather tightness is visually apparent.
Major: Sill is missing, or damaged enough to expose the inside of the surrounding walls and/or compromise its weather tightness.
Severe: N/A.

Plumbing—Leaking Faucets/Pipes (Kitchen)

Basin faucet or drain connections leak.

Severity Defined

Minor: Leak or drip that is contained by basin/pipes. Faucet is usable.
Major: N/A.
Severe: Leak is steady. Surrounding area is adversely affected. Water supply must be turned off. The faucet/pipe is not usable.

Range/Stove—Missing/Damaged/Inoperable (Kitchen)

Unit is missing or damaged.

Severity Defined

Minor: Unit's surface is dented, chipped or scratched. Operation of doors or drawers is impeded but stove is operational. Burner is misaligned and flame is not distributed equally. Pilot light is out on one or more burners.
Major: N/A.
Severe: Unit is missing, or any burners and/or oven is inoperable.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Hazards.'')

Refrigerator—Missing/Damaged/Inoperable (Kitchen)

The refrigerator is not present or does not cool adequately.

Severity Defined

Minor: Refrigerator has excessive accumulation of ice.
OR
Seals around doors are deteriorated.
OR
Operation of doors or drawers is impeded but refrigerator is operational.
Major: N/A.
Severe: Refrigerator is missing or does not cool or work at all.

Sink—Missing/Damaged (Kitchen)

Sink, faucet or accessories are missing, damaged, or inoperable.

Severity Defined

Minor: Presence of extensive discoloration and/or cracks in the basin. Sink & hardware are still usable for food preparation.
Major: N/A.
Severe: Sink or hardware is missing or is totally unusable.

Missing/Inoperable Fixture (Lighting)

Lighting fixture is missing, or does not operate normally. Malfunction may be with the total system or with individual components.

Severity Defined

Minor: Permanent lighting fixture is missing or inoperable, in one room in a unit, and switched outlet exists in the room.
Major: Permanent lighting fixture is missing or inoperable in two rooms, and no switched outlet exists in the room.
Severe: More than two rooms have missing or inoperable permanent light fixtures, and do not have switched outlets within the rooms.

Missing (Outlets/Switches)

Outlet, switch or both are missing.

Note: This does not apply to empty junction boxes that were not intended to contain an outlet or switch.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: An outlet or switch is missing.

Comments

Severe: If condition is a health and safety concern, it must be recorded manually. (Includes but is not limited to ''Electrical Hazards.'')

Missing/Broken Cover Plates (Outlets/Switches)

The flush plate used to cover the opening surrounding a switch or outlet is damaged or does not exist.

Severity Defined

Minor: Outlets/switches has broken cover plate. The condition does not result in exposed wiring.
Major: N/A.
Severe: A broken or missing cover plate results in exposed wiring.

Baluster/Side Railings Damaged (Patio/Porch/Balcony)

Baluster or side railing on the porch/patio/balcony is loose, damaged, or inoperable, limiting the safe use of this area.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The baluster and/or side rails enclosing this area are loose, damaged or missing, impeding the safe use of this area.

Missing/Inoperable (Smoke Detector)

Smoke detector will not activate, or is missing.

Note: At least one smoke detector is required on each level.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: A single missing or inoperable smoke detector.

Broken/Missing Hand Railing (Stairs)

The hand rail is damaged or non-existent.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The hand-rail for four or more stairs is completely missing or damaged, loose or otherwise unusable.

Broken/Damaged/Missing Steps (Stairs)

The horizontal tread or stair surface is damaged or non-existent.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Step is broken, damaged or missing.

Bulging/Buckling (Walls)

Wall has bowed, deflected, sagged or has deviated from original vertical alignment.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: Bulging/Buckling or sagging is observed.

Comments

Severe: Request an inspection by a structural engineer, if doubt about severity exists.

Walls—Damaged/Deteriorated Trim (Walls)

Cove molding, chair rail, base molding or other decorative trim is damaged or has decayed.

Severity Defined

Minor: Small areas of deterioration in the trim surfaces.
Major: Large areas of deterioration in the trim surfaces.
Severe: Significant areas of deterioration in the trim surfaces.

Damaged (Walls)

Punctures in the wall surface. May or may not penetrate completely. Panels or tiles may be missing or damaged. Does not include small holes created by hanging pictures, etc.

Severity Defined

Minor: A hole, missing tile/panel, or other damage found in a wall, visually estimated at no larger than 8½ x 11 inches. Hole does not fully penetrate into the adjoining room (cannot see through it).
Major: A hole, missing tile/panel or other damage is found in a wall that is larger than a sheet of paper (8½ x 11).
OR
A crack greater than ⅛″ in wide and a minimum of 11″ long.
Severe: A hole of any size is found which fully penetrates into an adjoining room, (can see through the hole).
OR
Two or more walls have major holes.

Needs Paint (Walls)

Paint is peeling, cracking, flaking, otherwise deteriorated.

Severity Defined

Minor: Area affected is less than 4 square feet.
Major: Area affected is greater than 4 square feet.
Severe: N/A.

Water Stains/Water Damage/Mold/Mildew (Walls)

Walls are not watertight. Visible evidence of water infiltration, mold, or mildew exists. Damage such as saturation or surface failure may have occurred.

Severity Defined

Minor: For a single wall, visible indication of a leak, mold, or mildew, such as darkened area, exists over a small area. (less than 4 sq. ft. by visual estimate). Water may or may not be evident.
Major: For a single wall, visible indication of a leak exists over a large area (visually estimated at more than 4 sq. ft.). Water is probably evident.
Severe: Visual observation estimates that a large portion (more than 50% of the surface) of one or more walls have been exposed to substantial saturation or damage due to water, mold, or mildew. Visible cracks, moisture area, mold and flaking are evident. The wall surface may have failed. One occurrence of this condition is sufficient to classify the wall systems as severe.
OR
Visual observations estimate that more than 50% of the wall surface in any one unit show signs of water damage, stains, mold, or mildew.

Deteriorated/Missing Caulking/Seals (Windows)

The caulking or seal is missing, poorly installed, or deteriorated.

Note: This also includes Thermopane or insulated windows that have failed.

Severity Defined

Minor: Missing or deteriorated caulk or seals are observed. No evidence of damage to window or surrounding structure exists.
Major: Missing or deteriorated caulk or seals are observed, with some evidence of leaks or damage to the window or surrounding structure visible.
OR
A Thermopane or insulated window has failed. (Typically indicated by being fogged up.)
Severe: Missing or deteriorated caulk or seals are observed and the window is not weather-tight. Evidence of leaks or damage to the window or surrounding structure is readily apparent.

Peeling/Needs Paint (Windows)

Paint covering the window assembly/trim is cracking, flaking, or otherwise failing.

Severity Defined

Minor: Peeling paint and/or a window in need of paint is observed.
Major: N/A.
Severe: N/A.
Security Bars Prevent Egress (Windows)
Security bars are damaged, constructed or installed, such that ingress/egress is severely limited or impossible.

Note: This does not include windows not designed or intended for ingress/egress.

Severity Defined

Minor: N/A.
Major: N/A.
Severe: The ability to exit through the window is limited by security bars that do not function properly and, therefore, pose safety risks.

Health and Safety Inspectable Items

Items to inspect for ''Health and Safety'' are as follows:

Air Quality
Elevator
Flammable Materials
Hazards
Electrical Hazards
Emergency/Fire Exits
Garbage and Debris
Infestation

Air Quality (Health and Safety)

Indoor spaces must be free from high levels of sewer gas, fuel gas, mold, mildew, or other harmful pollutants. Indoors must have adequate ventilation.

The following deficiencies can be noted:

Mold and/or Mildew Observed
Propane/Natural Gas/Methane Gas Detected
Sewer Odor Detected

Electrical Hazards (Health and Safety)

Any hazard that poses a risk of electrical fires, electrocution, or spark/explosion.
The following deficiencies can be noted:

Exposed Wires/Open Panels
Water Leaks On or Near Electrical Equipment

Emergency/Fire Exits (Health and Safety)

All buildings must have acceptable fire exits that are also properly marked and operational. (This would include fire towers, stairway access doors, & external exits.) These can include operable windows on the lower floors with easy access to the ground or a back door opening onto a porch with a stairway leading to the ground.

Note: This does not apply to individual units.

The following deficiencies can be noted:

Emergency/Fire Exits Blocked/Unusable
Missing Exit Signs

Flammable Materials (Health and Safety)

Any substance that is either known to be combustible or flammable or is stored in a container identifying it as such.
The following deficiency can be noted:
Improperly Stored.

Garbage and Debris (Health and Safety)

Accumulation of garbage and debris exceeding the capacity of the storage area or not stored in an area sanctioned for such use.
The following deficiencies can be noted:
Outdoors.
Indoors.

Hazards (Health and Safety)

Physical hazards that pose risk of bodily injury.
The following deficiencies can be noted:

Sharp Edges
Other
Tripping

Infestation (Health and Safety)

Presence of rats, or severe infestation by mice or insects such as roaches or termites.
The following deficiencies can be noted:

Insects
Rats/Mice/Vermin

Mold and/or Mildew Observed (Air Quality)

Evidence of mold and/or mildew; especially in such areas as bathrooms and air outlets.

Propane/Natural Gas/Methane Gas Detected (Air Quality)

Strong propane, natural gas, and/or methane gas odors detected that could pose risk of explosion/fire or health risk if inhaled.

Sewer Odor Detected (Air Quality)

Sewer odors detected that could pose risk if inhaled for prolonged periods.

Exposed Wires/Open Panels (Electrical Hazards)

Exposed bare wires or openings in electrical panels.

Water Leaks On or Near Electrical Equipment (Electrical Hazards)

Water is observed leaking, puddling, or ponding on or immediately near any electrical apparatus. Poses risk of fire, electrocution, or explosion.

Tripping (Elevator)

Elevator is misaligned (doesn't level properly) by more than ¾″ with the floor. Presents tripping hazard during ingress/egress.

Emergency/Fire Exits Blocked/Unusable (Emergency/Fire Exits)

The exit is not useable or ingress/egress is limited due to conditions such as debris, storage, door or window nailed shut, broken lock or chained panic hardware.

Missing Exit Signs (Emergency/Fire Exit)

Exit signs must be present and clearly identify all emergency exits. Illumination in area of sign must be provided.

Improperly Stored (Flammable Materials)

Improperly stored flammable materials. Potential risk of fire/explosion is identified by the location or manner in which the substance is stored.

Indoors (Garbage and Debris)

An accumulation of garbage that visibly exceeds planned storage capacity or is located in an area not sanctioned for staging or storing garbage or debris.

Note: Please review for fire hazard effects.

This does not include garbage and debris improperly stored outside. See *Garbage and Debris—Outdoors* for this deficiency.

Outdoors (Garbage and Debris)

An accumulation of garbage that visibly exceeds planned storage capacity or is located in an area not sanctioned for staging or storing garbage or debris.

Note: this does not include garbage improperly stored indoors. See *Garbage and Debris—Indoors* for this deficiency.

Sharp Edges (Hazards)

Any physical defect that poses the risk of cutting or breaking human skin or other bodily harm, generally in commonly used or traveled areas.

Tripping (Hazards)

Any physical defect that poses a tripping risk, generally in walkways or other traveled areas.

Note: This does not include tripping hazards from elevators that do not level properly. See *Elevator—Tripping* under Health & Safety for these occurrences.

Other (Hazards)

Other general defects or hazards that pose risk of bodily injury. (Must be specified by the inspector.)

Note: This would include items not specifically defined elsewhere but pose a risk.

Insects (Infestation)

Infestation of insects including, but not limited to, roaches or ants are observed throughout the unit or room especially in food preparation and storage areas.

Note: This does not include infestation from rats/mice. See *Infestation—Rats/Mice/Vermin* under Health & Safety for these occurrences.

Rats/Mice/Vermin (Infestation)

The presence of rats or mice is indicated by sightings, rat or mouse holes, or droppings.

Note: This does not include infestation from insects. See *Infestation—Insects* under Health & Safety for these occurrences.

Appendix 3—Physical Inspection Summary Report

The Inspection Summary Report is designed to achieve two objectives:

1. Provide the Public Housing Agency or owner and/or owner agent (POA) with the background information i.e. addresses, phone numbers, building names, etc., collected during inspection of a given property so that any relevant discrepancies can be identified and resolved.

2. Inform the POA of the physical condition of their property captured during a REAC inspection.

The items described below introduce the information provided in the Inspection Summary Report and are intended to meet the objectives illustrated above.

Inspection Number: The inspection number is unique for each inspection conducted by REAC. Each time a property is inspected by REAC, a new inspection number is utilized. These unique numbers may be used to communicate with REAC on any matter concerning a particular inspection.

Property Information: Information related to a property is provided:

Property identification number (in parentheses)—a unique number in HUD databases
Property name
Status as a scattered site (Yes/No)
Relevant addresses, phone numbers, fax numbers, and e-mail addresses for property

Each of these should be checked carefully for accuracy. Any discrepancies should be reported to your contact in the HUD office having jurisdiction over your property.

Building Unit Count: The total number of buildings and units on the property are given, along with the number of buildings and units actually inspected by REAC

Scores: An overall numerical score is given as a value from zero to 100. Separate numerical scores are also given for each of five areas:

Site
Building exterior
Building systems
Common areas
Units

The five area scores range from zero to the maximum number of points possible for each area. The possible points for a given area are determined for a specific property based on the inspectable items actually present in each area. The sum of the area points identifies what the overall score would be if there were no health & safety (H&S) deficiencies. The overall numerical score is then calculated by subtracting the sum of deductions for H&S deficiencies from the sum of the individual ''area points.'' Examples of overall scores are: 95c; 67b*; 84a*; 100b; 78a; and 43c*. The asterisk indicates that H&S deficiencies were found with respect to smoke detectors. The lower-case letter indicates whether or not other kinds of H&S deficiencies were observed, as follows:

The letter ''a'' is given if no health and safety deficiencies were observed other than for smoke detectors.

The lower-case letter ''b'' is given if one or more non-life threatening H&S deficiencies, but no exigent/fire safety H&S deficiencies were observed other than for smoke detectors.

The lower-case letter ''c'' is given if there were one or more exigent/fire safety (calling for immediate attention or remedy) H&S deficiencies observed.

Although all H&S deficiencies other than smoke detector problems affect the scores with appropriate deductions, the letters grades are added to highlight the serious nature of H&S deficiencies, all of which need to be addressed by the POA.

Health and Safety Counts: In addition to the counts of actual H&S deficiencies observed in the inspected buildings and units, the estimated number of H&S deficiencies that would have been found had all buildings and units been inspected is also given. This projected count gives a sense of the total H&S problem for the inspected property. The projection is calculated by dividing the counts actually observed in buildings or units by the proportion of buildings or units inspected. These projected counts for buildings and units are added to the actual counts for site to determine the total projection. The percent of buildings and units inspected is additionally given to show the basis for the calculations.

Participants/Buildings/Units: Information provided includes:

Relevant addresses, phone numbers, fax numbers, and e-mail addresses for participants; Name, year built, number of units and address for each building on the property.

Note: All buildings on the property should be listed.

As before, each of these should be checked carefully for accuracy and any discrepancies should be reported to your contact in the HUD office having jurisdiction over your property.

Inspectable Items: This portion of the report details all deficiencies found in the inspection. The main headings in the first column refer to the inspectable area—site, building exterior, building systems, common areas, unit, or health & safety, where the deficiency was observed. The entries are ''inspectable items'' within which the deficiencies were found. Some items may not be present for a given property. In such cases, appropriate adjustments are made in the area weights used to obtain the overall score. Items present, but with no deficiencies found, are not listed. The potential inspectable items are:

Site: Fencing & retaining walls, grounds, lighting, mail boxes/project signs, market appeal, parking lots/driveways, play areas & equipment, refuse disposal, roads, storm drainage, and walkways.

Building Exterior: Doors, fire escapes, foundations, lighting, roofs, walls, and windows.

Building Systems: Domestic water, electrical system, elevators, emergency power, fire protection, heating/ventilation/air conditioning, and sanitary system

Common Areas: Basement/garage/carport, closet/utility/mechanical, community room, day care, halls/corridors/stairs, kitchen, laundry room, lobby, office, other community spaces, patio/porch/balcony, pools & related structures, restrooms, storage, and trash collection areas.

Unit: Bathroom, call-for-aid, ceiling, doors, electrical system, floors, heating/ventilation/air conditioning, hot water heater, kitchen, lighting, outlets/switches, patio/porch/balcony, stairs, walls, and windows.

Health & Safety: Emergency/fire exits, electrical hazards, flammable materials, garbage and debris, infestation, handrails, air quality, hazards, and elevator.

NO/OD: The inspection protocol requires the inspector to check for the existence of certificates for certain items such as lead-based paint, elevators, etc. If all of the required certificates are verified by the inspector, the report will not include any certificate information. If any appropriate certificates are not present, the first inspectable item listed will be ''certificates'' and the designation ''NO'' will be listed for each unavailable certificate.

OD in this column refers to ''observed deficiency'' for the given item.

Observation: The column lists the specific deficiencies observed within a given inspectable item. Each deficiency has a definition, which specifies what must be observed for that deficiency to be recorded. Also noted in this column are observations about Health & Safety items. These are:

(LT)—Exigent/Fire Safety (calling for immediate attention or remedy)

(NLT)—Not Life Threatening

(SD)—Smoke Detector

Definitions for all deficiencies are given in the physical inspection section at REAC's web site on the Internet (www.hud.gov/reac/reaphyin.html).

Severity: Deficiencies differ by ''severity.'' The definitions specify what must be recorded for a given deficiency under one of three possible severity levels'minor, major and severe. The severity level is given on the report to indicate which part of the definition actually applies for the specific deficiency observed. Severity levels are defined within a given deficiency and do not necessarily indicate which deficiencies are the worst. For more serious deficiencies, a major severity level may be more of a problem and may reduce the overall score more than less serious deficiencies with a severity level of ''severe.''

Location/Comments: Comments are required for all ''severe'' deficiencies.

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Inspection Summary Report -

Inspection No:
Property:

Inspection Date:
Phone: () -
Fax: () -
E-Mail Address:
ACC#: _____
CA#: _____

Scattered Site?:

Building Unit Count

	#Total	#Inspected
Buildings		
Units		

Scores

	Possible Points	Area Points	H & S Deduction
Site			
Bldg Ext			
Bldg Sys			
CA			
Units			
Overall	100.0		
Final Score = Area Points - H & S Deduction			

Health and Safety Counts

Non-Life Threatening

	Site	Bldg	Unit	Total
Actual				
%Inspected	---			---
Projected				

Life Threatening

Actual				
%Inspected	---			---
Projected				

Smoke Detectors

Actual				
%Inspected	---			---
Projected				

Participants:

Management Agent Contact	Phone:
	Fax:
	E-Mail Address:

Buildings/Units:

No	Name/Type/Reason UnInspectable	Year built	# Units	Address

❶ Normalized weights as the "possible points" by area

❷ Area scores, taking into account the points deducted for observed deficiencies

❸ Deductions for H&S for site, buildings and units, where H&S deductions for buildings are combined for exteriors, systems and common areas

❹ Overall property score.

❺ Health and Safety Counts

- the number of H&S deficiencies (exigent/fire safety and non-life threatening) that the inspector observed
- all problems relating to smoke detectors
- a *projection* of the total number of H&S problems that the inspector potentially would see in an inspection of *all* buildings and *all* units

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federal register

Wednesday
June 23, 1999

Part VII

Department of Housing and Urban Development

Public Housing Assessment System, Financial Condition Scoring Process; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4509–N–08]

Public Housing Assessment System, Financial Condition Scoring Process

AGENCY: Office of the Director of the Real Estate Assessment Center, HUD.

ACTION: Notice.

SUMMARY: This notice provides additional information to public housing agencies and members of the public about HUD's process for issuing scores under the Financial Condition Indicator of the Public Housing Assessment System (PHAS).

FOR FURTHER INFORMATION CONTACT: For further information contact Wanda Funk, the Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington DC, 20024; telephone Customer Service Center, 1–888–245–4860 (this is a toll free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC Internet Site http://www.hud.gov/reac.

SUPPLEMENTARY INFORMATION:

Purpose of this Notice

The purpose of this Notice is to provide additional information about the scoring process for PHAS Indicator # 2, Financial Condition. Under the PHAS, the financial condition score is based on financial information reported to HUD according to generally accepted accounting principles (GAAP). GAAP classifies accounting data according to standard definitions. Of the total points available for a PHAS score, a PHA may receive up to 30 points under the PHAS Indicator #2. The financial condition score is included in the aggregate PHAS score.

The information provided in this notice was originally published on May 13, 1999 (64 FR 26222). HUD is publishing this information again since it relates to the Public Housing Assessment System proposed rule, published in the **Federal Register** on June 22, 1999. The chart below shows the six components that constitute the Financial Condition Indicator and their assigned points.

FINANCIAL CONDITION INDICATOR

Scoring components	Measurement	Points
Quick Ratio (QR)	Short-term liquidity	9
Months Expendable Fund Balance (MEFB).	Adequacy of reserves	9
Days Receivable Outstanding (DRO)	Ability to collect payments of tenant receivables	4.5
Occupancy Loss (L)	Ability to realize potential rental income	4.5
Expense Management (EM)	Ability to control various expenses, including utilities, administrative, maintenance, general and non-routine expenses.	1.5
Net Income as a Percentage of Fund Balance (N).	Profitability against the current year's operations	1.5

The values of the six components of the Financial Indicator calculated from the financial data comprise the overall financial assessment of the PHA. The components and their relative importance to the total financial score are the result of studies of PHA financial performance and of industry portfolio management techniques to identify the most appropriate financial measures to gauge a PHA's financial position and financial management. These components represent measures that are appropriate benchmarks in any residential real estate environment. The scoring assigned within each component is based on the distributions of that component's values and the relative relationship between the components and the PHA's overall financial performance.

Under the PHAS, the components that make up the Financial Condition Indicator are approached in the same manner for GAAP as they were for non-GAAP financial information although the thresholds may change as a result of the conversion to GAAP. For example, a good Quick Ratio under the current basis of accounting (non-GAAP) for a small PHA may be 6 to 1 and receive the maximum 9 points. In contrast, under GAAP a good Quick Ratio may be 5 to 1 and also get the maximum 9 points. Thus, to the extent that a PHA's performance relative to its peers does not change, its score will not be affected by the conversion to GAAP. The GAAP conversion schedule by PHAs fiscal year end, shown below, is reprinted from the PHAS final rule published on September 1, 1999.

GAAP CONVERSION SCHEDULE

Fiscal year end dates for PHAs	Unaudited GAAP financial data to HUD by	Audit reports due to HUD by
9/30/99	11/30/99	6/30/00
12/31/99	2/28/00	9/30/00
3/31/00	5/31/00	12/31/00
6/30/00	8/31/00	3/31/01

GAAP Reporting Method

Financial data for GAAP scoring is currently collected in paper form from audited financial data submitted by PHAs and entered into a database by REAC staff. PHAs, with fiscal years ending September 30, 1999, and later, will submit their unaudited financial data electronically using the Financial Data Schedule (FDS), within 60 days of their fiscal year end. This submission will be reviewed by REAC for reasonableness. To the extent that an audit is required for a PHA under OMB Circular A–133, a PHA will submit its audited data using the FDS within nine months of the fiscal year end.

Program Funds

The PHAS financial assessment is based on the entity-wide operations of a PHA, which includes financial information on Section 8, Community Development Block Grants, and other HUD funding in its calculations, as well as funds from non-HUD sources.

GAAP Scoring Approach

Under PHAS, the components of the PHAS Financial Indicator were developed that both fairly and accurately assess a PHA's financial performance and financial management. As part of the development, the components were tested to establish the correlation between PHA performance under each component and the fiscal health of a PHA. As part of the development, PHAs were evaluated and assigned scores based a PHA's performance relative to its peers. In other words, all PHAs as a group determine the mean score and each PHA

is then ranked accordingly. This peer assessment approach, which was formulated following extensive economic and financial analysis, examination of well-accepted business principles, and discussions with PHA industry representatives and PHA staff, provides an equitable means of measuring the financial performance of PHAs.

Comparable Scoring Systems

HUD's financial scoring process is similar to those already undertaken in the mortgage housing and securities industries. Fannie Mae, the mortgage housing industry leader, developed an assessment system with financial indicators similar to those contained in HUD's financial assessment of PHAs, such as vacancy, reserve balances, and net income. Like HUD, Fannie Mae uses these indicators to rank properties and identify those which require further attention. In the securities area, Standard & Poors conducts peer assessment of a company's operational capabilities and cash flows relative to their peers. Among federal agencies, the Department of Health and Human Services (HHS) contracts with state and local entities to perform financial audits of nursing homes and hospitals participating in the federal Medicare program. Based on these financial audits, HHS determines the continued eligibility of these health service providers in the Medicare program.

GAAP Scoring Processes

GAAP-based scores are produced using data contained in the Financial Data Schedule (FDS). The GAAP-based financial data are first used to calculate six financial components that measure various aspects of financial health, such as short-term liquidity, expense management, and collection of receivables. Each PHA is awarded points for each component according to its performance relative to its peers. Peer groupings are established according to the size of the PHA, based on the number of public housing units operated. Peer groupings are as follows:

Very Small (0–49 units)
Small (50–249 units)
Low Medium (250–499 units)
High Medium (500–1249 units)
Large (1250+ units)

A PHA is assigned a score for each of the six components of the Financial Indicator based on its component value relative to its peers. The minimum number of points (zero) and the maximum number of points can each be achieved over a range of values. This system allows PHAs to target a range of values which they want to avoid and target one value which they should strive to achieve. Aside from these extremes, points are assigned to component values along a continuous linear function. This means that each component value will receive a different number of points. This system (''semi-continuous scoring'') ensures that points are awarded equitably to PHAs along the distribution of component values because, in most cases, small differences in component values result in only small differences in the scores of the individual components. Therefore, two PHAs of a similar size whose values for its financial condition components are in close proximity will receive only slightly different scores to capture their performance relative to each other.

The number of points assigned to each component value or range of values is based on where the thresholds for that component are set. The thresholds separate distinct ranges of scores along the distribution of component values. The thresholds and their associated scores are estimated based on well-accepted business principles and statistical distributions of values within the peer groupings of the PHAs.

Business Principles

Scoring of certain of the components follows generally recognized business principles. These principles indicate that there are certain absolute thresholds below which component values are clearly financially unacceptable and component values below that point should result in a score of zero. These principles are used in scoring the Quick Ratio and Months Expendable Fund Balance components. For both of these components, a value of less than one is financially unacceptable, regardless of PHA size, and therefore merits a score of zero.

Statistical Distributions

The remaining thresholds are estimated by examining the distributions of component values by peer group. For the four most significant components (Quick Ratio, Months Expendable Fund Balance, Days Receivable Outstanding, and Occupancy Loss), thresholds are set such that approximately 50 percent of the distribution receives the maximum number of points, as long as 50 percent of the distribution have acceptable values for the component. Thus, the highest number of points are awarded to the PHAs whose financial measures are most reasonable both relative to their peers and in an absolute business sense. The specific percentiles that make up this 50 percent of PHAs are established by identifying natural breakpoints along the distributions. For example, for the Quick Ratio and Months Expendable Fund Balance, these breakpoints fall at approximately the 30th and 80th percentiles. The remaining two components (Expense Management and Net Income as a Percentage of Fund Balance) assign zero points to PHAs that fall only in the extreme outer ranges of the distribution of values, and award 1.5 points to the remaining PHAs.

Audit Information

The information collected from the annual audit report pertains to the type of audit opinion, details of the audit opinion, and the presence of reportable conditions and material weaknesses. This information will be used as a basis for accepting or adjusting financial component scores. If the auditor's opinion is other than unqualified, points will be deducted from the financial components to determine the PHA's financial score. The points have been established by REAC using a system that considers the seriousness of the audit qualification and limits the deducted points to a reasonable portion of the PHA's available score.

Reportable conditions and material weaknesses are considered to be audit flags, alerting REAC to an internal control weakness or an instance of noncompliance with Federal laws and regulations. These flags also have the potential to adjust the PHA's financial component scores, based on the seriousness of the reported issue. REAC will review the audit and internal control flags to determine the significance as it directly pertains to the assessment of the PHA's financial condition. If the flag has no effect on the financial components or the overall financial condition of the PHA as it relates to the PHAS assessment, the score will not be adjusted.

There are two types of adjustments related to audited financial information. The first type deals with material differences between the unaudited and audited financial information reported to HUD. The second deals with the audit flags and reports that result from the audit itself.

The purpose of a comparison of the ratios and scores resulting from the current year's unaudited Financial Data Schedule submission to the ratios and scores resulting from the current year's audited submission is to:

- Identify material changes in ratio calculation results and/or scores from the unaudited submission to the audited submission;

• Identify PHA's that consistently provide materially different data from their unaudited submission to their audited submission;

• Assess or alleviate penalties associated with the inability to provide reasonably accurate unaudited data within the required time period.

This review process will only be performed for the audited submission. In addition, it is only applicable to PHAs whose overall PHAS designation (high, standard or troubled) was reclassified to a lesser designation based on the audited submission and the reclassification was necessary because of a material change in the reported financial data affecting one or more of the six components. Materiality for purposes of this review is based on a formula within PHAS and varies based on the size and funding level of the PHA. Therefore, the materiality threshold may vary from PHA to PHA, even within the same peer group.

REAC views the transmission of materially inaccurate unaudited financial data as a more serious condition than the late submission of unaudited data. Therefore, the penalties assessed for material differences between the unaudited and audited submission have been designed to encourage PHAs to assure financial data is as reliable as possible at the 60 day submission. The penalties to be assessed are based on the significance of the reclassification, assuming the financial data reported meets the materiality threshold. For each designation level that the PHA has been reduced, points will be deducted from the PHA's overall FASS score. The following table summarizes the point reductions.

Designation reclassification	Percent of FASS points deducted
High to Standard	1
High to Marginal	2
High to Troubled	3
Standard to Marginal	1
Standard to Troubled	2
Marginal to Troubled	1

The FASS system will automatically deduct the applicable points and this reduction will trigger the REAC analyst review.

The purpose of a review of the audit and internal control flags is to adjust the financial score as a result of the audit. These flags are collected by using the OMB A–133 Data Collection Form. This form is completed by the PHA both for the unaudited and audited submissions. At the time of the unaudited submission the form is used as a self-assessment tool and should reflect the PHA's knowledge of their financial and internal control condition and should acknowledge their understanding of what the auditor will report. In the PHAS final rule, HUD discussed the review of audit and internal control flags as follows, and also included the following chart. (See 63 FR 46607, September 1, 1998.)

As part of the analysis of the financial health of the a PHA including assessment of the potential or actual waste, fraud or abuse at a PHA, HUD will look to the Audit Opinion to provide an additional basis for accepting or adjusting financial indicator scores. The following is a summary of the types of audit opinions and the number of total financial points that will be deducted if a PHA receives such an audit opinion from its IPA:

Type of flag	FASS points deducted
Unqualified Opinion	0
No audit opinion	30
Adverse opinion	30
Disclaimer of opinion	30
Qualified opinion	(*)
Going concern opinion	30
Material weakness in internal control	(*)
Reportable condition	(*)
Findings of non-compliance and/or questioned costs	(*)
Indicator outlier analyses	(*)

*__Note:__ See subsequent table titled ''Audit Flags and Tier Classification'' for FASS points to be deducted.

If the OMB A–133 Data Collection Form indicates that the auditor's opinion will be other than unqualified, PHAS will automatically deduct the appropriate points based on the above table. The points have been established by REAC using a three-tier system. The tiers are meant to give consideration to the seriousness of the audit qualification and to limit the deducted points to a reasonable portion of the PHA's total, actual score. The tiers, as established by REAC, are also defined below.

AUDIT FLAG TIERS

Tier	PHAS points deducted
Tier 1	Maximum reduction: Lesser of 30 points or 100 percent of the PHA's total unadjusted PHAS score.
Tier 2	Maximum reduction: 3 points or 10 percent of the PHA's total unadjusted PHAS score.
Tier 3	Maximum reduction: 1.5 points or 5 percent of the PHA's total unadjusted PHAS score. This maximum is cumulative and not to be assessed for each audit or internal control flag.

AUDIT FLAGS AND TIER CLASSIFICATIONS

Audit flag	Tier classification
Unqualified opinion	None.
No audit opinion	Tier 1.
Adverse opinion	Tier 1.
Disclaimer of opinion	Tier 1.
Qualified opinion:	
1. GAAP qualifications:	
• Change in accounting principle	Tier 3.
• Change in accounting estimate	Tier 3.
• Change in accounting method	Tier 3.
• Departures from GAAP	Tier 2.
• Financial statements using basis other than GAAP	Tier 1.
• Exclusion of alternate accounting for an account or group of accounts	Tier 2.
• Inconsistently applied GAAP	Tier 2.
• Omissions/Inadequate Disclosure	Tier 2.

AUDIT FLAGS AND TIER CLASSIFICATIONS—Continued

Audit flag	Tier classification
2. GASS—Scope Limitations	Tier 2.
• Imposed by management	Tier 2.
• Imposed by circumstance	Tier 3.
• Year 2000 (add back)	Tier 3.
3. Report on major program compliance	Tier 3.
4. Report on internal control	Tier 3.
Accounting principles used caused the financial statements to be materially misstated	Tier 2.
Inadequate records	Tier 2.
Going concern	Tier 1.
Material noncompliance disclosed	Tier 2.
• Internal control weakness	Tier 3.
• Compliance	Tier 3.
• Opinion on Supplemental schedules	Tier 3.
Reportable condition:	
• Internal control	Tier 3.
• Compliance	Tier 3.

The graphs shown in Appendix 1 depict the approximate GAAP-based scoring functions used for each of the six components of the Financial Indicator.

Appendix 2 provides estimated GAAP-based threshold values and associated scores for each component and peer group, based on the data pool as of April 15, 1999. These GAAP thresholds are preliminary and are based upon financial data obtained for a limited number of PHAs currently reporting under GAAP. The thresholds established for GAAP-based scores will be re-assessed on a quarterly basis to ensure their statistical validity as the data collected indicates a shift in distributions and any modifications to the thresholds will be communicated through a Notice. However, the financial components and component calculations will remain the same and the component scores for a PHA will continue to be established on a peer assessment basis. Thus, if a PHA's performance remains consistent relative to its peers, the PHA's score will not be affected by threshold changes.

Dated: June 14, 1999.

Donald J. LaVoy,

Acting Director, Real Estate Assessment Center.

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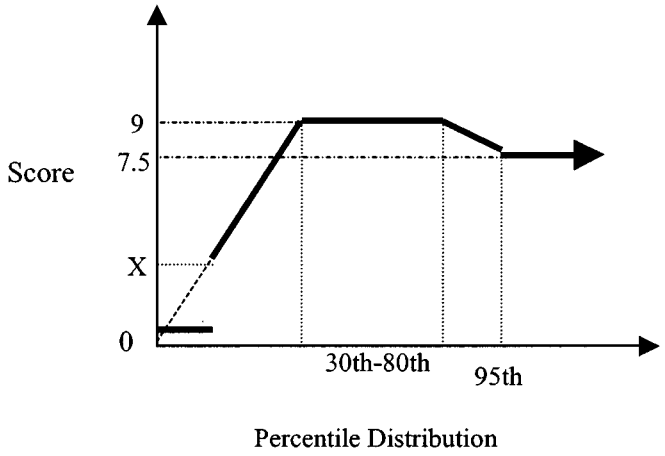
Appendix 1 – Graphs of GAAP-based Financial Indicators

Graph 1: ***QR & MEFB***



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The scoring structure depicted above is established based on the distribution of data for each peer group. For both QR and MEFB, a PHA receives zero points for indicator values of less than one. With a value of one, they receive X points, which is determined by the distribution of the data, and therefore varies by size category. The maximum number of points is received between approximately the 30th and 80th percentiles. PHAs with values falling beyond the upper bound of this range receive incrementally fewer points because they have exceeded the acceptable levels of liquidity or reserves to operate optimally.

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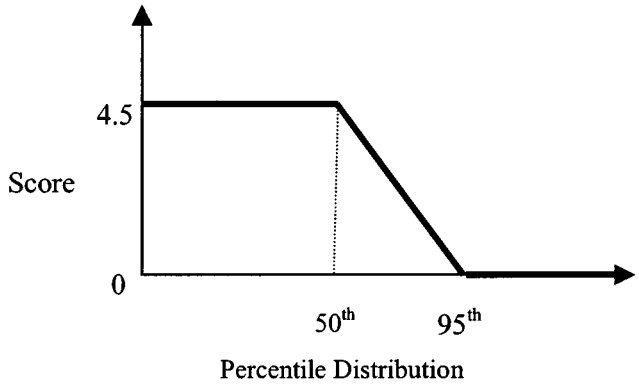
Graph 2: *OL & DRO*



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For OL and DRO, the maximum number of possible points is 4.5, which is received up to approximately the 50th percentile. For values beyond approximately the 95th percentile, the PHA receives zero points.

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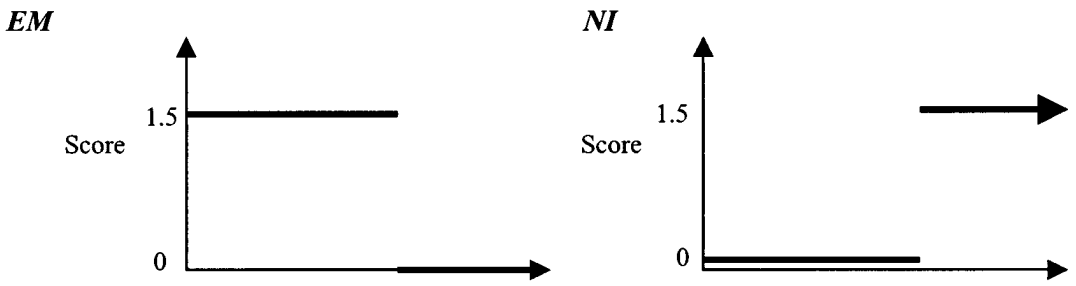
Graph 3: *EM & NI*



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For both EM and NI, a PHA can receive either 1.5 or zero points. The Threshold for EM is set at 1.645 standard deviations (approximately the 95th percentile) from the mean of each distribution (which means it is in the top five percent of values for that distribution), and thus varies by size category, whereas for NI it is set at—10% across all size categories.

Appendix 2—Threshold Tables for GAAP Scoring

These tables can be interpreted in the following manner:

- Identify a size category for an indicator;
- The rows under that size category identify ranges of possible values for that indicator; and
- The column to the right labeled ''Score'' identifies the score or range of scores that is awarded to each range of indicator values for that size category.

QUICK RATIO (QR) *

	Score
Very Small	
QR<1	0
QR=1	2.6
1<QR<3.5	2.6<Score<9
3.5≤QR≤12	9
12<QR<15	9>Score>7.5
QR≥15	7.5
Small	
QR<1	0
QR=1	2.6

QUICK RATIO (QR) *—Continued

	Score
1<QR<3.5	2.6<Score<9
3.5≤QR≤8	9
8<QR<13	9>Score>7.5
QR≥13	7.5
Low Medium	
QR<1	0
QR=1	2.6
1<QR<3.5	2.6<Score<9
3.5≤QR≤7.5	9
7.5<QR<11	9>Score>7.5
QR≥11	7.5
High Medium	
QR<1	0
QR=1	3
1<QR<3	3<Score<9
3<QR<6.5	9
6.5<QR<8	9>Score>7.5
QR≥8	7.5
Large	
QR<1	0
QR=1	3.6
1<QR<2.5	3.6<Score<9
2.5≤QR≤5.5	9
5.5<QR<7	9>Score>7.5
QR≥7	7.5

MONTHS EXPENDABLE FUNDS BALANCE (MEFB) *

	Score
Very Small	
MEFB<1	0
MEFB=1	1.3

MONTHS EXPENDABLE FUNDS BALANCE (MEFB) *—Continued

	Score
1<MEFB<7	1.3<Score<9
7≤MEFB≤15	9
15<MEFB<20	9>Score>7.5
MEFB≥20	7.5
Small	
MEFB<1	0
MEFB=1	1.8
1<MEFB<5	1.8<Score<9
5≤MEFB≤13	9
13<MEFB<18	9>Score>7.5
MEFB≥18	7.5
Low Medium	
MEFB<1	0
MEFB=1	2
1<MEFB<4.5	2<Score<9
4.5≤MEFB≤12	9
12<MEFB<15	9>Score>7.5
MEFB≥15	7.5
High Medium	
MEFB<1	0
MEFB=1	2
1<MEFB<4.5	2<Score<9
.45≤MEFB≤11	9
11<MEFB<13	9>Score>7.5
MEFB≥13	7.5
Large	
MEFB<1	0
MEFB=1	3
1<MEFB<3	3<Score<9
3≤MEFB≤11	9
11<MEFB<13	9>Score>7.5
MEFB≥13	7.5

DAYS RECEIVABLE OUTSTANDING (DRO) *

Very small	Small	Low medium	High medium	Large	Score
DRO≤2	DRO≤3	DRO≤7	DRO≤8	DRO≤12	4.5
2<DRO<18	3<DRO<20	7<DRO<23	<DRO<23	12<DRO<25	4.5>Score>0
DRO≥18	DRO≥20	DRO≥23	DRO≥23	DRO≥25	0

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

OCCUPANCY LOSS (OL) *

Very small	Small	Low medium	High medium	Large	Score
OL≤4.5%	OL≤4.5%	OL≤5.5%	OL≤5.5%	OL≤7%	4.5
4.5<OL<12%	4.5<OL<12%	5.5<OL<14.5%	5.5<OL<15%	7<OL<15%	4.5<Score<0
OL≥12%	OL≥12%	OL≥14.5%	OL≥15%	OL≥15%	0

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

NET INCOME (NI) *

Very small	Small	Low medium	High medium	Large	Score
NI<−10%	NI<−10%	NI<−10%	NI<−10%	NI<−10%	0
NI≥−10%	NI≥−10%	NI≥−10%	NI≥−10%	NI≥−10%	1.5

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

Expense Management

The Components of the Expense Management are expressed in dollars per unit per month. The REAC is also examining the impact of seasonal and geographic variations on the expense indicators. If the REAC's analysis finds a significant impact on PHA expenses of these regional differences, regional peer groupings may be added to the scoring of the expense management indicator.

Thresholds for four of the six components of the expense management indicators are listed below. Thresholds for tenant services and protective services will be set as more information is submitted.

ADMINISTRATIVE EXPENSE (AE) *

Very small	*Small*	*Low medium*	High medium	*Large*	*Score*
AE<$81	*AE<$75*	*AE<$65*	*AE<$71*	*AE<$82*	*1.5*
AE≥$81	*AE≥$75*	*AE≥$65*	*AE≥$71*	*AE≥$82*	*0*

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

UTILITIES EXPENSE (UE) *

Very small	*Small*	*Low medium*	High medium	*Large*	*Score*
UE<$74	*UE<$93*	*UE<$110*	*UE<$120*	*UE<$135*	*1.5*
UE≥$74	*UE≥$93*	*UE≥$110*	*UE≥$120*	*UE≥$135*	*0*

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

ORDINARY MAINTENANCE EXPENSE (AE) *

Very small	*Small*	*Low medium*	High medium	*Large*	*Score*
OE<$89	*OE<$88*	*OE<$94*	*OE<$106*	*OE<$129*	*1.5*
OE≥$89	*OE≥$88*	*OE≥$94*	*OE≥$106*	*OE≥$129*	*0*

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

GENERAL EXPENSE (GE) *

Very small	*Small*	*Low medium*	High medium	*Large*	*Score*
GE<$54	*GE<$59*	*GE<$62*	*GE<$65*	*GE<$70*	*1.5*
GE≥$54	*GE≥$59*	*GE≥$62*	*GE≥$65*	*GE≥$70*	*0*

** The estimated GAAP thresholds were based on data from financial information from a limited number of PHAs currently reporting under GAAP as of April 15, 1999. The PHA financial statements had fiscal year ends ranging between 1996 and 1998. As more data is entered into the system, these thresholds will be re-assessed to better reflect the data distributions.*

[FR Doc. 99–15739 Filed 6–22–99; 8:45 am]

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federal register

Wednesday
June 23, 1999

Part VIII

Department of Housing and Urban Development

Public Housing Assessment System, Management Operations Scoring Process; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4509–N–09]

Public Housing Assessment System, Management Operations Scoring Process

AGENCY: Office of the Director, Real Estate Assessment Center, HUD.

ACTION: Notice.

SUMMARY: This notice provides additional information to public housing agencies and members of the public, regarding HUD's Management Operations process for issuing scores to PHAs under the Public Housing Assessment System (PHAS).

FOR FURTHER INFORMATION CONTACT: For further information contact Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington DC, 20024; telephone Customer Service Center at 1–888–245–4860 (this is a toll free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC Internet Site, http://www.hud.gov/reac.

SUPPLEMENTARY INFORMATION:

1. Purpose of This Notice

The purpose of this notice is to provide additional information about the scoring process for PHAS Indicator #3, Management Operations. The purpose of the Management Operations assessment is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities.

The information provided in this notice was originally published on May 13, 1999 (64 FR 26232). HUD is publishing this information again since it relates to the Public Housing Assessment System proposed rule, published in the **Federal Register** on June 23, 1999. This notice differs from the May 13, 1999 notice to reflect the new economic self-sufficiency sub-indicator.

2. Changes From PHMAP to PHAS

The PHAS assessment of a PHA's management operations utilizes six of the eight current PHMAP indicators:

- Vacancies;
- Capital Fund;
- Rents uncollected;
- Work orders;
- Inspection of units and systems; and
- Security/Economic Self-Sufficiency.

The adjustment for physical condition and/or neighborhood environment will be made under PHAS Indicator #1, Physical Condition. The same definitions and exemptions that apply to the PHMAP also apply to the PHAS. The current PHMAP indicator for financial management is assessed under PHAS Indicator #2, Financial Condition; and the current PHMAP indicator #7 for resident services is assessed under PHAS Indicator #4, Resident Service and Satisfaction.

There are certain differences between the PHMAP score and the PHAS score calculated for a PHA's management operations. Under the PHAS, modifications and exclusions no longer apply. PHAs will certify to sub-indicator #2, Capital Fund, and all PHAs will certify to and be scored on sub-indicator #6, Security/Economic Self-Sufficiency, under PHAS Indicator #3.

3. Submission of Management Operations Certification

Under the PHAS, a PHA is required to electronically submit certification on its performance under each of the management operations sub-indicators. If a PHA does not have this capability in-house, the PHA should consider utilizing local resources, such as the library or another local government entity that has internet access. In the event local resources are not available, a PHA may go to the nearest HUD Public and Indian Housing program office and assistance will be given to the PHA to transmit its Management Operations certification. If circumstances preclude a PHA from reporting electronically, HUD will consider granting approval to allow a PHA to submit its Management Operations certification manually. A PHA that seeks approval to submit its certification manually must ensure that the REAC receives a request for manual submission in writing 60 calendar days prior to the submission due date of its Management Operations certification. The written request must include the reasons why the PHA cannot submit its certification electronically. The REAC will respond to such a request and will manually forward its determination in writing to the PHA.

4. Elements of Scoring

The Management Operations Indicator score provides an assessment of each PHA's management effectiveness. The computation of the score under this PHAS Indicator utilizes data that was submitted for PHMAP and requires three main calculations, which are:

- Scores are first calculated for all of the components that have been submitted by the PHA;
- Based upon the component scores, a score is then calculated for each sub-indicator; and
- From the six sub-indicator scores, an indicator score is then calculated.

The three calculations are performed on the basis of the following:

- The weights of the six sub-indicators and/or components, which are listed in Table 1; and
- The grades assigned under PHMAP for each sub-indicator and/or component.

TABLE 1.—MANAGEMENT OPERATIONS SUB-INDICATORS AND COMPONENTS WEIGHTS

Sub-indicator	Sub-indicator weight	Component	Component weight
Vacancy Rate/Progress to Reduce (PHMAP Indicator #1).	8.0	Vacancy Rate	4.0
		Unit Turnaround Time	4.0
Capital Fund (PHMAP Indicator #2)	6.0	Unexpended Funds	1.0
		Timeliness of Fund Obligation	1.5
		Contract Administration	1.0
		Quality of Physical Work	2.0
		Budget Controls	0.5
Rents Uncollected (PHMAP Indicator #3)	4.0		
Work Orders (PHMAP Indicator #4)	4.0	Emergency Work Orders	2.0
		Non-Emergency Work Orders	2.0
Inspections of Units and Systems (PHMAP Indicator #5)	4.0	Inspection of Units	2.0
		Inspections of Systems	2.0

TABLE 1.—MANAGEMENT OPERATIONS SUB-INDICATORS AND COMPONENTS WEIGHTS—Continued

Sub-indicator	Sub-indicator weight	Component	Component weight
Security/Economic Self-Sufficiency (PHMAP Indicator #8).	4.0	Tracking/Reporting Crime-Related Problems	1.0
		Screening of Applicants	1.0
		Lease Enforcement	1.0
		Grant Program Goals	1.0

If the PHAS Capital Fund sub-indicator (PHMAP Indicator #2) is not applicable, then the 6 points for that sub-indicator are redistributed among the other five sub-indicators. This is accomplished by multiplication of 30/24 or 1.25, which is 125 percent of the original weights. The new weight for the sub-indicator ''Vacancy Rate/Progress to Reduce'' would be 10.0, and the new weight for the other four sub-indicators would be 5.0.

The PHMAP grades for each sub-indicator/component are assigned values to indicate the percentage of the sub-indicator/component weight that will be awarded in the calculations. The assigned values for the PHMAP grades, which are listed in Table 2, are the same for each sub-indicator/component that is being assessed. For example, a PHA with an E for the component ''Inspection of Units and Systems'' would receive 30% of the component weight of 2, for a score of 0.6 for the component.

TABLE 2.—POSSIBLE GRADES

Grades	Value
A	1.00
B	0.85
C	0.70
D	0.50
E	0.30
F	0.00
NA—Data not submitted	[1]

[1] NA—No value assigned.

Calculations under the PHAS Management Operations Indicator are performed as follows:

Component Score. The component score equals its weight multiplied by the value of the grade for the PHA, unless no data exists for an assessment of the PHA for the component. For example, a PHA with an E for the component Inspection of Units and Systems would receive 30% of the component weight of 2, for a score of 0.6 for the component.

Sub-indicator Score. The sub-indicator score is the sum of the component scores with the weight of non-assessed (NA) sub-indicators being proportionately redistributed across sub-indicators that have been assessed.

If the Capital Fund sub-indicator (PHMAP indicator #2) is not applicable (the PHA does not have a Capital Fund Program), then the 6 points for that sub-indicator are redistributed among the other five sub-indicators in the calculation of the indicator score.

If no data was submitted for an assessment of the entire sub-indicator (excluding the Capital Fund sub-indicator), then for PHAS scores, the sub-indicator score is equal to the appropriate sub-indicator weight with an asterisk appended to it. The asterisk indicates the score is not a true assessment of the PHA's effectiveness for the sub-indicator.

Indicator Score. The Indicator score equals the sum of the sub-indicator scores. If the PHA does not have a Capital Fund Program, the indicator score equals the sum of the five other sub-indicator scores multiplied times 30/24 or 1.25, which is 125 percent of the original weight.

5. Examples of Score Computations

An Example of Computing a Sub-Indicator Score With a Non-Assessed Component. The following provides an example for the calculation of a Capital Fund sub-indicator score and its component scores, when the Quality of Physical Work component has not been assessed. For this example, Table 3 provides the necessary information, which is:

- The weight of the Capital Fund sub-indicator components from Table 1;
- The sample grade for each component;
- The value of each grade from Table 2;
- The calculations for the component score; and
- The component scores.

The component score is calculated in this table by multiplying the weights by the values in Table 3. These scores are included in the PHAS Report. Note that for reporting purposes, all scores are rounded to one decimal place.

TABLE 3.—EXAMPLE ASSESSMENT OF THE CAPITAL FUND SUB-INDICATOR

Component	Weight	Grade	Value	Calculations	Score
#1 Unexpended Funds	1.0	A	1.0	(1.0) times (1.0) = 1.0	1.0
#2 Timeliness of Fund Obligation	1.5	A	1.0	(1.5) times (1.0) = 1.5	1.5
#3 Contract Administration	1.0	C	0.7	(1.0) times (0.7) = 0.7	0.7
#4 Quality of Physical Work	2.0	NA	NA	NA	NA
#5 Budget Controls	0.5	F	0.0	(0.5) times (0.0) = 0.0	0.0

In this example, the 4th component has not been assessed for PHMAP indicator #2. Consequently, the weight of the non-assessed component needs to be redistributed proportionately across assessed components in order to calculate the Capital Fund sub-indicator score. This redistribution is accomplished by multiplying the sum of the component scores by 6 (the weight of the sub-indicator) and dividing this result by the sum of the weights of the components that have been assessed. This calculation for the Capital Fund sub-indicator score is provided below:

$$\text{Capital Fund Score} = \frac{(1.0 + 1.5 + 0.7 + 0.0) \text{ times } (6.0)}{1.0 + 1.5 + 1.0 + 0.5} = 4.8$$

An Example of Computing the Indicator Score for a PHA Without a Capital Fund Program and That Has Less Than 250 Units. For this example, the PHA's sub-indicator scores are:

- The Vacancy Rate/Progress to Reduce score equals 6.8;
- The Capital Fund sub-indicator was not assessed (NA);
- The Rents Uncollected score equals 4.0;
- The Work Orders score equals 2.8;
- The Inspection of Units and Systems score equals 3.7; and
- The Security/Economic Self-Sufficiency score equals 4.0*.

For this PHA, the Indicator score is calculated by the following formula;

$$\text{Management Operations Indicator Score} = \frac{(6.8 + 4.0 + 2.8 + 3.7 + 4.0) \text{ times } (30.0)}{24} = 26.6$$

Dated: June 14, 1999.

Donald J. LaVoy,

Acting Director, Real Estate Assessment Center.

[FR Doc. 99–15740 Filed 6–22–99; 8:45 am]

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Wednesday
June 23, 1999

Part IX

Department of Housing and Urban Development

Public Housing Assessment System, Resident Service and Satisfaction Scoring Process; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4509–N–10]

Public Housing Assessment System, Resident Service and Satisfaction Scoring Process

AGENCY: Office of the Director, Real Estate Assessment Center, HUD.

ACTION: Notice.

SUMMARY: This notice provides additional information to public housing agencies, and members of the public, regarding HUD's process for issuing scores under the Resident Service and Satisfaction Indicator of the Public Housing Assessment System (PHAS).

FOR FURTHER INFORMATION CONTACT: For further information contact Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington DC, 20024; telephone Customer Service Center at 1–888–245–4860 (this is a toll free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC Internet Site, http://www.hud.gov/reac.

SUPPLEMENTARY INFORMATION:

1. Purpose of this Notice

The purpose of this notice is to provide additional information about the scoring process for PHAS Indicator #4, Resident Service and Satisfaction. The purposes of the Resident Service and Satisfaction assessment are to measure the level of resident satisfaction with living conditions at their public housing, to facilitate positive interaction and communication between public housing agencies (PHAs) and residents, and to guide PHAs in recognizing areas of concern identified by residents in survey responses. The Resident Service and Satisfaction assessment is an important indicator of a PHA's performance.

Of the total 100 points available for a PHAS score, a PHA may receive up to ten points under PHAS Indicator #4. Unlike PHAS Indicators #1, #2, or #3, PHAs will not be designated as ''troubled'' for a failing score under Indicator #4 in accordance with 24 CFR 902.67. The Resident Service and Satisfaction score, however, is included in the aggregate PHAS score.

The information provided in this notice was originally published on May 13, 1999 (64 FR 26236). HUD is publishing this information again since it relates to the Public Housing Assessment System proposed rule, published in the **Federal Register** on June 23, 1999.

2. Elements of Scoring

The score of the Resident Service and Satisfaction assessment for all PHAs will be based upon two components, plus a threshold requirement.

First Component. The first component will be the aggregate score of the survey results.

Second Component. The second component will be a score based on the PHA's certification that plans for survey implementation and follow-up corrective actions have been prepared by the PHA and have or will be acted upon. HUD's PHAS regulation at 24 CFR 902.53 provides that the second component will be a point score based on the level of implementation and follow-up or corrective actions based on the survey results.

Each of the components are worth five points, for a total of ten points, as outlined under Indicator #4 in the PHAS final rule (24 CFR 902.53). A PHA will receive a passing score if it receives at least six points of the available ten points. As noted earlier in this notice, however, a failing score under this Indicator will not cause a PHA to be designated as troubled.

Threshold Requirement. A PHA will not receive any points under PHAS Indicator #4 if the survey process is not managed as directed by HUD or the survey results are determined to have been altered. The threshold requirement is subject to verification.

The following chart shows the scoring components and point range.

Scoring components	Point range
Component One—Survey Results (5 points)	
Maintenance and Repair Section	0–1
Communication Section	0–1
Safety Section	0–1
Services Section	0–1
Neighborhood Section	0–1
Component Two—Implementation/Follow-Up Plan (5 points)	
Survey Implementation Plan	0 or 2
Survey Follow-up Plan	0 or 3
Total Possible Score	10

3. Scoring Process

The scoring process for the Resident Service and Satisfaction Indicator is dependent upon electronic updating, submission and certification of information by PHAs. Although this notice discusses these electronic steps in terms of requirements, HUD has made allowance for manual submission of information, as discussed later in the notice.

Unit Address Update and Verification

The scoring process for PHAS Indicator #4 begins with ensuring accurate information about the PHA's units. PHAs will be required to electronically update unit address information initially obtained by the REAC from the recently revised form HUD–50058, Family Report. The REAC will supply a list of current units (listed by development) to PHAs via the internet. PHAs will be asked to make additions, deletions and corrections to their unit address list. After updating the list, PHAs must verify that the list of unit addresses under their jurisdiction is complete. Any incorrect or obsolete address information will have a detrimental impact on the survey results. A statistically valid number of residents cannot be selected to participate in the survey if the unit addresses are incorrect or obsolete. If a PHA does not verify the address information within 30 calendar days of submission of the list of current units to the PHA by the REAC, and the address information is not valid, the REAC will not be able to conduct the survey at that PHA. Under those conditions, the PHA would not receive any points for the PHAS Resident Service and Satisfaction Indicator.

Electronic Update of Address List

The preferred method for updating a unit address list is electronic updating. If a PHA does not have this capability in-house, the PHA should consider utilizing local resources, such as the library or another local government entity that has internet access. In the event local resources are not available, the PHA may go to the nearest HUD Public and Indian Housing (PIH) program office and assistance will be given to transmit the unit address information. The PIH office will assist the PHA in electronically updating and transmitting its unit address list to the REAC. If circumstances preclude a PHA from updating and submitting its unit address list electronically, HUD will consider granting approval to allow a PHA to submit the updated unit address list information manually. A PHA that seeks approval to update its unit address list manually must ensure that the REAC receives the PHA's written request for manual submission 30 calendar days before the submission due date. The written request must include

the reasons why the PHA cannot update the list electronically. The REAC will respond to the PHA's request within 15 calendar days of receipt of the request.

Sampling

A statistically valid number of residents will be chosen to receive the Resident Service and Satisfaction survey. These residents will be randomly selected using a computerized program based on the total number of occupied and vacant units of the PHA. The Resident Service and Satisfaction assessment takes into account the different properties managed by a PHA by organizing the resident sampling based on the resident representation of each development in relation to the size of the entire PHA resident population. This procedure is known as selection with probability proportional to size. For example, if a PHA houses five percent of its residents in a given development, then five percent of the sample will be chosen from that development. A PHA's score, however, will represent the entire population within that agency.

Survey Distribution

The Resident Service and Satisfaction survey will be distributed to the randomly selected sample of residents of each PHA by a third party organization designated by HUD. The third party organization will also be responsible for collecting, scanning and aggregating results of the survey. The aggregate results will be transmitted to HUD for analysis and scoring. HUD will keep individual responses to the survey confidential.

Component One—Survey Results (5 Points)

The Resident Service and Satisfaction survey form, published in the **Federal Register** on November 23, 1998, with OMB approval No. 2535–0108, may be modified for nationwide implementation based on the pilot test currently underway at 32 public housing agencies. The modifications may include, but are not limited to, rewording of specific questions and possible elimination of some questions. No additional questions will be added to the existing Resident Service and Satisfaction survey. In addition, the basic content of the survey, as described in 24 CFR 902.53, will not be modified.

Once the survey form is finalized, weights will be assigned to individual questions. Answers to some questions on the survey will be used for informational purposes only and will not be calculated into the score for the PHA. For example, questions regarding overall satisfaction with the PHA will be used to confirm survey results and will not be calculated into the final survey score. The only questions that will be included in the score for the PHA will be questions that are directly related to compliance with the regulations or statutes applicable to the management of public housing. The score for the Resident Service and Satisfaction survey will be based on a total possible score of five points.

Five Survey Sections. There are five survey sections as follows:

1. Maintenance and repair (e.g., work order response);
2. Communication (e.g., perceived effectiveness);
3. Safety (e.g., perception of personal security);
4. Services (e.g., recreation and personal programs); and
5. Neighborhood appearance.

Scores for each survey section will be calculated in the following manner. Each section will be given a score between zero and one. For example, if the maintenance and repair survey section has 83 percent of the possible points for that section, then it would be given a score of .83. The total survey score will be the sum of the five survey section scores. Thus, there are five possible points for the survey results. This part of the score will be presented in a numeric format with one decimal place (i.e., 4.3).

Component Two—Implementation and Follow-Up Plans (5 Points)

Points awarded for component two are based on the level of implementation of the survey and follow-up on the results of the survey, where necessary.

Survey Implementation Plan. Although as noted earlier, a third party organization will be responsible for distributing and collecting the survey results, the PHA will be responsible for disseminating information about the survey to its residents based on Survey Implementation Plan provided by HUD. The Survey Implementation Plan will explicitly outline required implementation activities. The PHA must certify to the dates the implementation activities are carried out. Activities will include, but are not limited to, displaying posters supplied by HUD; conducting meetings with residents and/or communicating with residents through a newsletter; and distributing flyers.

If the PHA certifies to having completed the above activities prior to the date set by HUD, the PHA will receive the full two points for this section. All implementation activities should take place prior to residents' receipt of the survey. HUD will set deadlines for electronic submission of Survey Implementation Plans by PHAs. All Survey Implementation Plans received past the deadline will not be considered, and the PHA will not receive any points for this component.

Survey Follow-Up Plan. HUD will supply PHAs with an electronic template to develop a Survey Follow-up Plan based on the results of the survey. If a PHA scores 4.5 or higher on the resident survey, a follow-up plan will not be required and the PHA will receive the additional three points. The PHA will receive its aggregate survey results electronically prior to its PHAS Resident Service and Satisfaction certification due date. Once the PHA receives its survey results, the PHA must electronically access a template to be completed outlining any follow-up actions. The appropriate HUD Office will supply suggested actions to assist the PHA in completing its Survey Follow-up Plan. Follow-up actions will be directly related to the five survey sections listed above. The PHA will be able to develop its Survey Follow-up Plan based on areas identified by the survey which need improvement. As part of the Survey Follow-up Plan, the PHA will need to specify the following:

- Actions to be taken in the next fiscal year,
- The target date of completion,
- The funding source (if required) that will be utilized,
- The section of the survey being addressed with the action (i.e., communication, safety, etc.).

A PHA will receive the full three points for this section by completing its Survey Follow-up Plan and submitting a copy of it electronically to HUD/REAC by the due date. Survey Follow-up Plans will then be bundled and forwarded via the internet to the Public Housing Director in the appropriate HUD Field Office. Where appropriate, Field Office staff may offer technical assistance to a PHA regarding the Survey Follow-up Plan. Survey Follow-up Plans shall be retained for three years, and available for review at REAC or the PHA by HUD auditors. No points will be awarded for this component if a PHA fails to submit its Survey Follow-up Plan.

Audit. Where appropriate, the Survey Follow-up Plan will be subject to audit. If the auditor finds that the PHA is not following its plan in good faith, the PHA will not receive the three points for the Survey Follow-up Plan portion of the Resident Service and Satisfaction assessment score.

Submission of Resident Service and Satisfaction Certification

Submission to the REAC by the PHA of its Resident Service and Satisfaction certification brings a close to the scoring process for this PHAS Indicator. Through the Resident Service and Satisfaction certification, the PHA certifies that the resident survey process has been managed as directed by HUD. PHAs are required to electronically submit their Resident Service and Satisfaction certification. If a PHA does not have this capability in-house, the PHA should consider utilizing local resources, such as the library or another local government entity that has internet access. In the event local resources are not available, the PHA may go to the nearest HUD PIH program office and assistance will be given to the PHA to transmit its Resident Service and Satisfaction certification.

If circumstances preclude the PHA from reporting electronically, HUD will consider granting approval to allow a PHA to submit its Resident Service and Satisfaction certification manually. A PHA that seeks approval to submit the certification manually must ensure that the REAC receives the PHA's written request for manual submission 60 calendar days before the submission due date of its Resident Service and Satisfaction certification. The written request must include the reasons why the PHA cannot submit the certification electronically. The REAC will respond to the PHA's request and will manually forward its determination in writing to the PHA.

Technical Review of the Resident Survey

The REAC will consider conducting a technical review of a PHA's resident survey results in cases where the contracted third party organization can be shown by the PHA to be in error. The burden of proof, however, rests with the PHA to provide objectively verifiable evidence that a technical error occurred. Examples include, but are not limited to, incorrect material being mailed to residents; too few survey forms sent, which could render the sample size invalid; or the PHA's units addresses were incorrect due to the third party organization's error, such as unit numbers being omitted from the addresses. A PHA that does not update its unit address list as described, above, will not be eligible for a technical review based on incorrect addresses.

Dated: June 14, 1999.

Donald J. LaVoy,

Acting Director, Real Estate Assessment Center.

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June 23, 1999

Part X

Department of Health and Human Services

Centers for Disease Control and Prevention

Availability of Funds for Cooperative Agreements for Human Immunodeficiency Virus Prevention Projects for African American Faith-Based Organizations; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99096]

Cooperative Agreements for Human Immunodeficiency Virus Prevention Projects for African American Faith-based Organizations; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of Fiscal Year (FY) 1999 funds for cooperative agreements to support comprehensive HIV/AIDS education and prevention programs within African American faith, religious, and spiritual communities in three categories:

Category I—Community-Based HIV Prevention Services, to support faith, spiritual, and religious-based community-based organizations (faith-based CBOs) to develop and implement effective community-based HIV prevention programs for African Americans;

Category II—Capacity Building Assistance Program, to support nongovernmental minority organizations (including faith-based organizations) to develop and implement regionally structured and focused capacity building assistance for CDC-funded and other faith-based CBOs providing HIV prevention services to African Americans and for African American faith community leaders and other African American community stakeholders; and

Category III—Curriculum Development and Training Program, to support the development and implementation of a comprehensive HIV and substance abuse prevention curriculum and training program for use by Divinity Schools associated with Historically Black Colleges and Universities (HBCU's), other theological schools, and other faith leader training venues.

This program addresses the ''Healthy People 2000'' priority areas for Educational and Community-Based Programs, Human Immuno-deficiency Virus (HIV) Infection, and Sexually Transmitted Diseases (STDs).

1. The goals for Category I (Community-Based HIV Prevention Services) are to:

a. Provide financial and technical assistance to faith-based CBOs so they can provide HIV prevention services to African American populations for which gaps in services are demonstrated;

b. Support HIV prevention programs that are consistent with the HIV prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan or adequately justify addressing other priorities; and

c. Promote collaboration and coordination of HIV prevention efforts among faith-based CBOs; HIV prevention community planning groups; and other local, State, Federally, and privately funded programs.

2. The goals for Category II (Capacity Building Assistance Program) are to:

a. Improve the capacity of CDC-funded and other faith-based CBOs serving African Americans to mobilize their communities to increase their awareness, leadership, participation and support for HIV prevention;

b. Enhance the capacity of CDC-funded and other faith-based CBOs serving African Americans to effectively participate in, and improve the responsiveness of the HIV prevention community planning process to the HIV prevention needs of African Americans; and

c. Enhance the capacity of African American faith community leaders to provide leadership and support for HIV prevention.

3. The goals for Category III (Curriculum Development and Training Program) are to:

a. Provide comprehensive HIV and substance abuse prevention education for faith-leaders using a core instructional curriculum that can be easily adapted and modified to meet the needs of diverse faith traditions;

b. Promote leadership and support for HIV and substance abuse prevention among faith leaders serving disproportionately affected African American populations; and

c. Engage faith leaders in identifying ways to provide effective HIV and substance abuse prevention information and services to disproportionately affected African American populations within their congregations and outreach ministries.

Refer to Section P, ''Where to Obtain Additional Information'', for dates and times of audio-conferences.

B. Eligible Applicants

Note: Applicants may apply for more than one category, if eligible; however, a separate application must be submitted for each category.

1. Category I—Community-Based HIV Prevention Services

Eligible applicants for Category I are faith-based CBOs that provide services to African Americans and meet the following criteria (also see proof of eligibility under Section E.

Application Content—Attachments):

a. Have a faith, spiritual, or religious focus or constituency, and have access to local faith, spiritual, and religious leaders and communities. Examples of faith-based CBOs include (1) individual churches, mosques, temples, or other places of worship; (2) a network or coalition of churches, mosques, temples, or other places of worship; or (3) a CBO whose primary constituents are faith, spiritual, or religious community organizations or leaders.

b. Have been granted tax-exempt status under section 501(c)(3), as evidenced by an Internal Revenue Service (IRS) determination letter.

c. Have a board or governing body composed of greater than 50 percent African Americans.

d. African Americans must serve in greater than 50 percent of key positions in the organization, including management, supervisory, administrative, and service provision positions (for example, executive director, program director, fiscal director, outreach worker, prevention case manager, counselor, group facilitator, or trainer).

e. Documentation of an established record of services to the target population is required. An established record is defined as a minimum of two years serving the target population.

f. Two or more African American faith-based CBOs may apply as a collaborative partnership. In a collaborative contractual partnership, one CBO must be the legal applicant and will function as the lead organization in the collaboration. The lead organization must meet criteria a–e specified above and the collaborating CBO(s) must meet criteria as specified above.

Note: A Faith-based CBO can only submit one application under this category; that is, it may apply as an individual organization or as part of a collaboration, but not both.

g. Local affiliates, chapters, or programs of national and regional organizations are eligible to apply. In this case, the local affiliate, chapter, or program applying must meet criteria a–f, above.

h. Governmental or municipal agencies, their affiliate organizations or agencies (e.g., health departments, school boards, public hospitals), and private or public universities and colleges are not eligible for funding under this category.

i. CBOs currently funded under Program Announcement 704, titled,

''Community-Based Human Immunodeficiency Virus (HIV) Prevention Projects,'' are not eligible to apply.

2. Category II—Capacity Building Assistance Program

The Capacity Building Assistance Program (Category II) will serve four regional groups as follows:

Northeast Region: CT, MA, ME, NH, NJ, NY, PA, RI, VT, PR, U.S. Virgin Islands

Midwest Region: IA, IL, IN, KS, MI, MN, MO, ND, NE, OH, SD, WI

South Region: AL, AR, D.C., DE, FL, GA, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, WV

West Region: AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY

Eligible applicants for Category II are: (1) A national minority organization, including faith-based organizations, serving up to four regions either independently or as the lead agency within a coalition; or (2) a regional minority organization, including faith-based organizations, serving at least one region either independently or as the lead agency within a coalition; or (3) a local minority organization, including faith-based organizations, as the lead agency within a coalition serving one region. A coalition may consist of any combination of national, regional or local minority organizations.

For the purpose of this program announcement, a national or regional faith-based organization is a nonprofit organization (1) whose constituency includes faith, spiritual, or religious communities, organizations, or leaders and (2) which has a formal or informal network of affiliates, constituent organizations, or offices distributed nationally or regionally and involving multiple states.

The lead agency must be the legal applicant and all applicants must meet the following criteria:

a. Have a copy of a currently valid IRS Determination letter stating that the organization is a 501(c)(3).

b. Have a documented and established 3-year record of service to community-based organizations serving African Americans and to African American population(s). Acceptable documentation includes letters of support, agency annual reports, client satisfaction survey summaries, and memoranda of agreement.

c. Have a board or governing body composed of greater than 50 percent African Americans.

d. Have greater than 50 percent of key positions in the applicant organization, including management, supervisory, administrative, and service positions filled by African Americans (for example, executive director, program director, fiscal director, trainer, technical assistance provider, curricula development specialist, or group facilitator).

e. Local affiliates, chapters, or programs of national and regional organizations are eligible. In this case, the local affiliate, chapter, or program applying must meet criteria a—d, above.

f. Organizations currently funded under CDC Program Announcement #98043 (National Partnerships for Human Immunodeficiency Virus) are eligible to apply; however, awards to these currently funded organizations will not exceed $100,000 and no more than one such award will be made in this category.

g. Governmental or municipal agencies, their affiliate organizations or agencies (e.g., health departments, school boards, public hospitals), and private or public universities and colleges are not eligible for funding under this category.

Note: An organization may submit only one application under this category; that is, it may apply as an individual organization or as part of a coalition, but not both.

3. Category III—Curriculum Development and Training Program

Eligible applicants under this category:

a. Must be a Theological or Divinity School associated with a Historically Black College or University. These Theological or Divinity Schools include Hood, Howard, Interdenominational Theological Center, Payne, Shaw, and Virginia Union.

b. Must have a documented and established 2-year record of promoting leadership and support for health-based programs, including HIV prevention or substance abuse prevention programs, within African American populations disproportionately affected by HIV/AIDS.

4. Categories I, II, and III

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Awards will be made in three categories: (I) Community-based HIV Prevention Services; (II) Capacity Building Assistance Program; and (III) Curriculum Development and Training Program. Applicants may apply for more than one category if eligible; however, separate applications must be submitted for each category.

1. Category I—Community-Based HIV Prevention Services

Approximately $600,000 is available in FY 1999 to fund up to four awards. It is expected that awards will begin on or about September 30, 1999 and will be made for a 12-month budget period within a project period of up to 4 years. It is expected that the average award will be approximately $200,000, ranging from $150,000 to $250,000. Applications requesting more than $250,000, including indirect costs, will be deemed ineligible.

Note: Funds to support CBOs to provide HIV prevention services are also available under Program Announcement 99092—Community Based Human Immunodeficiency Virus (HIV) Prevention Projects for African Americans, Program Announcement 99091—Community-Based HIV Prevention Services and Capacity Building Assistance to Organizations Serving Gay Men of Color at Risk for HIV Infection, and Program Announcement 99047—Human Immunodeficiency Virus Community Based Prevention Projects for the Commonwealth of Puerto Rico and the United States Virgin Islands. Eligible organizations may apply for and receive funding under more than one of these announcements; however, the total combined funding provided to any organization under these four new announcements will not exceed $300,000.

2. Category II—Capacity Building Assistance Program

Approximately $600,000 is available in FY 1999 to fund up to three awards. It is expected that awards will begin on or about September 30, 1999 and will be made for a 12-month budget period within a project period of up to 4 years. It is expected that the average award will be approximately $200,000, ranging from $100,000 to $600,000. Applications requesting more than $600,000, including indirect costs, will be deemed ineligible.

3. Category III—Curriculum Development and Training Program

Approximately $300,000 is available in FY 1999 to fund one Divinity School associated with a Historically Black College or University. It is expected that awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to 4 years. Applications requesting more than $300,000, including indirect costs, will be deemed ineligible.

4. Categories I, II, and III

Funding estimates may change based on the availability of funds. Continuation awards within an

approved project period will be made on the basis of availability of funds and the applicant's satisfactory progress toward achieving objectives. Satisfactory progress toward achieving objectives will be determined by progress reports submitted by the recipient and site visits conducted by CDC representatives. Proof of continued eligibility is required with noncompeting continuation applications.

Use of Funds

1. Category I—Community-Based HIV Prevention Services

Funds provided under this category shall support activities directly related to primary HIV prevention. However, intervention activities which involve preventing other STDs or substance abuse as a means of reducing or eliminating the risk of HIV transmission may also be supported.

2. Category II—Capacity Building Assistance Program

Funds provided under this category shall support assistance that increases the capacity of faith-based CBOs to expand and sustain effective HIV prevention activities for African Americans whose behavior places them at high risk for HIV.

Note: If indirect costs are requested, you must provide a copy of your organization's current negotiated indirect rate agreement. In the absence of an indirect cost rate agreement, the recipient may request, with detailed justification, a maximum of ten percent for the executive director. If the organization has an indirect rate that includes the executive director's salary, no additional funds will be provided. Funds will not be provided for the salary of an executive director that is also a member of the organization's Board of Directors.

3. Category III—Curriculum Development and Training Program

Funds provided under this category shall support the development, implementation, and evaluation of a comprehensive HIV and substance abuse prevention curriculum and training program. The curriculum shall be adaptable and contain modules or units easily modified to meet the education and training needs of diverse faith traditions.

The curriculum and training program shall be developed for use by Divinity Schools associated with Historically Black Colleges and Universities, other theological schools, and other faith leader training venues and settings. Faith leaders and members of affected populations shall be afforded the opportunity to provide input into its development through needs assessments, surveys, focus groups, and other appropriate mechanisms.

4. Categories I, II, and III

Applicants are encouraged to develop coalitions and may contract with other organizations under these cooperative agreements; however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of services) for which funds are requested. Applications requesting funds to support only administrative and managerial functions will not be accepted.

No funds will be provided for direct patient medical care (including substance abuse treatment, medical treatment, or medications) or research.

These funds may not be used to supplant or duplicate existing funding. Funds awarded should be used to enhance or expand existing activities.

Funding Priorities

1. Category I—Community-Based HIV Prevention Services

In making awards under Category I—Community-Based HIV Prevention Services, priority for funding will be given to ensuring a geographical distribution of faith-based CBO awards based on AIDS morbidity among African Americans.

2. Category II—Capacity Building Assistance Program

In making awards under Category II (Capacity Building Assistance Program), priority for funding will be given to: Ensuring that funding for capacity building assistance is distributed in proportion to the disease burden for African American populations in each region.

3. Category III—Curriculum Development and Training Program

In making awards under Category III (Curriculum Development and Training Program), priority for funding will be given to ensuring provision of a comprehensive curriculum and training program to faith leaders serving African American communities in the metropolitan statistical areas (MSAs) with more than 1000 prevalent AIDS cases in African Americans in 1997.

Interested persons are invited to comment on the proposed funding priorities for Categories I, II, and III. All comments received within 30 days after publication in the **Federal Register** will be considered before the final funding priorities are established. If the funding priorities change because of comments received, a revised announcement will be published in the **Federal Register**, and revised applications will be accepted before the final selections are made. Address comments to: Julia Valentine, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

D. Program Requirements—Category I—Community-Based HIV Prevention Services

HIV prevention interventions are specific activities (or set of related activities) using a common method of delivering the prevention messages to reach persons at risk of becoming HIV-infected or, if already infected, of transmitting the virus to others. The goal of HIV prevention interventions is to bring about HIV risk reduction in a particular population.

In order to maximize the effective use of CDC funds, each applicant must conduct at least one of the following priority HIV prevention interventions: (1) HIV Counseling, Testing and Referral Services; (2) Individual Level Interventions; (3) Group Level Interventions; (4) Community Level Interventions; and (5) Street and Community Outreach. A brief description of these priority interventions is provided in Attachment 1. Also, please reference the materials included in the tool kit for additional information about these interventions. The tool kit will be sent with the application packet upon request.

Although activities may overlap from one type of intervention to another (e.g., individual or group level interventions may be a part of a community-level intervention), each applicant must indicate which one of the five interventions is the primary focus.

Because of the resources, special expertise, and organizational capacities needed for success, applicants should carefully consider the feasibility of undertaking more than two of the priority interventions listed. Recipients proposing to conduct more than two of these priority prevention interventions must demonstrate the capacity to implement them effectively.

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under number 1. (Recipient Activities) and CDC will be responsible for activities under number 2. (CDC Activities) below.

1. Recipient Activities:

a. Use epidemiologic data, needs assessments, and prioritization of

groups and interventions to design program activities.

b. Develop program activities which are consistent with applicable State and local comprehensive HIV prevention plans or adequately justify addressing other priorities.

c. Provide or assist high risk clients in gaining access to HIV counseling, testing, and referral for other needed services.

d. Conduct health education and risk reduction interventions for persons at high risk of becoming infected or transmitting HIV to others.

e. Assist HIV-positive persons in gaining access to appropriate HIV treatment and other early medical care, substance abuse prevention services, STD screening and treatment, reproductive and perinatal health services, partner counseling and referral services, psychosocial support, mental health services, TB prevention and treatment, primary HIV prevention such as health education and risk reduction services, and other supportive services. High-risk clients who test negative should be referred to appropriate health education and risk reduction services and other appropriate prevention and treatment services.

f. Ensure adequate protection of client confidentiality.

g. Coordinate and collaborate with health departments, community planning groups, and other organizations and agencies involved in HIV prevention activities, especially those serving the target population.

h. Participate in the HIV prevention community planning process. Participation may include involvement in workshops; attending meetings; if nominated and selected, serving as a member of the group; reporting on program activities; or reviewing and commenting on plans.

i. Incorporate cultural competency and linguistic and developmental appropriateness into all program activities and prevention messages.

j. Coordinate program activities with relevant national, regional, State, and local HIV prevention programs to prevent duplication of efforts.

k. Monitor and evaluate major program and intervention activities and services supported with CDC HIV prevention funds under this cooperative agreement. This should include assessing client satisfaction periodically via quantitative (e.g., periodic surveys) and qualitative methods (e.g., focus groups).

l. Compile ''lessons learned'' from the project and facilitate the dissemination of ''lessons learned'' and successful prevention interventions and program models to other organizations and CDC through peer-to-peer interactions, meetings, workshops, conferences, internet, communications with project officers, and other capacity building and technology transfer mechanisms.

m. Work with CDC-funded capacity building assistance programs to meet your and other organizations' capacity building needs.

n. Develop and implement a plan for obtaining additional resources from non-CDC sources to supplement the program conducted through this cooperative agreement and to enhance the likelihood of its continuation after the end of the project period.

o. Adhere to CDC policies for securing approval for CDC sponsorship of conferences.

p. Before using funds awarded through this cooperative agreement to develop HIV prevention materials, recipients must check with the CDC National Prevention Information Network (NPIN) to determine if suitable materials are already available. Also, materials developed by recipients must be made available for dissemination through the CDC NPIN.

CDC's National Prevention Information Network (NPIN) maintains a collection of HIV, STD and TB resources for use by organizations and the public. Successful applicants may be contacted by NPIN to obtain information on program resources for use in referrals and resource directories. Also, grantees should send three copies of all educational materials and resources developed under this grant for inclusion in NPIN's databases.

NPIN also makes available information and technical assistance services for use in program planning and evaluation. For further information on NPIN services and resources, contact NPIN at 1–800–458-5231(TTY users: 1–800–243–7012). NPIN's web site is www.cdcnpin.org; the fax number is 1–888–282–7681.

2. CDC Activities:

a. Coordinate a national capacity building and technology transfer network.

b. Provide consultation and technical assistance in planning, implementing, and evaluating prevention activities. CDC may provide consultation and technical assistance both directly and indirectly through prevention partners such as State health departments, national and regional minority organizations (NRMOs), contractors, and other national organizations.

c. Provide up-to-date scientific information on risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

d. Assist in the design and implementation of program evaluation activities, including provision of evaluation forms, if appropriate.

e. Assist recipients in collaborating with State and local health departments, community planning groups, and other federally supported HIV/AIDS recipients.

f. Facilitate the transfer of successful prevention interventions, program models, and ''lessons learned'' through convening meetings of grantees, workshops, conferences, newsletters, use of the internet, and communications with project officers. Also facilitate exchange of program information and technical assistance among community organizations, health departments, and national and regional organizations.

g. Monitor the recipient's performance of program activities, protection of client confidentiality, and compliance with other requirements.

h. Conduct an overall evaluation of this cooperative agreement program.

E. Application Content—Category I—Community-Based HIV Prevention Services

Use the information in the Program Requirements, Other Requirements, and Application Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 50 pages (not including the budget or attachments).

Number each page sequentially, and provide a complete Table of Contents to the application and its appendices. Please begin each separate section of the application on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All material must be typewritten, single spaced, with unreduced 12 point or 10 pitch font on 8½'' by 11'' paper, with at least 1'' margins, headings and footers, and printed on one side only. Materials which should be part of the basic narrative will not be accepted if placed in the appendices.

Note: Applicants may apply for more than one category, if eligible; however, a separate application must be submitted for each category.

In developing the application, you must follow the format and instructions below:

Format For Category I—Community-Based HIV Prevention Services

1. Abstract

2. Assessment of Need and Justification for Proposed Activities
3. Long-term Goals
4. Organizational History and Capacity
5. Program Plan
6. Program Evaluation Plan
7. Communications and Dissemination Plan
8. Plan for Acquiring Additional Resources
9. Budget and Staffing Breakdown and Justification
10. Attachments

Instructions For Category I—Community-Based HIV Prevention Services

1. Abstract (not to exceed 3 pages): summarize which intervention category of the five priority HIV prevention interventions—(1) HIV Counseling, Testing, and Referral Services; (2) Individual Level Interventions; (3) Group Level Interventions; (4) Community Level Interventions; and (5) Street and Community Outreach)—you intend to implement and your proposed intervention activities. Include the following:

a. brief summary of the need for the proposed activities;

b. long-term goals;

c. brief summary of proposed plan of operation, including the population(s) to be served, activities to be undertaken, and services to be provided; and

d. brief summary of plans for evaluating the activities of this project.

2. Assessment of Need and Justification for Proposed Activities (not to exceed 5 pages):

a. Describe the population(s) for which your proposed intervention(s) will provide services.

b. Describe the impact of the AIDS epidemic on the priority population and their community and any specific environmental, social, cultural, or linguistic characteristics of the priority populations which you have considered and addressed in developing prevention strategies, such as:

(1) HIV prevalence and incidence (if available), reported AIDS cases, and the proportion that engages in specific risk behaviors (sexual behaviors, substance use, etc.) in the target population;

(2) HIV/AIDS-related baseline knowledge, attitudes, beliefs, and behaviors;

(3) Patterns of substance use and rates of STDs and tuberculosis (TB); and (4) Other relevant information. (Specify)

c. Identify the need that will be addressed by your proposed intervention(s), and describe how you assessed the need. Include epidemiologic and other data that were used to identify the need. Include a description of existing HIV prevention and risk-reduction efforts provided by other organizations to address the needs of the target population(s), and an analysis of the gap between the identified need and the resources currently available to address the need (i.e., How will the proposed intervention(s) address an important unmet HIV prevention need?).

d. Describe the specific behaviors and practices that the proposed intervention(s) is designed to promote and prevent (e.g., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs).

e. Describe how your proposed intervention(s) complements the HIV prevention priority populations and interventions identified in the applicable State or local comprehensive HIV prevention plan(s). If the comprehensive HIV prevention plan does not prioritize the needs that you have identified, justify the need and the priority of your proposed intervention activities and summarize how the activities address prevention gaps and complement ongoing prevention efforts. State why the funds being applied for in this application are necessary to address the need. A list of the names and telephone numbers of State health department contacts from whom you may obtain a copy of the jurisdiction's comprehensive HIV prevention plan is provided with the application kit;

f. Explain any specific barriers to the implementation of your proposed intervention(s) and how you will overcome these barriers.

3. Long-term Goals (not to exceed 1 page): Describe the broad HIV prevention goals that your proposed intervention(s) aims to achieve by the end of the project period (four years).

4. Organizational History and Capacity (not to exceed 10 pages): Describe the following:

a. Organizational structure, including the role, responsibilities, and racial/ethnic composition of board of directors; committee structure of board of directors; organizational management, administrative and program components; constituent or affiliate organizations or networks; how the organizational structure will support the proposed intervention activities; and how the structure offers the capacity to reach targeted populations. Describe how the organizational structure includes, or has the ability to obtain meaningful input and representation from, members of the target population(s) (for example, gay, bisexual, and transgender populations, youth at risk, HIV-positive individuals, substance abusers).

b. Past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing interventions similar to the one(s) proposed in this application.

c. The process in your organization for making major programmatic decisions.

d. Mechanisms used by your organization to monitor program implementation and quality assurance.

e. Experience in working or collaborating with governmental and non-governmental organizations, including State and local health departments, local and State non-governmental organizations, national agencies or organizations, community planning groups, and other groups that provide HIV prevention services.

f. Capacity to provide the proposed interventions in a manner that is culturally competent and linguistically and developmentally appropriate, and which responds effectively to the gender, environmental, and social characteristics of the target populations.

g. For any of the above areas in which you do not have direct experience or current capacity, describe how you will ensure that your organization will gain capacity (e.g., through staff development, collaboration with other organizations, or a subcontract).

5. Program Plan (not to exceed 20 pages): Use this section to describe the specific characteristics of your proposed intervention(s).

a. Involvement of the target population: Describe how the target population is, or will be, involved in planning, implementing, and evaluating activities and services throughout the project period.

b. Intervention Objectives: Develop process objectives that are specific, measurable, appropriate, realistic, and time-based. Process objectives focus on the projected amount, frequency, and duration of the intervention activities and the number and characteristics of the target population to be served. If applicable, describe how the objectives are related to the prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan. Describe potential barriers to or facilitators for reaching these objectives.

c. Plan of Operation:

(1) Describe the specific activities to be conducted or services to be provided to accomplish the objectives and where these activities or services will take place. Make certain that your proposal addresses all required activities. The

following four HERR interventions will be funded: Individual level (including prevention case management [PCM]), group level, community level interventions, and street and community outreach. Each recipient must conduct at least one of these interventions. Applicants should not apply for more interventions than they can conduct effectively.

(2) Describe your mechanisms for soliciting clients into the program and obtaining informed consent.

(3) Describe your staffing plan and the responsibilities each staff position will have in conducting the proposed activities. Describe how the proposed program will be managed, including the location of the program within your organization.

(4) Describe the potential for volunteer involvement in your program. If volunteers will be involved, describe plans to recruit, train, place, and retain volunteers.

(5) Describe how you will market and promote your program in the community.

(6) Describe how you will prioritize the program activities to place emphasis on populations or communities that are at high risk for HIV infection.

d. Appropriateness of Interventions: Describe mechanisms that will be used to ensure client satisfaction. Describe how you will ensure that the proposed interventions and services are culturally competent; sensitive to issues of sexual orientation; developmentally, educationally, and linguistically appropriate; and targeted to the needs of the target populations.

e. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities:

Provide a detailed description of the program experience or scientific, theoretical, or conceptual foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated needs.

f. Collaborations, Linkages, and Coordination:

(1) Describe any formal collaborations with State or local health departments, community planning groups, and other appropriate service groups or organizations that will be used in the development and implementation of your program. Describe the respective roles and responsibilities of each collaborating entity in developing and implementing the program.

(2) Specify any and all organizations and agencies with which you will establish linkages and coordinate activities, and describe the activities that will be coordinated with each listed organization. These may include, as appropriate, the following:

(a) Community groups and organizations, including churches and religious groups;

(b) HIV/AIDS service organizations;

(c) Ryan White CARE Title I and Title II planning bodies;

(d) Schools, boards of education, and other State or local education agencies;

(e) State and local substance abuse agencies, community-based and other drug treatment or detoxification programs;

(f) Federally funded community projects, such as those funded by the Substance Abuse and Mental Health Services Administrations' (SAMHSA) Center for Substance Abuse Treatment (CSAT) and Center for Substance Abuse Prevention (CSAP), the Health and Human Services' Health Resource Services Administration (HRSA), Office of Minority Health (OMH), and other Federal entities;

(g) Providers of services to youth in high risk situations (e.g., youth in shelters);

(h) State or local departments of mental health;

(i) Juvenile and adult criminal justice, correctional, or parole systems and programs;

(j) Family planning and women's health agencies; and

(k) STD and TB clinics and programs.

(3) Describe how referrals to other service providers will be initiated.

g. Provide a timeline that identifies major implementation steps and assigns approximate dates for the inception and completion of each.

6. Quality Assurance and Program Evaluation Plan (not to exceed 5 pages): The plan should describe when and how evaluation activities will be implemented. At a minimum, the plan should outline strategies for implementing process evaluation of interventions to determine if the process objectives are being achieved. Indicate which member(s) of the staff will be responsible for implementing the evaluation plan.

Your process evaluation plan should include the following:

a. A list of resources available to the organization to carry out process evaluation (e.g., provider staff, health department staff, data experts to design a system for managing information about proposed interventions, evaluation consultants, NRMOs).

b. A list of who will be involved in implementing the evaluation and identify their roles. Describe who will collect, report, enter, and analyze data.

c. A description of the data that will be collected. To assure valid data are collected, established instruments should be used when feasible.

Established instruments include those that have been either science-based or previously administered in effective HIV prevention interventions. In addition, data sources should be verifiable through appropriate documentation (such as storing original data for the duration of the cooperative agreement). Examples of data that could be collected include:

(1) Detailed information on the specific intervention service(s).

(2) The number of persons who received the service(s) by (a) risk categories (MSM, IDU, etc.) and (b) demographics, such as age, race and ethnicity, gender, and if appropriate and available, sexual orientation.

(3) When and how often the intervention service was provided.

(4) Where the intervention service was provided (e.g., CTRPN site, STD clinic, street corner, housing project).

(5) Documents referral systems, including the number of persons referred; how you intend to determine the success of referral systems (e.g., the number actually receiving services by referral sites); and how well the system functions in identifying referral services.

(6) Describe client satisfaction with HIV prevention intervention services.

d. Discuss how data will be collected, managed, and monitored over time. Address ways to collect, report, enter, and analyze data as well as how you would use data for program improvement. Describe how often data will be collected. Discuss how data security will be maintained and client confidentiality assured.

e. Discuss how you will assess the performance of staff to ensure that they are providing information and services accurately and effectively.

Because of the additional cost and need for scientific support beyond the scope of these cooperative agreements, you may not be able to conduct outcome evaluations (i.e., long-term effects of the program in terms of changes in behavior or health status, such as changes in HIV incidence after the intervention) with funds provided through this cooperative agreement. CDC will continue to support special projects to evaluate the behavioral and other outcomes of interventions commonly used by CBOs and other organizations, and disseminate information and lessons learned from this research to CBOs, health departments, community planning groups, and other organizations and agencies involved in HIV prevention programs.

7. Communications and Dissemination Plan (not to exceed 2 pages): Describe how you will share successful approaches and ''lessons learned'' with other organizations.

8. Plan for Acquiring Additional Resources (not to exceed 2 page): Describe how you will develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget/Staffing Breakdown and Justification (not scored)

a. Detailed Budget: Provide a detailed, separate budget for each intervention proposed (i.e., CTR, individual level, group level, community level, or street and community outreach), with accompanying justification of all operating expenses that is consistent with the stated objectives and planned priority activities. CDC may not approve or fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate.

For contracts, applicants should name the contractor, if known; describe the services to be performed which justifies the use of a contractor; provide a breakdown of and justification for the estimated costs of the contracts; the period of performance; the method of selection; and method of monitoring the contract.

Note: If indirect costs are requested, you must provide a copy of your organization's current negotiated Federal indirect cost rate agreement.

b. Staffing Plan: Provide a job description for each position specifying job title; function, general duties, and activities; salary range or rate of pay; and the level of effort and percentage of time spent on activities funded through this cooperative agreement. If the identity of any key personnel who will fill a position is known, her/his name and resume should be attached. Experience and training related to the proposed project should be noted. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project provide job descriptions.

10. Attachments:

a. Proof of Eligibility

Each applicant must provide documentation that they comply with all eligibility requirements specified under the ''Eligible Applicants'' section of this program announcement. Applicants should provide a separate section within this Attachments section that is entitled Proof of Eligibility to include the documents listed below. Failure to provide the required documentation will result in disqualification.

(1) A reference to your organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code, i.e., IRS determination letter.

(2) A list of the members of your organization's governing body along with their positions on the board, their expertise in working with or providing services to the proposed target population, and their racial/ethnic backgrounds. (Submission of information regarding the HIV status or other confidential information regarding the board is optional, and must not be linked to a specific individual.)

(3) Documentation that your organization is located and provides services in the geographical area to be served. This documentation could include letters of support, news articles, brochures or flyers, annual reports, memoranda of agreement, or client surveys.

(4) A Table of Organization of existing and proposed staff, including the board of directors, volunteer staff, and their racial/ethnic backgrounds.

(5) Documentation that your organization has an established record of providing services to the target population for at least two years, and a description of the specific services that have been provided.

(6) Affiliates, chapters, or programs of national or regional organizations must include with the application an original, signed letter from the national or regional organization's chief executive officer assuring their understanding of the intent of this program announcement and the responsibilities of recipients.

(7) A separate sheet of paper stating if your organization is currently funded under CDC Program Announcement 704, Community Based HIV Prevention Projects.

b. Other Attachments

(1) A list of all collaborating or coordinating entities and memoranda of understanding or agreement as evidence of these established or agreed-upon collaborative or coordinating relationships. Memoranda of agreement should specifically describe the proposed collaborative activities. Evidence of continuing collaboration must be submitted each year to ensure that the collaborative relationships are still in place. Memoranda of agreement from health departments should include a statement that they have reviewed your application for these funds.

(2) A list of major community resources and health care providers to which referrals will be made;

(3) Protocols to guide and document training, activities, services, and referrals (e.g., applicants seeking funds for Street and Community Outreach Interventions must provide a description of the policies and procedures that will be followed to assure the safety of outreach staff).

(4) Samples of data collection tools that will be used in performing, monitoring, or evaluating program activities, if available.

(5) Training and Technical Assistance Plan which describes areas in which you anticipate needing technical assistance in designing, implementing, and evaluating your program and discuss how you will obtain needed technical assistance. Also, describe anticipated staff training needs related to the proposed program and how these needs will be met. Describe your plan for providing ongoing training to ensure that staff are knowledgeable about HIV and STD risks and prevention measures. This information will assist CDC to better address your needs and help you to identify technical assistance and training providers.

(6) A description of funds received from any source to conduct HIV/AIDS programs and other similar programs targeting the population proposed in the program plan. This summary must include: (1) the name of the sponsoring organization/source of income, amount of funding, a description of how the funds have been used, and the budget period; (2) a summary of the objectives and activities of the funded program(s); and (3) an assurance that the funds being requested will not duplicate or supplant funds received from any other Federal or non-Federal source. CDC awarded funds can be used to expand or enhance services supported with other Federal or non-Federal funds. In addition, identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(7) Independent audit statements from a certified public accountant for the previous 2 years.

(8) A copy of your organization's current negotiated Federal indirect cost rate agreement, if applicable.

Note: Materials submitted as attachments should be printed on one side of 8½″ x 11″ paper. Please do not attach bound materials such as booklets or pamphlets. Rather, submit copies of the materials printed on one side of 8½″ x 11″ paper. Bound materials may not be reviewed.

F. Evaluation Criteria—Category I—Community-Based HIV Prevention Services

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Abstract (not scored)

2. Assessment of Need and Justification for the Proposed Activities (15 points)

a. The extent to which the applicant soundly and convincingly documents a substantial need for the proposed program and activities; and the degree to which the proposed activities are consistent with the Recipient Activities described in the Program Requirements Section. (5 points)

b. The degree to which the applicant describes the specific behaviors and practices that the interventions are designed to promote and prevent (i.e., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs). (5 points)

c. The quality of the applicant's plan to ensure consistency with the State and local comprehensive HIV prevention plans and, if applicable, the adequacy with which the applicant demonstrates the rationale for deviating from the jurisdiction's comprehensive HIV prevention plan. (5 points)

3. Long-term Goals (5 points) The quality of the applicant's stated goals and the extent to which they are consistent with the purpose of this cooperative agreement, as described in this program announcement.

4. Organizational History and Capacity (15 points) The extent of the applicant's documented experience, capacity, and ability to address the identified needs and implement the proposed activities, including:

a. How the applicant's organizational structure and planned collaborations (including constituent or affiliated organizations or networks) will support the proposed program activities, and how the proposed program will have the capacity to reach targeted populations; (3 points)

b. Applicant's past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing programs similar to those proposed in this application; (3 points)

c. Applicant's experience and ability in collaborating with governmental and non-governmental organizations, including other national agencies or organizations, State and local health departments, community planning groups, and State and local non-governmental organizations that provide HIV prevention services; (3 points)

d. Applicant's capacity to obtain meaningful input and representation from members of the target population(s) and to provide culturally competent and appropriate services which respond effectively to the cultural, gender, environmental, social, and multilingual character of the target audiences, including documentation of any history of providing such services; (3 points) and

e. Plans to ensure capacity to implement proposed program where no direct experience or capacity currently exists within the applicant organization. (3 points)

5. *Program Plan* (45 total points)

a. Involvement of the target population (5 points) The degree to which the applicant describes the involvement of the target population in planning, implementing, and evaluating activities and services throughout the project period.

b. Intervention Objectives (5 points) Degree to which the proposed process objectives are specific, measurable, appropriate, realistic, and time-based, related to the proposed activities, and consistent with the program's long-term goals; and the extent to which the applicant identifies possible barriers to or facilitators for reaching these objectives.

c. Plan of Operation (15 points) The quality of the applicant's plan for conducting program activities, and the potential effectiveness of the proposed activities in meeting objectives.

d. Appropriateness of Interventions (5 points) The degree to which the applicant describes how the proposed priority interventions and services are culturally competent, sensitive to issues of sexual orientation, developmentally appropriate, linguistically-specific, and educationally appropriate.

e. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities (5 points) The degree to which the applicant provides a detailed description of the scientific, theoretical, conceptual, or program experience foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated need.

f. Collaborations, Linkages, and Coordination (5 points) Appropriateness of collaboration and coordination with other organizations serving the same priority population(s). At minimum, the applicant provides a description of the collaboration or coordination and a signed memoranda of agreement for each agency with which collaborative activities are proposed, and other evidence of collaboration that describe previous, current, as well as future areas of collaboration.

g. Timeline (5 points) The extent to which the applicant's proposed timeline is specific and realistic.

6. Quality Assurance and Program Evaluation Plan (10 points) The potential of the evaluation plan to describe when and how evaluation activities will be implemented by the applicant; the extent to which the evaluation plan is realistic and feasible, taking into account the applicant's unique needs, resources, capabilities, and priorities; and the extent to which a plan has been created that will guide the collection of data for improving HIV prevention efforts and informing stakeholders of the progress made in HIV prevention.

7. Communication and Dissemination Plan (5 points) The degree to which the applicant describes how successful approaches and ''lessons learned'' will be documented and shared with other organizations.

8. Plan for Acquiring Additional Resources (5 points) The degree to which the applicant describes plans to develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget and Staffing Breakdown and Justification (not scored)

a. Budget Appropriateness of the budget for the proposed project.

b. Personnel Appropriateness of the staffing pattern for the proposed project.

Before final award decisions are made, CDC may make predecisional site visits to CBOs whose applications are highly ranked or review the items below with the local or State health department and applicant's board of directors:

a. The organizational and financial capability of the applicant to implement the proposed program.

b. The special programmatic conditions and technical assistance requirements of the applicant.

A business management and fiscal recipient capability assessment may be required of some applicants prior to the award of funds.

G. Program Requirements—Category II—Capacity Building Assistance

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities

under number 1. (Recipient Activities) and CDC will be responsible for activities under number 2. (CDC Activities) below.

For additional information on capacity building assistance activities, see Attachment 2.

1. Recipient Activities:

a. Conduct regional community needs and resource assessments around issues related to HIV prevention, leadership development, and community mobilization.

b. Develop a regional plan of action to mobilize communities and relevant agencies to direct resources to meet priority needs related to Community Capacity Building for HIV prevention.

c. Develop a regional plan of action to provide capacity building assistance in HIV Prevention Community Planning Effectiveness and Participation.

d. Provide capacity-building assistance to CBOs serving African Americans and to diverse faith leaders within the African American community in the following areas: Community Capacity Building for HIV Prevention, and HIV Prevention Community Planning Effectiveness and Participation. These services are to be provided through the use of the following mechanisms: Information Transfer, Skills Building, Technical Consultation, Technical Services and Technology Transfer. See Attachment 2 for additional information.

e. Develop and implement a plan for targeting, engaging, and maintaining long term capacity building relationships with CBOs serving African American populations and African American community faith leaders. The plan should include strategies for conducting ongoing assessments of faith CBOs and community faith leaders in the areas listed in Section d above. The plan should also include the strategy for developing tailored capacity building packages to be delivered over the course of the project period.

f. Develop a strategy that includes forming a regional community advisory board which includes CDC-funded faith-based CBOs, members of the target population(s), and faith community representatives and leaders. This community advisory board should be involved with providing input into the overall direction of the proposed program and in assessing the proposed program's communication, linkages, performance, and services to the target population.

g. Ensure that capacity building assistance is allocated according to priority capacity building assistance needs of CDC-funded and other faith-based CBOs and highly affected African American communities and sub-populations, such as men who have sex with men (MSM); gay, lesbian, bisexual and transgender youth (GLBT Youth); high-risk heterosexuals (HRH) including youth, men, and women; injection drug users and other substance abusers (IDU/SA); and incarcerated, soon-to-be-released and released persons.

h. Develop and implement a system that responds to requests for assistance in Community Capacity Building; HIV Prevention Community Planning Participation and Effectiveness; and other types of capacity building assistance from faith-based CBOs and African American community faith leaders. This process must include mechanisms for conducting needs assessments, prioritizing requests, assigning staff or consultants, linking requests (when appropriate) to the retainer consultant system funded under the Capacity Building Assistance Program Announcement 99095, delivering services, reporting on service delivery, and conducting quality assurance.

i. Develop a standardized system for tracking and reporting all capacity building assistance requests and delivery with CDC assistance as needed.

j. Incorporate cultural competency and linguistic and educational appropriateness into all capacity building activities.

k. Develop and implement an effective strategy for marketing capacity building assistance and services.

l. Participate in a CDC-coordinated capacity building network.

m. Coordinate program activities with appropriate national, regional, state, and local HIV prevention programs and community planning groups to prevent duplication of efforts and optimize use of resources.

n. Monitor and evaluate the accomplishment of program objectives, and the process of capacity building assistance.

o. Facilitate the dissemination of information about successful capacity building assistance strategies and ''lessons learned'' through peer-to-peer interactions, meetings, workshops, conferences, and communications with CDC project officers.

p. Participate in CDC coordinated train-the-trainer opportunities.

q. Adhere to CDC policies for securing approval for CDC sponsorship of conferences.

r. Develop a strategy for obtaining additional resources from non-CDC sources to supplement the program conducted through this cooperative agreement and to enhance the likelihood of its continuation after the end of the project period.

2. CDC Activities:

a. Serve as the coordinator for CDC's capacity building programs, which will include organizations providing capacity building assistance under this program announcement.

b. Provide recipients with consultation in planning, developing, managing, and evaluating capacity building services. CDC will provide consultation and assistance both directly through CDC and indirectly through contractors; national, regional and local organizations; and peer-to-peer assistance from CDC-funded partners.

c. Provide up-to-date scientific information on the risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

d. Facilitate and promote collaboration through the exchange of program information, coalition maintenance strategies, and technical assistance among CBOs; State and local health departments; HIV prevention community planning groups; national, regional, and local organizations; and other HIV prevention partners.

e. Support train-the-trainer opportunities that enhance capacity building assistance delivery systems.

f. Facilitate and collaborate in the dissemination of successful capacity building strategies and ''lessons learned'' through meetings of grantees, workshops, conferences, and communications.

g. Work with recipients to standardize a system for tracking and reporting all capacity building assistance requests and delivery.

h. Monitor the recipient's performance of program activities, protection of client confidentiality, and compliance with federally mandated requirements.

i. Coordinate an evaluation of the overall capacity building assistance program.

H. Application Content—Category II—Capacity Building Assistance

Use the information in the Program Requirements, Other Requirements, and Application Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 50 pages.

Number each page sequentially, and provide a complete Table of Contents to the application and its appendices. Please begin each separate section of the

application on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All material must be typewritten, single spaced, with unreduced 12 point or 10 pitch font on 8½″ by 11″ paper, with at least 1″ margins, headings and footers, and printed on one side only. Materials which should be part of the basic narrative will not be accepted if placed in the appendices.

Note: Applicants may apply for more than one category, if eligible; however, a separate application must be submitted for each category.

In developing the application, you must follow the format and instructions below:

Format for Category II—Capacity Building Assistance Program

1. Abstract
2. Long-term Goals
3. Organizational History and Capacity
   a. Organizational Structure
   b. History Providing Community Capacity Development and Other Capacity Building Assistance to CBOs serving African American populations and African American community faith leaders
   c. Capacity for Cultural Competence
   d. Current Capability in Providing Capacity-Building Assistance
   e. Experience Working with Coalitions (where appropriate) and Current Collaborations
4. Assessing the Need for Community Capacity Development and HIV Prevention Community Planning Effectiveness and Participation
   a. Characteristics of African American populations and communities
   b. Capacity-Building Needs
5. Program Plan
   a. Involvement of CDC-funded faith-based CBOs and African American community faith leaders
   b. Objectives
   c. Plan of Operation
   d. Coordination/Collaboration
   e. Timeline
6. Program Evaluation Plan
7. Communications/Dissemination Plan
8. Plan for Acquiring Additional Resources
9. Budget and Staffing Breakdown and Justification
   a. Detailed Budget
   b. Mechanisms for Use of Funds
   c. Staffing Plan
10. Attachments

Instructions for Category II—Capacity Building Assistance Program

1. Abstract (not to exceed 3 pages) Briefly summarize the following:

a. Region(s) applying for and the type of organization (national, regional, or local) and, if national or regional, whether applying independently or with a coalition
b. Organizational structure, philosophy, mission, history
c. Long term goals of the proposed project
d. Overview of plan of operation
e. Overview of plan for collaboration and coordination with other capacity-building service providers, state and local health departments, and community planning groups
f. Composition of proposed coalition (where appropriate)
g. Future year activities.

2. Long-term Goals (not to exceed 1 page) Describe the broad capacity-building goals that your proposed program aims to achieve over the course of the project period.

3. Organizational History and Capacity (not to exceed 10 pages)

a. Describe your existing organizational structure, including the role, responsibilities, and racial/ethnic composition of board of directors; board committee structure (including advisory board); board recruitment and training process; organizational management, administrative, and program components; constituent or affiliate organizations or networks; and how the organizational structure offers the ability to provide capacity building assistance.

b. Describe your organization's history with providing assistance in community capacity development; HIV prevention community planning effectiveness and participation; and other capacity building assistance to faith-based CBOs, faith leaders, and other CBOs serving African American populations. Describe specific assistance or services provided.

c. Describe your organization's capability to provide services that respond effectively to the cultural, gender, environmental, social, and multilingual characteristics of faith-based CBOs and African American community faith leaders. Include a description of the types of services provided and a list summarizing culturally, linguistically, and developmentally appropriate curricula and materials.

d. Describe your organization's capability in developing and implementing capacity-building programs, strategies, or activities (refer to recipient activities section), and in developing and implementing programs similar to the one proposed in this program announcement.

e. Describe your organization's experience, if appropriate, working with a coalition(s) and in collaborating with governmental and non-governmental organizations, including national or regional agencies or organizations, State and local health departments, community planning groups, and State and local non-governmental organizations that provide HIV prevention services.

4. Assessing the Need for Community Capacity Development, and HIV Prevention Community Planning Effectiveness and Participation (not to exceed 5 pages)

a. Describe the demographics and structure of the faith-based stakeholders (such as faith-based CBOs and African American community faith leaders) you intend to serve. Describe the impact of the HIV and AIDS epidemic on these stakeholders and any specific environmental, social, cultural, or linguistic characteristics which will be considered in your capacity building strategy.

b. Describe the priority needs related to community capacity development and HIV prevention community planning effectiveness and participation for faith-based CBOs and faith leaders you intend to serve. Describe the process for determining these needs, including where appropriate: the use of epidemiologic and other data, resource inventories, regional needs assessments, and the use of gap analyses.

c. Describe how your proposed program complements the HIV comprehensive plans in the region(s) you plan to serve.

5. Program Plan (not to exceed 20 pages) Describe your proposed program, including:

a. Involvement of CDC-funded and other faith-based CBOs and faith community representatives and leaders: Describe how CDC-funded and other faith-based CBOs and faith community leaders within a region will be involved in providing input into the direction of the proposed program and in assessing the proposed program's communication, linkages, performance, and services provided throughout the project period.

b. Objectives: Provide specific, realistic, time-phased, and measurable objectives to be accomplished during the first budget period. Describe how these objectives relate to the goals described in this announcement. Describe possible barriers to or facilitators for reaching these objectives.

c. Plan of Operation:

Describe the following:

(1) The strategies (in detail) that will be used, the activities that will be conducted, and the services that will be provided to meet the proposed goals and objectives and to complete all the required recipient activities (including the provision of services through the use

of the ''capacity-building assistance delivery mechanisms'');

(2) The process for responding to requests for assistance in community capacity development; HIV prevention community planning participation and effectiveness; and other types of capacity building assistance from faith-based CBOs and African American community faith leaders. Include in your description how you will: (a) conduct needs assessments, (b) prioritize requests to place major emphasis on assistance to faith-based CBOs and leaders serving African American sub-populations most heavily affected by HIV, (c) link requests (when appropriate) to the retainer consultant system funded under the Capacity Building Assistance Program Announcement 99095,(d) assign staff and consultants, (e) deliver services, (f) report on service delivery, and (g) conduct quality assurance;

(3) How your organization will ensure that assistance provided will be culturally competent, sensitive to issues of sexual and gender identity, developmentally appropriate, linguistically-specific, educationally appropriate, and targeted to the needs of faith-based CBOs and African American community faith leaders;

(4) How your organization will market program services;

(5) How the proposed program will be managed and staffed, including the fiscal, administrative, managerial, and personnel infrastructure and resources that will be used to support the proposed capacity-building program;

(6) The placement of the program within your organizational structure and the space that will be used to house the proposed program staff;

(7) The equipment and information management systems that could be used to maintain information related to this announcement; and

(8) The respective roles and responsibilities of your organization and those of each coalition member performing any of the proposed activities or functions.

d. Coordination and Collaboration: Describe how you will coordinate and collaborate with other national, regional, state, and local governmental and nongovernmental organizations and HIV prevention providers (see Attachment 2 for examples of collaborating agencies).

e. Timeline: Provide a timeline that identifies major implementation phases and assigns approximate dates for inception and completion.

6. Program Evaluation Plan (not to exceed 5 pages) Describe your plan for monitoring progress to determine if the objectives are being achieved and demonstrating that the methods used to deliver the proposed capacity building services are effective and efficient. At a minimum, the plan should (1) outline strategies for implementing process evaluation of capacity building activities to determine if the process objectives are being achieved, (2) outline strategies for outcome monitoring to determine if the services and methods used to deliver the services are effective and efficient, (3) describe what data will be collected and how this data will be collected, analyzed, and used to evaluate and improve the program, and (4) specify the persons responsible for designing and implementing evaluation activities, collecting and analyzing data, and reporting findings.

7. Communication and Dissemination Plan (not to exceed 2 pages) Describe how you will share successful approaches and ''lessons learned'' with other organizations.

8. Plan for Acquiring Additional Resources (not to exceed 2 pages) Describe how you will develop and implement a plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget/Staffing Breakdown and Justification (not scored)

a. Detailed Budget: Provide a detailed budget for each proposed activity. Justify all operating expenses in relation to the stated objectives and planned activities. CDC may not approve or fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate.

For contracts, applicants should name the contractor, if known; describe the services to be performed which justifies the use of a contractor; provide a breakdown of and justification for the estimated costs of the contracts; the period of performance; the method of selection; and method of monitoring the contract.

Note: If indirect costs are requested, you must provide a copy of your organization's current negotiated Federal indirect cost rate agreement. In the absence of an indirect cost rate agreement, the recipient may request, with detailed justification, a maximum of ten percent for the executive director. This limitation also applies to contracts and coalitions. If the organization has an indirect rate that includes the executive director's salary, no additional funds will be provided. Funds will not be provided for the salary of an executive director that is also a member of the organization's Board of Directors.

b. Staffing Plan: Provide a job description for each position specifying job title; function, general duties, and activities; salary range or rate of pay; and the level of effort and percentage of time spent on activities funded through this cooperative agreement. If the identity of any key personnel who will fill a position is known, her/his name and resume should be attached. Experience and training related to the proposed project should be noted. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project provide job descriptions.

10. Attachments

a. Proof of Eligibility

Each applicant must provide documentation that they comply with all eligibility requirements specified under the ''Eligible Applicants'' section of this program announcement. Applicants should provide a separate section within this Attachments section that is entitled Proof of Eligibility to include the documents listed below. Failure to provide the required documentation will result in disqualification.

(1) A reference to your organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501 (c) (3) of the IRS Code, i.e., IRS determination letter.

(2) Documentation that your organization has an established record of providing capacity building services to the CBOs serving African American communities, or an African American sub-population heavily affected by HIV, for at least two years, and a description of the specific services that have been provided.

(3) Section of Bylaws or Agency Charter that indicates organization's national or regional scope of work, if applying as a national or regional organization.

(4) A list and organizational chart of the members of your organization's governing body along with their positions on the board, their racial/ethnic backgrounds, and their expertise in working with or providing services to the proposed target population. (Submission of information regarding the HIV status or other confidential information regarding the board is optional, and must not be linked to a specific individual.)

(5) A list and an organizational chart of existing and proposed staff for this program, their race/ethnicity, their area of expertise, and relevant experience. Include resumes (not to exceed 2 pages per person).

b. Other Attachments

(1) A list of all collaborating or coordinating entities and memoranda of understanding or agreement as evidence of these established or agreed-upon collaborative or coordinating relationships. Memoranda of agreement should specifically describe the proposed collaborative activities. Evidence of continuing collaboration must be submitted each year to ensure that the collaborative relationships are still in place.

(2) Description of coalition organizations and original signed letters from the chief executive officers of each organization assuring their understanding of the intent of this program announcement, the proposed program, their role in the proposed program, and the responsibilities of recipients.

(3) Training and Technical Assistance Plan which describes areas in which you anticipate needing technical assistance in designing, implementing, and evaluating your program and discuss how you will obtain needed technical assistance. Also, describe anticipated staff training needs related to the proposed program and how these needs will be met. Describe your plan for providing ongoing training to ensure that staff are knowledgeable about HIV and STD risks and prevention measures. This information will assist CDC to better address your needs and help you to identify technical assistance and training providers.

(4) A list summarizing services currently delivered and culturally, linguistically, and developmentally appropriate curricula and materials.

(5) A description of funds received from any source to conduct HIV/AIDS programs and other similar programs targeting the population proposed in the program plan. This summary must include: (a) the name of the sponsoring organization/source of income, amount of funding, a description of how the funds have been used, and the budget period; (b) a summary of the objectives and activities of the funded program(s); and (c) an assurance that the funds being requested will not duplicate or supplant funds received from any other Federal or non-Federal source. CDC awarded funds can be used to expand or enhance services supported with other Federal or non-Federal funds. In addition, identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(6) Independent audit statements from a certified public accountant for the previous 2 years.

(7) A copy of your organization's current negotiated Federal indirect cost rate agreement, if applicable.

Note: Materials submitted as attachments should be printed on one side of 8½″ x 11″ paper. Please do not attach bound materials such as booklets or pamphlets. Rather, submit copies of the materials printed on one side of 8½″ x 11″ paper. Bound materials may not be reviewed.

I. Evaluation Criteria—Category II—Capacity Building Assistance Program

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Abstract (not scored)

2. Long-term Goals (Total 5 points)

The quality of the applicant's stated long-term goals and the extent to which the goals are consistent with the purpose of this program announcement.

3. Organizational History and Capacity (Total 35 points)

The extent to which the applicant has demonstrated history and capacity to provide capacity-building assistance and to implement the proposed program.

These criteria include:

a. The extent to which the applicant's organizational structure (including planned collaborations or coalition) will support the proposed program activities. (5 points)

b. The extent to which the applicant demonstrates a history in providing assistance in community capacity development; HIV prevention community planning effectiveness and participation; and other capacity building assistance to faith-based CBOs serving African American populations (especially African American communities heavily affected by HIV and other STDs) and to African American community faith leaders. (7 points)

c. The extent to which the applicant demonstrates capacity to provide services that respond effectively to the cultural, gender, environmental, social, and multilingual characteristics of faith-based CBOs and faith leaders in African American communities. (7 points)

d. The extent to which the applicant demonstrates capability in developing and implementing capacity building programs, strategies or activities, and in developing and implementing programs similar to those proposed in this application. (10 points)

e. The extent to which the applicant demonstrates experience and ability in working with coalitions (where appropriate) and in collaborating with governmental and non-governmental organizations, including other national agencies or organizations, State and local health departments, community planning groups, and State and local non-governmental organizations that provide HIV prevention services. (6 points)

4. Assessing the Need for Community Capacity Development and HIV Prevention Community Planning Effectiveness and Participation (Total 10 Points)

The extent to which the applicant demonstrates an understanding of the need for community capacity development and HIV prevention community planning effectiveness and participation. These criteria include:

a. The extent to which the applicant describes the demographics and structure of the faith community HIV prevention stakeholders (leaders) it intends to serve, the impact of the HIV and AIDS epidemic on these stakeholders, and any specific environmental, social, cultural, or linguistic characteristics which will be considered in the capacity building strategy.

b. The extent to which the applicant describes the priority needs related to community capacity development and HIV prevention community planning effectiveness and participation for faith-based CBOs serving African Americans and for African American community stakeholders in the region(s) to be served, and the process for determining these needs.

c. The extent to which the applicant describes how the proposed program complements the HIV comprehensive plans in the region(s) to be served.

5. Program Plan (Total 30 points)

a. Involvement of CBOs (5 points)

The extent to which CDC-funded and other faith-based CBOs and African American community faith leaders will be involved in providing input into the direction of the program and the program's communication, linkages, performance, and services provided throughout the project period.

b. Objectives (5 points)

(1) The extent to which the proposed first-year objectives are specific, realistic, time-phased, measurable, and consistent with the program's long-term goals and proposed services; and

(2) The extent to which the applicant identifies possible barriers to or facilitators for reaching these objectives.

c. Plan of Operation (15 points)

(1) The overall quality of the applicant's plan for providing capacity building assistance in community capacity development and HIV prevention community planning effectiveness and participation to faith-based CBOs serving African American

populations and to African American community faith leaders, and the likelihood that the proposed methods will be successful in achieving proposed goals and objectives.

(2) The extent to which the applicant's plans address all the activities listed under Required Recipient Activities.

(3) The extent to which the roles and responsibilities of the primary applicant and each coalition member (where appropriate), collaborating organization, or subcontractor are consistent with the proposed activities.

d. Coordination and Collaboration (5 points)

(1) The extent to which the applicant describes and documents, as applicable, intended coordination with national, regional, State, and local governmental and nongovernmental organizations and HIV prevention providers, such as other national agencies or organizations, State and local health departments.

(2) The extent to which the applicant provides memoranda of agreement or understanding as evidence of agreed-upon collaborative relationships.

6. Timeline (5 points) The extent to which the applicant's proposed timeline is specific and realistic.

7. Program Evaluation Plan (Total 5 points) The quality of the applicant's evaluation plan for monitoring and evaluating the implementation of proposed services and measuring the achievement of program goals and objectives.

8. Communications and Dissemination Plan (Total 5 points) The quality of the applicant's plan for sharing successful approaches and ''lessons learned'' with other organizations.

9. Plan for Acquiring Additional Resources (Total 5 points) The quality of the applicant's plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and ensure its continuation after the end of the project period.

10. Budget/Staffing Breakdown and Justification (not scored) Extent to which the budget is reasonable, itemized, clearly justified, and consistent with intended use of funds.

Before final award decisions are made, CDC may make predecisional site visits to applicants whose applications are highly ranked or review the items below with the applicant's board of directors:

a. The organizational and financial capability of the applicant to implement the proposed program.

b. The special programmatic conditions and technical assistance requirements of the applicant.

A business management and fiscal recipient capability assessment may be required of some applicants prior to the award of funds.

J. Program Requirements—Category III—Curriculum Development and Training Program

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under number 1. (Recipient Activities) and CDC will be responsible for activities under number 2. (CDC Activities) below.

1. Recipient Activities:

a. Establish and coordinate a coalition of Divinity Schools associated with Historically Black Colleges and Universities to collaborate in the development of the curriculum and training program for African American faith leaders.

b. Develop a plan for conducting ongoing assessments of HIV and substance abuse prevention training and education needs of community faith leaders, seminary students and other faith leaders which serve African Americans. Tools may include surveys to determine current attitudes, beliefs, and gaps in knowledge of faith leaders.

c. Assess the appropriateness, use, and availability of curriculum and training program models, materials, resources, and information for faith leaders in order to avoid duplication and where possible to build on existing curriculum.

d. Use assessment and survey data to develop a culturally relevant, theologically and linguistically appropriate, gender-sensitive, curriculum and training program designed to meet the HIV and substance abuse prevention training and educational needs of diverse faith, spiritual, and religious leaders (for example, clergy, imams, rabbis, ministerial leaders, Sunday school teachers etc.)

e. Provide HIV and substance abuse prevention education and training programs for both currently enrolled students and faith leaders serving African American communities disproportionately affected by HIV/AIDS and/or substance abuse. Activities may include seminars, conferences, or in-services.

f. Develop a strategy to market available training to community faith leaders, seminary students and other faith leaders serving African Americans.

g. Design a curriculum with modules or units, that can be easily adapted or modified for use by other theological schools, seminaries, and training venues and settings of diverse faith-based organizations. The curriculum should improve the ability of faith leaders to:

(1) define the role of faith, religious, and spiritual leaders in HIV/AIDS and substance abuse prevention education;

(2) provide standardized and accurate HIV/AIDS and substance abuse information, including epidemiology, HIV pathogenesis and transmission modalities, prevention, treatment and care to members of congregations, employees, volunteers, and individuals within communities served;

(3) dispel myths about HIV/AIDS and related substance abuse;

(4) encourage open dialogue about homosexuality, substance abuse and HIV prevention, treatment, and care;

(5) reduce discrimination and stigma related to HIV/AIDS and substance abuse;

(6) provide educational programs that encourage adoption and maintenance of safer behaviors related to HIV/AIDS and substance abuse;

(7) provide faith-based support and counseling that encourages the adoption and maintenance of safer behaviors related to HIV/AIDS and substance abuse;

(8) conduct outreach and to promote voluntary, confidential HIV testing and counseling to populations that are disproportionately affected by HIV/AIDS;

(9) identify and implement acceptable intervention strategies designed to reach at-risk populations and behaviors, based on AIDS morbidity and/or available HIV surveillance data. Strategies should include prevention case management and individual, group, and community level interventions;

(10) build, strengthen, and maintain linkages with other faith organizations, leaders, secular groups and public health agencies in support of HIV and substance abuse prevention;

(11) mobilize communities in support of HIV and substance abuse prevention and to build awareness of the affects of HIV/AIDS and substance abuse;

(12) identify HIV/AIDS prevention, treatment, and care systems, including the role of non-governmental organizations (community, State, regional, and national organizations) and governmental organizations (health departments, CDC, Center for Substance Abuse Prevention, etc.);

(13) access available technical assistance;

(14) develop linkages with other partners and collaborate with CBOs, other prevention, treatment and care

providers and to make appropriate referrals to these providers;

(15) participate in the HIV prevention community planning process and to work with health departments and HIV prevention planning groups;

(16) collaborate with local HIV prevention community planning groups and health departments in identifying and addressing critical prevention priorities and gaps in services so as to avoid duplication of effort; and

(17) create and sustain AIDS ministries or units responsible for ongoing prevention projects and for assisting in the care of infected and affected members;

h. Collaborate and consult with other theological schools; national, regional, and local faith-based organizations; and other organizations (such as health departments, community planning groups) serving disproportionately affected African American populations in the development, implementation, and delivery of the HIV and substance abuse curriculum and training program.

i. Ensure that education and training is allocated according to priority needs of faith leaders in highly affected African American communities, and those serving sub-populations, such as men who have sex with men (MSM); gay, lesbian, bisexual and transgender youth (GLBT Youth); high risk heterosexuals (HRH) including youth, men, and women; injection drug users and other substance abusers (IDU/SA); and incarcerated, soon-to-be-released and released persons.

j. Pilot test Curriculum and Training program to determine potential effectiveness of curriculum modules or components and training programs (Methods may include knowledge assessments, reviews, and training evaluations completed by students.)

k. Develop a strategy to modify training programs, curriculum, and materials as determined necessary through pilot testing and ongoing needs assessments.

l. Develop a plan to provide a replicable and modifiable curriculum and training program for use by other theological schools and faith leader training venues and settings. This plan should include strategies to provide assistance in training program staff and faculty, assessing appropriateness of modules, and how to deliver the curriculum and training program.

m. Develop a realistic time-line for development, implementation, and evaluation of the curriculum and training program.

n. Evaluate the curriculum and training program supported with CDC HIV prevention funds.

o. Participate in the CDC-supported network of capacity building assistance providers which may include collaborating with national and other partners when appropriate.

2. CDC Activities

a. Coordinate a national capacity building and assistance network.

b. Provide grantees with consultation and assistance in planning, developing, operating, implementing, and evaluating education and training programs. CDC may provide consultation and technical assistance both directly and indirectly through prevention partners such as State health departments, national and regional minority organizations (NRMOs), contractors, and other national organizations.

c. Provide up-to-date scientific information on the risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

d. Assist in the design and implementation of evaluation activities.

e. Facilitate and promote collaboration through the exchange of program information, coalition maintenance strategies, and technical assistance among federally-supported HIV/AIDS programs such as State and local health departments, community planning groups, and national, regional, and local organizations.

f. Facilitate the transfer of successful prevention interventions, program models, and ''lessons learned'' through convening meetings of grantees, workshops, conferences, newsletters, and communications with project officers.

g. Monitor the recipient's performance of program activities, protection of client confidentiality, and compliance with other requirements.

h. Coordinate the evaluation of HIV prevention programs and services funded under this program announcement.

i. Support train-the-trainer opportunities to enhance capacity building assistance delivery systems.

j. Provide up-to-date scientific information on the risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

K. Application Content—Category III—Curriculum Development and Training Program

Use the information in the Program Requirements, Other Requirements, and Application Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 50 pages.

Number each page sequentially, and provide a complete Table of Contents to the application and its appendices. Please begin each separate section of the application on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All material must be typewritten, single spaced, with unreduced 12 point or 10 pitch font on 8½″ by 11″ paper, with at least 1″ margins, headings and footers, and printed on one side only. Materials which should be part of the basic narrative will not be accepted if placed in the appendices.

Note: Applicants may apply for more than one category, if eligible; however, a separate application must be submitted for each category.

In developing the application, you must follow the format and instructions below:

Format for Category III—Curriculum Development and Training Program

1. Abstract
2. Assessment of Need and Justification for Proposed Activities
3. Long-term Goals
4. Organizational History and Capacity
5. Program Plan
6. Program Evaluation Plan
7. Communications and Dissemination Plan
8. Plan for Acquiring Additional or Matching Resources
9. Budget and Staffing Breakdown and Justification
10. Attachments

Instructions for Category III—Curriculum Development and Training Program

1. Abstract (not to exceed 2 pages): summarize your proposed program activities. Include the following:

a. brief summary of the need for the proposed program;

b. long-term goals;

c. brief summary of a proposed plan of operation, including planning activities undertaken and coordination, collaboration and training strategy proposed;

d. brief summary of the proposed curriculum and training program and implementation strategy.

e. brief summary of strategy to provide the proposed curriculum and training program to other theological schools and training venues and settings or settings.

f. brief summary of plans for evaluating the activities of this project; and

g. brief summary of future year activities.

2. Assessment of Need and Justification for Proposed Activities (not to exceed 6 pages)

a. Identify the faith leaders and communities for which your proposed program will provide educational and training services.

b. Identify the need that will be addressed by your proposed program, and describe how you assessed the need. Include epidemiologic and other data that were used to identify the need. Include a description of existing HIV prevention and risk-reduction efforts provided by other organizations to address the educational and training needs of faith leaders, and an analysis of the gap between the identified need and the resources currently available to address the need. Include a description of the current level of knowledge and participation in HIV and substance abuse prevention activities by faith leaders in communities to be served (i.e., How will the proposed activities and program address an important unmet HIV and substance abuse prevention educational and training need?).

c. Describe the impact of the AIDS epidemic on the communities you intend to serve and any specific environmental, social, cultural, or linguistic characteristics of specific African American populations disproportionately affected by HIV/AIDS and substance abuse which you have considered in developing the proposed HIV and substance abuse prevention curriculum and training program, such as:

(1) HIV prevalence and incidence (if available), reported AIDS cases, and risk behaviors (sexual behaviors, substance use, etc.) in communities to be served;

(2) HIV/AIDS-related baseline knowledge, attitudes, beliefs, and behaviors;

(3) Patterns of substance use and rates of STDs and tuberculosis (TB); and

(4) Other relevant information. (Specify)

d. Describe the specific knowledge and educational objectives of the proposed training.

e. Describe how your proposed curriculum or training program complements the HIV prevention priorities identified in the applicable State or local comprehensive HIV prevention plan(s). If the comprehensive HIV prevention plan does not meet identified needs, justify the need and priority for your proposed program activities and summarize how the activities address prevention gaps and complement ongoing prevention efforts. State why the funds being applied for in this application are necessary to address the need. A list of the names and telephone numbers of State health department contacts from whom you may obtain a copy of the jurisdiction's comprehensive HIV prevention plan is provided with the application kit;

f. Explain any specific barriers to the implementation of your proposed program and how you will overcome these barriers.

3. Long-term Goals (not to exceed 2 pages) Describe the broad HIV prevention goals that your proposed program aims to achieve by the end of the project period (four years).

4. Organizational History and Capacity (not to exceed 5 pages) Describe the following:

a. Organizational structure, including the role, responsibilities, and composition of your board of directors or governing body; committee structure of board of directors; organizational management, administrative and program components; constituent or affiliate organizations or networks; how the organizational structure will support the proposed program activities; and how the structure offers the capacity to reach targeted populations.

b. Past and current experience in conducting training and educational needs assessments and in using related data to develop culturally relevant, gender-sensitive, and linguistically appropriate curricula and training programs. Describe experience in conducting HIV/AIDS and substance abuse prevention training and educational needs assessments.

c. Past and current experience implementing health focused curricula and training programs for diverse faith leaders and the communities they serve, specific HIV and substance abuse prevention training, strategies and activities, and in developing and implementing programs similar to the one(s) proposed in this application.

d. The process in your organization for making major programmatic decisions.

e. Mechanism used by your organization to monitor program performance and quality assurance.

f. Experience in working or collaborating with governmental and non-governmental organizations, including State and local health departments, local and State non-governmental organizations, educational agencies or organizations (such as Historically Black Colleges or Universities), faith-based organizations, community planning groups, and other groups that provide HIV prevention services.

g. Capacity to coordinate the development of an HIV and substance abuse prevention curriculum and training program.

h. Describe past experience in coordinating collaborative efforts in curriculum and training program design, development, and implementation.

i. For any of the above areas in which you do not have direct experience or current capacity, describe how you will ensure that the proposed program has that capacity (e.g., through staff development, collaboration with other organizations, or a subcontract).

5. Program Plan (not to exceed 20 pages) Use this section to describe the specific characteristics of your proposed intervention.

a. Involvement of the target populations: Describe the involvement of affected populations in planning, implementing, and evaluating activities and services throughout the project period.

b. Involvement of Community Faith leaders: Describe the involvement of community faith leaders, seminary students and other faith leaders in planning, implementing, and evaluating activities and services throughout the project period.

c. Program Objectives: Develop objectives that are specific, measurable, time-phased, realistic, related to the long-term goals and proposed activities, and if applicable, related to the prevention priorities outlined in the jurisdiction's comprehensive HIV prevention plan. Describe the expected educational and training program results, and overall impact in meeting the educational and training needs of program participants. Describe potential barriers to or facilitators for reaching these objectives.

d. Plan of Operation:

(1) Describe the specific activities and methods to be conducted to accomplish the objectives related to each required program activity(recipient activities.) Include the following: (a) Description of services to be provided to accomplish each objectives; (b) Approximate dates when activities will be accomplished; (c) Description of volunteer involvement in your program. (If volunteers will be involved, describe plans to recruit, train, place, and retain volunteers.) (d) Description of how you will collaborate with Divinity Schools, State or local health departments, community planning groups, faith-based organizations, and other appropriate service groups or organizations in the activity; and (e) Description of the mechanism for soliciting program participants.

(2) Describe how you will promote your program in the community.

(3) Describe the mechanism to determine effectiveness of training activities in accomplishing program objectives.

(4) Describe how you will prioritize the program activities to place emphasis on faith leaders serving African American populations or communities that are disproportionately affected by HIV and AIDS.

(5) Identify program staff responsible for conducting the proposed activities.

e. Appropriateness of Interventions: Describe how the proposed program is culturally competent, sensitive to theological and doctrinal beliefs, developmentally and educationally appropriate, and linguistically-specific. Please reference the appendix for definitions of these terms.

f. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities: Provide a detailed description of the program experience or scientific, theoretical, conceptual foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated need.

g. Coordination/Collaboration:

(1) Specify the organizations and agencies with which you will establish linkages and coordinate activities in the process of developing and implementing your project. Specify how your program will develop and coordinate a collaborative network of Divinity schools associated with HBCU-associated Divinity Schools. Specify how your program will collaborate with and incorporate input from diverse faith leaders in the development of the curriculum and training program. Specify how your program will collaborate with other theological schools and faith leader training venue. Specify how your program will collaborate with State and local health departments, State or regional community planning groups, and should include, as appropriate, the following:

(a) Community groups and organizations, including but not limited to churches, mosques, temples and religious groups;

(b) HIV/AIDS service organizations;

(c) Ryan White CARE Title I and Title II planning bodies;

(d) Schools, boards of education, and other State or local education agencies;

(e) State and local substance abuse agencies, community-based and other drug treatment or detoxification programs;

(f) Federally funded community projects, such as those funded by the Center for Substance Abuse Treatment (CSAT), Center for Substance Abuse Prevention (CSAP), Health Resource Services Administration (HRSA), Office of African American Health (OMH), and other federal agencies;

(g) Providers of services to youth in high risk situations (e.g., youth in shelters);

(h) State or local departments of mental health;

(i) Juvenile and adult criminal justice, correctional or parole systems and programs;

(j) Family planning and women's health agencies; and

(k) STDS and TB clinics and programs.

(2) Describe the activities that will be coordinated with each organization.

(3) Submit and include as attachments memoranda of understanding or agreement as evidence of these established or agreed-upon collaborative relationships. Memoranda of agreement should specifically describe the proposed collaborative activities. Evidence of continuing collaboration must be submitted each year to ensure that the collaborative relationships are still in place. Memoranda of agreement from health departments should include a statement that your application has been reviewed.

h. Timeline: Provide a timeline that indicates the approximate date by which activities will be accomplished.

6. Program Evaluation Plan (not to exceed 6 pages): Describe how you will monitor progress to determine if the program objectives are being achieved and if the methods used to deliver the proposed activities are effective. Describe how data will be collected, analyzed, and used to evaluate and improve the program. Use the format and answer the questions below in laying out your evaluation plan. Note: Include samples of data collection tools in the attachments, if available.

7. Communications and Dissemination Plan (not to exceed 2 pages): Describe how you will share successful approaches and ''lessons learned'' with other organizations.

8. Plan for Acquiring Additional or Matching Resources (not to exceed 2 pages): Describe your plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget/Staffing Breakdown and Justification (not scored)

a. Detailed Budget: Provide a detailed budget for each proposed activity. Justify all operating expenses in relation to the stated objectives and planned activities. CDC may not approve or fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate.

For contracts, applicants should name the contractor, if known; describe the services to be performed which justifies the use of a contractor; provide a breakdown of and justification for the estimated costs of the contracts; the period of performance; the method of selection; and method of monitoring the contract.

b. Staffing Plan: Provide a job description for each position specifying job title; function, general duties, and activities; salary range or rate of pay; and the level of effort and percentage of time spent on activities funded through this cooperative agreement. If the identity of any key personnel who will fill a position is known, her/his name and resume should be attached. Experience and training related to the proposed project should be noted. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project provide job descriptions.

11. Attachments

a. Proof of Eligibility

Each applicant must provide documentation that they comply with all eligibility requirements specified under the ''Eligible Applicants'' section of this program announcement. Applicants should provide a separate section within this Attachments section that is entitled Proof of Eligibility to include documentation that your organization has an established record of at least two years providing leadership and support for health-based programs, including HIV prevention or substance abuse prevention programs, within African American populations disproportionately affected by HIV/AIDS. Failure to provide the required documentation will result in disqualification.

b. Other Attachments

(1) A list of all collaborating or coordinating entities and memoranda of understanding or agreement as evidence of these established or agreed-upon collaborative or coordinating relationships. Memoranda of agreement should specifically describe the proposed collaborative activities. Evidence of continuing collaboration must be submitted each year to ensure that the collaborative relationships are still in place.

(2) Description of coalition organizations and original signed letters from the chief executive officers of each organization assuring their

understanding of the intent of this program announcement, the proposed program, their role in the proposed program, and the responsibilities of recipients.

(3) Training and Technical Assistance Plan which describes areas in which you anticipate needing technical assistance in designing, implementing, and evaluating your program and discuss how you will obtain needed technical assistance. Also, describe anticipated staff training needs related to the proposed program and how these needs will be met. Describe your plan for providing ongoing training to ensure that staff are knowledgeable about HIV and STD risks and prevention measures. This information will assist CDC to better address your needs and help you to identify technical assistance and training providers.

(4) A list summarizing services currently delivered and culturally, linguistically, and developmentally appropriate curricula and materials.

(5) A description of funds received from any source to conduct HIV/AIDS programs and other similar programs targeting the population proposed in the program plan. This summary must include: (a) the name of the sponsoring organization/source of income, amount of funding, a description of how the funds have been used, and the budget period; (b) a summary of the objectives and activities of the funded program(s); and (c) an assurance that the funds being requested will not duplicate or supplant funds received from any other Federal or non-Federal source. CDC awarded funds can be used to expand or enhance services supported with other Federal or non-Federal funds. In addition, identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(6) Independent audit statements from a certified public accountant for the previous 2 years.

(7) A copy of your organization's current negotiated Federal indirect cost rate agreement, if applicable.

L. Evaluation Criteria—Category III—Curriculum Development and Training Program

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Abstract (not scored)

2. Assessment of Need and Justification for the Proposed Activities (15 points)

a. The extent to which the applicant soundly and convincingly documents a substantial need for the proposed curriculum and training program and activities; and the degree to which the proposed activities are consistent with the programmatic categories described in the Program Requirements Section. (5 points)

b. The degree to which the applicant describes the specific educational and training needs that the curriculum and training program will provide. (5 points)

c. The quality of the applicant's plan to ensure consistency with the State and local comprehensive HIV prevention plans and, if applicable, the adequacy with which the applicant demonstrates the rational for deviating from the jurisdiction's comprehensive HIV prevention plan. (5 points)

3. Long-term Goals (5 points). The quality of the applicant's stated goals and objectives and the extent to which they are consistent with the purpose of this cooperative agreement, as described in this program announcement.

4. Organizational History and Capacity (10 points). The extent of the applicant's documented experience, capacity, and ability to address the identified needs and implement the proposed curriculum and training program and activities, including:

a. How the applicant's organizational structure and planned collaborations (including constituent or affiliated organizations or networks) will support the proposed program activities, and how the proposed program will have the capacity to reach faith leaders serving African American communities disproportionately affected by HIV/AIDS and substance abuse; (2 points)

b. Applicant's past and current experience in developing and implementing effective HIV prevention curriculum or training strategies and activities, and in developing and implementing programs similar to those proposed in this application; (2 points)

c. Applicant's experience and ability in collaborating with governmental and non-governmental organizations, including other national agencies or organizations, faith-based organizations, State and local health departments, community planning groups, and State and local non-governmental organizations that provide HIV prevention services; (2 points)

d. Applicant's capacity to provide culturally competent and appropriate services which respond effectively to the cultural, gender, environmental, social and theological characteristics of communities to be served, including documentation of any history of providing such services; (2 points) and

e. Plans to ensure capacity to implement proposed program where no direct experience or capacity currently exists within the applicant organization. (2 points)

5. Program Plan (50 total points)

a. Involvement of the target populations (5 points). The degree to which the applicant describes the involvement of affected populations in planning, implementing, and evaluating activities and services throughout the project period.

b. Involvement of faith leaders (5 points). The degree to which the applicant describes the involvement of faith leaders serving affected populations in planning, implementing, and evaluating activities and services throughout the project period.

c. Program Objectives (5 points) Degree to which the proposed objectives are specific, measurable, time-phased, related to the proposed activities, and consistent with the program's long-term goals; the extent to which the applicant identifies possible barriers to or facilitators for reaching these objectives.

d. Plan of Operation (15 points) The quality of the applicant's plan for conducting program activities, and the potential effectiveness of the proposed activities in meeting objectives.

e. Appropriateness of the proposed program (5 points) The degree to which the applicant describes how the proposed program is culturally competent, sensitive to theological and doctrinal beliefs, developmentally and educationally appropriate, and linguistically-specific.

f. Scientific, Theoretical, Conceptual, or Program Experience Foundation for Proposed Activities (5 points) The degree to which the applicant provides a detailed description of the scientific, theoretical, conceptual, or program experience foundation on which the proposed activities are based and which support the potential effectiveness of these activities for addressing the stated need.

g. Coordination/Collaboration (5 points) Degree to which the applicant describes appropriate collaboration, coordination and linkages with other organizations and; evidence of collaborations (signed memoranda of agreement for each agency with which collaborative activities are proposed, and other evidence of collaboration that describe previous, current, as well as future areas of collaboration.)

h. Timeline (5 points) The extent to which the applicant's proposed timeline is specific and realistic.

6. Program Evaluation Plan (10 points) The potential of the evaluation plan to measure the effectiveness of program implementation, achievement of program objectives, and facilitate program improvement.

7. Communication and Dissemination Plan (5 points) The degree to which the applicant describes how successful approaches and ''lessons learned'' will be documented and shared with other organizations.

8. Plan for Acquiring Additional or Matching Resources (5 points) The degree to which the applicant describes the plan for obtaining additional resources from other (non-CDC) sources to supplement the program conducted through this cooperative agreement and to increase the likelihood of its continuation after the end of the project period.

9. Budget and Staffing Breakdown and Justification (not scored)

a. Personnel Appropriateness of the staffing pattern for the proposed project.

b. Budget Appropriateness of the budget for the proposed project.

Before final award decisions are made, CDC may make predecisional site visits to CBOs whose applications are highly ranked or review the items below with the local or State health department and applicant's board of directors:

a. The organizational and financial capability of the applicant to implement the proposed program.

b. The special programmatic conditions and technical assistance requirements of the applicant.

A business management and fiscal recipient capability assessment may be required of some applicants prior to the award of funds.

M. Submission and Deadline—Categories I, II, and III

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov (click on forms) or in the application kit. This and other CDC/ATSDR program announcements and application forms may be viewed or downloaded at this site. On or before August 5, 1999, submit the application to the Grants Management Specialist identified in the ''Where to Obtain additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the Independent Review Group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

N. Other Requirements—Categories I, II, and III

1. Technical Reporting Requirements

Provide CDC with the original plus two copies of:

a. Progress reports quarterly, no more than 30 days after the end of each 3 month period;

b. Financial status report, no more than 90 days after the end of each budget period; and

c. Final financial status report and performance report, no more than 90 days after the end of the project period.

2. Send all reports to: Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

3. The following additional requirements are applicable to this program. For a complete description of each, see Attachment 3 in the application kit.

AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–7 Executive Order 12372 Review
AR–8 Public Health system Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Health People 2000
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements

O. Authority and Catalog of Federal Domestic Assistance Number—Categories I, II, and III

This program is authorized under sections 301(a) and 317 of the Public Health Service Act, 42 U.S.C. 241(a) and 247(b), as amended. The Catalog of Federal Domestic Assistance Number is 93.939.

P. Where To Obtain Additional Information—Categories I, II, and III

To receive additional written information and to request an application and tool kit, call NPIN at 1–800–458–5231 (TTY users: 1–800–243–7012); visit their web site: www.cdcnpin.org/program; send requests by fax to 1–888–282–7681; or sent requests by e-mail: application-gmc@cdcnpin.org. This information is also posted on the Division of HIV/AIDS Prevention (DHAP) Web site at http://www.cdc.gov/nchstp/hiv__aids/funding/toolkit/.

CDC maintains a Listserv (HIV–PREV) related to this program announcement. By subscribing to the HIV–PREV Listserv, members can submit questions and will receive information via e-mail with the latest news regarding the program announcement. Frequently asked questions on the Listserv will be posted to the Web site. You can subscribe to the Listserv on-line or via e-mail by sending a message to: listserv@listserv.cdc.gov and writing the following in the body of the message: subscribe hiv-prev first name last name.

Pre-application Audio-conference Information:

June 22 (1:00–2:30 p.m. EDT)
June 23 (1:00–2:30 p.m. EDT)
June 30 (1:00–2:30 p.m. EDT)

The telephone number for all calls is: 800–713.1971 and the pass code (when asked by the automated voice) is 634310 and the name of the audio-conference (Faith).

Prospective applicants are strongly encouraged to participate in one of the scheduled audio-conferences. These audio conferences will include information on the application and business management requirements, and how to access additional pre-application resources relevant to application development. Prospective applicants are strongly encouraged to read and become familiar with this program announcement before participating in the audio-conferences.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Julia L. Valentine, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Center for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Mailstop E–15, Atlanta, GA 30341–4146, Telephone Number: 770–488–2732, Email: jxv1@cdc.gov.

For program technical assistance, contact: Qairo K. Ali or Samuel Taveras, Community Assistance, Planning, and National Partnerships Branch, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mailstop E–58, Atlanta, GA 30333, Telephone Number: 404–639–5224 and 404–639–5241, Email: cda1@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

Dated: June 17, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–15917 Filed 6–18–99; 3:10 pm]

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federal register

Wednesday
June 23, 1999

Part XI

The President

Proclamation 7205—Father's Day, 1999

Federal Register
Vol. 64, No. 120
Wednesday, June 23, 1999

Presidential Documents

Title 3—

The President

Proclamation 7205 of June 18, 1999

Father's Day, 1999

By the President of the United States of America

A Proclamation

Each year on Father's Day, Americans take special joy in remembering the many cherished moments they have shared with their fathers through the years. Reading stories before bedtime, playing catch after dinner, camping out in the backyard, sharing driving lessons—at these moments and countless others throughout a lifetime, devoted fathers are there to guide their sons and daughters, to instill confidence in them, and to provide for them and protect them in times of need.

The impact of these moments on children's development and future is immeasurable. Although children may not understand it until they become parents themselves, these are the times when fathers impart to their sons and daughters strong values and teach them important lessons about love, responsibility, faith, hard work, and determination. In these moments, fathers imbue in their children the strength and self-esteem they need to achieve their full potential.

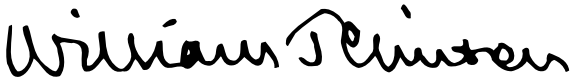
As children grow and mature—from toddlers carried on their fathers' shoulders to teenagers who need help navigating the challenges of adolescence to young men and women who need guidance on life, love, family, and career—their relationships with their fathers change as well. Yet, the need for a father's friendship and wisdom continues to grow; and throughout all the seasons of life, fathers remain role models, teachers, heroes, and friends.

Vice President Gore and I have challenged fathers to be actively involved in their children's lives and to provide both emotional and financial support. Last June, the Vice President released a report showing that children who grow up without fathers are more likely to do poorly in school, to get into trouble with the law, and to have difficulty in getting and keeping a job. But our fathers cannot always meet their responsibilities to their children without help. That is why it is crucial that we lift up our fathers through efforts like the reauthorization of the Welfare-to-Work program so that more low income fathers can work, pay child support, and become more involved with their children.

We can never truly repay our fathers—whether biological, adoptive, foster, or stepfather—for their many precious gifts to us, for their steadfast faith in our potential and abilities, for their unwavering devotion and unconditional love. We can, however, express our deep appreciation for all they have done and thank them for the many sacrifices they have made to create a better life for us. There is no more fitting national tribute to fathers than reserving a day in their honor, and there is no more appropriate celebration of their profound impact on the lives of their children and the strength of our Nation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972 (36 U.S.C. 142a), do hereby proclaim Sunday, June 20, 1999, as Father's Day. I invite the States, communities across the country, and all the citizens of the United States to observe this day with appropriate ceremonies and activities to express our deep appreciation and abiding love for our fathers.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of June, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.



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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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- Peanut; published 6-23-99

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- Adjudicative procedures consolidation; published 5-24-99

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- Northeastern United States fisheries—
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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.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1379/P.L. 106–35

Western Hemisphere Drug Elimination Technical Corrections Act (June 15, 1999; 113 Stat. 126)

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