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# federal register

Tuesday
July 20, 1999

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# Rules and Regulations

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

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 301

**[Docket No. 95–086–3]**

### Citrus Canker; Addition to Quarantined Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rules as final rule.

**SUMMARY:** We are adopting as a final rule, without change, two interim rules that amended the citrus canker regulations by adding portions of Broward, Collier, Dade, and Manatee Counties, FL, to the list of quarantined areas. These actions imposed certain restrictions on the interstate movement of regulated articles from and through the quarantined areas. The interim rules were necessary to prevent the spread of citrus canker into noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule published at 61 FR 1519 became effective on January 16, 1996, and the interim rule published at 64 FR 4777 became effective January 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Poe, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247; or e-mail: Stephen.R.Poe@usda.gov.

**SUPPLEMENTARY INFORMATION:**

### Background

In an interim rule effective January 16, 1996, and published in the **Federal Register** on January 22, 1996 (61 FR 1519–1521, Docket No. 95–086–1), we amended the citrus canker regulations (contained in 7 CFR 301.75–1 through 301.75–14) by designating an area of approximately 140 square miles within Dade County, FL, as a quarantined area and by amending the definition of citrus canker. In a second interim rule effective January 26, 1999, and published in the **Federal Register** on February 1, 1999 (64 FR 4777–4780, Docket No. 95–086–2), we expanded the quarantined area in Dade County and quarantined additional areas in Broward, Collier, and Manatee Counties, FL. These actions restricted the interstate movement of regulated articles from and through the quarantined areas.

Comments on the first interim rule were required to be received on or before March 22, 1996. We received two comments, one from a State agricultural agency and one from an association representing citrus growers. Both comments fully supported the interim rule.

Comments on the second interim rule were required to be received on or before April 2, 1999. We did not receive any comments.

Therefore, for the reasons given in the interim rules, we are adopting the interim rules as a final rule.

This action also affirms the information contained in the interim rules concerning Executive Orders 12866, 12372, and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

### Regulatory Flexibility Act

This rule affirms two interim rules that amended the citrus canker regulations by adding portions of Broward, Collier, Dade, and Manatee Counties, FL, to the list of quarantined areas. These actions imposed certain restrictions on the interstate movement of regulated articles from and through the quarantined areas. The interim rules were necessary to prevent the spread of citrus canker into noninfested areas of the United States.

In accordance with 5 U.S.C. 604 of the Regulatory Flexibility Act, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of the interim rules on small entities. In the interim rules, we requested comments with information on the number and kinds of small entities that may have incurred benefits or costs from the implementation of the interim rules. None of the comments we received addressed these issues. Therefore, we have based this analysis on the information available to us.

We have identified approximately 4,056 entities within the quarantined areas that could be affected by this interim rule. These entities consist of 81 nurseries, 6 nursery stock dealers, 224 fresh fruit retail stores, 13 fruit packers, 13 gift fruit shippers, 73 commercial groves, 33 grove maintenance services, 43 fruit harvesting contractors, 3,549 lawn maintenance businesses, 13 fruit transporters, 2 fruit processors, and 6 flea markets. The numbers provided for all entities except commercial groves include entities that are located within the quarantined area as well as entities located outside the quarantined area that could be affected.

The number of these entities that meet the Small Business Administration (SBA) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's annual sales) is not currently available. However, it is reasonable to assume that most of these entities are small in size because the majority of the same or similar businesses in southern Florida, as well as in the rest of the United States, are small entities by SBA standards. In 1992, for example, the average sales per establishment for all metropolitan Miami area establishments primarily engaged in selling trees, shrubs, and seed to the general public (SIC 526, which includes retail nurseries) was $340,340, which is well below the SBA's current small entity size standard for such businesses of $5 million in sales. In 1992, the average sales per establishment for all metropolitan Miami area establishments primarily engaged in selling general food items for home consumption (SIC 541, which includes grocery stores) was $2.6 million, which is also well below the SBA's current small entity size standard for such businesses of $20 million in sales. Similarly, in 1992 the average sales per establishment for all metropolitan Miami area establishments primarily engaged in selling certain other food items for home consumption (SIC 543, 544, 545, and 549, which include fruit and vegetable markets) was $453,138, which is well below the SBA's current small entity size standard for such businesses of $5 million in sales. Finally, in 1993, the average sales

per firm for all 33,301 U.S. firms primarily engaged in providing lawn and garden services (SIC 0782, which includes lawn maintenance businesses) was $222,571, which is well below the SBA's current small entity size standard for such businesses of $5 million in sales.

Fresh fruit retail stores, nurseries, and lawn maintenance companies comprise, on a combined basis, 3,860 (approximately 95 percent) of the total 4,056 entities potentially affected by this interim rule. The operations of those entities are, for the most part, local in nature; they do not typically move regulated articles outside of the State of Florida during the normal course of their business, and consumers do not generally move products purchased from those entities out of the State. The fruit sold by grocery stores and other retail food outlets is generally sold for local consumption. Retail nurseries also market their products for local consumption. Lawn maintenance businesses collect yard debris, but they do not normally transport that debris outside the State for disposal.

The fresh fruit retailers affected by this interim rule will be required to abide by restrictions on the interstate movement of regulated articles. They may be affected by this interim rule because fruit sold within the quarantined areas in retail stores cannot be moved outside of the quarantined areas. However, we expect any direct costs of compliance for fresh fruit retailers to be minimal.

The lawn maintenance companies affected by this interim rule will be required to perform additional sanitation measures when maintaining an area inside the quarantined areas. Lawn maintenance companies will have to clean and disinfect their equipment after grooming an area within the quarantined areas, and they must properly dispose of any clippings from plants or trees within the quarantined areas. These requirements will slightly increase costs for lawn maintenance companies affected by this interim rule.

Commercial citrus growers, processors, packers, and shippers within the quarantined areas will still be able to move their fruit interstate, provided the fruit is treated and not shipped to another citrus-producing State. Growers will have to bear the cost of treatment, but that cost is expected to be minimal. The prohibition on moving the fruit to other citrus-producing States is not expected to negatively affect entities within the quarantined areas because most States do not produce citrus and growers are expected to be able to find a ready market in non-citrus-producing States.

The nurseries and commercial groves affected by this interim rule will be required to undergo periodic inspections. These inspections may be inconvenient, but the inspections will not result in any additional costs for the nurseries or growers because APHIS or the State of Florida will provide the services of the inspector without cost to the nursery or grower.

The alternative to the interim rules was to make no changes in the citrus canker regulations. We rejected this alternative because failure to quarantine portions of Broward, Collier, Dade, and Manatee Counties, FL, could result in great economic losses for domestic citrus producers.

The interim rules contained no new information collection or recordkeeping requirements.

### List of Subjects in 7 CFR Part 301

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

## PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, two interim rules that amended 7 CFR part 301 and that were published at 61 FR 1519–1521 on January 22, 1996, and 64 FR 4777–4780 on February 1, 1999.

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

Done in Washington, DC, this 13th day of July 1999.

**Charles P. Schwalbe,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 99–18438 Filed 7–19–99; 8:45 am]

BILLING CODE 3410–34–P

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 170 and 171

**RIN 3150–AG08**

### Revision of Fee Schedules; 100% Fee Recovery, FY 1999; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final rule appearing in the **Federal Register** on June 10, 1999 (64 FR 31448), concerning the licensing, inspection, and annual fees charged to its applicants and licensees in compliance with the Omnibus Budget Reconciliation Act of 1990. This action is necessary to correct typographical and printing errors.

**EFFECTIVE DATE:** August 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** Glenda Jackson, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–6057.

**SUPPLEMENTARY INFORMATION:**

In rule FR Doc. 99–14697 published on June 10, 1999 (64 FR 31448), make the following corrections:

1. On page 31458, in the second column, in the first complete paragraph, in lines 17 and 18, the words ''the NRC reviewer's title'' are removed and replaced with ''a brief description of the work being performed'.

2. On page 31466, in the second column, under 5c(2), in the sixth line, the word ''no'' is removed.

3. On page 31470, in the first column, paragraphs (a)(7)(ii) and (a)(7)(iii) are redesignated as paragraphs (a)(7)(ii)(B) and (a)(7)(ii)(C), respectively, and a new paragraph (a)(7)(ii)(A) is added to read as follows:

**§ 170.12 Payment of fees.**

(a) * * *

(7) * * *

(ii)(A) In the case of a design which has been approved but not certified and for which no application for certification is pending, if the design is not referenced, or if all costs are not recovered within five years after the date of the preliminary design approval (PDA), or the final design approval (FDA), the applicant shall pay the costs, or remainder of those costs, at that time.

* * * * *

**§ 171.15 [Corrected]**

4. On page 31475, in the second column, the heading for § 171.15 is corrected to read: ''§ 171.15 Annual Fees: Reactor licenses and independent spent fuel storage licenses.''

**§ 171.16 [Corrected]**

5. We are correcting the table in § 171.16(d), ''Schedule of Materials Annual Fees and Fees for Government Agencies Licensed by NRC,'' in the following manner:

a. On pages 31477 through 31479, insert ''$'' before each amount listed under the heading ''Annual fees [123].''

b. On page 31477, under 1.B, remove the sentence ''See 10 CFR part 171.15(c),'' and under the heading ''Annual fees [123],'' insert '' [11]N/A.''

c. On page 31479, under 10.A, under the heading ''Annual fees [123],'' the word ''[6]N'' is corrected to read ''[6]N/A.''

d. On page 31479, under 13.B, remove the sentence ''N/A (See 10 CFR Part 171.15(c),'' and under the heading ''Annual fees [123],'' insert ''[11]N/A.''

e. On page 31479, footnote 11 is added to read as follows: ''[11]Annual fees for this category of licenses are assessed under 10 CFR 171.15(c).''

Dated at Rockville, Maryland, this 14th day of July, 1999.

For the Nuclear Regulatory Commission.

**Jesse L. Funches,**

*Chief Financial Officer.*

[FR Doc. 99–18469 Filed 7–19–99; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–SW–40–AD; Amendment 39–11228; AD 99–13–09]**

**RIN 2120–AA64**

## Airworthiness Directives; MD Helicopters, Inc (MDHI) Model 369D and E Helicopters

**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) 99–13–09 which was sent previously to all known U.S. owners and operators of MDHI Model 369D and E helicopters by individual letters. This AD requires, prior to further flight, inspecting and replacing, if necessary, a certain four-bladed tail rotor fork (fork) assembly. This AD also requires a repetitive inspection of certain fork assemblies at intervals not to exceed 50 hours time-in-service (TIS) and removing and replacing, if necessary, each unairworthy fork assembly with an airworthy fork assembly before further flight. This amendment is prompted by reports from the manufacturer of the discovery of a discrepant part. The actions specified by this AD are intended to prevent failure of certain fork assemblies, which could cause loss of a tail rotor blade and subsequent loss of control of the helicopter.

**DATES:** Effective August 4, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99–13–09, issued on June 16, 1999, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before September 20, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–40–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** John L. Cecil, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5228, fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:** On June 16, 1999, the FAA issued Priority Letter AD 99–13–09, applicable to MDHI Model 369D and E helicopters with fork assembly, part number (P/N) 369D21701–2 installed, which requires, prior to further flight, inspecting each fork assembly, P/N 369D21701–2, for the presence of ridges on the arms and, if no ridges are present, conducting a dye-penetrant and visual inspection for cracks. If a crack is found, the fork assembly must be replaced with an airworthy fork assembly that has ridges. This AD also requires a repetitive visual inspection at intervals not to exceed 50 hours TIS of those fork assemblies without ridges that are currently installed but for which the initial visual and dye-penetrant inspection did not uncover a crack and removing and replacing, if necessary, each unairworthy fork assembly with an airworthy fork assembly before further flight. That action was prompted by reports from the manufacturer of the discovery of a discrepant part. During the manufacturing process, an unknown number of certain fork assemblies were incorrectly machined in critical areas after the shot-peening process. The two ridges on each of the arms of the fork assemblies were incorrectly machined off. This condition, if not corrected, could result in failure of certain fork assemblies, which could cause loss of a tail rotor blade and subsequent loss of control of the helicopter.

Since the unsafe condition described is likely to exist or develop on other MDHI Model 369D and E helicopters of the same type design, the FAA issued Priority Letter AD 99–13–09 to prevent failure of the fork assembly which can result in loss of a tail rotor blade and subsequent loss of control of the helicopter. The AD requires, prior to further flight, inspecting and replacing, if necessary, the fork assembly, P/N 369D21701–21, with an airworthy fork assembly. This AD also requires a repetitive inspection of P/N 369D21701–21 without ridges, at intervals not to exceed 50 hours TIS and removing and replacing, if necessary, each unairworthy fork assembly with an airworthy fork assembly before further flight. The actions are required to be accomplished in the area defined in Figure 1, Sheet 2 of 2 of this AD. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, inspecting and replacing, if necessary, the fork assembly, P/N 369D21701–21, with an airworthy fork assembly is required prior to further flight, and this AD must be issued immediately.

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 letters issued on June 16, 1999 to all known U.S. owners and operators of MDHI Model 369D and E helicopters. 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.

The FAA estimates that 24 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to perform the initial inspection and 1 work hour per helicopter for each repetitive inspection. Replacing a fork assembly, if necessary, will take approximately 5 work hours. The average labor rate is $60 per work hour. The manufacturer states that there will be no parts cost since the required parts are covered under the manufacturer's warranty. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,880; assuming $2,880 for the initial inspection of the entire fleet, $14,400 for 10 repetitive inspections for the entire fleet, and $3,600 to replace 12 fork assemblies.

### 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 should 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 No. 99–SW–40–AD.'' The postcard will be date stamped and returned to the commenter.

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, 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 a new airworthiness directive to read as follows:

**AD 99–13–09 MD Helicopters, Inc.:** Amendment 39–11228. Docket No. 99–SW–40–AD.

*Applicability:* Model 369D and E helicopters, with four-bladed tail rotor fork (fork) assemblies, part number (P/N) 369D21701–21, 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the fork assembly, P/N 369D21701–21, which can result in loss of a tail rotor blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, inspect each fork assembly, P/N 369D21701–21, for the presence of ridges on the arms. See Figure 1, sheets 1 and 2.

**Note 2:** MD Helicopters, Inc., Service Bulletin SB369D–198, SB369E–092, dated May 10, 1999, pertains to the subject of this AD.

(1) If ridges are found, no further action is required by this AD.

(2) If no ridges are found, chemically remove paint from the machined areas, inspect the fork assembly for a crack using the dye-penetrant procedure of MIL–STD–6866 or ASTM–E1417, and conduct a visual inspection using a 10X or higher magnifying glass. (See Figure 1, sheets 1 and 2.) Replace a cracked fork assembly with an airworthy fork assembly. A fork assembly without ridges, P/N 369D21701–21, may not be installed.

**Note 3:** The fork assembly is titanium, which requires dwell times for the dye-penetrant inspection that are appropriate for titanium.

(b) Thereafter, at intervals not to exceed 50 hours time-in-service (TIS), visually inspect each fork assembly without ridges, P/N 369D21701–21, for a crack using a 10X or higher magnifying glass. (See Figure 1, sheets 1 and 2.) If a crack is found, replace the cracked fork assembly with an airworthy fork assembly. A fork assembly without ridges, P/N 369D21701–21, may not be installed.

(c) Replacing an unairworthy fork assembly with an airworthy fork assembly other than P/N 369D21701–21 without ridges constitutes terminating action for this AD.

(d) 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, FAA. 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 4:** 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.

BILLING CODE 4910–13–P

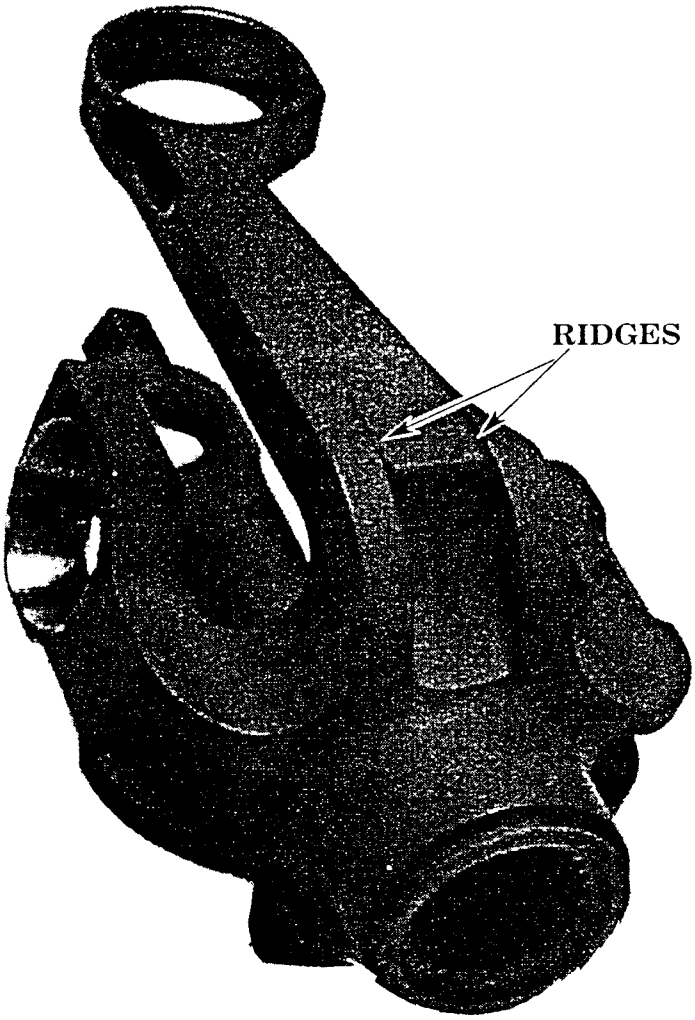


**Figure 1. Fork Assembly with ridges (Sheet 1 of 2).**

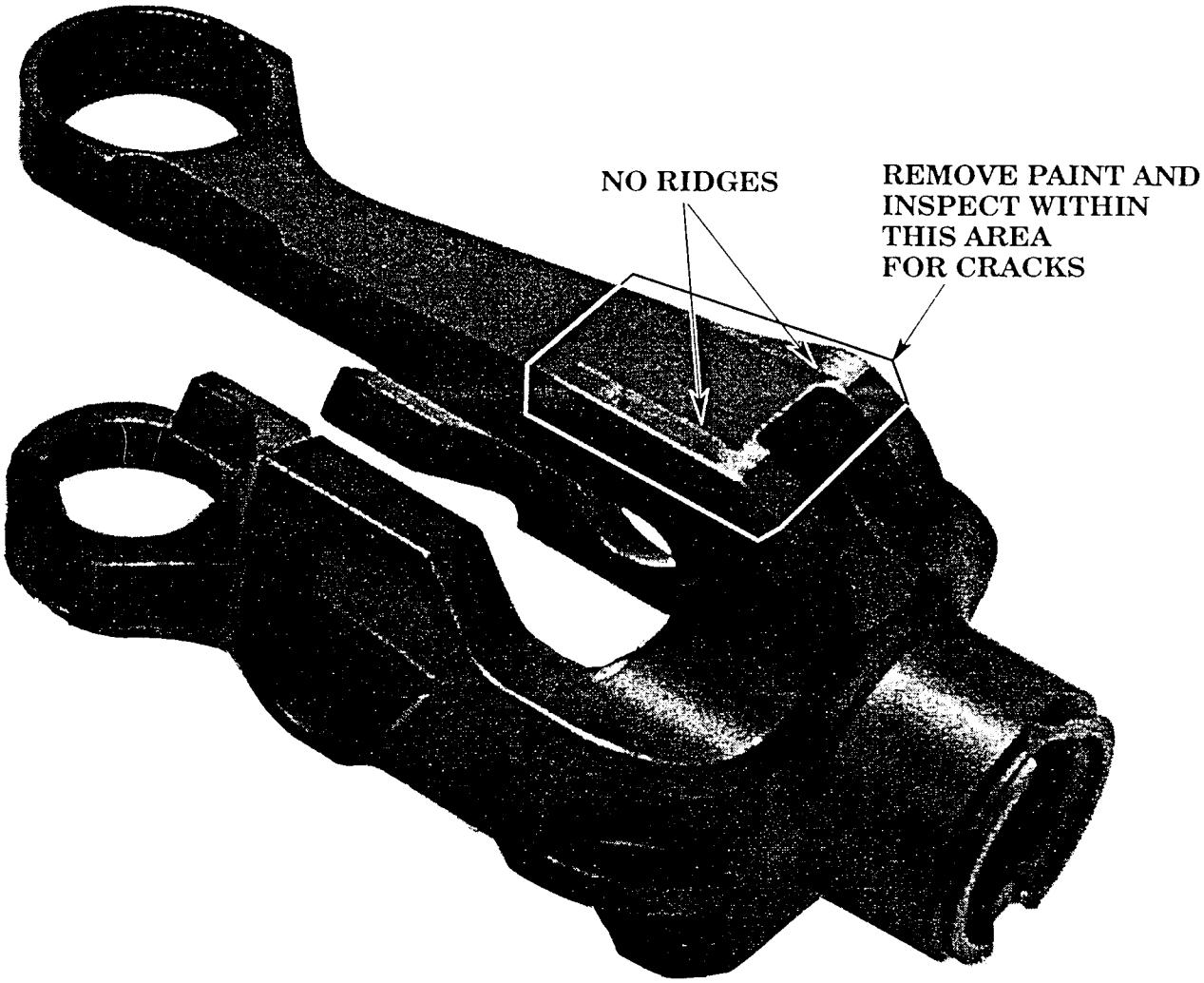


**Figure 1. Fork Assembly without ridges (Sheet 2 of 2).**

(e) Special flight permits will not be issued.

(f) This amendment becomes effective on August 4, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99–13–09, issued June 16, 1999, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on July 13, 1999.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 99–18367 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–C

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 98–CE–115–AD; Amendment 39–11231; AD 99–15–11]**

**RIN 2120–AA64**

## Airworthiness Directives; British Aerospace HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. This AD requires repetitively removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent the inability to steer the airplane because of wear in the nose landing gear steering selector differential, which could result in loss of control of the airplane during take-off, landing, or taxi operations.

**DATES:** Effective September 10, 1999.

**ADDRESSES:** This information may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–115–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

**SUPPLEMENTARY INFORMATION:**

### Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 23, 1999 (64 FR 19936). The NPRM proposed to require repetitively removing the nose landing gear steering selector valve and installing either a new nose landing gear steering selector valve or one that has been overhauled in accordance with the appropriate component maintenance manual.

Accomplishment of the proposed action as specified in the NPRM would be required in accordance with the applicable maintenance manual, as specified in British Aerospace Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998.

The FAA is requiring in another action (Docket No. 98–CE–117–AD) a one-time inspection of the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, with adjustment as necessary.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the NPRM and no comments were received on the FAA's determination of the cost to the public.

### The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

### Cost Impact

The FAA estimates that 350 airplanes in the U.S. registry will be affected by the initial replacement, that it will take approximately 4 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $2,500 per airplane. Based on these figures, the total cost impact of the initial replacement on U.S. operators is estimated to be $959,000, or $2,740 per airplane.

These figures only take into account the cost of the initial overhaul or replacement and do not take into account the cost of subsequent overhauls or replacements. The FAA has no way of determining the number of overhauls or replacements that each owner/operator of the affected airplanes will incur over the life of his/her airplane.

### 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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety.

### 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 a new airworthiness directive (AD) to read as follows:

**99–15–11 British Aerospace:** Amendment 39–11231; Docket No. 98–CE–115–AD.

*Applicability:* HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes, all serial numbers, certificated in any category.

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

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

*Compliance:* Upon accumulating 10,000 hours time-in-service (TIS) on the nose landing gear selector valve or within the next 12 calendar months after the effective date of this AD, whichever occurs later, unless already accomplished; and thereafter each time 10,000 hours TIS is accumulated on a nose landing gear selector valve.

To prevent the inability to steer the airplane because of wear in the nose landing gear steering selector differential, which could result in loss of control of the airplane during take-off, landing, or taxi operations, accomplish the following:

(a) Remove the nose landing gear steering selector valve, part number (P/N) 8668C or AIR86002–0 (or FAA-approved equivalent part number), and install one of the following in accordance with the applicable maintenance manual, as specified in British Aerospace Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998:

(1) A new steering selector valve, P/N 8668C or AIR86002–0 (or FAA-approved equivalent part number); or

(2) An FAA-approved nose landing gear steering selector valve that has been overhauled in accordance with the appropriate component maintenance manual.

**Note 2:** The FAA is requiring in another action (Docket No. 98–CE–117–AD) a one-time inspection of the nose wheel steering system to assure that the free play between the steering handle or knob and the nose wheels is within acceptable limits, with adjustment as necessary.

(b) 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.

(c) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 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 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to British Aerospace Jetstream Service Bulletin 32–JA980841, Original Issue: October 28, 1998, should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. 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 4:** The subject of this AD is addressed in British Aerospace Jetstream Alert Service Bulletin 32–JA980841, Original Issue: October 28, 1998. This service bulletin is classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

(e) This amendment becomes effective on September 10, 1999.

Issued in Kansas City, Missouri, on July 13, 1999.

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–18366 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR part 71

**[Airspace Docket No. 99–ASW–11]**

## Revision of Class E Airspace; Raton, NM.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This amendment revises the Class E airspace at Raton, NM. The development of a very high frequency omnidirectional range/distance measuring equipment (VOR/DME) and global positioning system (GPS) standard instrument approach procedure (SIAP), at Raton Municipal/Crews Field, Raton, NM, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Raton Municipal/Crews Field, Raton, NM.

**DATES:** *Effective:* 0901 UTC, November 4, 1999. Comments must be received on or before September 3, 1999.

**ADDRESSES:** Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 99–ASW–11, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Forth Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR part 71 revises the Class E airspace at Raton, NM. The development of a NDB and GPS SIAP, at Raton Municipal/Crews Field, Raton, NM has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to Raton Municipal/Crews Field, Raton, NM.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

### Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking,

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 should 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 data for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is 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 action 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 No. 99–ASW–11.'' The postcard will be date stamped and returned to the commenter.

## Agency Findings

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.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

## List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ASW NM E5 Raton, NM [Revised]**

Raton Municipal/Crews Field, Raton, NM
(lat. 36°44′30″N., long. 104°30′08″W.)
Cimarron VORTAC
(lat. 36°29′29″N., long. 104°52′19″W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Raton Municipal/Crews Field excluding that portion northwest of a line 4.4 miles northwest of and parallel to the 050° radial of the Cimarron VORTAC and within 1.6 miles each side of the 034° bearing from the airport extending from the 6.7-mile radius to 7.8 miles northeast of the airport and within 3.7 miles each side of the 050° radial of the Cimarron VORTAC extending from the 6.7-mile radius to 11.4 miles southwest of the airport and that airspace extending upward from 1,200 feet above the surface within 5.7 miles northwest of the 050° radial of the Cimarron VORTAC extending from the VORTAC to 39.1 miles northeast, within 14.4 miles southeast of the Cimarron VORTAC 050° and 230° radials extending from 1.3 miles southwest to 25.2 miles northeast of the VORTAC, and within 7.4 miles southeast of the Cimarron VORTAC 050° radial extending from 25.2 miles northeast to 39.1 miles northeast of the VORTAC.

* * * * *

Issued in Fort Worth, TX, on June 15, 1999.

**Robert N. Stevens,**

*Acting Manager, Air Traffic Division, Southwest Region.*

[FR Doc. 99–18351 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–ACE–22]**

## Amendment to Class E Airspace; Harlan, IA

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises Class E airspace at Harlan, IA.

**DATES:** The direct final rule published at 64 FR 24510 is effective on 0901 UTC, September 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on May 7, 1999 (64 FR 24510). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on September 9, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on July 6, 1999.

**Donovan D. Schardt,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 99–18349 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–ACE–21]**

## Amendment to Class E Airspace; Ottawa, KS

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date on a direct final rule which revises Class E airspace at Ottawa, KS.

**DATES:** The direct final rule published at 64 FR 31119 is effective on 0901 UTC, September 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on June 10, 1999 (64 FR 31119). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on September 9, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on July 6, 1999.

**Donovan D. Schardt,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 99–18348 Filed 7–19–99; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 99–ACE–33]**

## Amendment to Class E Airspace; North Platte, NE

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends Class E airspace areas at North Platte Regional Airport, Lee Bird Field, North Platte, NE. A review of the Class E surface airspace area for North Platte Regional Airport, Lee Bird Field indicates the extension to the southeast can be eliminated. The Class E surface area is revised to eliminate reference to the Lee Bird Nondirectional Radio Beacon (NDB) and the extension to the southeast. The airport name has been changed from North Platte, Lee Bird Field to North Platte Regional, Lee Bird Field. The Class E airspace area does not comply with the 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace area has been enlarged to conform to the criteria of FAA Order 7400.2D. Enlarging the Class E airspace area eliminates all extensions.

In addition, a minor revision to Airport Reference Point (ARP) coordinates is included in this document.

The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), revise the ARP coordinates, eliminate extensions, eliminate reference to Lee Bird NDB, change the airport name, and comply with the criteria of FAA Order 7400.2D.

**DATES:** Effective date: 0901 UTC, November 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before August 25, 1999.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–33, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR 71 revises the Class E airspace areas at North Platte, NE. A review of the Class E surface airspace area indicates the extension to the southeast can be eliminated. A review of the Class E airspace area for North Platte Regional Airport, Lee Bird Field, NE, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at North Platte Regional Airport, Lee Bird Field, NE, will provide additional controlled airspace for aircraft operating under IFR, eliminate extensions, revise the ARP coordinates, change the airport name, and comply with the criteria of FAA Order 7400.2D. The areas will be depicted on appropriate aeronautical charts. Class E airspace areas designated as a surface area for an airport are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA

does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

### Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, 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 should 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related 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 substances of this action 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 No. 99–ACE–33.'' The postcard will be date stamped and returned to the commenter.

### Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

*Paragraph 6002 Class E airspace areas designated as a surface area for an airport.*

* * * * *

**ACE NE E2 North Platte, NE [Revised]**

North Platte Regional Airport, Lee Bird Field, NE
(lat. 41°07′34″N., long. 100°41′14″W.)
North Platte VORTAC
(lat. 41°02′55″N., long. 100°44′50″W.)

Within a 4.6-mile radius of North Platte Regional Airport, Lee Bird Field and within 1.1 miles each side of the 029° radial of the North Platte VORTAC extending from the 4.6-mile radius to the VORTAC.

* * * * *

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ACE NE E5 North Platte, NE [Revised]**

North Platte Regional Airport, Lee Bird Field, NE
(lat. 41°07′34″N., long. 100°41′14″W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of North Platte Regional Airport, Lee Bird Field.

Issued in Kansas City, MO, on June 16, 1999.

**Donovan D. Schardt,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 99–18347 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 8806]**

**RIN 1545–AV94**

## Employee Stock Ownership Plans; Section 411(d)(6) Protected Benefits (Taxpayer Relief Act of 1997); Qualified Retirement Plan Benefits; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations which were published in the **Federal Register** on Friday, January 8, 1999, (64 FR 1125), relating to employee stock ownership plans and protected benefits under section 411(d)(6) and qualified retirement plan benefits.

**DATES:** This correction is effective January 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** Linda S. F. Marshall, (202) 622–6030 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The final regulations that are subject to this correction are under section 411 of the Internal Revenue Code.

### Need for Correction

On January 8, 1999, final regulations (TD 8806) were published in the **Federal Register** at 64 FR 1125. These regulations inadvertently amended § 1.411(d)–4 Q&A–2(d)(2)(ii) instead of § 1.411(d)–4 Q&A–2(d)(1)(ii). This document is correcting this amendment by providing the correct language for § 1.411(d)–4 Q&A–2(d)(1)(ii) and restoring the language for § 1.411(d)–4 Q&A–2(d)(2)(ii).

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

**Correction of Publication**

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

## PART 1—INCOME TAXES

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

**Authority:** 26 U.S.C. 7805 * * *

**§ 1.411(d)–4 [Corrected]**

**Par. 2.** Section 1.411(d)–4 Q&A–2 is amended by:

1. Removing paragraph (d)(1)(ii).

2. Redesignating paragraph (d)(2)(ii) as paragraph (d)(1)(ii).

3. Adding paragraph (d)(2)(ii).

The addition reads as follows:

**§ 1.411(d)–4 Section 411(d)(6) protected benefits.**

* * * * *

Q–2: * * *

A–2: * * *

(d) * * *

(2) * * *

(ii) *ESOP investment requirement.* Except as provided in paragraph (d)(2)(iii) of this Q&A–2, benefits provided by employee stock ownership plans will not be eligible for the exceptions in paragraph (d)(1) of this Q&A–2 unless the benefits have been held in a tax credit employee stock ownership plan (as defined in section 409 (a)) or an employee stock ownership plan (as defined in section 4975 (e)(7)) subject to section 409 (h) for the five-year period prior to the exercise of employer discretion or any amendment affecting such benefits and permitted under paragraph (d)(1) of this Q&A–2. For purposes of the preceding sentence, if benefits held under an employee stock ownership plan are transferred to a plan that is an employee stock ownership plan at the time of transfer, then the consecutive periods under the transferor and transferee employee stock ownership plans may be aggregated for purposes of meeting the five-year requirement. If the benefits are held in an employee stock ownership plan throughout the entire period of their existence, and such total period of existence is less than five years, then such lesser period may be substituted for the five year requirement.

* * * * *

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 99–18394 Filed 7–19–99; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 934

**[SPATS No. ND–039–FOR, Amendment No. XXVIII]**

## North Dakota Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). North Dakota proposed revising its statute prescribing who may preside over formal hearings and informal conferences.

The amendment is intended to revise a North Dakota State statute to be consistent with its counterpart State regulation.

**DATES:** *Effective date:* July 20, 1999.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: 207/261–6550, Internet address: GPadgett@OSMRE.GOV.

**SUPPLEMENTARY INFORMATION:**

### I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15 and 934.16.

### II. Proposed Amendment

By letter dated March 31, 1999, North Dakota submitted a proposed amendment to its program (Amendment number XXVIII, administrative record No. ND–CC–01) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment at its own initiative. The provision of the North Dakota Century Code (NDCC) that North Dakota proposes to revise is: NDCC 38–14.1–30.3.f, concerning formal hearings on surface coal mining and reclamation permit applications.

We announced receipt of the proposed amendment in the April 15, 1999, **Federal Register** (64 FR 18586), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND–CC–08). Because no one requested a public hearing or meeting, none was held.

### III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by North Dakota on March 31, 1999, is no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

*Substantive Revisions to North Dakota's Statute That Are Substantively Identical to the Corresponding Provisions of SMCRA*

North Dakota proposes revisions to the following statute that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal provisions in SMCRA (listed in parentheses).

NDCC 38–14.1–30.3.f (SMCRA 514(c)), formal hearings on surface coal mining and reclamation permit applications.

Because this proposed North Dakota statute is substantively identical to the corresponding pertinent provisions of Subsection 514(c) of SMCRA which deals with who may preside at administrative hearings or appeals thereof, the Director finds that it is no less stringent than SMCRA and therefore she approves it.

### IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that we received, and our responses to them.

*1. Public Comments*

We invited public comments on the proposed amendment, but none was received.

*2. Federal Agency Comments*

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the North Dakota program (administrative record No. ND–CC–03).

The Natural Resources Conservation Service of the U.S. Department of Agriculture responded on April 15,

1999, that it concurred with the changes (administrative record No. ND–CC–04).

The Bureau of Indian Affairs of the U.S. Department of the Interior responded on April 24, 1999 that it did not have any objections or comments that would adversely affect the final review and approval (administrative record No. ND–CC–05).

The Bureau of Reclamation of the U.S. Department of the Interior responded on April 28, 1999, that it had no comments on the proposed amendment (administrative record No. ND–CC–06).

The U.S. Army Corps of Engineers responded on April 29, 1999, that its review of the proposed project found it to be satisfactory (administrative record No. ND–CC–07).

The U.S. Fish and Wildlife Service responded on May 11, 1999, that it did not anticipate any significant impacts to fish and wildlife resources. . . . (administrative record No. ND–CC–09).

*3. Environmental Protection Agency (EPA) Concurrence and Comments*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*)

None of the revisions that North Dakota proposed to make in its amendment pertain to air or water quality standards. Nevertheless, OSM requested EPA's concurrence with the proposed amendment on April 9, 1999 (administrative record No. ND–CC–03). EPA did not respond to OSM's request.

*4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. ND–CC–03). Neither SHPO nor ACHP responded to OSM's request.

## V. Director's Decision

Based on the above finding, we approve North Dakota's proposed amendment as submitted on March 31, 1999.

The Federal regulations at 30 CFR Part 934, codifying decisions concerning the North Dakota program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

## VI. Procedural Determinations

*1. Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

*2. Executive Order 12988*

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

*3. National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*4. Paperwork Reduction Act*

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

*5. Regulatory Flexibility Act*

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

*6. Unfunded Mandates*

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

## List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 6, 1999.

**Brent Wahlquist,**

*Regional Director, Western Regional Coordinating Center.*

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

## PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

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

2. Section 934.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

**§ 934.15 Approval of North Dakota regulatory program amendments.**

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * * | * * * | * * |
| March 31, 1999 | July 20, 1999 | NDCC 38–14.1–30.3.f. |

[FR Doc. 99–18439 Filed 7–19–99; 8:45 am]
BILLING CODE 4310–05–M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 110

**[CGD01–97–086]**

**RIN 2115–AA98**

## Anchorage Grounds: Hudson River, Hyde Park, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing Federal Anchorage 19–A in the Hudson River near Hyde Park, NY. This action is necessary to provide an anchorage ground on the Hudson River for vessels awaiting favorable tides and/or daylight for passage to facilities north of New York City. This action is intended to increase safety for vessels transiting the Hudson River by providing an anchorage ground away from congested traffic lanes used in New York Harbor.

**DATES:** This final rule is effective August 19, 1999.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4193.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

On July 10, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Anchorage Grounds; Hudson River, Hyde Park, NY in the **Federal Register** (63 FR 37297). The Coast Guard received two letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

On March 31, 1999, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) entitled Anchorage Grounds: Hudson River, Hyde Park, NY in the **Federal Register** (64 FR 15322). The Coast Guard received no letters commenting on the supplemental proposed rulemaking. No public hearing was requested, and none was held.

### Background and Purpose

The Hudson River Pilots Association requested that the Coast Guard establish a federal anchorage ground in the Hudson River near Hyde Park, New York. The closest anchorage to the requested anchorage is down river to anchorage number 17, the northern boundary of which lies between the Yonkers municipal pier and the pilot station just to the north. The area that the Pilots Association has suggested for consideration is bound by the following coordinates:

NW corner: 41° 48′ 35″ N 073° 57′ 00″ W.
NE corner: 41° 48′ 35″ N 073° 56′ 44″ W.
SE corner: 41° 47′ 32″ N 073° 56′ 50″ W.
SW corner: 41°47′32″N 073°57′10″W. (NAD 1983)

The Coast Guard received two letters commenting on the NPRM. Comments received prompted the Coast Guard to reevaluate the proposal.

One comment recommended that a minimum size of 65 feet in length be established for vessels authorized to use the anchorage because the smaller vessels would be less visible at anchor, even if they displayed the required lights or day shapes, and pose a potential hazard to mariners. The comment noted that the entire anchorage area, including the area outside the designated navigation channel, is routinely transited by vessels of various sizes and that the Special Anchorage Area at Hyde Park, NY, (33 CFR 110.60(p–3)) is available for use by vessels less than 65 feet in length. This Special Anchorage Area at Hyde Park, NY that the comment referred to was disestablished on June 1, 1998 (63 FR 23662). However, in response to these safety concerns, the Coast Guard re-evaluated the NPRM. Upon further analysis, the Coast Guard agreed that safety concerns warranted a minimum vessel length restriction and a SNPRM including this restriction was published. The safety concerns stem from the high number of vessels that transit the area of Anchorage 19–A and from background lighting on shore that will interfere with smaller vessels' anchorage lights.

In the SNPRM, the Coast Guard proposed an additional regulation restricting vessels less than 20 meters in length from using this anchorage ground without prior approval from the Captain of the Port, New York. The Coast Guard believes this restriction is reasonable given the noted safety concerns and that there are over 75 transient berths at 8 marinas within approximately 15 nautical miles of this anchorage ground for use by vessels less than 20 meters in length. Additionally, the Coast Guard is aware that transient vessels anchor to the east of Esopus Island in order to use the island as a breakwater to block the wake action caused by commercial shipping transiting the Hudson River. This protected area may be easily used by vessels less than 20 meters in length as an alternative to Anchorage 19–A because Esopus Island is approximately 500 yards north of Anchorage 19–A.

### Discussion of Comments and Changes

The Coast Guard received no letters commenting on the supplemental proposed rulemaking. No changes were made to the supplemental proposed rule.

### Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. 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, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the following reasons: Due to icing of the river in winter months, the anchorage will be seasonal in nature, recreational traffic can still traverse the anchorage when necessary, there are over 75 transient berths at 8 marinas within approximately 15 nautical miles of this anchorage ground for vessels less than 20 meters in length to tie up in, and the anchorage ground permits unobstructed navigation in the western 350 yards of the Hudson River.

### Small Entities

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

For the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not

have a significant economic impact on a substantial number of small entities.

### Collection of Information

This final rule does not provide for a collection of informaiton under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

### Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Public Law 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, loca, or tribal governments, or the private sector.

### Environment

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

### List of Subjects in 33 CFR Part 110

Anchorage grounds.

### Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 110 as follows:

## PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

**Authority**: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).;

2. In § 110.155, add paragraph (c)(6) to read as follows:

**§ 110.155 Port of New York.**

* * * * *

(c) * * *

(6) Anchorage No. 19–A. An area located west of Hyde Park enclosed by the coordinates starting at 41°48′35″N 073°57′00″W; to 41°48′35″N 073°56′44″W; to 41°47′32″N 073°56′50″W; to 41°47′32″N 073°57′10″W; thence back to 41°48′35″N 073°57′00″W (NAD 1983).

(i) No vessel may anchor in Anchorage 19–A from December 16 to the last day of February without permission from the Captain of the Port, New York.

(ii) No vessel less than 20 meters in length may anchor in Anchorage 19–A without prior approval of the Captain of the Port, New York.

* * * * *

Dated: June 30, 1999.

**R.M. Larrabee,**

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

[FR Doc. 99–18487 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–15–M

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 117

**[CGD07–99–038]**

**RIN 2115–AE47**

## Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), Beaufort, SC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Interim rule; request for comments.

**SUMMARY:** The Coast Guard is changing the regulations governing the operation of the Lady's Island Bridge at Beaufort, SC. This rule changes the operating requirements for a seasonal operating schedule to a single annual schedule that coincides with daily traffic volume. The rule permits the draw to remain closed Monday through Friday during morning and afternoon rush hours, from 7:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., and to open on the hour and half hour between rush hours.

**DATES:** This rule becomes effective August 23, 1999. Comments must be received on or before November 17, 1999.

**ADDRESSES:** Comments may be mailed to Commander (oan), Seventh Coast Guard District, Bridge Section, Brickell Plaza Federal Building, 909 S.E. First Avenue, Miami, Florida 33131–3050, or may be delivered to Room 406 at the same address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 536–5621.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary D. Pruitt, Project Manager, Bridge Management Specialist, Seventh Coast Guard District, Bridge Section at (843) 747–5335.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify the rulemaking [CGD07–99–038] and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period and may revise this rule before making it final.

### Background and Purpose

The Lady's Island Bridge (also known as the Woods Memorial Bridge) over the AIWW, mile 536.0 at Beaufort, has a vertical clearance of 30 feet at mean high water and 37 feet at mean low water. Presently, the draw opens on signal, except that from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Saturday the draw need open only on the hour. During the months of April, May, June, September, October, and November, Monday through Friday from 9 a.m. to 4 p.m., the draw need open only on the hour, twenty minutes after the hour and forty minutes after the hour.

The City of Beaufort has requested that the Coast Guard change the existing regulations by eliminating openings during morning and evening rush hours, and limiting the openings to twice an hour between rush hours. The operating regulations for this bridge have not been changed since 1986 and vehicular traffic has increased. The new schedule will allow individuals crossing the swingbridge by vehicle to plan their transit times across this swingbridge to avoid delays from bridge openings. The Commander, Seventh Coast Guard

District has examined the operating requirements listed in 33 CFR 117.911(f) governing the Lady's Island Bridge and has determined that the revised schedule is appropriate for local conditions and should balance the needs of vehicular and vessel traffic. Under this interim rule, from Monday through Friday except Federal holidays, the Lady's Island Bridge will open on signal except that during the morning and afternoon rush hours from 7:30 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open. Between rush hours, the draw need only open twice an hour. At all other times, the draw will open on signal. The draw shall open at any time for public vessels of the United States, State and local vessels used in public safety, and vessels in distress where a delay would endanger life or property.

In accordance with 5 U.S.C. 553, good cause exists for not publishing a notice of proposed rulemaking (NPRM) for this interim rule. Publishing a NPRM would unnecessarily delay the implementation of the revised bridge opening schedules, since tests have indicated that this operating schedule would balance the needs of vehicular traffic and navigation. The public will have an opportunity to comment on the rule during the first 120 days of its implementation, and changes to the rule may be made before it is finalized.

### Regulatory Evaluation

This rule is not a significant regulatory action under the regulatory 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, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

### Small Entities

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

The interim rule is a reasonable balance between waterway and land transportation. Therefore, because it expects the impact of this rule to be so minimal, the Coast Guard certifies that under 5 U.S.C. 604(b) this rule will not have a significant economic impact on a substantial number of small entities.

If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

### Collection of Information

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

### Federalism

The Coast Guard has analyzed this rule under the principals and criteria contained in Executive Order 12612 and has determined that this rule 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 rule and has determined, under Figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' has been prepared and is available in the docket for inspection or copying.

### List of Subjects in 33 CFR Part 117

Bridges.

Regulations: In consideration of the foregoing, the Coast Guard amends Part 117 of Title 33, Code of Federal Regulations, as follows:

## PART 117—[AMENDED]

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

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

2. Revise § 117.911(f) to read as follows:

**§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.**

* * * * *

(f) *Lady's Island Bridge, across the Beaufort River, Mile 536.0 at Beaufort.* The draw shall operate as follows:

(1) On Monday through Friday, except Federal holidays:

(i) from 7:30 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open; and,

(ii) from 9 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(2) At all other times the draw shall open on signal.

Dated: July 13, 1999.

**Thad W. Allen,**

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

[FR Doc. 99–18488 Filed 7–16–99; 10:03 am]

BILLING CODE 4910–15–M

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 117

**[CGD01–98–091]**

**RIN 2115–AE47**

## Drawbridge Operation Regulations; Hackensack River, NJ

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations governing the S46 Bridge, mile 14.0, across the Hackensack River at Little Ferry, New Jersey to open on signal after a twenty four hour advance notice is given by calling the number posted at the bridge. There have been no requests to open the S46 Bridge since 1978. This rule is expected to relieve the bridge owner of the requirement to crew the bridge and still meet the needs of navigation.

**DATES:** This final rule is effective August 19, 1999.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, MA, 02110–3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364.

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

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

On February 18, 1999, the Coast Guard published a notice of proposed rulemaking entitled drawbridge operation regulations; Hackensack River, NJ, in the **Federal Register** [64 FR 8033]. The Coast Guard received no letters commenting on the proposed rulemaking. A hearing was not requested and none was held.

**Background and Purpose**

The S46 Bridge, at mile 14.0, in Little Ferry, New Jersey, has a vertical clearance of 35 feet at mean high water and 40 feet at mean low water. The existing operating regulations for the S46 Bridge, listed at § 117.723(f), require the bridge to open on signal, if at least six (6) hours advance notice is given.

The Coast Guard is changing the regulations to require that the S46 Bridge open on signal after a twenty four hour notice is given. The bridge owner, the New Jersey Department of Transportation, asked the Coast Guard to change the regulations to require a twenty four hour notice for bridge openings because there have been no requests to open this bridge since 1978. The Coast Guard believes this change to the regulations is reasonable because the bridge owner has not received a request to open the bridge since 1978.

**Discussion of Comments and Changes**

The Coast Guard received no letters commenting on the notice of proposed rulemaking and no changes have been made to this final rule.

**Regulatory Evaluation**

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. 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; Feb. 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that no requests to open this bridge have been made since 1978.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

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

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

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

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.723(f) is revised to read as follows:

**§ 117.723 Hackensack River.**

* * * * *

(f) Except as provided in paragraph (a)(1) of this section, the draw of the S46 Bridge, at mile 14.0, in Little Ferry, shall open on signal if at least a twenty four hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: June 30, 1999.

**R.M. Larrabee,**

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

[FR Doc. 99–18497 Filed 7–19–99; 8:45 am]

BILLING CODE 4915–01–M

## POSTAL SERVICE

## 39 CFR Part 111

## Domestic Mail Manual Changes To Implement Nonprofit and Classroom Periodicals Classification Changes and Notice of Refund Procedures

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This document sets forth the changes to the Domestic Mail Manual to implement the July 12, 1999, Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission (PRC) on Periodicals Classification Changes. In addition, it contains procedures for obtaining refunds for the difference between postage paid on certain mailings at Periodicals Nonprofit or Classroom rates and postage computed at Periodicals Regular rates on those same mailings.

**EFFECTIVE DATE:** August 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jerry Lease, 202–268–5188.

**SUPPLEMENTARY INFORMATION:** On April 9, 1999, the Postal Service filed with the PRC a request for a recommended decision on Periodicals classification changes designed to provide a remedy to a rate anomaly resulting from the last omnibus rate case, Docket No. R97–1. The PRC designated the filing as Docket No. MC99–3. On April 23, 1999, the PRC published a notice of the filing, with a description of the Postal Service's proposal, in the **Federal Register** (64 FR 13613).

On June 23, 1999, the PRC issued to the Governors of the Postal Service its recommended decision on the Postal Service's request. The PRC recommended the changes proposed by the Postal Service. On July 12, 1999, the Governors of the United States Postal Service voted to approve the PRC's recommendations, and the Board of Governors set an effective date of August 1, 1999.

This final rule contains the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Governors' decision. The revised DMM standards take effect on August 1, 1999.

Because of the unusual circumstances of this anomaly, the Postal Service has also decided to make refunds available for the excess of postage paid using Nonprofit or Classroom rate schedules over postage computed using the Regular rate schedule. These circumstances include the following. The anomaly was an unintended byproduct of the highly complex Periodicals rate design process,

resulting in higher postage for Preferred rate publications than Regular rate publications for certain mail with the same characteristics. Moreover, both the Regular and Preferred rates were available to the publications affected by the anomaly at the time of mailing; and mailers would have qualified for the lower Regular rates if they had surrendered their Nonprofit or Classroom authorizations.

For mailings made prior to August 1, a publisher of a Nonprofit or Classroom Periodicals publication may request a refund for the difference between postage paid at Nonprofit or Classroom rates and postage computed at Regular rates, if the Regular postage is lower. On April 26, 1999, the Postal Service published a notice in the **Federal Register** (see 64 FR 20340–20341) of procedures for tracking differences in postage between Regular rates and Nonprofit or Classroom rates, for the purpose of making refunds for mailings made starting April 9, 1999. The Postal Service has decided that appropriate refunds may be made back to January 10, 1999.

An application for a refund will consist of a written statement that the mailer is currently authorized to use either Classroom or Nonprofit Periodicals rates and wishes to retain that authorization, but also wishes to be considered under these procedures for a refund to be calculated with reference to Regular rate postage statements to be submitted with the refund application and Preferred rate postage statements on file at the post office. Mailers must use the instructions published in the April 26, 1999, **Federal Register** notice. Some publishers may have already submitted refund requests for mailings made between April 9, 1999, and August 1, 1999. Refund requests must be submitted according to published instructions and received no later than September 15, 1999. No refunds will be given for mailings entered on or after August 1, 1999, regardless of whether a mailer could have claimed a lower postage rate.

Under the new rules, the mailer must choose either Regular or Preferred rates for each issue of a publication and complete the applicable postage statement, except that a supplemental mailing at least 10 calendar days after other mailings for the issue can be treated separately. All postage statements for a particular issue should be provided with an application for a refund, but a supplemental mailing at least 10 calendar days after other mailings does not need to be included in calculating refunds.

**List of Subjects in 39 CFR Part 111**

Postal Service.

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

## PART 111—[AMENDED]

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

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

2. Revise the following sections of the Domestic Mail Manual as follows:

E Eligibility

E200 Periodicals

* * * * *

E270 Preferred Periodicals

* * * * *

**2.0 NONPROFIT RATE—BASIC INFORMATION:**

* * * * *

[Add new 2.4 as follows:]

2.4 Rate Anomaly

When the Nonprofit postage computed for a single issue is higher than the Regular postage computed for the same issue, that issue is eligible for postage at Regular rates. Mailers cannot use different rate schedules for the same issue, except for a supplemental mailing for a particular issue entered at least 10 calendar days after other mailings for that issue. Publications claimed at Regular rates under this section with an advertising percentage of 10% or less are considered 100% nonadvertising for Regular rate purposes. Those publications may use ''0'' as the ''advertising percentage'' when computing the nonadvertising adjustment to be applied to outside-county piece rate charges.

* * * * *

**5.0 CLASSROOM RATES**

* * * * *

[Add new 5.5 as follows:]

5.5 Rate Anomaly

When the Classroom postage computed for a single issue is higher than the Regular postage computed for the same issue, that issue is eligible for postage at Regular rates. Mailers cannot use different rate schedules for the same issue, except for a supplemental mailing for a particular issue entered at least 10 calendar days after other mailings for that issue. Publications claimed at Regular rates under this section with an advertising percentage of 10% or less are considered 100% nonadvertising for Regular rate purposes. Those publications may use ''0'' as the ''advertising percentage'' when computing the nonadvertising adjustment to be applied to outside county-piece rate charges.

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 99–18510 Filed 7–19–99; 8:45 am]

BILLING CODE 7710–12–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 105–153a; FRL–6378–7]**

## Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Mojave Desert Air Quality Management District; Ventura County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Kern County Air Pollution Control District (KCAPCD), the Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD). The rules control oxides of nitrogen ($NO_X$) from cement kilns and electric power generating facilities. This approval action will incorporate these three rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of $NO_X$ in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** These rules are effective on September 20, 1999 without further notice, unless EPA receives adverse comments by August 19, 1999. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814

Kern County Air Pollution Control District, 2700 M Street, Suite 302, Bakersfield, CA 93301

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392–2383

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003

**FOR FURTHER INFORMATION CONTACT:** Max Fantillo, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1183.

**SUPPLEMENTARY INFORMATION:**

## I. Applicability

The rules being approved into the California SIP include: KCAPCD's Rule 425.3, Portland Cement Kilns (Oxide of Nitrogen); MDAQMD's Rule 1158, Electric Power Generating Facilities; and VCAPCD's Rule 59, Electric Power Generating Equipment—Oxides of Nitrogen Emissions. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 19, 1994 (Rule 425.3) and March 10, 1998 (Rule 1158 and Rule 59).

## II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of $NO_X$ emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a proposed rule entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the $NO_X$ Supplement) which describes the requirements of section 182(f). The November 25, 1992, proposed rule should be referred to for further information on the $NO_X$ requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of $NO_X$ (''major'' as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. Kern County area is classified as serious; the Southeast Desert Air Basin managed by MDAQMD and the Ventura County area are classified as severe;[1] therefore these areas were subject to the RACT requirements of section 182(b)(2), cited below, and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control techniques guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no $NO_X$ CTGs issued before enactment and EPA has not issued a CTG document for any $NO_X$ sources since enactment of the CAA. The RACT rules covering $NO_X$ sources and submitted as SIP revisions, are expected to require final installation of the actual $NO_X$ controls as expeditiously as practicable, but no later than May 31, 1995.

The State of California submitted many RACT rules for incorporation into its SIP on October 19, 1994, March 3 and 10, 1998 including the rules being acted upon in this document. This document addresses EPA's direct-final action for KCAPCD Rule 425.3, Portland Cement Kilns (Oxides of Nitrogen); MDAQMD Rule 1158, Electric Power Generating Facilities; and VCAPCD Rule 59, Electric Power Generating Equipment—Oxides of Nitrogen Emissions. KCAPCD adopted Rule 425.3 on October 13, 1994, MDAQMD adopted Rule 1158 on August 25, 1997, and VCAPCD adopted Rule 59 on July 15, 1997. The submitted KCAPCD's Rule 425.3 was found to be complete on October 21, 1994; MDAQMD's Rule 1158 and VCAPCD's Rule 59 were found to be complete on May 21, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[2] and are being finalized for approval into the SIP. By today's document, EPA is taking direct final action to approve these rules into the Federally approved SIP.

$NO_X$ emissions contribute to the production of ground level ozone and smog. KCAPCD's Rule 425.3 controls emissions of $NO_X$ from cement kilns; MDAQMD's Rule 1158 and VCAPCD's Rule 58 control emissions of $NO_X$ from electric power generating facilities. These rules were adopted as part of KCAPCD's, MDAQMD's, and VCAPCD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for these rules.

## III. EPA Evaluation and Action

In determining the approvability of a $NO_X$ rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.[3] Among these provisions is the requirement that a $NO_X$ rule must, at a minimum, provide for the implementation of RACT for stationary sources of $NO_X$ emissions.

For the purposes of assisting State and local agencies in developing $NO_X$ RACT rules, EPA prepared the $NO_X$ Supplement to the General Preamble, cited above (57 FR 55620). In the $NO_X$ Supplement, EPA provides guidance on how RACT will be determined for stationary sources of $NO_X$ emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of $NO_X$ (see section 4.5 of the $NO_X$ Supplement). In addition, pursuant to

[1] Kern County area, Ventura County area, and Southeast Desert Air Basin managed by MDAQMD retained their designations of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for categories of stationary sources of $NO_X$. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of $NO_X$. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of $NO_X$. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted $NO_X$ RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently no version of KCAPCD Rule 425.3, Portland Cement Kilns in the SIP. Rule 425.3 controls $NO_X$ emissions from Portland cement kilns operated within the Kern County area. The submitted rule includes the following provisions: applicability, exemptions, definitions, emission limits, compliance determination and monitoring, recordkeeping, test methods, and compliance schedule.

EPA developed alternative control technique (ACT) documents for categories of stationary sources that either emit or have the potential to emit 25 tons per year or more of $NO_X$, to assist states in making RACT determinations. However, the ACTs do not establish a presumptive norm for what is considered RACT for stationary sources of $NO_X$. Cement kilns have been identified as a major stationary source that emit more than 25 tons of $NO_X$ per year. The ACT for cement kilns provides technical information for use by state and local agencies to develop and implement regulatory programs to control $NO_X$ emissions from cement manufacturing operations. The ACT reports a range of $NO_X$ emission factors from 0.90 to 19.5 lbs./ton for different cement kiln types and processes.

Rule 425.3 sets RACT $NO_X$ emission limits at 11.6 lbs./ton of clinker produced averaged on a 24 consecutive hour period and/or at 6.4 lbs./ton of clinker produced averaged on a 30 consecutive day period. These limits were set based on initial source tests and are comparable to other district $NO_X$ emission limits for cement kilns; they are within the ACT $NO_X$ emissions factors (0.90–19.5 lbs./ton) for cement manufacturing operation.

When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, recordkeeping, and compliance determinations in addition to RACT emission limits. Rule 425.3 strengthens the SIP with enforceable measures such as applicability, definition, emission limits, recordkeeping, test methods, and compliance schedule. Therefore, Rule 425.3 meets the federal RACT by meeting the above requirements.

In evaluating the rule, EPA must determine whether the CAA requirement that RACT will be implemented by May 31, 1995 is met. The rule requires final compliance by May 31, 1995. Kilns that need to retrofit are allowed full compliance by May 31, 1997. Rule 425.3 meets EPA's RACT guideline and May 31, 1995 implementation requirements by requiring RACT be implemented by May 1997 and interim measures including submission of a compliance plan, and an application for authority to construct, are met to ensure progress toward final compliance with the rule.

There is currently no version of MDAQMD's Rule 1158, Electric Power Generating Facilities in the SIP. Rule 1158 controls $NO_X$ emissions from electric power generating facilities within the Southeastern Desert Air Basin managed by MDAQMD. The submitted rule includes the following provisions: applicability, emission limits, exemptions, monitoring requirements, recordkeeping, averaging time, test methods, definitions, and compliance schedule.

EPA established RACT emission levels for electric utility boilers and recommended for other source categories that States/Districts make RACT determinations comparable to those EPA established for electric utility boilers. This comparability should be based on several factors including cost, cost-effectiveness, and emission reductions.

The CARB RACT/BARCT Guidance[4] document for stationary gas turbines suggests the $NO_X$ limits of 42 ppm (gas-fired) and 65 ppm (liquid-fired) for units rated 0.30 MW and greater. EPA has used the $NO_X$ Supplement to the General Preamble ($NO_X$ Supplement) document and the CARB's RACT/BARCT Guidance for gas turbines in evaluating Rule 1158 for consistency with the CAA's RACT requirements.

The RACT limits for utility boilers range 0.20–0.30 pounds of $NO_X$ per million Btu (lbs./MMBtu) (≈167–251 ppm) for burning gaseous and liquid fuels. The emission limits in CARB's RACT/BARCT determination (42/65 ppm) are generally comparable to those specified in the $NO_X$ Supplement for electric utility boilers.

Rule 1158's $NO_X$ emission limits ((70–125 ppm) gas-fired and (115–225 ppm) liquid-fired) for boilers, and (42 ppm (gas-fired) and 65 ppm (liquid-fired) for combined-cycle gas turbines are below or within the $NO_X$ Supplement allowable emission limits (167–251 ppm) for electric utility boilers and the CARB's RACT/BARCT Guidance emission limits (42/65 ppm) for gas turbines. The rule is generally consistent with EPA guidelines and CARB's RACT/BARCT Guidance requirements. The rule contains enforceability measures such as applicability, emission limits, exemptions, monitoring requirements, recordkeeping, averaging time, test methods, definitions, and compliance schedule. The rule also requires final compliance with the emission limits by May 31, 1995. Therefore, Rule 1158 meets the federal RACT guidance and the May 31, 1995 implementation deadline by meeting the above requirements.

On January 22, 1997, EPA approved into the SIP a version of Rule 59, Electric Power Generating Equipment that had been revised by VCAPCD on October 12, 1993. Revisions to this rule were subsequently adopted on July 15, 1997 and submitted to EPA. VCAPCD's submitted Rule 59, Electric Power Generating Equipment—Oxides of Nitrogen Emissions includes the following significant changes from the current SIP:

- Rule 59 has been revised so it will apply to any owner/operator of electric power generating steam boilers within VCAPCD area;
- A threshold heat input capacity greater than 300 million British Thermal Unit per hour (MMBtu/hr) has been added;
- The $NO_X$ emission limits have been changed to a uniform and more stringent limit of 0.10 pounds per megawatt hour (lbs./MW-hr);
- The use of continuous emission monitoring (CEM) system to determine compliance has been added;
- Compliance period has been changed from the rolling twenty-four hours to an hourly average not to exceed twenty-four hours;
- Use of 40 CFR 75.10(d)(1) provisions in lieu of the hourly calculation of $NO_X$ emission rates;
- Clarification of the 96-hours exemption during fuel oil system tests;
- Recordkeeping has been increased from four to five years;
- Deletion of extraneous provisions and obsolete requirements in the rule; and

[4] Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for gas turbines (RACT/BARCT Guidance for stationary gas turbines), California Air Resources Board, May 18, 1992.

• Other minor changes of the rule to improve clarity.

When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, recordkeeping, and compliance determinations as well as RACT emission limits. All these elements are already in the SIP-approved version of the rule. The revised rule is more stringent than the SIP approved version of the rule, which was previously determined to meet RACT requirements. EPA believes the addition of 300 MMBtu/hr applicability cut-off and the changing of the compliance period from a 24-hour averaging to a flexible hourly average is not a relaxation restricted under 110(l) of the Act because the heat rate ratings of the existing units affected by this amendment are much higher than the 300 MMBtu/hr cut-off and the hourly averaging is more stringent than the 24-hour average compliance period. The additional reduction obtained beyond those attributable to RACT are assumed necessary for VCAPCD's attainment planning purposes.

A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Documents (TSDs) for KCAPCD's Rule 425.3, MDAQMD's Rule 1158, and VCAPCD's Rule 59 dated June 1, 1999.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, KCAPCD's Rule 425.3, Portland Cement Kilns (Oxides of Nitrogen), MDAQMD's Rule 1158, Electric Power Generating Facilities, and VCAPCD's Rule 59, Electric Power Generating Equipment—Oxides of Nitrogen Emissions are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the $NO_X$ Supplement to the General Preamble.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 20, 1999 without further notice unless the Agency receives adverse comments by August 19, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 20, 1999 and no further action will be taken on the proposed rule.

## IV. Administrative Requirements

### *A. Executive Order 12866*

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

### *B. Executive Order 12875*

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

### *C. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

### *D. Executive Order 13084*

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

### *E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small

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

*F. Unfunded Mandates*

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

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

*G. Submission to Congress and the Comptroller General*

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

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 20, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

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

Dated: June 29, 1999.

**Laura K. Yoshii,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

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

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(202)(i)(B), (c)(254)(i)(H)(*2*) and (c)(254)(i)(K) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(202) * * *

(i) * * *

(B) Kern County Air Pollution Control District.

(*1*) Rule 425.3, adopted on October 13, 1994.

* * * * *

(254) * * *

(i) * * *

(H) * * *

(*2*) Rule 1158, adopted on February 22, 1995 and amended on August 25, 1997.

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(K) Ventura County Air Pollution Control District.

(*1*) Rule 59, adopted on October 6, 1969 and amended on July 15, 1997.

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[FR Doc. 99–18360 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MD063–3023a; FRL–6379–6]**

## Approval and Promulgation of Air Quality Implementation Plans; Maryland—Fuel Burning Equipment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision does not change current requirements. The intended effect of this action is to approve a change in the terms used in the text of a regulation to more accurately reflect its intended purpose to exempt fuel burning equipment, not installations, from certain general requirements pertaining to sulfur oxides ($SO_x$) . EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on September 20, 1999 without further notice, unless EPA receives adverse written comment by August 19, 1999. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to Makeba Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and

Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

**FOR FURTHER INFORMATION CONTACT:** Artra B. Cooper at (215) 814–2096, or by e-mail at cooper.artra@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On February 6, 1998, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a technical amendment to the text of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment, to more accurately reflect the applicability of the regulation. The amendment changes the term ''fuel burning installation'' to ''fuel burning equipment.''

*Summary of SIP Revision*

The SIP revision consists of a technical amendment that corrects the text of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment. The correction removes the term ''fuel burning installations'' and replaces it with ''fuel burning equipment.'' The intent of the regulation is to exempt fuel burning equipment (boilers) from the provisions found in COMAR 26.11.06.05 because these units are specifically regulated under COMAR 26.11.09—Control of Fuel Burning Equipment, Stationary Internal Combustion Engines and Certain Fuel Burning Installations. This SIP revision simply clarifies the applicability of COMAR 26.11.06.05 and does not change any current emission standards.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective on September 20, 1999 without further notice unless the Agency receives adverse comments by August 19, 1999. If EPA receives adverse comment, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting should do so at this time.

## II. Final Action

EPA is approving administrative amendments to clarify the applicabilty of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment, as submitted by the Maryland Department of the Environment on February 6, 1998.

## III. Administrative Requirements

*A. Executive Order 12866*

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

*B. Executive Order 12875*

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

*C. Executive Order 13045*

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

*D. Executive Order 13084*

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If 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 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

*E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the

Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*F. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*G. Submission to Congress and the Comptroller General*

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

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 20, 1999. Filing a petition for reconsideration by the Administrator of this final rule pertaining to technical amendments to COMAR 26.11.06.05, Sulfur Compounds from Other than Fuel Burning Equipment does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Sulfur oxides.

Dated: July 8, 1999.

**Thomas Voltaggio,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(129) to read as follows:

### § 52.1070 Identification of plan.

* * * * *

(c) * * *

(129) Revisions to the State of Maryland Regulations COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment.

(B) Revision to COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment, effective September 22, 1997 to replace the term ''installations'' with the term ''equipment'' throughout the regulation.

(ii) Additional Material.—Remainder of February 8, 1998 submittal.

[FR Doc. 99–18358 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 64, No. 138
Tuesday, July 20, 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.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Parts 210, 220, 225 and 226

**RIN 0584–AC82**

## Modification of the ''Vegetable Protein Products'' Requirements for the National School Lunch Program, School Breakfast Program, Summer Food Service Program and Child and Adult Care Food Program

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Nutrition Service is proposing to update the requirements on using ''Vegetable Protein Products'' in the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program (the Child Nutrition Programs) given changes in food technology since the current provisions were adopted. The major changes proposed are to: rename ''Vegetable Protein Products'' as ''Alternate Protein Products;'' remove the limit on the amount of these products that can be used; eliminate the requirement that alternate protein products be specially fortified; and update the test used to determine protein quality. These proposed changes would give menu planners more flexibility to incorporate these products into their menus along with the traditional protein sources of meat, poultry and seafood.

**DATES:** To be assured of consideration, comments must be postmarked on or before September 20, 1999.

**ADDRESSES:** Comments may be mailed to: Mr. Robert M. Eadie, 3101 Park Center Drive, Alexandria, Virginia 22302. All written submissions will be available for public inspection in Room 1007, 3101 Park Center Drive, Alexandria, Virginia during regular business hours (8:30 a.m. to 5:30 p.m.), Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marion Hinners or Ms. Janice Fabina, at the above address or by telephone at (703) 305–2590.

**SUPPLEMENTARY INFORMATION:**

### Background

*What Are Alternate Protein Products and How Are They Used?*

In the 1960's, protein products processed from vegetable sources, primarily soybeans, became more prevalent. Because of their low cost and their protein quality, vegetable protein products could be used with meat, poultry and seafood in food items. This blending enhanced use of both meat and vegetable protein products. As the use of alternate protein products increased, we felt that we needed to determine how such products would be credited in the Child Nutrition Programs (CN Programs) in order to give menu planners flexibility while maintaining the nutritional quality of our meals.

Originally, our policies concerning alternate protein products were delineated in informal guidance. In 1983, however, we amended our regulations by adding a section entitled ''Alternate Foods for Meals—Vegetable Protein Products'' which was located in Appendix A, to 7 CFR Part 210, the National School Lunch Program (NSLP); 7 CFR Part 225, the Summer Food Service Program (SFSP); and 7 CFR Part 226, the Child and Adult Care Food Program (CACFP). Appendix A to Part 210 also applied to 7 CFR Part 220, the School Breakfast Program (SBP).

*What Are Vegetable Protein Products (VPP)?*

Appendix A to the various CFR Parts identified above defines vegetable (plant) protein products as foods which are processed so that some portion of the nonprotein constituents of the vegetable is removed. These vegetable protein products (VPP) are safe and suitable edible products produced from vegetable (plant) sources such as soybeans, peanuts, wheat, and corn. Because they are both nutritious and versatile, VPP may be included in meals offered in the various CN Programs.

Currently, VPP fortified with iron and zinc may constitute up to 30 percent of the meat/meat alternate component of the food-based menu planning approaches used in all of the CN Programs. However, the VPP fortification and limitation requirements do not apply to menus planned under the nutrient standard approaches of the NSLP and the SBP. The nutrient standard menu planning approaches incorporate nutrient analysis into the process and consequently do not need the assurances provided by the fortification and limitation requirements applied to the food-based approaches.

*What are the Current Regulatory Provisions Concerning VPP?*

These provisions, all contained in Appendix A to 7 CFR Parts 210, 225, and 226, are:

(1) use of the names and nutritional requirements for VPP developed by the Food and Drug Administration (FDA);

(2) use of VPP in the dry, partially hydrated form, or fully hydrated form;

(3) establishment of appropriate hydration of dry VPP by setting the protein quantity requirements for a product ''when hydrated or formulated;''

(4) use of VPP only in combination with meat, poultry or seafood for the meat/meat alternate component;

(5) use of up to 30 percent (by uncooked weight) of fully hydrated VPP as a substitute for meat, poultry, or seafood; and

(6) use of fortified VPP meeting USDA–FNS specifications.

*Why is the Amount of VPP Limited?*

When the VPP requirements were originally incorporated into the regulations, nutritionists felt that VPP should be limited to no more than a 30 percent substitution level for raw or cooked meat, poultry, or seafood. This limit was established because data from studies available at that time indicated that the bioavailability of iron and zinc decreased when foods were formulated with more than 30 percent VPP. Given these findings, we adopted the 30 percent limitation on VPP use as our policy.

*Why Does FNS Require VPP to be Fortified?*

Even with the limited use of VPP, we were still concerned that children would not receive adequate levels of certain nutrients. Therefore, as an added precaution, we required that VPP used in the CN Programs be fortified with iron and zinc. We did this so that the fully hydrated VPP was similar to meat

in both nutrients and the bioavailability of minerals.

*Why is FNS Proposing to Change the Provisions on VPP?*

A lot of progress has been made in the areas of nutrition science, food technology and analysis in the 25 years that have elapsed since the initial formulation of our policies on use of VPP. We need to update our requirements on VPP in conjunction with the continued use of animal sources of protein.

We are also looking for ways to enhance flexibility for menu planners and to assist them in meeting the 1995 *Dietary Guidelines for Americans.* Additional ways are especially needed to help menu planners reduce fat and saturated fat in meals while still maintaining calorie levels and cost-effectiveness.

We also received requests from schools, sponsors and the food industry to allow food items with as much as 100 percent VPP. Unrestricted use of VPP would increase the variety of food items and products that could be offered and would assist schools and sponsors in accommodating the vegetarian and ethnic preferences of the participants in our programs.

*Is Crediting of VPP Consistent Among the Menu Planning Approaches?*

As a result of recent efforts to improve the meals offered to children, schools now have a variety of menu planning approaches from which to choose. However, the policies for crediting VPP are not consistent among the various menu planning approaches. Two such approaches allow food based menu planning and two others employ nutrient standard menu planning which are based on nutrient analysis of menus. Another option, proposed in a May 15, 1998 rulemaking (63 FR 27162), would permit schools to develop their own ''reasonable approach'' to menu planning and will be available after publication of a final rule in 1999. However, the limitations and crediting policies for VPP *only* apply to the food-based menu planning approaches. Schools using one of the nutrient standard menu planning approaches do not have to apply the VPP provisions in the Alternate Foods for Meals provisions. This proposal will alleviate these inconsistencies among the various menu planning approaches.

*Which Programs Would be Affected by the Proposed Changes?*

The current VPP provisions and the proposed changes apply to all CN Programs. However, their greatest impact is on the school meals programs which have the most participants. The SFSP and the CACFP would also benefit from the greater selection of menu items that would result from these proposed changes. However, we understand that these changes may present some new challenges to operators of these programs. Comments related specifically to how these two programs will adopt these proposed modifications are requested.

*What are the Proposed Changes to Appendix A?*

We are proposing to:

(1) change the name from vegetable protein products (VPP) to alternate protein products (APP) and remove the requirement that APP only be of plant origin;

(2) remove the limitation of 30 percent (by weight) maximum substitution for meat, seafood, or poultry;

(3) remove the fortification requirement; and

(4) update the protein quality test to the Protein Digestibility Corrected Amino Acid Score (PDCAAS) from the currently required Protein Efficiency Ratio (PER) test.

*Why Change the Name From VPP to APP?*

We are proposing to remove the requirement that protein products used in our programs be derived only from plant protein sources. Instead of the term ''Vegetable Protein Products,'' we are proposing the term ''Alternate Protein Products'' to indicate that alternate protein products are no longer only vegetable-based. Under our proposal, APP may be derived from animal sources such as whey-based protein products. (Therefore, VPP will be referred to as APP for the remainder of the preamble.)

*Why is FNS Proposing to Eliminate the Limit on the Amount of APP That may be Used?*

We are proposing to remove the requirement that APP be used only in combination with meat, poultry and seafood by eliminating the requirement that APP be no more than 30 percent (by weight) of the food item. The 30 percent limitation was based on the best data available at the time. That data indicated that alternate protein products appeared to inhibit the absorption of iron and other nutrients.

Current expert opinion (Messina, Bothwell, Cook, et al.) is that moderate intakes of APP will not have a negative affect on the levels of iron and other nutrients in the body. We also believe that removing the limit on use of APP will not adversely affect a child's diet if menu planners follow the recommendations of the Dietary Guidelines on moderation and on offering a variety of foods. If menus with APP, like any foods offered in our programs, are planned with the key elements of moderation and variety in mind, any risk to dietary status should be eliminated.

*Why is FNS Proposing to Remove the Requirement for Fortification?*

We established the requirement that only fortified VPP be used as an additional safeguard to further assure that children received adequate nutrients. We now can remove this requirement as the additional fortification is unnecessary. In fact, scientific evidence indicates that unrestricted use of *fortified* APP could actually result in excessive intakes of iron and zinc.

Eliminating the requirement on fortification would allow the food industry to directly market their existing products to schools and sponsors as they would no longer need to develop and maintain a special product exclusively for the CN Programs. This would reduce the burden on the food manufacturing industry. Schools and institutions would have a greater selection of products to incorporate into their menus to assist them with meeting our nutrition goals as well with cost effectiveness.

*Why is FNS Proposing a Different Test for Protein Quality?*

Currently, a Protein Efficiency Ratio (PER) is the only method for protein quality evaluation specified in our regulations. We permitted use of other tests on an exception basis only if the test provided similar information and results as the PER method. The PER method was, at the time of publication of current regulations, in agreement with FDA's prescribed method of determining protein quality. However, in 1993, FDA revised its regulations to require use of the Protein Digestibility Corrected Amino Acid Score (PDCAAS) for all ages except for infants. For children under one, PER remains the best method.

In addition to being more accurate, efficient, and less costly, PDCAAS has generally been recognized as the most appropriate for evaluating protein quality. In order to achieve consistency with FDA regulations and to reflect the latest scientific advances, we are proposing that PDCAAS be our standard method of determining protein quality for APP. Should FDA accept or require

another test in the future, we will update our regulations to reflect that change.

As we noted, the PER test is still the preferred method for determining protein quality of APP for infants. We are not, however, requiring that the PER test be conducted as our infant meal pattern is based on specific foods, not the more general food components. Consequently, menu planners are unlikely to offer APP to infants.

*Will Protein Quality be Compromised?*

In considering possible changes to current requirements, we were concerned about protein quality given the unrestricted levels of APP in food items. There is general scientific agreement that protein quality need not be a major concern, provided that fluid milk continues to be a part of the CN Programs. A study conducted by Reeds and Stuff in 1993 compared meals with several combinations of meat and plant-based proteins. That study found both the protein and specific amino acid contribution of meatless lunches that included milk was adequate. Since fluid milk continues to be a requirement for all menu planning approaches, we do not believe that protein quality poses any significant problems.

There is, however, a current proliferation of protein isolates being developed by the food industry, some of which may be very low in protein quality. Consequently, we intend to maintain a requirement that protein quality of an APP be determined through testing. Further, in order to maintain protein quality, we are not proposing to change the requirement for APP that the biological quality of the protein in the APP be at least 80 percent that of casein (milk protein). This is the established benchmark for a high quality protein product.

In the interests of further maintaining protein quality, we are also retaining the requirement that the protein content of the fully hydrated APP be a minimum of 18 percent by weight. We also retained the requirement that the equivalent of 18 percent protein be provided for dry or partially hydrated forms. The 18 percent protein requirement, use of a more accurate test to determine the protein quality, and requiring a 80 percent PDCAAS score as compared to casein for an acceptable APP all combine to assure the quality of the food items offered to participating children.

*How Will Schools and Institutions Know if the APP Meet the Requirements?*

We currently require that VPP be labeled in accordance with regulations published by the Food and Drug Administration (FDA). These regulations have since been withdrawn, so we are removing any provisions related to the FDA regulations.

In order to assure that APP used in our programs meet the protein quality standards, we are proposing that manufacturers document that their products meet the following requirements:

1. the APP is processed so that some portion of the non-protein constituents of the food is removed;

2. the biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS); and

3. the APP contains at least 18 percent protein by weight when fully hydrated or formulated.

We are not specifying the form of documentation required. For example, the manufacturer could provide specification sheets, a letter attesting the requirements were met, or could put a label on the product. While we want to assure that the APP used in our programs meet our nutritional standards, we do not want to impose a burden on manufacturers to individually label their products unless they choose to do so.

*What APP Will Be Used in the CN Programs?*

Currently, the most widely used type of APP used in our programs are soy-based. Because this proposed rule will increase the varieties of products that could be used, we are particularly interested in learning what sorts of APP are available and how they could be used in our programs as well as any future trends for APP. This information will assist us in developing any guidance that may be needed for schools and institutions on how APP can be used to meet all or part of the meat/meat alternate component of the food-based menu planning approaches.

*What Technical Amendments Are Being Proposed?*

The flexibility provided to school food authorities participating in the NSLP under Appendix A, Alternate Foods for Meals, Alternate Protein Products (formerly entitled ''Vegetable Protein Products'') (7 CFR part 210, Appendix A) has always been extended to the School Breakfast Program. This rule proposes to formalize this flexibility by adding to 7 CFR Part 220, Appendix A, a new section entitled ''Alternate Protein Products.''

We are also using this opportunity to redraft the section on APP in Appendix A to each part in plain language as directed by the Vice President. Therefore, the paragraphs in each Appendix A on APP to each section are reorganized for clarity as well as amended to reflect the revisions discussed in this preamble. We would appreciate comments on the format and on other ways in which we can make this information more useful to those who apply these provisions.

**Executive Order 12866**

This proposed rule has been determined to be non-significant and is not subject to review by the Office of Management and Budget under Executive Order 12866.

**Public Law 104–4**

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, the Food and Nutrition Service (FNS) generally prepares a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Regulatory Flexibility Act**

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of FNS has certified that this rule will not have a significant economic impact on a substantial number of small entities. First, there are relatively few companies

that supply alternate protein products to the Child Nutrition Programs. Secondly, removing the fortification requirement eliminates the burden on manufacturers to develop and market a product specially for use in the Child Nutrition Programs. Lastly, menu planners would have greater flexibility to incorporate alternate protein products into their menus along with the traditional protein sources of meat, poultry and seafood.

**Executive Order 12372**

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555 and 10.553, respectively. The Child and Adult Care Food Program and the Summer Food Service Program are listed under Nos. 10.558 and No. 10.559, respectively. Each is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V and final rule related notice at 48 FR 29112, June 24, 1983.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this proposed rule or the application of the provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments and, for disputes involving procurements by State agencies and sponsors, any administrative appeal procedures to the extent required by 7 CFR Part 3016.

In the National School Lunch Program and School Breakfast Program, the administrative procedures are set forth under the following regulations: (1) school food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR § 210.18(q); (2) school food authority appeals of FNS findings as a result of an administrative review must follow FNS hearing procedures as established pursuant to 7 CFR § 210.30(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR § 235.11(b)) must follow FNS Administrative Review Process as established pursuant to 7 CFR § 235.11(f).

In the Summer Food Service Program, the administrative procedures are set forth under the following regulations: (1) program sponsors and food service management companies must follow State agency hearing procedures issued pursuant to 7 CFR § 225.13; and (2) disputes involving procurement by State agencies and sponsors must follow administrative appeal procedures to the extent required by 7 CFR § 225.17 and 7 CFR Part 3015.

In the Child and Adult Care Food Program, the administrative procedures are set forth under the following regulations: (1) institution appeal procedures in 7 CFR § 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR § 226.22 and 7 CFR 3015.

**Paperwork Reduction Act**

This proposed rule contains no new paperwork burdens or information collection requirements which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

**References/Sources**

1. Vernon R. Young; ''Soy Protein in Relation to Human Protein and Amino Acid Nutrition''; *Journal of the American Dietetic Association;* 1991.

2. Peter Reeds, Janice Stuff; ''Protein Quality and Amino Acid Requirements of Children''; USDA/ARS Children's Nutrition Research Center; 1993.

3. Joanne Slavin; ''Nutritional Benefits of Soy Protein and Soy Fiber''; *Journal of the American Dietetic Association;* 1991.

4. Mark Messina, Virginia Messina; *SoyFacts, Soy Foods and Iron; Number 6.*

5. T. H. Bothwell, F. M. Clydesdale, J. D. Cook et al; *Report of the International Nutritional Anemia Consultative Group (INACG);* Nutrition Foundation, Washington, DC.

6. J. D. Cook; ''Adaptation in Iron Metabolism''; *American Journal of Clinical Nutrition;* 1990.

1. *The Soy Connection. Health and Nutrition News about Soy;* Volume 1, Number 3; United Soybean Board, Chesterfield, MO, 63017.

**List of Subjects**

*7 CFR Part 210*

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

*7 CFR Part 220*

Children, Food assistance programs, Grant programs-social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

*7 CFR Part 225*

Food and Nutrition, Food assistance programs, Grant programs-health, Infants and children, Labeling, Reporting and recordkeeping requirements.

*7 CFR Part 226*

Accounting, Aged, Day care, Food and Nutrition Service, Food assistance programs, Grant programs, Grant programs—health, Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Parts 210, 220, 225 and 226 are proposed to be amended as follows:

## PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR part 210 continues to read as follows:

**Authority:** 42 U.S.C. 1751–1760, 1779.

2. In § 210.10, amend the first sentence of paragraph (k)(3)(i) by removing the words ''Vegetable protein products'' and adding the words ''Alternate protein products'' in their place.

3. In § 210.10a, amend the first sentence of paragraph (d)(2)(i) by removing the words ''Vegetable protein products'' and adding the words ''Alternate protein products'' in their place.

4. In Appendix A to part 210, entitled Alternate Foods for Meals, revise the undesignated centerheading ''Enriched Macaroni Products with Fortified Protein'' to read ''I. Enriched Macaroni Products with Fortified Protein.''

5. In Appendix A to part 210, entitled Alternate Foods for Meals, revise the section entitled ''Vegetable Protein Products'' to read as follows:

**Appendix A to Part 210—Alternate Foods for Meals**

* * * * *

**II. Alternate Protein Products**

*A. What are the Criteria for Alternate Protein Products (APP) Used in the National School Lunch Program?*

1. An alternate protein product used in meals planned under the food-based menu

planning approaches in § 210.10(k) or § 210.10a, whichever is applicable, must meet all of the criteria in this section.

2. An alternate protein product whether used alone or in combination with meat, poultry or seafood must meet the following criteria:

a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible products produced from plant or animal sources.

b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. (''When hydrated or formulated'' refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs a. through c above.

e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

f. For an alternate protein product mix, manufacturers provide information on:

(1) the amount by weight of dry alternate protein product in the package;

(2) hydration instructions; and

(3) instructions on how to combine the mix with meat, poultry or seafood.

*B. How are Alternate Protein Poducts Used in the National School Lunch Program?*

1. Schools, institutions, and service institutions may use alternate protein products to fulfill all or part of the meat/meat alternate component discussed in § 210.10 or § 210.10a, whichever is applicable.

2. The following terms and conditions apply:

a. The alternate protein product may be used alone or in combination with other food ingredients. Examples of combination items are beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

b. Alternate protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated alternate protein product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

*C. How are Commercially Prepared Products Used in the National School Lunch Program?*

Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with alternate protein products or use a commercially prepared product that contains only alternate protein products.

## PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for 7 CFR part 220 continues to read as follows:

**Authority:** 42 U.S.C. 1773, 1779, unless otherwise noted.

2. In Appendix A to part 220, entitled Alternate Foods for Meals, revise the undesignated centerheading ''Formulated Grain-Fruit Products'' to read ''I. Formulated Grain-Fruit Products''.

3. Add a new section to Appendix A of part 220 entitled, ''II. Alternate Protein Products'' following the table at the end of the Appendix to read as follows:

### Appendix A to Part 220—Alternate Foods for Meals

* * * * *

**II. Alternate Protein Products**

*A. What are the Criteria for Alternate Protein Products (APP) Used in the National School Breakfast Program?*

1. An alternate protein product used in meals planned under the food-based menu planning approaches in § 220.8(g) or § 220.8a, whichever is applicable, must meet all of the criteria in this section.

2. An alternate protein product whether used alone or in combination with meat, poultry or seafood must meet the following criteria:

a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible products produced from plant or animal sources.

b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. (''When hydrated or formulated'' refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs a through c above.

e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

f. For an alternate protein product mix, manufacturers provide information on:

(1) the amount by weight of dry alternate protein product in the package;

(2) hydration instructions; and

(3) instructions on how to combine the mix with meat, poultry or seafood.

*B. How are Alternate Protein Products Used in the National School Breakfast Program?*

1. Schools, institutions, and service institutions may use alternate protein products to fulfill all or part of the meat/meat alternate component discussed in § 220.8 or § 220.8a, whichever is applicable. The following terms and conditions apply:

a. The alternate protein product may be used alone or in combination with other food ingredients. Examples of combination items are beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

b. Alternate protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated alternate protein product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

*C. How are Commercially Prepared Products used in the National School Breakfast Program?*

Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with alternate protein products or use a commercially prepared product that contains only alternate protein products.

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## PART 225-SUMMER FOOD SERVICE PROGRAM

1. The authority citation for 7 CFR Part 225 continues to read as follows:

**Authority:** Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

2. In 225.16, amend the first sentence of paragraph (f)(3) by removing the words ''Textured vegetable'' and adding the word ''alternate'' in their place.

3. Revise Appendix A to Part 225, entitled Alternate Foods for Meals, to read as follows:

### Appendix A to Part 225—Alternate Foods for Meals

**Alternate Protein Products**

*A. What are the Criteria for Alternate Protein Products (APP) Used in the Summer Food Service Program?*

1. An alternate protein product used in meals planned under the provisions in § 225.16 must meet all of the criteria in this section.

2. An alternate protein product whether used alone or in combination with meat, poultry or seafood must meet the following criteria:

a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible products produced from plant or animal sources.

b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. (''When hydrated or formulated'' refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs a through c above.

e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

f. For an alternate protein product mix, manufacturers provide information on:

(1) the amount by weight of dry alternate protein product in the package;

(2) hydration instructions; and

(3) instructions on how to combine the mix with meat, poultry or seafood.

*B. How are Alternate Protein Products Used in the Summer Food Service Program?*

1. Schools, institutions, and service institutions may use alternate protein products to fulfill all or part of the meat/meat alternate component discussed in § 225.20.

2. The following terms and conditions apply:

a. The alternate protein product may be used alone or in combination with other food ingredients. Examples of combination items are beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

b. Alternate protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated alternate protein product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

*C. How are Commercially Prepared Products Used in the Summer Food Service Program?*

Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with alternate protein products or use a commercially prepared product that contains only alternate protein products.

## PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for 7 CFR 225 continues to read:

**Authority:** Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765, and 1766).

2. Revise Appendix A to Part 226, entitled Alternate Foods for Meals, to read as follows:

## Appendix A to Part 226—Alternate Foods for Meals

### Alternate Foods for Meals

*A. What are the Criteria for Alternate Protein Products (APP) Used in the Child and Adult Care Food Program?*

1. An alternate protein product used in meals planned under the provisions in § 226.20 must meet all of the criteria in this section.

2. An alternate protein product whether used alone or in combination with meat, poultry or seafood must meet the following criteria:

a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible products produced from plant or animal sources.

b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. (''When hydrated or formulated'' refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs a through c above.

e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

f. For an alternate protein product mix, manufacturers provide information on:

(1) the amount by weight of dry alternate protein product in the package;

(2) hydration instructions; and

(3) instructions on how to combine the mix with meat, poultry or seafood.

*B. How are Alternate Protein Products Used in the Child and Adult Care Food Program?*

1. Schools, institutions, and service institutions may use alternate protein products to fulfill all or part of the meat/meat alternate component discussed in § 226.20.

2. The following terms and conditions apply:

a. The alternate protein product may be used alone or in combination with other food ingredients. Examples of combination items are beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

b. Alternate protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated alternate protein product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

*C. How are Commercially Prepared Products Used in the Child and Adult Care Food Program?*

Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with alternate protein products or use a commercially prepared product that contains only alternate protein products.

Dated: July 14, 1999.

**Samuel Chambers, Jr.,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 99–18433 Filed 7–19–99; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–92–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) 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 Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. This proposal would require removal of the insulation blankets surrounding the emergency overwing exit hatches. 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 the freezing of moisture entrapped in the fiberglass/foam insulation installed on the fuselage structure between the overwing exit door and the fuselage door frame and intercostal, which could interfere with the opening of the overwing emergency exit hatches during an emergency evacuation of the airplane.

**DATES:** Comments must be received by August 19, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–92–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be

obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** Paolo Farina, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7530; fax (516) 568–2716.

**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–92–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–92–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. TCA advises that, during airplane maintenance that was carried out within approximately one hour of the last flight of the day, an operator experienced problems removing the emergency overwing exit hatches on three Model CL–600–2B19 series airplanes. An investigation revealed that the problem was due to the freezing of moisture in the fiberglass/foam insulation installed on the fuselage structure between the overwing exit door and the fuselage door frame and intercostal. This condition, if not corrected, could prevent the opening of the emergency overwing exit hatches during an emergency evacuation of the aircraft.

## Explanation of Relevant Service Information

Bombardier has issued Canadair Regional Jet Alert Service Bulletin S.B. A601R–25–152, Revision 'A,' dated February 25, 1999, which describes procedures for removal of the insulation blankets surrounding the emergency overwing exit hatches. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition. TCA classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF–99–01, dated February 9, 1999, in order to assure the continued airworthiness of these airplanes in Canada.

## FAA's Conclusions

This airplane model is manufactured in Canada 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, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, 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 alert service bulletin described previously.

## Cost Impact

The FAA estimates that 157 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $28,260, or $180 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:

**Bombardier, Inc.** (Formerly Canadair): Docket 99–NM–92–AD.

*Applicability:* Model CL–600–2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 through 7067 inclusive and 7069 through 7292 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 the freezing of moisture entrapped in the fiberglass/foam insulation installed on the fuselage structure between the overwing exit door and the fuselage door frame and intercostal, which could interfere with the opening of the overwing emergency exit hatches during an emergency evacuation of the airplane, accomplish the following:

(a) Within 100 flight hours or 30 days after the effective date of this AD, whichever occurs first, remove the insulation blankets surrounding the emergency overwing exit hatches in accordance with Canadair Regional Jet Alert Service Bulletin S.B. A601R–25–152, Revision 'A,' dated February 25, 1999.

**Note 2:** Removal of the insulation blankets surrounding the emergency overwing exit hatches accomplished in accordance with Canadair Regional Jet Alert Service Bulletin S.B. A601R–25–152, dated December 26, 1998, prior to the effective date of this AD, is considered acceptable for compliance with paragraph (a) of this AD.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

**Note 4:** The subject of this AD is addressed in Canadian airworthiness directive CF–99–01, dated February 9, 1999.

Issued in Renton, Washington, on July 14, 1999.

**D.L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–18413 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–89–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 757–200 and –300 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 Boeing Model 757–200 and –300 series airplanes. This proposal would require modification of the slide/raft evacuation system by installing a girt reinforcement chafing patch. This proposal is prompted by reports of holes in the inflatable area of the slide/raft evacuation system. The actions specified by the proposed AD are intended to prevent holes in the inflatable portion of the slide/raft evacuation system, which could result in the slide/raft being unusable as a raft during an emergency water landing.

**DATES:** Comments must be received by September 3, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–89–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Air Cruisers Company, Technical Publications Department, P.O. Box 180, Belmar, New Jersey 07719–0180. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2780; 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–89–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–89–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The FAA has received reports of holes in the inflatable portion of certain slide/

raft evacuation systems on Boeing Model 757–200 and –300 series airplanes. The holes result from chafing of the slide/raft on a bracket harness assembly used to attach the system to the aircraft door. This condition, if not corrected, could result in the slide/raft being unusable as a raft during an emergency water landing.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999, which describes procedures for modifying the slide/raft evacuation system by installing a girt reinforcement patch in the area prone to chafing against the bracket harness assembly. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

**Differences Between the Proposed Rule and Service Bulletin**

Operators should note that this proposed AD would require modification of the slide/raft within 36 months after the effective date of this AD. The service bulletin recommends that this action should be accomplished, ''* * * at the next regular scheduled maintenance to the equipment.'' In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modification (5 hours per airplane). In light of all of these factors, the FAA finds a 36-month compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

**Cost Impact**

There are approximately 445 airplanes of the affected design in the worldwide fleet. The FAA estimates that 310 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $145 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $137,950, or $445 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 99–NM–89–AD.

*Applicability:* Model 757–200 and –300 series airplanes, equipped with Air Cruisers Company slide/raft evacuation systems having part and serial numbers identified in Table 1 of this AD; certificated in any category.

Table 1.—Air Cruisers Company Slide/Raft Evacuation Systems Subject to this AD

| Name | Part No. | Serial Nos. |
|---|---|---|
| Air Cruisers | D30657–( ) | Prior to 1132. |
| Air Cruisers | D30658–( ) | Prior to 0859. |
| Air Cruisers | D30659–( ) | Prior to 0860. |
| Air Cruisers | 61570–( ) | Prior to 0321. |
| Air Cruisers | 61475–( ) | Prior to 0137. |
| Air Cruisers | 61475–( ) | 0138, 0139. |

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent holes in the inflatable portion of the slide/raft evacuation system, which

could result in the slide/raft being unusable as a raft during an emergency water landing, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify the slide/raft evacuation system in accordance with Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999.

(b) As of the effective date of this AD, no person shall install a slide/raft evacuation system having a part number and serial number identified in Table 1 of this AD, on any airplane, unless that slide/raft evacuation system has been modified in accordance with Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999.

**Alternative Methods of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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**

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

Issued in Renton, Washington, on July 14, 1999.

**D.L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–18412 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–08–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A310–300 and A300–600R 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 Airbus Model A310–300 and A300–600R series airplanes. This proposal would require installation of a new cover assembly, associated new drain and vent pipework, and a new electrical harness on the trimmable horizontal stabilizer for the fuel tank water scavenge motive pump. 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 fuel leakage from the seal of the water scavenge pumps, which, if not corrected, could result in leakage of fuel into fuselage areas not designed for fuel, and consequent potential for fuel to be in contact with a fuel ignition source.

**DATES:** Comments must be received by August 19, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–08–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, 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 99–NM–08–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–08–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 Airbus Model A310–300 and A300–600R series airplanes. The DGAC advises that it has received reports of excessive water and ice build-up in the fuel tanks, particularily in the trim tank and inner tanks. This was occurring increasingly during extended twin engine operations (ETOPS), when turn around times were short, and water drainage was ineffective due to frozen drain valves.

In an attempt to reduce the need for manual sumping of the tanks, a water scavenge system was developed. The scavenge system is powered by a dedicated pump installed inside the tank, without canister type outside access. The pumps are located on the rear spar of the wing and on the horizontal stabilizer front spar in the trim tank. These pumps provide the motive force for new jet pumps installed in the tanks. The jet pumps will continually pick up water from the low points in the tanks, and therefore, prevent any ice build-up.

It was found that the trim tank scavenge pump installations did not have a double seal between the tank and fuselage section 19. If the seal on this optionally installed pump does not perform its function, the possibility exists that without a second, normally redundant seal, leakage could occur into the fuselage section 19. This condition, if not corrected, could result in leakage of fuel into fuselage areas not designed for fuel, and consequent potential for fuel to be in contact with a fuel ignition source.

## Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–28–6035, Revision 2, dated March 17, 1993 (for Model A300–600R series airplanes), and Service Bulletin A310–28–2058, Revision 2, dated February 22, 1995 (for Model A310–300 series airplanes), which describe procedures for installation of a new cover assembly, associated new drain and vent pipework, and a new electrical harness on the trimmable horizontal stabilizer for the fuel tank water scavenge motive pump. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 98–354–256(B), dated September 9, 1998, in order to assure the continued airworthiness of these airplanes in France.

## FAA's Conclusions

These airplane models are manufactured in France 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 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 bulletins described previously.

## Cost Impact

The FAA estimates that 102 Model A310–300 and A300–600R series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $5,710. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $704,820, or $6,910 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:

**Airbus Industrie:** Docket 99–NM–08–AD.

*Applicability:* Model A310–300 and A300–600R series airplanes, except those airplanes on which Airbus Modification 10003 (reference Airbus Service Bulletin A310–28–2058, Revision 2, dated February 22, 1995, or A300–28–6035, Revision 2, dated March 17, 1993) has been accomplished; 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 (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 fuel leakage from the seal of the water scavenge pumps, which, if not corrected, could result in leakage of fuel into fuselage areas not designed for fuel, and consequent potential for fuel to be in contact with a fuel ignition source, accomplish the following:

**Model A310–300 Series Airplanes: Modification**

(a) For Model A310–300 series airplanes on which a water scavenge pump has been installed prior to the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A310–28–2049, dated February 6, 1992; Revision 1, dated June 17, 1992; Revision 2, dated June 3, 1994; or Revision 3, dated April 5, 1996): Within 18 months after the effective date of this AD, install a new cover assembly, associated new drain and vent pipework, and a new electrical harness, in accordance with Airbus Service Bulletin A310–28–2058, Revision 2, dated February 22, 1995.

(b) For Model A310–300 series airplanes on which a water scavenge pump is installed after the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A310–28–2049, dated February 6, 1992; Revision 1, dated June 17, 1992; Revision 2, dated June 3, 1994; or Revision 3, dated April 5, 1996): The actions required by paragraph (a) of this AD must be accomplished simultaneously with Airbus Modification 8679.

**Model A300–600R Series Airplanes: Modification**

(c) For Model A300–600R series airplanes on which a water scavenge pump has been installed prior to the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A300–28–6028, dated February 6, 1992; Revision 1, dated June 5, 1992; Revision 2, dated October 14, 1993; Revision 3, dated April 5, 1996; or Revision 4, dated April 3, 1997): Within 18 months after the effective date of this AD, install a new cover assembly, associated new drain and vent pipework, and a new electrical harness, in accordance with Airbus Service A300–28–6035, Revision 2, dated March 17, 1993.

**Note 2:** Installation of a new cover assembly, associated new drain and vent pipework, and a new electrical harness in accordance with Airbus Service Bulletin

A300–28–6035, Revision 1, dated December 4, 1992, is considered acceptable for compliance with the requirements specified in paragraph (c) of this AD.

(d) For Model A300–600R series airplanes on which a water scavenge pump is installed after the effective date of this AD, in accordance with Airbus Modification 8679 (reference Airbus Service Bulletin A300–28–6028, dated February 6, 1992; Revision 1, dated June 5, 1992; Revision 2, dated October 14, 1993; Revision 3, dated April 5, 1996; or Revision 4, dated April 3, 1997): The actions required by paragraph (c) of this AD must be accomplished simultaneously with Airbus Modification 8679.

**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, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 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 French airworthiness directive 98–354–256(B), dated September 9, 1998.

Issued in Renton, Washington, on July 14, 1999.

**D.L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–18411 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–384–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model DHC–8–100 and –300 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 Bombardier Model DHC–8–100 and –300 series airplanes. This proposal would require replacement of the main landing gear (MLG) uplock actuator on both the left and right MLG with a new redesigned uplock assembly. 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 failure of the MLG to extend when a ''gear down'' selection is made.

**DATES:** Comments must be received by August 19, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–384–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 Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** Paolo Farina, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7530; fax (516) 568–2716.

**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–384–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–384–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–100 and –300 series airplanes. TCA advises that operators have reported incidents of the main landing gear (MLG) failing to extend (gear hung up) when a down selection is made. The cause is attributed to failure of the uplock unit to disengage due to wear. This condition, if not corrected, could result in a gear-up landing.

### Explanation of Relevant Service Information

Bombardier has issued Service Bulletin S.B. 8–32–98, Revision 'C,' dated July 31, 1998, which describes procedures for replacement of the main landing gear uplock actuator on both the left and right main landing gear with a new redesigned uplock assembly. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–98–26, dated August 26, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

### FAA's Conclusions

These airplane models are manufactured in Canada 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, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, 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.

### Cost Impact

The FAA estimates that 148 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost between $4,030 and $5,016 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $649,720 and $795,648, or between $4,390 and $5,376 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:

**Bombardier, Inc. (Formerly de Havilland, Inc.):** Docket 98–NM–384–AD.

*Applicability:* Model DHC–8–100 and –300 series airplanes, serial numbers 3 through 339 inclusive, except those on which Modification 8/1828 has been incorporated; 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 failure of the main landing gear to extend when a ''gear down'' selection is made, accomplish the following:

(a) Within 12 months after the effective date of this AD: Replace the uplock actuator with a new, improved part in accordance with deHavilland Service Bulletin S.B. 8–32–98, Revision 'C,' dated July 31, 1998.

**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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

**Special Flight Permits**

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

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF–98–26, dated August 26, 1998.

Issued in Renton, Washington, on July 14, 1999.

**D.L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–18410 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 93

## Public Meetings on Proposed Rulemaking on Grand Canyon National Park

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** The FAA will hold public meetings on two notices of proposed rulemaking (NPRMs) that were published in the **Federal Register** on July 9, 1999. Those notices are: Modifications of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, and Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area. The FAA will also receive comments on the draft environmental assessment (EA) associated with these rulemakings, which was also published in the **Federal Register** on July 9, 1999. The purpose of these meetings is to provide an additional opportunity for the public to comment on the proposals.

**DATES:** The meetings will be held on Tuesday, August 17, 1999, beginning at

9:00 a.m. and on Thursday, August 19, 1999, beginning at 9:00 a.m.

**ADDRESSES:** The meetings will be held at the following locations: August 17, 1999—The Cline Library Assembly Hall (Building 28) on the campus of Northern Arizona University, Knoles Drive, Flagstaff, Arizona.

August 19, 1999—Room 241 in the Frank and Estella Beam Hall on the campus of the University of Nevada at Las Vegas, 4505 South Maryland Parkway, Las Vegas, Nevada.

Persons unable to attend the meetings may send their comments on the NPRMs in triplicate to: U.S. Department of Transportation Dockets, Docket No. (the docket number on the NPRMs), 400 Seventh Street, SW, Washington, DC 20590. Comments may also be submitted electronically to the Rules Docket by using the following Internet address: 9–NPRM–CMTS@faa.gov. Comments must be marked Docket No. FAA–99–5927 (Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area) or FAA–99–5926 (Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones), as appropriate to the NPRM. Comments on both NPRMs or on the EA should reference both docket numbers.

Comments may be examined in Room Plaza 401 weekdays, except Federal holidays, from 10:00 a.m. to 5:00 p.m.

Written and electronic comments to the docket will receive the same consideration as statements made at the public meeting.

**FOR FURTHER INFORMATION CONTACT:** Requests to present a statement at the public meeting on either of these NPRMs or EA, or questions regarding information on the logistics of the meeting should be directed to Mark Lawyer, Federal Aviation Administration, Office of Rulemaking (ARM–107), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 493–4531; fax (202) 267–5075; e-mail mark.lawyer@faa.gov.

Technical questions concerning the NPRMs should be directed to:

For the Airspace Modification NPRM—Joe White, Airspace and Rules Program, Air Traffic Airspace Management Program, Federal Aviation Administration, 800 Independence Ave., Washington, DC 20591. Telephone: (202) 267–8783.

For the Commercial Air Tour Limitation NPRM—Alberta Brown, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591. Telephone: (202) 267–8321.

Questions on the draft environmental assessment (EA) should be directed to Tina Hunter, ATA–300, Federal Aviation Administration, 800, Indpependence Ave., SW, Washington, DC 20591; telephone (202) 267–7685.

**SUPPLEMENTARY INFORMATION:**

## Background

The purpose of the meetings is for the FAA to receive comments on two Grand Canyon National Park proposed rules and associated draft EA. Comments from the public at these meetings should be directed specifically to the proposed rules cited above or the draft EA.

The notices of proposed rulemaking to be discussed at the public meetings were published in the **Federal Register** on July 9, 1999. The Airspace Modification NPRM proposes to modify flight-free zones to accommodate concerns expressed by Native Americans and also to accommodate a new route structure. Maps showing this new route structure are made available through a notice of availability that was published in the **Federal Register** on July 9, 1999; maps also will be available at the public meetings. The Commercial Air Tour Limitation NPRM proposes to limit the number of commercial air tours that could be conducted in the Special Flight Rules Area (SFRA) of GCNP. It also contains a reporting requirement for all commercial flights, not just air tours, that are being conducted in the SFRA.

The notice of availability for the draft environmental assessment was issued on July 2, 1999, and published in the **Federal Register** on July 9, 1999.

The closing date for comments on the proposals and the draft EA is September 7, 1999. In order to give the public an additional opportunity to comment on the proposed rules and the draft EA, the FAA is conducting these public meetings.

Persons interested in obtaining a copy of the Grand Canyon proposed rules or the draft EA should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

## Participation at the Public Meeting

The FAA will explain the purpose and background of the NPRMs and the EA at the beginning of the public meetings.

Persons who wish to present oral statements at the public meeting on the Grand Canyon National Park proposals or draft EA must contact the FAA no later than August 9, 1999. Such requests should be submitted to Mark Lawyer as listed in the section titled **FOR FURTHER INFORMATION CONTACT** and should include a summary of the oral comments to be presented and an estimate of the time needed. Requests received after August 9, 1999 will be scheduled if time is available; however, the name of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers. This agenda will be available at each meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Those persons desiring to have available audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

## Public Meeting Procedures

The following procedures are established to facilitate the public meeting on the NPRMs and draft EA.

1. There will be no admission fee or other charge to attend or to participate in the public meetings. The meetings will be open to all persons who have requested in advance to present statements or who register on the day of the meetings (between 8:30 a.m. and 9:00 a.m.), subject to availability of space in the meeting room.

2. Representatives from the FAA and National Park Service (NPS) will conduct the public meetings. A panel of experts will be present to explain the NPRMs and receive information presented by participants. The FAA chairperson will explain procedural rules specific to these meetings in an introduction at the beginning of each meeting.

3. The public meetings are intended as a forum to seek additional data and to obtain clarification of supporting methodologies from the industry. Participants must limit their presentations and submissions of data to the issues of the NPRMs and the draft EA.

4. The meetings will offer the opportunity for all interested parties to present additional information not currently available to the FAA and NPS.

5. The FAA will try to accommodate all speakers; therefore, it may be necessary to limit the time available for an individual or group. The August 17 meeting may be extended to the evening, if necessary, to accommodate speaking requests. If practicable, the meetings may be accelerated to enable adjournment in less than the time scheduled. Once all speakers have been called upon and all attendees have had an opportunity to comment, the meetings will adjourn.

6. Sign and oral interpretation can be made available at the meetings, as well as an assistive listening device, if

requested 10 calendar days before each meeting.

7. The meetings will be recorded by a court reporter. A transcript of the meetings and all material accepted by the panel during the meetings will be included in the public docket, unless protected from disclosure. Each person interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at each meeting.

8. The FAA will review and consider all information presented by participants at the public meetings. Position papers or materials presenting views or information related to the draft NPRMs may be accepted at the discretion of the presiding officer and will be subsequently placed in the public docket. The FAA requests that presenters at the meetings provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the presenter.

9. Statements made by members of the panel are intended to facilitate discussion of the issues or to clarify issues. Comments made at these public meetings will be considered by the FAA before making a final decision on issuance of any final rule.

10. The meetings are designed to solicit public views and more complete information relevant to the NPRMS under consideration. Therefore, the meeting will be conducted in an informal and nonadversarial manner.

Issued in Washington, DC, on July 14, 1999.

**Ida M. Klepper,**

*Acting Director, Office of Rulemaking.*

[FR Doc. 99–18502 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 15 CFR Part 922

### Initiation of Review of Management Plan/Regulations of the Channel Islands National Marine Sanctuary; Intent To Prepare a Draft Environmental Impact Statement and Management Plan; Scoping Meeting

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Scoping meeting.

**SUMMARY:** The Channel Islands National Marine Sanctuary (CINMS or Sanctuary) was designated in September 1980, and consists of 1,252 square nautical miles of open ocean and near shore habitat approximately 25 miles off the coast of Santa Barbara, California, encompassing the waters surrounding San Miguel, Santa Rosa, Santa Cruz, Anacapa and Santa Barbara Islands from mean high tide to six nautical miles offshore. The present management plan for the Sanctuary was completed in 1982. In accordance with Section 304(e) of the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C. 1431 et seq.), the Marine Sanctuaries Division (MSD) of the National Oceanic and Atmospheric Administration (NOAA) has initiated a review of the management plan, to evaluate substantive progress toward implementing the goals for the Sanctuary, and to make revisions to the plan and regulations as necessary to fulfill the purposes and policies of the NMSA. The notice of intent to revise the management plan was issued on June 11, 1999 (64 FR 31528).

The proposed revised management plan will likely involve changes to existing policies and regulations of the Sanctuary, to address contemporary issues and challenges, and to better protect and manage the Sanctuary's resources and qualities. The review process is composed of four major stages: information collection and characterization; preparation and release of a draft management plan/environmental impact statement, and any proposed amendments to the regulations; public review and comment; preparation and release of a final management plan/environmental impact statement, and any final amendments to the regulations. NOAA anticipates completion of the revised management plan and concomitant documents will require approximately eighteen to twenty-four months.

NOAA has already conducted five public scoping meetings (as announced in the notice in 64 FR 31528) to gather information and other comments from individuals, organizations, and government agencies on the scope, types and significance of issues related to the sanctuary's management plan and regulations. Because of the interest of individuals and communities located north of the Sanctuary, NOAA has decided to add a scoping meeting for the San Luis Obispo region.

**DATES:** Written comments should be received on or before August 14, 1999.

The new scoping meeting will be held on Thursday, August 5 at 6:30 p.m.

**ADDRESSES:** Written comments may be sent to the Channel Islands National Marine Sanctuary (Management Plan Review), 113 Harbor Way, Santa Barbara, California 93109. Comments will be available for public review at the same address.

The new scoping meeting will be held at the PG and E Community Center, 6588 Ontario Road, San Luis Obispo, California.

**FOR FURTHER INFORMATION CONTACT:** Anne Walton, Management Plan Specialist, at (805) 884–1470.

**Authority:** 16 U.S.C. § 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

**Ted Lillestolen,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 99–18458 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–08–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Chapter IX

**[Docket No. FR–4423–N–05]**

### Negotiated Rulemaking Committee on Capital Fund Allocation; Meetings

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Negotiated Rulemaking Committee Meetings.

**SUMMARY:** This document announces two meetings of the Negotiated Rulemaking Committee on Capital Fund Allocation. These meetings are sponsored by HUD for the purpose of discussing and negotiating a proposed rule that would change the current method of determining the payment of capital funds to public housing agencies (PHAs).

**DATES:** The first committee meeting announced by this notice will be held on July 26 and July 27, 1999. The second committee meeting announced by this notice will be held on August 3 and 4, 1999. On the first day of each meeting, the meeting will begin at approximately 9:30 am and run until completion. On the second day of each meeting, the meeting will begin at approximately 9:00 am and run until approximately 5:00 pm.

**ADDRESSES:** Both committee meetings will take place at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, SW, Washington, DC 20024; telephone

1–800–635–5065 or (202) 484–1000; FAX (202) 863–4497 (With the exception of the ''800'' telephone number, these are not toll-free numbers).

**FOR FURTHER INFORMATION CONTACT:** William Flood, Director, Office of Capital Improvements, Public and Indian Housing, Room 4134, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1640 ext. 4185 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

On April 26, 1999 (64 FR 20234), HUD announced in the **Federal Register** the establishment of the Negotiated Rulemaking Advisory Committee on Capital Fund Allocation. The purpose of the committee is to discuss and negotiate a proposed rule that would change the current method of determining the allocation of capital funds to public housing agencies (PHAs).

This document announces two meetings of the Negotiated Rulemaking Committee on Capital Fund Allocation. The meetings of the negotiated rulemaking committee will take place as described in the ''DATES'' and **ADDRESSES** section of this document.

The agenda planned for the committee meetings includes: (1) Discussion of issues related to the development of a Capital Fund formula; (2) development of draft regulatory language; (3) development of agenda for future meetings; and (4) the scheduling of future meetings.

In accordance with the General Services Administration (GSA) regulations implementing the Federal Advisory Committee Act, HUD normally publishes a **Federal Register** meeting announcement at least 15 calendar days before the date of an advisory committee meeting). The GSA regulations, however, also provide that an agency may give less than 15 days notice if the reasons for doing so are included in the **Federal Register** meeting announcement. (See 41 CFR 10–6.1015(b).) Due to the difficulty in obtaining suitable hotel and conference room accommodations in the Washington, DC area during July, 1999, it has not been possible for HUD to announce the date and location of the July 26 and July 27, 1999 committee meeting before today. Given the October 1, 1999 statutory deadline for implementation of the Capital Fund formula, HUD believes it is imperative that the negotiations for development of the formula not be delayed. Failure to publish the Capital Fund final rule on a timely basis will delay the provision of capital subsidies to PHAs. Accordingly, rather than defer the negotiations, HUD has decided to proceed with the committee meeting on July 26 and July 27, 1999.

The meetings will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this document. Summaries of committee meetings will be available for public inspection and copying at the address in the same section.

Dated: July 16, 1999.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. 99–18593 Filed 7–19–99; 8:45 am]

BILLING CODE 4210–33–P

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## DEPARTMENT OF DEFENSE

## Department of the Army, Corps of Engineers

## 36 CFR Part 327

## Public Use of Water Resources Development Projects Administered by the Chief of Engineers

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The U.S. Army Corps of Engineers proposes to amend the rules and regulations governing public use of water resources development projects administered by the Chief of Engineers. The regulations contained in this proposed rule are designed to ensure safe, enjoyable, and environmentally sound visitation on the public lands, free from unwarranted disturbances. The regulations accomplish this by setting minimum standards of conduct for individuals using the public lands, and establishing penalties that may be imposed for failure to obey the regulations.

These rules and regulations apply to water resources development projects completed and under construction, which are administered by the Chief of Engineers, and to those portions of jointly administered water resources development projects, which are under the administrative jurisdiction of the Chief of Engineers.

**DATES:** Comments must be received by August 19, 1999.

**ADDRESSES:** Submit comments to U.S. Army Corps of Engineers, ATTN: CECW–ON, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Austin, Outdoor Recreation Planner, 202–761–1796.

**SUPPLEMENTARY INFORMATION:**

### Required Determinations

*Executive Order 12291*

This proposed rule is not a major rule as defined by Executive Order 12291.

*Regulatory Flexibility Act Determination (5 U.S.C. 601 et seq.)*

As required by the Regulatory Flexibility Act, the U.S. Army Corps of Engineers certifies that these regulatory amendments will not have a significant impact on small business entities. This rule is an update to the current regulations governing public use on Corps of Engineers Water Resources Development Projects.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This proposed rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act.

*Unfunded Mandates Reform Act (2 U.S.C. 1502 et seq.)*

This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million or more on State, local, or tribal governments or private entities.

The amendments to 36 CFR Chapter III Part 327 are necessary to clarify and strengthen selected regulations for more effective management and to enhance public safety and enjoyment of Corps water resource development projects. Some of the sections have been reworded and/or have had information added or deleted to clarify the regulations. These minor changes are editorial in nature and have been made to express the intent of the regulation more concisely, and to maintain consistency with existing Public Laws.

### Disscussion of Specific Rule Changes:

In Part 327, §§ 327.1 through 327.26, revise all references to ''District Engineer'' to read ''District Commander.''

*36 CFR 327.0 Applicability*

Section 327.0 is republished with no changes.

*36 CFR 327.1 Policy*

Section 327.1, paragraph (h), is revised to better define the responsibility of an operator or owner of any vehicle, vessel, or aircraft. Paragraph (i) is added to define the responsibility of a registered user of a campsite, picnic area, or other facility.

*36 CFR 327.2 Vehicles*

Section 327.2, paragraphs (b) and (d), is edited for consistency. A portion of a sentence has been moved from paragraph (d) into a new paragraph (h) to emphasize the laws and regulating authority for the operation of vehicles. Paragraph (e) is revised by removing the word ''project'' and paragraph (f) is revised by using the word ''designated'' to define the recreation area.

*36 CFR 327.3 Vessels*

Section 327.3, paragraph (a), is revised to substitute the term ''personal watercraft'' for ''jetskis'' and to add navigation on ice. A portion of a sentence has been moved from paragraph (c) into a new paragraph (k) to emphasize the laws and regulating authority for the operation of vessels. Paragraph (d) is rewritten for ease of readability and to include environmental features. Paragraph (e) has been edited for clarity and to include requirements of enforcement for non-compliance. Paragraph (h) has been modified to include a restriction about mooring vessels to project structures.

*36 CFR 327.4 Aircraft*

Section 327.4 is revised to include environmental features in paragraph (c), and the retrieval of person or material or equipment from project lands, and the use of balloons in paragraph (e). Paragraph (f)(3) is revised to be consistent with other sections, and to more concisely define navigation rules. Paragraph (f)(6) is revised to remove repetitiveness.

*36 CFR 327.5 Swimming*

Section 327.5, paragraph (a), is updated to include wading and public docks, and the last sentence is removed to eliminate repetitiveness with paragraph (c) of this section. Paragraph (b) is revised to include appropriate terminology. Paragraph (c) is revised to include the activity of swinging, and to include trees and structures which are adjacent to project waters.

*36 CFR 327.6 Picnicking*

Section 327.6 is revised for consistency with current Corps of Engineers terminology.

*36 CFR 327.7 Camping*

Section 327.7 is revised to comply with the National Recreation Reservation Service.

*36 CFR 327.8 Hunting, Fishing, and Trapping*

Section 327.8 is revised by breaking out each activity into separate paragraphs for better clarification.

*36 CFR 327.9 Sanitation*

Section 327.9, paragraph (a), is revised to include gray water. Paragraph (b) is revised to clarify the responsibility of the owner of garbage as defined in this section. Paragraph (c) is revised to include disposal of wastes for consistency with other paragraphs in this section.

*36 CFR 327.10 Fires*

Section 327.10, paragraph (b), is revised to include floatation materials and to clarify the regulation of open burnings for environmental considerations.

*36 CFR 327.11 Control of Animals*

Section 327.11, paragraph (a), is revised to include waters adjacent to developed recreation areas; to include a sentence which provides enforcement for animals which unreasonably disturb other people; to include the prohibition of animals and pets on playgrounds; and to include a sentence on the prohibition of abandoning any animal on project lands or waters. Paragraph (b) is revised to remove the words, ''in sanitary facilities''. The word ''trails'' is added to paragraph (c) for clarification on the types of recreation areas at Corps projects. Paragraph (g) is added to this section to restrict the presence of wild or exotic pets and animals, or any pets or animals displaying vicious or aggressive behavior or posing a threat to public safety or deemed a public nuisance on project lands and waters unless authorized by the District Commander.

*36 CFR 327.12 Restrictions*

Section 327.12 is revised by adding resource protection to the list of reasons that a District Commander may close or restrict the use of a project or portion of a project. Paragraph (c) has been modified by changing the phrase ''the safety of another person'' to ''the safety of any person.'' The list of audio producing devices has been removed in paragraph (d) and is now generalized to read as a ''sound producing device'' and generators have been added to the examples of motorized equipment. Paragraph (e) is added to clarify the potential prohibition of alcohol on project lands. Paragraph (f) is added to reflect requirements in E.O. 13058, August 9, 1997.

*36 CFR 327.13 Explosives, Firearms, Other Weapons and Fireworks*

Section 327.13 is revised by adding the words ''other weapons'' to paragraph (a). Information on explosives and fireworks is moved from paragraph (a) into a new paragraph (b) for clarification purposes.

*36 CFR 327.14 Public Property*

Section 327.14 is revised to include paleontological resources, and boundary monumentation or markers in paragraph (a). Paragraph (c) is revised to include clarification on site specific prohibitions. Paragraph (d) is added for clarification on metal detectors and is in conformance with existing Corps regulations.

*36 CFR 327.15 Abandonment and Impoundment of Personal Property*

Section 327.15, paragraph (a), is revised to include public safety or resource protection to the reasons for closure of a public use area. Paragraphs (b) and (c) are switched for better readability. Paragraph (b) is revised to include private facilities, and to include the impoundment of property for consistency with paragraph (c). Paragraph (c) is revised to increase the fair market value of property which may be disposed of after 90 days, and to correct the word ''covered'' to ''conveyed.''

*36 CFR 327.16 Lost and Found Articles*

Section 327.16 is revised for consistency with current Corps of Engineers terminology.

*36 CFR 327.17 Advertisement*

Section 327.17 is revised for consistency with current Corps of Engineers terminology.

*36 CFR 327.18 Commercial Activities*

Section 327.18 is revised by adding the words ''project lands or waters'', to clarify where the solicitation of business is prohibited.

*36 CFR 327.19 Permits*

Section 327.19, paragraph (b), is revised for consistency with current Corps of Engineers terminology. The words ''Rivers and Harbors'' are added to paragraph (c) for clarification of the referenced Act. The words ''Water

Quality'' are added to paragraph (d) for clarification on the type of required certification.

*36 CFR 327.20 Unauthorized Structures*

Section 327.20 is revised to include hunting stands or blinds, buoys, and docks in the list of structures for purposes of clarification. The section is also revised by changing the word ''agreement'' to ''authorization'' for consistency within the document.

*36 CFR 327.21 Special Events*

Section 327.21, paragraph (a), is revised to include fishing tournaments in the list of special events. Paragraph (b) is revised to include the restoration of an area to pre-event conditions for consistency with Corps of Engineers regulations.

*36 CFR 327.22 Unauthorized Occupation*

Section 327.22 is revised for consistency with current Corps of Engineers terminology.

*36 CFR 327.23 Recreation Use Fees*

Section 327.22 is revised by removing paragraph (b) and incorporating the information contained in this paragraph into paragraph (a) for better readability. Paragraph (c) is redesignated as paragraph (b) and a new paragraph (c) is added to include a prohibition on the failure to pay day use fees and to properly display the day use pass. A prohibition about the fraudulent use of a Golden Age or Golden Access Passports is added to paragraph (d). Paragraph (e) is removed for consistency with the National Recreation Reservation Service.

*36 CFR 327.24 Interference with Government Employees*

Section 327.24, paragraph (a), is revised to include the words ''attempt to kill, or kill,'' for consistency with Title 18, United States Code. Paragraph (b) is revised to include the words ''information deemed necessary for,'' to provide clarification on type of other identification which may be required by a Federal employee in the performance of issuing citations.

*36 CFR 327.25 Violations of Rules and Regulations*

Section 327.25 is revised to increase the amount of the maximum fine in accordance with 18 USC, section 3571, and to remove duplicate words.

*36 CFR 327.26 State and Local Laws*

Section 327.26 is revised to include the ''possession'' of firearms or other weapons, and ''alcohol or other controlled substances'' to the list of examples which are governed by state and local laws and ordinances. The paragraphs in this section have been renumbered for consistency and better readability.

*36 CFR 327.30 and 327.31*

These sections are not amended in this proposed rule.

**List of Subjects for 36 CFR Chapter III Part 327**

Natural Resources, Penalties, Public Lands, Recreation and Recreation Areas, Resource Management, Water Resources.

Dated: July 13, 1999.

**Eric R. Potts,**

*Colonel, Corps of Engineers, Executive Director of Civil Works.*

For the reasons set forth in the preamble, amend Part 327 of Title 327 of the Code of Federal Regulations as follows:

## PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCES DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

1. The authority citation for Part 327 is revised to read as follows:

**Authority:** 16 U.S.C. 460d; 16 U.S.C. 4601–6a; and Sec. 210, Pub. L. 90–483, 82 Stat. 746.; 33 U.S.C. 1, 28 Stat. 362.

2. Sections 327.0 through 327.26 are revised to read as follows:

### § 327.0 Applicability.

The regulations covered in this part 327 shall be applicable to water resources development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resources development projects which are under the administrative jurisdiction of the Chief of Engineers. All other Federal, state and local laws and regulations remain in full force and effect where applicable to those water resources development projects.

### § 327.1 Policy.

(a) It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural, cultural and developed resources of each project in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated herein, the term ''District Commander'' shall include the authorized representatives of the District Commander.

(c) The term ''project'' or ''water resources development project'' refers to the water areas of any water resources development project administered by the Chief of Engineers, without regard to ownership of underlying land, to all lands owned in fee by the Federal Government and to all facilities therein or thereon of any such water resources development project.

(d) All water resources development projects open for public use shall be available to the public without regard to sex, race, color, creed, age, nationality or place of origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, nationality or place of origin in the conduct of the operations under the lease, license or concession contract.

(e) In addition to the regulations in this part 327, all applicable Federal, state and local laws and regulations remain in full force and effect on project lands or waters which are outgranted by the District Commander by lease, license or other written agreement.

(f) The regulations in this part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resources development projects administered by the Chief of Engineers, to the extent that the regulations in this part 327 are not inconsistent with such treaties and Federal laws and regulations.

(g) Any violation of any section of this part 327 shall constitute a separate violation for each calendar day in which it occurs.

(h) For the purposes of this part 327, the operator of any vehicle, vessel or aircraft as described herein shall be presumed to be responsible for its use on project property. In the event where an operator cannot be determined, the owner of the vehicle, vessel, or aircraft, whether attended or unattended, will be presumed responsible. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such vehicle, vessel or aircraft as provided for in § 327.25.

(i) For the purposes of this part 327, the registered user of a campsite, picnic area, or other facility shall be presumed to be responsible for its use. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to

the use of such facilities as provided for in § 327.25.

**§ 327.2 Vehicles.**

(a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, snowmobiles, dune buggies, all-terrain vehicles, and trailers, campers, bicycles, or any other such equipment.

(b) Vehicles shall not be parked in violation of posted restrictions and regulations, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.

(c) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the District Commander. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier is prohibited.

(d) Vehicles shall be operated in accordance with posted restrictions and regulations.

(e) No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any person, property or environmental feature.

(f) At designated recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted.

(g) Except as authorized by the District Commander, no person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

(h) Vehicles shall be operated in accordance with applicable Federal, state and local laws, which shall be regulated by authorized enforcement officials as prescribed in § 327.26.

**§ 327.3 Vessels.**

(a) This section pertains to all vessels or watercraft, including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, personal watercraft, and any other such equipment capable of navigation on water or ice, whether in motion or at rest.

(b) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This paragraph shall not apply to the operation of commercial tows or passenger carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.

(c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations and restrictions, including buoys. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is on project waters.

(d) No person shall operate any vessel or other watercraft in a careless, negligent, or reckless manner so as to endanger any person, property, or environmental feature.

(e) All vessels, when on project waters, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirements and in compliance with boating safety laws issued and enforced by the state in which the vessel is located. Owners or operators of vessels not in compliance with this section may be requested to remove the vessel immediately from project waters until such time as items of non-compliance are corrected.

(f) Unless otherwise permitted by Federal, state or local law, vessels or other watercraft, while moored in commercial facilities, community or corporate docks, or at any fixed or permanent mooring point, may only be used for overnight occupancy when such use is incidental to recreational boating. Vessels or other watercraft are not to be used as a place of habitation or residence.

(g) Water skis, parasails, ski-kites and similar devices are permitted in nonrestricted areas except that they may not be used in a careless, negligent, or reckless manner so as to endanger any person, property or environmental feature.

(h) Vessels shall not be attached or anchored to structures such as locks, dams, buoys or other structures unless authorized by the District Commander. All vessels when not in actual use shall be removed from project lands and waters unless securely moored or stored at designated areas approved by the District Commander. The placing of floating or stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid is prohibited.

(i) The use at a project of any vessel not constructed or maintained in compliance with the standards and requirements established by the Federal Safe Boating Act of 1971 (Pub. L. 92–75, 85 Stat. 213), or promulgated pursuant to such act, is prohibited.

(j) Except as authorized by the District Commander, no person shall operate any vessel or watercraft without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

(k) All vessels or other watercraft shall be operated in accordance with applicable Federal, state and local laws, which shall be regulated by authorized enforcement officials as prescribed in § 327.26.

**§ 327.4 Aircraft.**

(a) This Section pertains to all aircraft including, but not limited to, airplanes, seaplanes, helicopters, ultra-light aircraft, motorized hang gliders, hot air balloons, any non-powered flight devices or any other such equipment.

(b) The operation of aircraft on project lands at locations other than those designated by the District Commander is prohibited. This provision shall not be applicable to aircraft engaged on official business of Federal, state or local governments or law enforcement agencies, aircraft used in emergency rescue in accordance with the directions of the District Commander or aircraft forced to land due to circumstances beyond the control of the operator.

(c) No person shall operate any aircraft while on or above project waters or project lands in a careless, negligent or reckless manner so as to endanger any person, property or environmental feature.

(d) Nothing in this section bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including, but not limited to, regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery or retrieval of any person, material or equipment by parachute, balloon, helicopter or other means onto or from project lands or waters without written permission of the District Commander is prohibited.

(f) In addition to the above provisions, seaplanes, as defined below, are subject to the following restrictions:

(1) Such use is limited to aircraft utilized for water landings and takeoff,

herein called seaplanes, at the risk of owner, operator and passenger(s).

(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Commander (pursuant to part 328 of this Title) are prohibited. The responsibility to ascertain whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with U.S. Coast Guard navigation rules for power boats or vessels and § 327.3.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Commander. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Commander, for periods less than 24 hours providing:

(i) The mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and

(ii) The operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Commander following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(6) Seaplanes may not be operated at Corps projects between sunset and sunrise unless approved by the District Commander.

**§ 327.5 Swimming.**

(a) Swimming, wading, snorkeling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and public docks, or other areas so designated by the District Commander.

(b) An international diver down, or inland diving flag must be displayed during underwater activities.

(c) Diving, jumping or swinging from trees, bridges or other structures which cross or are adjacent to project waters is prohibited.

**§ 327.6 Picnicking.**

Picnicking and related day-use activities are permitted, except in those areas where prohibited by the District Commander.

**§ 327.7 Camping.**

(a) Camping is permitted only at sites and/or areas designated by the District Commander.

(b) Camping at one or more campsites at any one water resource project for a period longer than 14 days during any 30-consecutive-day period is prohibited without the written permission of the District Commander.

(c) The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance at a campsite for the purpose of reserving a campsite for future occupancy is prohibited.

(d) The digging or leveling of any ground or the construction of any structure without written permission of the District Commander is prohibited.

(e) Occupying or placement of any camping equipment at a campsite which is posted as ''reserved'' without an authorized reservation for that site is prohibited.

**§ 327.8 Hunting, fishing, and trapping.**

(a) Hunting is permitted except in areas and during periods where prohibited by the District Commander.

(b) Trapping is permitted except in areas and during periods where prohibited by the District Commander.

(c) Fishing is permitted except in swimming areas, on boat ramps or other areas designated by the District Commander.

(d) Additional restrictions pertaining to these activities may be established by the District Commander.

(e) All applicable Federal, State and local laws regulating these activities apply on project lands and waters, and shall be regulated by authorized enforcement officials as prescribed in § 327.26.

**§ 327.9 Sanitation.**

(a) Garbage, trash, rubbish, litter, gray water, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.

(b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping without the written permission of the District Commander. For the purposes of this regulation, the owner of any garbage, trash, rubbish, debris, dead animals or litter of any kind shall be presumed to be responsible for proper disposal. Such presumption will be sufficient to issue a citation for violation.

(c) The spilling, pumping, discharge or disposal of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.

(d) Campers, picnickers, and all other persons using a water resources development project shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment and clean their sites upon departure.

(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the project waters from any vessel or watercraft is prohibited.

**§ 327.10 Fires.**

(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the project without written permission of the District Commander.

(b) Fires shall be confined to those areas designated by the District Commander, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic and other floatation materials or treated wood products is prohibited. The District Commander may prohibit open burning of any type for environmental considerations.

(c) Improper disposal of lighted smoking materials, matches or other burning material is prohibited.

**§ 327.11 Control of animals.**

(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas or adjacent waters unless penned, caged, on a leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. No person shall allow animals to bark or emit other noise which unreasonably disturbs other people. Animals and pets, except properly trained animals assisting those with disabilities (such as seeing-eye dogs), are prohibited in sanitary facilities, playgrounds, swimming beaches and any other areas so designated by the District

Commander. Abandonment of any animal on project lands or waters is prohibited. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.

(b) Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal of any waste produced by these animals.

(c) No person shall bring or allow horses, cattle, or other livestock in camping, picnicking, swimming or other recreation areas or on trails except in areas designated by the District Commander.

(d) Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Commander.

(e) Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws.

(f) Any animal impounded under the provisions of this section may be confined at a location designated by the District Commander, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s).

(g) Wild or exotic pets and animals (including but not limited to cougars, lions, bears, bobcats, wolves, and snakes), or any pets or animals displaying vicious or aggressive behavior or otherwise posing a threat to public safety or deemed a public nuisance, are prohibited from project lands and waters unless authorized by the District Commander, and are subject to removal in accordance with Federal, state and local laws.

**§ 327.12 Restrictions.**

(a) The District Commander may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Commander may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, resource protection or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.

(b) Quiet shall be maintained in all public use areas between the hours of 10 p.m. and 6 a.m., or those hours designated by the District Commander. Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the project or impairs the safety of any person is prohibited. Individuals who are boisterous, rowdy, disorderly, or otherwise disturb the peace on project lands or waters may be requested to leave the project.

(d) The operation or use of any sound producing or motorized equipment, including but not limited to generators, vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.

(e) The possession and/or consumption of alcoholic beverages on any portion of the project land or waters, or the entire project, may be prohibited when designated and posted by the District Commander.

(f) Unless authorized by the District Commander, smoking is prohibited in Visitor Centers, enclosed park buildings and in areas posted to restrict smoking.

**§ 327.13 Explosives, firearms, other weapons and fireworks.**

(a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons is prohibited unless:

(1) In the possession of a Federal, state or local law enforcement officer;

(2) Being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites;

(3) Being used at authorized shooting ranges; or

(4) Written permission has been received from the District Commander.

(b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Commander.

**§ 327.14 Public Property.**

(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, paleontological resources, boundary monumentation or markers and vegetative growth, is prohibited except when in accordance with written permission of the District Commander.

(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Commander.

(c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted, unless prohibited and posted by the District Commander.

(d) The use of metal detectors is permitted on designated beaches or other previously disturbed areas unless prohibited by the District Commander for reasons of protection of archaeological, historical or paleontological resources. Specific information regarding metal detector policy and designated use areas is available at the Manager's Office. Items found must be handled in accordance with Part 327.15 and Part 327.16 except for non-identifiable items such as coins of value less than $25.

**§ 327.15 Abandonment and impoundment of personal property.**

(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Commander, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) Personal property placed on Federal lands or waters adjacent to a private residence, facility and/or developments of any private nature for more than 24 hours without permission of the District Commander shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to impound the property and/or issue a citation as provided for in § 327.25.

(c) The District Commander shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if

it has a fair market value of $100 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Commander. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts.

**§ 327.16 Lost and found articles.**

All articles found shall be deposited by the finder at the Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in § 327.15.

**§ 327.17 Advertisement.**

Advertising by the use of billboards, signs, markers, audio devices, handbills, circulars, posters, or any other means whatsoever, is prohibited without written permission of the District Commander. Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.

**§ 327.18 Commercial Activities.**

(a) The engaging in or solicitation of business on project land or waters without the express written permission of the District Commander is prohibited.

(b) It shall be a violation of these regulations to refuse to or fail to comply with any terms, clauses or conditions of any lease, license or agreements issued by the District Commander.

**§ 327.19 Permits.**

(a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this part 327.

(b) Permits for floating structures (issued under the authority of § 327.30) of any kind on/in waters of water resources development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Commander under the authority of this regulation. District Commanders will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Manager's office.

(c) Permits for non-floating structures (issued under the authority of § 327.30) of any kind constructed, placed in or affecting waters of water resources development projects where such waters are deemed navigable waters of the U.S. shall be issued under the provisions of section 10 of the Rivers and Harbors Act approved March 3, 1899 (33 USC 403). If a discharge of dredged or fill material in these waters is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344). (See 33 CFR parts 320–330.)

(d) Permits for non-floating structures (issued under the authority of § 327.30) of any kind in waters of water resources development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States, shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under section 404 of the Clean Water Act (33 USC 1344) (See CFR parts 320–330). Water quality certification may be required pursuant to Section 401 of the Clean Water Act (33 USC 1341).

(e) Shoreline Use Permits to authorize private shoreline use facilities, activities or development (issued under the authority of Section § 327.30) may be issued in accordance with the project Shoreline Management Plan. Failure to comply with the permit conditions issued under Section 327.30 is prohibited.

**§ 327.20 Unauthorized structures.**

The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs, hunting stands or blinds, buoys, docks, or landscape features) of any kind under, upon, in or over the project lands, or waters is prohibited unless a permit, lease, license or other appropriate written authorization has been issued by the District Commander. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license, or other written authorization is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Commander.

**§ 327.21 Special events.**

(a) Special events including, but not limited to, water carnivals, boat regattas, fishing tournaments, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Commander. An appropriate fee may be charged under the authority of § 327.23.

(b) The public shall not be charged any fee by the sponsor of such event unless the District Commander has approved in writing (and the sponsor has properly posted) the proposed schedule of fees. The District Commander shall have authority to revoke permission, require removal of any equipment, and require restoration of an area to pre-event condition, upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this part 327.

**§ 327.22 Unauthorized occupation.**

(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining the same as a full- or part-time residence without the written permission of the District Commander is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of § 327.7.

(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Commander.

**§ 327.23 Recreation use fees.**

(a) In accordance with the Land and Water Conservation Fund Act of 1965 (16 USC 460l) and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, the Corps of Engineers collects day use fees, special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.

(b) Where such fees are charged, the District Commander shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Pub. L. 88–578, 78 Stat. 897, as amended (16 USC 460l-6a), is prohibited and is punishable by a fine of not more than $100.

(c) Failure to pay authorized day use fees, and/or properly display applicable receipt, permit or pass is prohibited.

(d) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas.

Fraudulent use of a Golden Age or Golden Access Passport is prohibited.

**§ 327.24 Interference with Government employees.**

(a) It is a Federal crime pursuant to the provisions of sections 111 and 1114 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with, attempt to kill or kill any civilian official or employee for the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these regulations and may be a state crime pursuant to the laws of the state where they occur.

(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other information deemed necessary for identification upon request of the Federal employee, when that employee is authorized by the District Commander to issue citations in the performance of the employee's official duties.

**§ 327.25 Violations of Rules and Regulations.**

(a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in § 327.23, may be punished by a fine of not more than $5,000 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of section 3401 of Title 18, United States Code. Persons designated by the District Commander shall have the authority to issue a citation for violation of these regulations, requiring any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located (16 USC 460d).

(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of section 111 or section 1114 of Title 18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided under Federal or state law, as the case may be.

**§ 327.26 State and local laws.**

(a) Except as otherwise provided herein or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:

(1) Operation and use of motor vehicles, vessels, and aircraft;

(2) Hunting, fishing and trapping;

(3) Use or possession of firearms or other weapons;

(4) Civil disobedience and criminal acts;

(5) Littering, sanitation and pollution; and (6) Alcohol or other controlled substances.

(b) These state and local laws and ordinances are enforced by those state and local enforcement agencies established and authorized for that purpose.

[FR Doc. 99–18426 Filed 7–19–99; 8:45 am]
BILLING CODE 3710–92–U

## LIBRARY OF CONGRESS

## Copyright Office

## 37 CFR Part 255

**[Docket No. 99–4 CARP DPRA]**

## Digital Phonorecord Delivery Rate Adjustment Proceeding

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of initiation of negotiation period.

**SUMMARY:** The Copyright Office of the Library of Congress is announcing the initiation of the negotiation period for determining reasonable rates and terms for digital transmissions that constitute a digital phonorecord delivery for the period commencing January 1, 2001. This negotiation period is intended to promote an industry-wide agreement as to the rates and terms for digital phonorecord deliveries.

**DATES:** The negotiation period begins on July 20, 1999, and ends on December 31, 1999. Petitions for an arbitration for rate adjustment must be filed during the year 2000.

**ADDRESSES:** If sent by mail, an original and five copies of the petition should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and five copies of the petition should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE, Washington, DC 20559–6000.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380 or Telefax: (202) 252–3423.

**SUPPLEMENTARY INFORMATION:** On November 1, 1995, Congress passed the Digital Performance Right in Sound Recordings Act of 1995 (''Digital Performance Right Act''), Pub. L. 104–39, 109 Stat. 336. Among other things, it confirms and clarifies that the scope of the statutory license to make and distribute phonorecords of nondramatic musical compositions, 17 U.S.C. 115, includes the right to distribute or authorize distribution by means of a digital transmission which constitutes a ''digital phonorecord delivery.'' 17 U.S.C. 115(c)(3)(A). A ''digital phonorecord delivery'' is defined as ''each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording * * *.'' 17 U.S.C. 115(d).

The Digital Performance Right Act established that the rate for all digital phonorecord deliveries (''DPDs'') made or authorized under a compulsory license on or before December 31, 1997, was the same as the rate in effect for the making and distribution of physical phonorecords for that period. 17 U.S.C. 115(c)(3)(A)(i). For digital phonorecord deliveries made or authorized after December 31, 1997, the Digital Performance Act established a two-step process for determining the terms and rates: either the copyright owners of nondramatic musical works and those persons entitled to obtain a license may negotiate the rates and terms for the statutory license, or they may participate in a Copyright Arbitration Royalty Panel (''CARP'') proceeding. 17 U.S.C. 115(c)(3)(A)–(D). Such rates and terms, whether negotiated by the parties or determined by a CARP, are to distinguish between ''digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (ii) digital phonorecord deliveries in general.'' 17 U.S.C. 115(c)(2)(C)–(D). This two-step process is to be repeated ''in each fifth calendar year after 1997,'' 17 U.S.C. 115(c)(3)(F), unless the parties agree to different years for the repeating

and concluding of such proceedings. 17 U.S.C. 115(c)(3)(B)–(F).

The first proceeding to adjust the royalty rates for the delivery of digital phonorecords concluded earlier this year. In that proceeding, the parties reached an industry-wide agreement setting the rate for the delivery of digital phonorecords and deferring until the next scheduled rate adjustment proceeding the determination of the rate for the delivery of a digital phonorecord where the reproduction or distribution is incidental to the transmission which constitutes a digital phonorecord delivery. In accordance with § 251.63(b), the Librarian published a notice in the **Federal Register** requesting public comment on the proposed rates and terms. 63 FR 71249 (December 24, 1998). Upon receiving no comments opposing the rates and terms for the delivery of digital phonorecords set forth in the December 24, 1998, notice, the Librarian adopted the proposed rates and amended part 255 of the Copyright Office's rules accordingly. 64 FR 6221 (February 9, 1999). The newly adopted regulation requires that the two-step process for adjusting the royalty rates be repeated in 1999 in order ''to determine the applicable rates and terms * * * during the period beginning January 1, 2001.'' 37 CFR 255.7.

### Initiation of Voluntary Negotiations

Pursuant to sections 115(c)(3)(B)–(F) and § 255.7, the Copyright Office of the Library of Congress is initiating the voluntary negotiation period for the determination of reasonable rates and terms for the delivery of digital phonorecords and the delivery of a digital phonorecord where the reproduction or distribution is incidental to the transmission which constitutes a digital phonorecord delivery for the two-year period commencing January 1, 2001. The negotiation period shall run from the date of publication of this notice in the **Federal Register** and end on December 31, 1999. Such terms and rates shall distinguish between (a) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (b) digital phonorecord deliveries in general.

### Petitions

In the absence of a license agreement negotiated under 17 U.S.C. 115(c)(3)(B)–(C), a party with a significant interest in establishing reasonable rates and terms for this compulsory license may file a petition to convene a CARP with the Copyright Office. Accordingly, the petition shall detail petitioner's interest in the royalty rate sufficiently to permit the Librarian of Congress to determine whether the petitioner has a ''significant interest'' in the rate. The petition must also identify the extent to which the petitioner's interest is shared by other owners and users; owners and users with similar interests may file a joint petition. 37 CFR 251.62. Petitions should be filed with the Copyright Office during the year 2000.

Dated: July 15, 1999.

**David O. Carson,**

*General Counsel.*

[FR Doc. 99–18489 Filed 7–19–99; 8:45 am]

BILLING CODE 1410–31–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 105–153; FRL–6378–8]**

## Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Mojave Desert Air Quality Management District; Ventura County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is approving revisions to the California State Implementation Plan (SIP) which concern the control of oxides of nitrogen ($NO_X$) emissions from cement kilns and electric power generating facilities.

The intended effect of this action is to regulate emissions of NOx in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Written comments must be received by August 19, 1999.

**ADDRESSES:** Comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Kern County Air Pollution Control District, 2700 M Street, Suite 302, Bakersfield, CA 93301.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392–2383.

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003.

**FOR FURTHER INFORMATION CONTACT:** Max Fantillo, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1183.

**SUPPLEMENTARY INFORMATION:** This document concerns Kern County Air Pollution Control District's Rule 425.3, Portland Cement Kilns (Oxides of Nitrogen); Mojave Desert Air Quality Management District's Rule 1158, Electric Power Generating Facilities; and Ventura County Air Pollution Control District's Rule 59, Electric Power Generating Equipment—Oxides of Nitrogen Emissions. These rules were submitted by the California Air Resources Board to EPA on October 19, 1994 (Rule 425.3) and March 10, 1998 (Rule 1158 and Rule 59). For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: June 29, 1999.

**Laura K. Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 99–18361 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[MD063–3023b; FRL–6379–5]**

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Fuel Burning Equipment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of amending the text of COMAR 26.11.06.05—Sulfur Compounds from Other than Fuel Burning Equipment. The technical amendment removes the term ''fuel burning installations'' and replaces it with ''fuel burning equipment.'' The intent of the regulation is to exempt fuel burning equipment (boilers) from the general provisions found in this regulation because these units are specifically regulated under COMAR 26.11.09—Control of Fuel Burning Equipment, Stationary Internal Combustion Engines and Certain Fuel Burning Installation. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by August 19, 1999.

**ADDRESSES:** Written comments should be addressed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Artra B. Cooper, (215) 814–2096, at the EPA Region III address above, or by e-mail at cooper.artra@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: July 8, 1999.

**Thomas Voltaggio,**

*Acting Regional Administrator, Region III.*

[FR Doc. 99–18359 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 442

**[FRL–6400–4]**

### Data Availability; Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards for the Transportation Equipment Cleaning Point Source Category

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability.

**SUMMARY:** On June 25, 1998 (63 FR 34685), EPA proposed technology-based effluent limitations guidelines, pretreatment standards, and new source performance standards for the discharge of pollutants into waters of the United States and into publicly owned treatment works (POTWs) by existing and new facilities that perform transportation equipment cleaning operations. Transportation equipment cleaning (TEC) facilities are defined as facilities that generate wastewater from cleaning the interior of tank trucks, closed-top hopper trucks, rail tank cars, closed-top hopper rail cars, intermodal tank containers, inland tank barges, closed-top hopper barges, ocean/sea tankers, and other similar tanks (excluding drums and intermediate bulk containers) used to transport materials or cargos that come into direct contact with the tank or container interior.

This notice presents a summary of data received in comments since the proposal and an assessment of the usefulness of the data in EPA's analyses; presents new data collected by EPA to support effluent limitations in the Barge/Chemical & Petroleum Subcategory; presents a change from the mass-based limits format of the proposal; presents a modified subcategorization approach; reviews technology options considered for regulation; and discusses other specific issues raised by commenters including: selection of pollutants proposed for regulation, the costs associated with the regulation, a low flow exclusion, and the applicability of the rule. EPA solicits public comment on any of the issues or information presented in this notice of data availability and in the administrative record supporting this notice.

**DATES:** Submit your comments by September 20, 1999.

**ADDRESSES:** Submit comments to Mr. John Tinger at the following address: US EPA, Engineering and Analysis Division (4303), 401 M. St. SW, Washington, DC 20460.

The data and analyses being announced today are available for review in the EPA Water Docket at EPA Headquarters at Waterside Mall, Room EB–57, 401 M. St. SW, Washington, DC 20460. For access to the docket materials, call (202) 260–3027 between 9:00 a.m. and 4:00 p.m. for an appointment. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** For additional technical information, contact Mr. John Tinger at (202) 260–4992 or at the following e-mail address: Tinger.John@epa.gov. For additional economic information contact Mr. George Denning at (202) 260–7374 or at the following e-mail address: Denning.George@epa.gov.

**SUPPLEMENTARY INFORMATION:**

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X. Presentation of Concentration-Based Limitations

## I. Purpose of This Notice

On June 25, 1998 (63 FR 34685), EPA proposed regulations for the Transportation Equipment Cleaning Point Source Category. EPA has received numerous comments and data submissions concerning the proposal. In this document, EPA is making these new data submissions available for comment. Additionally, EPA is providing a discussion of additional analyses performed relating to specific issues raised by commenters. EPA is also presenting a revised approach to several aspects of the proposal which received numerous comments. EPA solicits comment on all revised approaches that EPA will consider for final action.

## II. Data Acquired Since the Proposal

Since proposal, EPA has obtained additional data and information from the industry, publicly owned treatment works (POTWs), and the Agency's continued data collection activities. The Agency has included these data, information, and the preliminary results of EPA's evaluation in sections 15 through 22 of the supporting record of this document, available for review in the Water Docket (see **ADDRESSES** section). The industry and POTW information and data submittals are related to cost of treatment, pass through of pollutants at POTWs, and site visit reports from several facilities visited since proposal. The specific data, information, and comments provided to EPA are discussed in detail throughout the following sections of this document.

The Agency collected treatment performance data from two additional Barge/Chemical & Petroleum facilities operating BPT/BAT treatment. The data consisted of effluent self monitoring data for conventional pollutants over a one year period from both facilities, and effluent self monitoring data for priority pollutants over a one year period from one facility, totaling approximately 190 effluent data points. The facilities also provided self monitoring data for chemical oxygen demand (COD) at the influent to biological treatment over the same time period. Complete site visit reports, raw data results, and statistical methodology are available for review in sections 17 and 21 of the supporting record of this document. EPA recalculated the BPT concentration-based effluent limitations and new source performance standards for biochemical oxygen demand (BOD) and total suspended solids (TSS) based on effluent data from these two facilities.

## III. Concentration-Based Limitations

EPA proposed to establish mass-based rather than concentration-based limits for the TEC industry, specified as grams of pollutant per tank cleaned. Numerous stakeholders have identified potential difficulties with implementing mass-based limits as proposed. In proposing mass-based limits, the Agency envisioned that the allowable discharge by a facility would be based on the average number of tanks cleaned at that facility on an annual basis. One of the main difficulties with this approach is the high variability in the number of tanks cleaned by a facility. The nature of a service industry is such that a tank cleaning facility has little control over the number of tanks which are brought in to be cleaned on a daily, monthly, or yearly basis. It is similarly difficult to predict the number of tanks that a facility will clean in an upcoming year. The Agency agrees with commenters that this variation may make it difficult to develop appropriate mass-based limits for a facility.

Additionally, the Agency agrees with stakeholders who have stated that the amount of wastewater necessary to clean a tank is dependent on several factors which may make it difficult for a permitting authority to develop appropriate mass based limits. These factors may not have been fully accounted for in the Agency's calculation of the regulatory flow per tank which was used to establish mass-based limits. For example, the amount of water necessary to clean a tank depends on the cargos accepted (products such as molasses and tar will require more water), the type of tanks cleaned (a tank with an interior frame will require more water to clean), and the condition of the tank (some barges are only cleaned every few years and may have accumulated significant amounts of residue which would require greater volumes of water to clean). Because of the variation in the water volumes which may be necessary to clean a tank, EPA agrees that the regulatory flow per tank developed in the proposal may not be appropriate for some facilities. This in turn could lead to inappropriate calculations of mass-based limits, since mass-based limits are calculated on the basis of flow.

Based on these comments and due to the potential difficulties of implementing mass-based limits, EPA will consider promulgating concentration-based limits for the final regulation. Because of this possibility, EPA has presented revised effluent limitations, pretreatment standards and new source performance standards as concentration-based standards for all subcategories in tables at the end of this notice.

Although EPA will consider promulgating concentration-based limits, EPA believes that there would remain an economic incentive for facilities to use as little water as possible in their cleaning operations. In the cost model developed for the proposal, for example, EPA has assessed the cost to install water conservation measures as well as various end-of-pipe wastewater treatment technologies. EPA has determined that the compliance cost to the industry is generally less when water conservation measures are employed. EPA has therefore continued to cost wastewater flow reduction as a component of treatment options in the truck and rail subcategories, even though it may decide to promulgate concentration-based limits. For the Barge/Chemical & Petroleum Subcategory, however, EPA has eliminated costs for flow reduction because of the high variability in wastewater volumes required for barge cleaning.

EPA solicits comment on setting concentration-based limitations.

## IV. Modification to Subcategorization Approach

In the proposal, the Agency solicited comment on an approach to subcategorization that would combine the chemical and petroleum subcategories.

The majority of stakeholders submitting comments supported combining the petroleum and chemical subcategories in order to facilitate implementation of the rule. Stakeholders have identified several specific examples of products and situations where it may be difficult to clearly determine whether a facility would be subject to the chemical or petroleum limitations. EPA agrees that the proposed definition of the petroleum and chemical subcategories are not as clear as the Agency would prefer.

One option to address this would be for EPA to clarify the definitions of the petroleum and chemical subcategories, and therefore to clarify the definitions of

''petroleum'' and ''chemical'' cargos. In this instance, EPA would have to make the definitions much more specific to address the numerous applicability issues raised in comments by amending the definition or by specifically listing a significant number of products. EPA believes that this may not be the best approach because it may increase confusion by creating a set of unwieldy definitions which still may not be able to address all potential regulatory circumstances.

In addition, many parties requested that EPA simplify the TEC rule so as to create as little ambiguity as possible. Of particular concern to affected parties was that EPA provide unambiguous, straightforward definitions which provide clear direction for implementation. Therefore, EPA does not believe that augmenting the definition of the petroleum and chemical subcategories would be the best option.

Due to concerns with implementing the subcategorization approach as proposed and the support for this change by commenters, EPA will consider combining the petroleum and chemical subcategories. EPA believes that this approach may provide the most unambiguous and implementable subcategorization scheme.

However, EPA realizes that combining these subcategories would have the consequence of bringing 37 petroleum facilities which the Agency had previously concluded did not merit regulation under coverage of the TEC rule. In the proposal, EPA tentatively decided not to establish limits for the petroleum subcategories due to the low pollutant loadings associated with this segment of the industry. One of the greatest differences in wastewater characteristics between the chemical and petroleum subcategories was the amount of wastewater generated from tank cleaning. Generally, petroleum facilities generate significantly less water than chemical facilities. For example, 288 truck chemical facilities generated 708 million gallons per year of interior cleaning wastewater (average of 2.5 million gallons per facility per year), compared to 34 truck petroleum facilities which generated 2.5 million gallons per year (average of 74,000 gallons per facility per year). For the rail facilities, 38 chemical grade facilities generated 91 million gallons per year (average of 2.4 million gallons per facility per year) compared to three petroleum facilities which generated 2,800 gallons per year (average of 930 gallons per facility per year). The low pollutant loadings associated with the petroleum subcategories can be predominantly attributed to the low wastewater volumes generated from cleaning petroleum products. As discussed in Section V of this notice, EPA is also considering a low flow exclusion of 100,000 gallons per year of regulated TEC process wastewater. As stated above, one reason for not regulating facilities in the petroleum subcategories was due to the low pollutant loads generated by this subcategory. Twenty eight of the 37 facilities in the proposed Truck/Petroleum and Rail/Petroleum Subcategories discharge less than 100,000 gallons of wastewater per year. These facilities also generate much less than 1% of the industry loadings calculated for proposal. Thus, EPA continues to believe that the majority of petroleum facilities do not merit regulation. EPA believes that the approach of excluding facilities on the basis of flow rather than on the basis of cargo would result in a more implementable regulation, and that these changes would be consistent with the rationale and conclusions reached in the proposal.

The combined result of the revised subcategorization approach and low flow exclusion is that one model facility (representing nine facilities) excluded at proposal would be added to the Truck/Chemical & Petroleum Subcategory. This model facility was evaluated as a small business in the impacts analysis and Small Business Regulatory Enforcement Fairness Act (SBREFA) panel report and review (section 12, DCN T10301 of the proposed record) and dischargers approximately 200,000 gallons per year of TEC wastewater. This facility does not experience closure as a result of compliance costs in the Truck/Chemical & Petroleum Subcategory. In addition, one model facility (representing 11 facilities) previously regulated in the Truck/Chemical Subcategory would be excluded from the regulation.

In the Rail/Chemical & Petroleum Subcategory, two model facilities (representing 8 facilities) previously covered at proposal would be excluded from the regulation if EPA adopts the low flow exclusion. The complete revised costs, loads, and impacts for the subcategories are discussed in section IX of this document.

In addition to combining the chemical and petroleum subcategories, EPA will also consider combining the Truck/Food, Rail/Food, and Barge/Food Subcategories. In the proposal, subcategorization was necessary because the truck, rail, and barge facilities had different regulatory flows per tank which resulted in different mass-based limits for each subcategory. However, if EPA decides to promulgate concentration-based limits, subcategorization by transportation mode is unnecessary and EPA will likely promulgate one set of limits for all food subcategories.

EPA solicits comments on the alternative subcategorization approach that combines the chemical and petroleum subcategories for rail and truck cleaning facilities.

## V. Low Flow Exclusion

In the proposal, EPA considered establishing a minimum flow level for defining the scope of the regulation. EPA conducted an analysis of the loads discharged by low flow facilities, but concluded that these facilities discharged proportional loadings and therefore EPA did not propose a low flow exclusion.

Several commenters noted that the lowest flow level EPA considered for an exclusion was 2,000 gallons per day. They suggested that the Agency consider a flow exclusion based on a lower level of wastewater generation. The commenters noted that several POTWs have successfully implemented low flow exclusions of 300 to 500 gallons per day. In order to address these comments, EPA conducted an analysis to determine the effect of a low flow exclusion at 100,000 gallons per year of regulated TEC process wastewater. This equates to approximately 400 gallons per day (assuming 250 days of operation), as was suggested by the commenters. EPA believes that an exclusion based on annual flow is more appropriate than daily flow due to the potential daily variation in wastewater generation rates.

Based on this analysis, EPA found that 28 of 37 facilities in the proposed Truck/Petroleum and Rail/Petroleum Subcategories would qualify for the low flow exclusion. Additionally, 11 indirect discharging Truck/Chemical facilities and eight indirect discharging Rail/Chemical facilities would qualify for the exclusion. One model direct discharging Barge/Chemical & Petroleum facility (representing three facilities) would be excluded because the majority of wastewater generated at this facility is subject to another categorical standard, and the facility generates a small amount of TEC wastewater incidental to its main business.

As discussed in section IV, EPA will consider combining the chemical and petroleum subcategories for the Truck and Rail segments of the industry. EPA therefore analyzed the low flow exclusion in terms of this combined

subcategorization. EPA determined that the loads from the facilities discharging less than 100,000 gallons per year generated much less than 1% of the total loads for the entire truck and rail subcategories.

Due to the very low loadings associated with facilities discharging less than 100,000 gallons per year, EPA will consider adopting a low flow exclusion from this regulation for the TEC guideline. Additionally, EPA has received comments from commercial and manufacturing facilities that may clean a small number of tanks which may not clearly qualify for the exclusion of manufacturing facilities. EPA believes that the adoption of a low flow exclusion will have the benefit of providing flexibility to these facilities which may be unsure of their regulatory status under the TEC guideline.

EPA envisions that the low flow exclusion would apply to any facility which discharges less than 100,000 gallons per year of regulated TEC process wastewater. Regulated TEC wastewater includes only wastewater generated from a regulated TEC subcategory. Process wastewater includes all wastewaters associated with cleaning the interiors of tanks including, but not limited to: tank trucks; rail tank cars; intermodal tank containers; inland tank barges; and ocean/sea tankers used to transport commodities or cargos that come into direct contact with the tank or container interior. TEC process wastewaters also include wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC-contaminated stormwater. The revised costs and loads discussed in section IX of this document reflect the deletion of model facilities that discharge less than 100,000 gallons per year of regulated TEC process wastewater.

Facilities discharging less than 100,000 gallons per year of regulated TEC process wastewater will remain subject to limitations and standards established on a case by case basis using best professional judgement by the permitting authority.

EPA requests comment on the low flow exclusion from this regulation of 100,000 gallons per year. EPA additionally requests comment on alternative low flow exclusions between 100,000 and 500,000 gallons per year. EPA notes that an exclusion set at 200,000 gallons per year would exclude the one remaining model facility in the Truck/Chemical & Petroleum Subcategory that EPA did not originally intend to regulate as part of the proposed Truck/Petroleum Subcategory. EPA will analyze the economic and environmental effects of an exclusion set at this flow level and may consider such an exclusion for the final rule.

## VI. Revision of Pollutant Loading Estimates

In the proposal, the Agency calculated pollutant loadings for each regulatory option in each subcategory based on the set of pollutants effectively removed by the treatment technology. These loadings were then used for evaluating the various technology options in each subcategory.

In order to determine the list of pollutants effectively removed, EPA used a set of editing criteria to identify pollutants of interest in the subcategory, and to determine which pollutants were effectively treated by the regulatory option. In general, pollutants were only included in the analysis if they were detected in raw wastewater samples from more than one facility, were detected at an average concentration at least five times the minimum level of quantification (ML), and were removed by 50% or more in the proposed treatment option. These criteria were used to ensure that the pollutants were present at treatable concentrations in raw wastewaters, and that the presence of the pollutant was representative of the industry's wastewater, as described in section VIII.C of the proposal.

In the proposal, EPA described that it used a modified set of editing criteria for pesticide and herbicide pollutants than was used for the other pollutants. Due to the relative toxicity of some pesticides and herbicides even at low levels, the Agency proposed that any pesticide or herbicide detected in any raw wastewater sample be considered a pollutant of interest. No other editing criteria were used to determine if a pesticide or herbicide was a pollutant of interest for the industry.

Many commenters were concerned that the pesticides and herbicides account for a large portion of the toxic loads in the Truck/Chemical and Rail/Chemical Subcategories. Several commenters disagreed with the adoption of modified screening criteria and questioned whether these pesticides and herbicides were actually present in raw wastewaters. Specifically, several of the pesticides and herbicides which contributed a significant portion of the toxic loadings were detected at only one or two facilities, and/or were found at levels only slightly above the ML. Also, commenters noted in several instances that the laboratory results from the primary and secondary columns differed by more than a factor of three, thereby resulting in a ''best obtainable'' qualification of these data. Notably, the detects for coumaphos and azinphos ethyl, which accounted for 74% of the pound equivalent removals in the Truck/Chemical Subcategory Option II, both had this data qualifier. In these instances, commenters argued that the presence of the pesticides and herbicides in the analytical samples may be the result of matrix interference due to the low quantification levels.

Consequently, EPA reviewed the data to confirm that the target analytes were appropriately identified and quantified. EPA reviewed laboratory calculations; compared the database, summary hard copy, and raw data results for transcription errors; double checked all QC data; and evaluated the chromatograms and other raw data. EPA concluded that all calculations were correct and no transcription errors were present among the raw data, summary level, and database results. Blank results showed no signs of contamination, and all calibration verification and ongoing precision and recovery results were within acceptable limits. In addition, surrogate standards, which are spiked into each of the field samples, generated acceptable recoveries. An evaluation of the chromatograms for these samples confirmed that azinphos ethyl and coumophos were appropriately identified within the respective retention time windows of both the primary and secondary columns. The results of this analysis, including the chromatograms, are available for review in section 17.2 of the supporting record for this document.

In instances where the values obtained from the primary and secondary columns differed, the final result reported in the database and used for all Agency calculations is the lower of the two values. This only affected raw wastewater values because effluent wastewater concentrations were generally found below the quantification level, and were therefore set at the ML. Therefore, EPA has consistently used the lowest of the potential sampling values for determining the raw wastewater concentrations, and has used the highest of the potential sampling values for effluent concentrations. This is a conservative approach that likely results in a low bias in subsequent pollutant reduction estimates.

Although the Agency has confirmed the presence of these analytes in wastewater samples, the Agency agrees with commenters that there are concerns about the level of certainty that can be achieved when such low quantification levels are involved. This is a particular concern due to the significant impact that pesticide and

herbicide removals had on the calculation of toxic loadings. Therefore, the Agency is considering applying the same editing criteria to pesticides and herbicides as were established in the proposal for all other pollutants.

In this case, EPA would only consider those pollutants detected at more than one wastewater characterization sample and at an average concentration at least five times the ML as a potential pollutant effectively removed. Although EPA has concluded that pollutants such as azinphos ethyl and coumophos are indeed present in TEC wastewaters, EPA also believes that it may be appropriate to utilize the same criteria for pesticide/herbicide pollutants as were used in the proposal for all non-pesticide/herbicide parameters.

EPA has therefore re-evaluated its list of pollutants effectively removed for each subcategory, applying the applicable criteria to pesticides and herbicides. Under this approach, several pesticides and herbicides would be deleted from the list of pollutants effectively removed. This would in turn significantly decreased the toxic pound equivalents attributed to raw and treated TEC wastewaters.

In section VIII of the proposal, EPA also discussed analytical results for dioxins and furans in raw wastewater for the TEC industry. EPA did not include dioxins and furans in the loadings calculations because EPA assumed that these were isolated, site-specific instances. EPA received several comments disagreeing with the Agency's assumption. In response to this, EPA re-evaluated the presence of dioxins and furans in wastewater based on the standard editing criteria described above. EPA found that several pollutants met the editing criteria to be considered a pollutant effectively removed, and EPA has therefore included several dioxin and furan removals in the loadings calculations.

The revised removals of toxic pound equivalents by each technology option are presented in section IX of this document. EPA solicits comment on the revised methodology for calculating pollutant removals.

## VII. Discussion of Applicability Issues

### *A. Coverage of IBCs*

In the proposal, EPA indicated that it did not intend to regulate wastewater generated from Intermediate Bulk Containers (IBCs) for several reasons discussed in the preamble and in the report prepared by the Small Business Advocacy Review Panel. IBCs were defined in the proposal as portable containers with 450 liters (119 gallons) to 3000 liters (793 gallons) capacity. Although EPA did not have data to calculate the loads associated with IBC cleaning, EPA assumed that the loadings generated from IBC cleaning were not a significant portion of the loadings of the TEC industry. EPA based this assumption on several data comparisons. First, based on responses to the 1994 detailed questionnaire (section 6.3. DCN T09842 of the proposed record), EPA estimated that 84,500 IBCs per year were cleaned by the TEC industry. This accounted for only 3% of the units cleaned at TEC facilities. Second, EPA assumed that wastewater generated from IBCs is similar to that of the drum reconditioning industry. EPA reasoned that IBCs were being used as a replacement for 55 gallon drums, and that the cargos being transported in IBCs were similar to those being transported in drums. Therefore, resulting IBC wastewater would be expected to be similar to that of drum reconditioning wastewater. EPA had conducted The Preliminary Data Summary for the Drum Reconditioning Industry (EPA 440/1–89/101 September 1989), and EPA concluded at that time that the industry did not merit national regulation. Drum reconditioning facilities were therefore not considered within the scope of the TEC guideline, and EPA concluded that IBCs should also be excluded from the scope of this guideline.

EPA has received comments which have both agreed and disagreed with the Agency's proposal to exclude IBCs from the scope of the TEC regulation. The most significant comments received on the IBC issue have described the changes in the industry since EPA's data collection efforts. In 1989, the Preliminary Data Summary for the Drum Reconditioning Industry did not collect any data on IBCs because so few IBCs were being used by the industry. By 1994, according to responses to the detailed questionnaire for the TEC industry, over 84,000 IBCs were being cleaned at TEC facilities. Data submitted by commenters have shown that IBC cleanings have increased dramatically in each year since EPA's survey. Based on data provided in comments, EPA now believes that there are up to several million IBCs being cleaning annually.

In the preamble, EPA solicited comment on the loads associated with IBC cleaning, and on the assumption that IBC wastewater was similar to drum reconditioning wastewater. Although no commenters provided data on the raw wastewater characteristics of IBC cleaning wastewater, several commenters did provide information on the amount of heel associated with IBCs as compared to that from drums and tank trucks. As several commenters noted, most IBCs are cleaned at facilities which have historically cleaned either drums or tank trucks, and IBC wastewater is therefore commingled with drums or tank truck cleaning wastewater. For this reason, EPA was unable to obtain wastewater sampling data which would be representative of wastewater generated solely from cleaning IBCs.

In terms of the amount of heel contained in an IBC, one commenter who supports coverage of IBCs said that IBCs typically contain between 0.5 to two gallons of heel. In comparison, a tank truck typically contains one to two gallons of heel, but may contain up to five to 10 gallons of heel for more viscous products. Another commenter who supports no regulation for IBCs noted that IBCs that have carried hazardous waste must contain less than one gallon of residue to be processed by a reconditioner, less than one inch of heel (typically 1.6 gallons) for more viscous products for containers less than 110 gallons, or less than 0.3% residue for containers greater than 110 gallons (approximately 0.83 gallons for a 275-gallon IBC) to be considered RCRA empty.

The 1994 questionnaire for the TEC industry gave similar results, with tank trucks containing <1 to 9 gallons of heel for non-food grade products, and IBCs containing <1 to 2 gallons of heel. EPA has not received any comments on whether or not the cargos transported in IBCs are similar or dissimilar to those transported by drum or tank truck. Based on site visits and conversations with the National Tank Truck Carriers Association, EPA believes that all truck facilities which clean IBCs treat IBC and tank washwater in the same wastewater treatment system, indicating that IBC and tank washwater contain similar constituents in terms of treatability. Personnel at these sites also indicated that they see no significant difference in the types of cargos transported in IBCs or tank trucks. EPA believes that all drum reconditioning facilities that clean IBCs also treat IBC and drum washwater in the same wastewater treatment system.

Based on the increase in IBC cleaning and on the heel generation rate from IBCs, EPA no longer believes that wastewater generated from IBC cleanings represents an insignificant amount of pollutant loadings.

The Association of Container Reconditioners argued that IBCs should be considered industrial packaging units and should be regulated similarly to drums because IBCs are closer in nature

to drums than to tank trucks. The commenter argued that IBCs (typically 275 gallons) are closer in volume to drums (55 gallons) than tank trucks (typically 3,000 gallons), and that IBCs are replacing drums, not tank trucks, in the industry because of their increased efficiency and ability to be re-used. The commenter further stated that this designation is consistent with policies developed by the Department of Transportation, which includes IBCs with drums as industrial packaging units.

EPA agrees that IBCs are more similar to drums than transportation equipment, and continues to believe that wastewater generated from IBC cleaning is outside the scope of this guideline. However, EPA does agree with commenters that IBC wastewater may represent more loadings than was originally considered at proposal. Due to this, EPA is conducting a preliminary evaluation of the industrial repackaging industry, which includes cleaning drums and IBCs, to determine if this industry merits development of national categorical wastewater regulation at a later date. Wastewater generated from IBC cleaning will remain subject to limitations and standards established on a case by case basis using best professional judgement by the permitting authority.

One issue that was raised in comments by the National Tank Truck Carriers Association (NTTC) as a result of EPA proposing to exclude IBCs was the issue of market competition. NTTC argues that tank truck cleaners would suffer a competitive disadvantage from the IBC cleaning business if tank trucks were required to comply with the regulation but IBCs were not covered by the regulation. The commenter argued that a tank truck facility would be subject to effluent guidelines and that IBC wastewater generated at the facility would therefore also be subject to the guidelines, thereby increasing the cost of IBC cleaning at tank truck facilities as compared to the cost at drum reconditioning facilities. EPA agrees that most tank truck facilities commingle wastewater generated from IBC and tank cleaning for treatment, and that IBC wastewater would therefore be subjected to guidelines established for the TEC industry. NTTC further argues that a facility not subject to the TEC guideline, such as a drum reconditioning facility, is not subject to national effluent guidelines and therefore may not incur a similar cost increase for IBC cleaning. EPA realizes that, even if the Agency decides to establish effluent limitations, guidelines and standards for the container reconditioning industry, there may be an interim period where wastewater from IBC cleaning at tank truck facilities may incur additional costs while wastewater from IBC cleaning at drum reconditioning facilities would not incur this cost. This may have an impact on the market for IBC cleaning if the costs are significant.

EPA conducted a market analysis based on the TEC cost model, data submitted in comments, and data gathered by EPA since the proposal. The complete analysis can be found in section 20 of the regulatory record in support of this document. EPA does not have sufficient data to compare the number of IBC cleanings conducted by TEC affected tank truck facilities to the number of IBC cleanings conducted at facilities unaffected by the guideline. Therefore, EPA relied on an analysis of the incremental compliance cost of IBC cleaning that would result from this rule, and compared that to the potential market effects that this increase would have on TEC facilities.

In order to determine the incremental cost per gallon of wastewater treated as a result of the TEC regulation, EPA divided the facility-specific annualized compliance costs by the facility's annual baseline wastewater flow. The incremental cost for IBC cleaning was determined by assuming that 100 gallons of wastewater generated per IBC cleaning would be treated at the facility's treatment system. EPA estimated 100 gallons per cleaning based on facility site visits, comments received on the proposal, and the 308 Detailed Questionnaire. The incremental costs are a result of the additional operation and maintenance costs associated with this wastewater flow. This is consistent with an assumption that the primary business of TEC facilities is cleaning tank trucks, and that capital equipment for wastewater pollutant control is installed for, and effluent monitoring is performed for, tank truck cleaning. Based on this analysis, EPA estimates that the average cost increase incurred by tank truck facilities to clean an IBC as a result of this regulation would be $0.38 per IBC. This represents a cost increase of less than 1% for IBC cleaning at TEC facilities, assuming an average cost per cleaning of $65 to $100.

For a sensitivity analysis, EPA also looked at the total post-tax annualized compliance costs (including annualized capital and monitoring costs in addition to operating and maintenance costs) to determine an upper bound estimate of incremental IBC cleaning costs. For this analysis, EPA found that the full compliance costs of installing capital equipment and monitoring requirements to treat IBC wastewater would increase by a maximum of $1.10 per cleaning, representing less than 2% cost increase for the most conservative assumption.

Based on this analysis, EPA believes that the cost increase to clean IBCs will not have a significant impact on the competitive ability of tank truck carriers to compete for the IBC cleaning market.

EPA solicits comment on the assumptions, methodology, and conclusions of the market analysis conducted by EPA on the effect of not including IBCs within the scope of the TEC regulation. EPA solicits any information on the price of IBC cleaning, the volume of wastewater generated from IBCs, the economic importance of IBC cleaning to affected facilities, and the relative market shares of different types of facilities engaged in IBC cleaning.

*B. Overlap With Other Guidelines*

EPA has received numerous comments from industrial facilities that are concerned that they may be affected by the TEC guideline. In the proposal, EPA noted that there may be instances when the TEC guideline may overlap with other categorical effluent guidelines.

In the proposal, EPA explained that it does not intend to cover manufacturing facilities which clean their own transportation equipment and treat the wastewater in their treatment system. EPA has outlined its rationale for the exclusion of manufacturing facilities in the proposal. This rationale includes: (1) That wastewater generated from tank cleaning operations at manufacturing facilities is typically a very small percentage of the total flow, (2) that tank cleaning wastewater is typically included in the coverage of the applicable categorical standard, and (3) that the characteristics of the tank cleaning wastewater are similar in treatability to the wastewater generated at the rest of the facility.

EPA has proposed to define the exclusion for manufacturing facilities by excluding those facilities covered, or proposed to be covered, under other Clean Water Act categorical standards. This has excluded most manufacturing facilities in operation, including facilities covered under Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) (40 CFR part 414); Centralized Waste Treatment (CWT) (proposed 40 CFR part 437, 60 FR 5464, January 27,1995; supplemental proposal 64 FR 8, January 13, 1999); Dairy Products Processing Point Source Category (40 CFR part 405); Inorganic Chemicals Manufacturing Point Source Category

(40 CFR part 415); and Petroleum Refining Point Source Category (40 CFR part 415).

Based on the data collected in preliminary studies for certain industries (e.g., Chemical Formulators, Packagers, and Repackagers, Paint Formulators), EPA determined that development of effluent guidelines was not necessary. TEC wastewaters generated by these facilities in these industries are excluded from the applicability of this rule.

In addition, EPA further qualified the exclusion by stating that the exclusion applies only to facilities which clean ''tanks containing cargos or commodities generated or used on-site, or by a facility under the same corporate structure.'' EPA used this qualifier to ensure that a manufacturing facility does not become a commercial TEC operation without being subject to this rulemaking, and that the excluded facility only cleans those cargos which are compatible with the existing wastewater treatment system.

Based on comments received on the proposed rule, EPA believes that it should consider making the exclusion somewhat broader in order to encompass TEC activities which fall within EPA's rationale for exclusion, yet which may fall outside the definition of ''on-site'' or ''same corporate structure.'' Commenters have identified several areas which EPA intends to address in this exclusion: product stewardship activities, tolling or contract manufacturing operations, and manufacturing agreements that are part of divestitures, partnerships, or joint-ventures.

Several commenters to the proposed rule indicated that product stewardship activities are intended to promote recycling and reuse of products, and to reduce the environmental impact of chemical products. Product stewardship activities may include taking back: spent, used, or unused products; containers (i.e., those used for shipping) with product residues; off-specification products; and waste materials from use of products. Where possible, these materials are recovered and reused in chemical processes at the manufacturing plants. Returned materials that are not reusable, or residues that remain after reuse, are usually treated or disposed in the existing on-site wastewater treatment system, incinerator, or placed in an appropriately regulated landfill.

Tolling or contract manufacturing operations are described by commenters as an arrangement used in the chemical industry to enable a company to contract with a second company (i.e., a ''toller'') to engage in specified production activities on behalf of the first company. Toll manufacturers often perform one step in a customer's multi-step process, such as production of an intermediate, and are often an integral part of the supply chain for the customer's final product. Raw materials used by toll manufacturers are often provided by the primary manufacturer and the toller returns the intermediate along with any by-products and waste materials.

Commenters also provided input on manufacturing agreements that are part of divestitures, partnerships, or joint-ventures. Commenters felt that manufacturing complexes that have individual operating units or have created joint venture partnerships under separate legal ownership should still be considered ''on-site'' for the purposes of the TEC rulemaking, provided: The facilities continue to manufacture the same products and generate the same wastewater destined for the same on-site treatment system, including TEC wastewater. Any infrastructure operations such as waste treatment and TEC operations continue to be provided to the new company per an agreement established at the time of divestiture or formation of the joint venture partnership.

In each of these cases, commenters believe that the wastewaters generated from performing TEC activities is very similar to that generated by the primary manufacturing facility. If TEC wastewaters are returned to the primary manufacturing facility, or TEC wastewaters are generated from cleaning tanks containing materials returned to the primary manufacturer, these facilities should be considered under the control of the primary manufacturer and excluded from the TEC regulation.

EPA believes that these activities satisfy the proposed exclusion rationale because: (1) TEC wastewater comprises a very small percentage of flow, (2) TEC wastewater is typically included in the coverage of the applicable categorical standard, and (3) TEC wastewater characteristics are similar in treatability to wastewater generated by other facility operations. Therefore, EPA will consider excluding TEC wastewater generated at manufacturing facilities which have resulted from product stewardship activities, tolling or contract manufacturing operations, and manufacturing agreements that are part of divestitures, partnerships, or joint-ventures.

However, EPA is rejecting the comment that all manufacturing facilities simply be excluded from the TEC guideline. EPA does not believe that a manufacturing facility which accepts off site cargos for cleaning should be excluded because the wastewater generated from these cargos may not be compatible with the treatment system in place and may not be compatible with the existing discharge limitations established for that facility. Additionally, this blanket exclusion could allow a manufacturing facility to become a for-profit tank cleaner without comparable environmental controls.

Although EPA is not providing a blanket exclusion for manufacturing facilities, EPA will consider a low flow exclusion of 100,000 gallons per year for TEC wastewaters as discussed in section V. EPA believes the exclusion would provide some flexibility to manufacturing facilities which clean small numbers of tanks which may not fit into the strict definition given for the exclusion of tank cleaning operations at manufacturing facilities.

EPA is considering the following language to exclude these manufacturing facilities: ''The final TEC limitations do not apply to wastewaters associated with tank cleanings operated in conjunction with other industrial or commercial operations so long as the facility only cleans tanks that have contained raw materials, by-products and finished products that are associated with the facility's on-site processes.'' On-site means the contiguous and non-contiguous property within the established boundary of a facility.

With regard to the overlap with the Metal Products and Machinery (MP&M) guideline, EPA has also received numerous comments, many of them asking the Agency to more clearly distinguish an MP&M facility from a TEC facility.

In the proposal, EPA stated that facilities which are predominately engaged in MP&M operations and clean barges, railcars, or tank trucks as part of those activities are proposed to be regulated by the MP&M guideline and are excluded from this guideline. EPA has received numerous comments asking EPA to more clearly define what is meant by ''predominantly engaged.''

One commenter suggested that EPA use flow as a basis for the determination; facilities should be covered under the guideline that generates the largest flow volume. Although this would be a relatively straightforward definition, EPA does not believe that flow volume represents the best method for determining TEC or MP&M applicability. EPA believes that the activities performed at the site (both tank cleaning and maintenance and repair), and the objective of those

activities, have a more significant impact on the total final effluent loads and wastewater characteristics than the actual flow volume generated.

However, EPA does agree with commenters that the Agency needs to further clarify when a facility is to be subject to the TEC guidelines or the MP&M guidelines. Therefore, EPA has attempted to further define wastewaters subject to the TEC guideline, according to the following:

Wastewater generated from cleaning tank interiors for the purposes of maintenance and repair on the tank is considered MP&M process wastewater and is subject to the MP&M guideline. Facilities which clean tank interiors solely for the purposes of repair and maintenance would be solely regulated under the MP&M guideline.

Wastewater generated from cleaning tank interiors for purposes of shipping products (i.e., cleaned for purposes other than maintenance and repair) is considered TEC process wastewater and is subject to the TEC guideline. If EPA promulgates a 100,000 gallons per year low flow exclusion, only facilities which discharge more than 100,000 gallons per year of TEC process wastewater would be subject to the TEC guideline.

It is possible that a facility may be subject to both the TEC regulations and the MP&M regulations. If a facility generates wastewater from MP&M activities which are subject to the MP&M guideline and also discharges wastewater from cleaning tanks for purposes other than repair and maintenance of those tanks, then that facility may be subject to both guidelines.

At the time of proposal, EPA included all facilities which would potentially be covered by the MP&M guideline in the analysis of costs and impacts due to the uncertainty of the classification of these facilities. Based on the new definition, which EPA believes more clearly defines an MP&M facility, EPA has collected additional data on those facilities which indicated in the 308 survey that they perform a predominant amount of MP&M activities. Based on this data, EPA determined that several facilities proposed to be covered by the TEC rule would now not be affected by the TEC rule. These facilities have been excluded from EPA's analyses, the results of which are described in section IX of this document.

EPA solicits comment on the revised applicability language of the rule, including the definition ''MP&M generated wastewaters.''

## VIII. Modification to Pollutants Selected for Regulation

In the proposal, EPA solicited, and has received, numerous comments from stakeholders on the pollutants selected for regulation in each subcategory. EPA is considering several changes based on the comments received. The tables in section X present limitations and standards for the revised set of pollutants EPA will consider for regulation. EPA solicits comment on the list of analytes being considered for regulation in all subcategories.

### *A. Oil and Grease and Non-Polar Material as Indicator Parameters*

EPA has revised the name of ''total petroleum hydrocarbons'' in Method 1664 to ''non-polar material'' to indicate that the new test method is different from previous versions. (64 FR 26315, May 14, 1999). Non-polar materials are measured by Silica-gel Treated n-Hexane Extractable Material (SGT-HEM). Oil and Grease continues to be synonymous with the Method 1664 for n-Hexane Extractable Material (HEM).

EPA received numerous comments from POTWs, industry trade associations, and affected facilities suggesting that EPA use oil and grease (measured as HEM) and total petroleum hydrocarbons (now referred to as ''non-polar materials'' measured as SGT–HEM) as indicator pollutants for straight chain hydrocarbons proposed for regulation. In the proposal, EPA proposed to regulate HEM for direct discharging facilities, and SGT–HEM for indirect discharging facilities. As discussed in section XIII.G of the proposal, EPA recognizes the distinction between edible oils (such as animal fats and vegetable oils) included in the HEM analysis, and petroleum based oils as measured by the SGT–HEM analysis. As discussed in section VIII.B of this document, EPA has deemed SGT–HEM to pass through a POTW due to the prevalence of petroleum based compounds.

Many commenters argued that straight chain hydrocarbons are components of HEM and SGT–HEM, and that their regulation would be redundant and would impose additional, unnecessary costs on the industry. EPA agrees with the commenters that HEM and SGT–HEM are good indicator parameters for a number of pollutants proposed for regulation. EPA believes that the following pollutants would be adequately controlled through the regulation of HEM and SGT–HEM: n-Hexadecane, n-Tetradecane, n-Decane, n-Docosane, n-Dodecane, n-Eicosane, n-Octadecane, n-Tetracosane, and n-Tetradecane. EPA has primarily made this determination based on the similar chemical structure of these parameters which indicate that they will behave similarly in a treatment system. EPA believes that HEM and SGT–HEM are the best indicators for demonstrating treatment effectiveness for this range of pollutants with similar chemical characteristics.

EPA has reviewed the treatment effectiveness data collected in support of this regulation, and has found that the treatment effectiveness of these parameters is strongly correlated to the treatment effectiveness of HEM and SGT–HEM. In cases where HEM and SGT–HEM were effectively controlled, all of the previously discussed pollutants were treated to very low levels, often at the detection limit. For example, PSES/PSNS Option II in the Rail/Chemical & Petroleum Subcategory, consisting of oil/water separation and dissolved air flotation. This system achieved a 98% removal for HEM and 97% removal for SGT–HEM. Treatment effectiveness for the straight chain hydrocarbons listed above averaged 98% across the same system and were all treated to non-detect levels. Treatment effectiveness in the Barge/Chemical & Petroleum Subcategory demonstrated similar results.

Additionally, EPA reviewed data collected for the Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries Point Source Category (62 FR 242, December 17, 1997, proposed 40 CFR part 441), which conducted a characterization study of the HEM and SGT–HEM test methods. This study was performed to determine what individual constituents are measured by the analytical methods, and is available for review in section 16 of the regulatory record for the Industrial Laundries Effluent Guideline. This data demonstrates that the previously mentioned pollutants were found to be measured by the HEM and SGT–HEM test methods, thus supporting EPA's conclusion that HEM and SGT–HEM are good indicators of these pollutants.

### *B. Pass Through of SGT–HEM*

EPA received one comment which disagreed with the Agency's pass through conclusion for SGT–HEM. The commenter stated that SGT–HEM is adequately treated by POTWs or does not pass through and thus should not be regulated.

In the proposal, EPA did not have actual data for removals of SGT–HEM in a POTW. Instead, EPA relied on the methodology developed in the Industrial Laundries proposal, which

calculated a removal rate based on SGT–HEM constituents. One commenter, the County Sanitation Districts of Los Angeles County, disagreed with this approach and submitted five days of influent and effluent SGT–HEM using Method 1664. This information was also submitted and evaluated for the Proposed Effluent Limitations, Guidelines, and Standards for the Industrial Laundries Point Source Category (62 FR 242, December 17, 1997).

Of the five days of data, only three of the days contained usable paired data for calculating SGT–HEM removals. Two of the five days of data could not be used because one day had an effluent value greater than the influent value, and the other day did not have a reported influent concentration. A limitation of the three remaining paired data sets that were used to calculate the percent removal for SGT–HEM was that the sets did not result in a precise estimate, but only a lower bound estimate. Because the effluent concentrations were below the method detection level, a percent removal could only be calculated as ''greater than'' some value. The greater than values ranged from 37.5 percent to 73.7 percent. For the purpose of this document, EPA used the daily data with the highest influent concentration, resulting in a percent removal estimate of 74 percent for the revised pass-through evaluation.

The percent removal for SGT–HEM using one day of data from LA County (the day with the highest influent concentration) is 74 percent, compared to 65 percent POTW removal used in the proposed rule. This value is still significantly lower than the 99% removal achieved by preferred BPT treatment technologies evaluated in the Rail/Chemical & Petroleum and Barge/Chemical & Petroleum Subcategories.

EPA believes SGT–HEM has been demonstrated to pass through, and that SGT–HEM is a good indicator parameter for a number of toxic and nonconventional pollutants as discussed in section VIII.B. In addition, the use of a relatively inexpensive monitoring method for SGT–HEM justifies regulating SGT–HEM rather than individually regulating the host of pollutants controlled by such a limitation.

Additionally, several commenters from industry as well as POTW representatives have requested that EPA use oil and grease and SGT–HEM as indicator parameters for a number of other pollutants. As discussed above, EPA has reviewed the data from sampling episodes, and believes that the data clearly demonstrates a correlation between oil and grease and the pollutants listed in section VIII.B. Therefore, EPA believes that SGT–HEM does pass through a POTW, and furthermore that HEM and SGT–HEM can be used as effective indicator parameters.

## IX. Technology Options

In the proposal, EPA considered establishing 11 sets of effluent limitations, pretreatment standards or new source performance standards for six subcategories. EPA received many comments suggesting that EPA simplify the proposal in order to ease the implementation burden of the rule. In this document, EPA has described several regulatory alternatives, including the use of concentration-based limits, a low flow exclusion, combining the chemical and petroleum subcategories and combining the Truck/Food, Rail/Food, and Barge/Food Subcategories, which EPA believes will simplify the TEC rule. EPA has also considered the effects of clarification of scope in evaluating costs and loadings and in evaluating the proposed technology options.

### *A. Truck/Chemical & Petroleum Subcategory*

As mentioned previously, EPA will consider combining the proposed Truck/Chemical and Truck/Petroleum Subcategories. EPA will also consider a low flow exclusion of 100,000 gallons per year. The results presented in this section reflect these potential changes.

EPA is re-evaluating the proposed options in this subcategory in response to comments received on the proposal. The major changes that have affected this analysis include revising the list of pollutants effectively removed and adjusting the cost model. Revisions to the cost model were made based on comments received and based on a thorough review of the model by EPA. The complete list of revisions to the cost model can be found in section 19.1 of the regulatory record. In summary, EPA increased several cost factors, increased capital and annual costs for activated carbon, increased the size (and associated costs) of equalization tanks, corrected several cost model inaccuracies identified in the proposal rulemaking record, revised the methodology to credit treatment in place, and removed flow reduction for some facilities. EPA also significantly reduced the monitoring costs associated with compliance due to the selection of indicator parameters (further discussed in section VIII.B) to replace specific pollutants proposed for regulation, and use of less expensive analytical methods.

#### 1. BPT, BCT, BAT and NSPS for the Truck/Chemical & Petroleum Subcategory

In the proposal, EPA evaluated the following treatment options:

*Option I:* Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Biological Treatment, and Sludge Dewatering.

*Option II:* Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Biological Treatment, Activated Carbon Adsorption, and Sludge Dewatering.

EPA proposed to establish BPT limits based on Option II, and to establish BCT, BAT, and NSPS equivalent to BPT. In the proposal, EPA stated that all model facilities have equalization, coagulation/clarification, biological treatment, and activated carbon in place. Two of the three facilities in the cost model have sufficient treatment in place and only costs for additional monitoring are attributed to these facilities. The third facility was costed for flow reduction, sludge dewatering, and monitoring. Flow reduction and sludge dewatering generates net cost savings for the facility's entire treatment train. In addition, these net cost savings are larger than the monitoring costs incurred by the other two facilities.

EPA is not considering any changes to the option selected for this subcategory. The revised concentration-based limits for Option II are presented in section X of this document.

#### 2. PSES and PSNS for the Truck/Chemical & Petroleum Subcategory

In the proposal, EPA evaluated two treatment options, consisting of:

*Option I:* Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, and Sludge Dewatering.

*Option II:* Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Activated Carbon Adsorption, and Sludge Dewatering.

In response to comment, EPA is presenting the following additional option in this notice:

*Option A:* Flow Reduction, Equalization, Oil/Water Separation.

Option A was determined to have a post tax annualized cost of $5.5 million ($8.6 million pre-tax) for 286 affected facilities. Option I cost $9.1 million

($14.3 million pre-tax) and Option II cost $19.9 million ($31.2 million pre-tax) annualized.

EPA projects that there will be no adverse economic impacts for any option when a positive cost pass through assumption is made. However, EPA has also looked at the conservative assumption of no cost pass through, which resulted in seven closures at Option II and no closures at Option I.

Option A is projected to remove 1,700 toxic pound-equivalents, while Option I removes 26,000 and Option II removes 42,000 toxic pound-equivalents.

EPA does not believe that the lower cost Option A demonstrated significant removals of toxics to justify its selection as a regulatory option. Option A was considerably less cost effective than Option I. Additionally, EPA received comments from pretreatment authorities, including the Association of Metropolitan Sewerage Agencies (AMSA), which argued that oil/water separation alone is not effective for achieving concentration standards for the pollutants which may be discharged by tank cleaning operations.

Option II was not demonstrated to achieve significant reductions incremental to Option I for any pollutant proposed for regulation. The majority of the additional pound-equivalent removals achieved at Option II were due to the removal of a pesticide not proposed for regulation and not contributing to the monetized benefits. EPA estimates that implementation of Option I will result in monetized benefits of $2.7 million to $9.4 million (1994 dollars) annually. EPA estimates that Option II will not result in any significant additional benefits incremental to Option I.

EPA proposed to establish PSES and PSNS on Option II. Due to the high costs and potential economic impacts associated with Option II, and due to the significant removals of regulated parameters achieved by Option I, EPA will consider establishing PSES and PSNS based on Option I.

The pretreatment standards that would result based on Option I technology are presented in section X of this document. EPA solicits comment on the revised costs, benefits, and economic impacts associated with these options.

### *B. Rail/Chemical & Petroleum Subcategory*

As mentioned previously, EPA will consider combining the proposed Rail/Chemical and Rail/Petroleum Subcategories. EPA will also consider a low flow exclusion of 100,000 gallons per year. The results presented in this section reflect these potential changes.

EPA is re-evaluating the proposed options in this subcategory in response to comments received on the proposal. The major changes that have affected this analysis include revising the list of pollutants effectively removed and adjusting the cost model. Revisions to the cost model were made based on comments received and based on a thorough review of the model by EPA. The complete list of revisions to the cost model can be found in section 19.1 of the regulatory record. In summary, EPA increased several cost factors, corrected several cost model inaccuracies identified in the proposal rulemaking record, revised the methodology to credit treatment in place, and removed flow reduction for some facilities. EPA also significantly reduced the monitoring costs associated with compliance due to the selection of indicator parameters (further discussed in section VIII.B) to replace specific pollutants proposed for regulation, and use of less expensive analytical methods.

#### 1. BPT, BCT, BAT and NSPS for the Rail/Chemical & Petroleum Subcategory

In the proposal, EPA evaluated three treatment options, consisting of:

*Option I:* Flow Reduction, Oil/Water Separation, Equalization, Biological Treatment, and Sludge Dewatering.

*Option II:* Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Biological Treatment and Sludge Dewatering.

*Option III:* Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Biological Treatment, Organo-Clay/Activated Carbon Adsorption, and Sludge Dewatering.

EPA proposed Option I for BPT, and proposed to establish BCT and BAT equivalent to BPT. EPA proposed to establish Option III for NSPS.

As discussed in section VIII.B.1.c of the proposal, EPA evaluated the costs, loads, and impacts of one model direct discharging facility which currently has equalization, pH adjustment, biological treatment and a filter press in place. Because EPA is considering adopting concentration based standards, the model facility no longer incurs costs for flow reduction. EPA estimates that the cost of implementing Option I is for monitoring costs only, totaling approximately $7,000 annually; and that Option II costs $57,000 annualized, and Option III costs $85,000 annualized.

All parameters proposed for regulation, with the exception of oil and grease and N-Dodecane, were treated to the same level at Options I, II and III. As discussed in section VIII.B., EPA is no longer considering regulating N-Dodecane. For oil and grease, EPA would transfer effluent limitations from BPT biological treatment operated in the Barge/Chemical & Petroleum Subcategory because EPA does not have treatment data for a biological system operated in the Rail/Chemical & Petroleum Subcategory. Therefore, the effluent limitation established for oil and grease would be based on biological treatment which has been demonstrated to achieve significant removals. Effluent limitations for oil and grease based on Options II or III would not be significantly different than those established for Option I, and EPA therefore projects no additional benefits for Option III incremental to Option I.

EPA believes that there are few additional pollutant removals to be achieved by establishing NSPS based on Option III. EPA will therefore consider establishing NSPS equivalent to BPT, BCT, and BAT at Option I.

EPA solicits comment on establishing NSPS equivalent to BAT for the Rail/Chemical & Petroleum Subcategory. The revised concentration-based limits for Option I are presented in section X of this document.

#### 2. PSES and PSNS for the Rail/Chemical & Petroleum Subcategory

In the proposal, EPA considered three options for PSES and PSNS:

*Option I*—Flow Reduction, Oil/Water Separation.

*Option II*—Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), and Sludge Dewatering.

*Option III*—Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Organo-Clay/Activated Carbon Adsorption, and Sludge Dewatering.

EPA proposed Option I for PSES and Option III for PSNS. As discussed in section VIII.B.5.d of the preamble, the economic impacts to the industry played a large role in EPA's selection of Option I for pretreatment standards. EPA noted that its preliminary conclusion was that the Rail/Chemical facilities would not be able to absorb the cost of installing Option II levels of treatment without incurring significant economic impacts.

EPA received several comments on the pollutant control technologies

proposed for the Rail/Chemical Subcategory. EPA received comments from several entities, including AMSA, who argued that oil/water separation alone is not sufficient pretreatment for the pollutants in Rail/Chemical Subcategory wastewaters. Additionally, many commenters have expressed concern about the discrepancy in treatment technology proposed for the rail and truck facilities. Several commenters have argued that the wastewater characteristics are similar for truck and rail facilities, and that the treatment options should therefore be similar for facilities which potentially compete with each other.

In the proposal, EPA also noted this discrepancy, and noted that there were many similarities between the truck and rail subcategory wastewaters, and that the most significant reason for proposing dissimilar technology options in the truck and rail subcategories was due to economic considerations. EPA's analysis showed that several rail facilities were unable to incur the costs of a more stringent regulatory option without sustaining significant economic impacts. However, many of the rail facilities included in this analysis will qualify for the low flow exclusion for TEC wastewater. Many of these facilities which discharge low volumes of TEC wastewater would not be affected by the TEC rule if EPA adopts a low flow exclusion. EPA has therefore removed these facilities from its analysis, which has in turn affected the total costs, loads, and economic impacts of the technology options.

EPA estimates that Option I will have an annualized cost of $0.54 million ($0.82 million pre-tax), Option II will cost $0.93 million ($1.4 million pre-tax), and Option III will cost $1.5 million ($2.3 million pre-tax). EPA projects that Option I and Option II will result in annual benefits of $51,000 to $270,000.

For Options I, II, and III, EPA anticipates no closures at even the most conservative assumption of no cost pass through, and anticipates no revenue or employment impacts when a positive cost pass-through is assumed for Options I or II. For the most conservative zero cost pass through assumption, EPA calculates that Option II would result in 18 facilities experiencing revenue impacts of 1% and six facilities experiencing impacts of 3%. The less costly Option I would result in 15 facilities experiencing revenue impacts of 1% and no facilities experiencing impacts of 3%. At both options, six of the facilities experiencing 1% revenue impacts are small businesses. Option III would result in 22 facilities experiencing revenue impacts of 1% and 20 facilities experiencing impacts of 3%. At Option III, nine of the facilities experiencing 1% impacts and six of the facilities experiencing 3% impacts are small businesses.

EPA also considers the cost effectiveness of each option. The preamble to the proposal describes EPA's cost effectiveness analysis in section X. EPA uses cost effectiveness to evaluate the relative efficiency of each option in removing toxic pollutants. Option I is projected to remove 6,500 pound-equivalents, Option II will remove 7,100 pound-equivalents, and Option III will remove 7,600 pound-equivalents. The average cost effectiveness of Option I is $83 (1981 dollars) per pound-equivalent removed. The incremental cost effectiveness of moving from Option I to Option II is $533 per pound-equivalent removed, and the incremental cost effectiveness of moving from Option II to Option III is $1,282 per pound-equivalent removed.

EPA will consider establishing PSES and PSNS based on Option II. Option II achieves a significant reduction in toxic loadings and results in no facility closures. Furthermore, EPA believes it is appropriate to establish similar levels of control for the Rail/Chemical & Petroleum Subcategory and the Truck/Chemical & Petroleum Subcategory, and will therefore consider establishing PSES and PSNS at Option II, which is analogous to Option I in the Truck/Chemical & Petroleum Subcategory.

In addition, EPA notes that the total costs for Option II presented today are roughly equivalent to the costs estimated for Option I at proposal. This is primarily due to EPA reducing the burden of the regulation through reduced monitoring requirements and the consideration of a low flow exclusion.

EPA notes that the cost of Option II presented in today's notice is nearly 70% higher than the costs for Option I presented today, and the corresponding increase in pound-equivalents removed is approximately 10%. Option II is also associated with some additional economic impacts not incurred at Option I. Notwithstanding the reasons described above supporting Option II, EPA will also consider establishing PSES and PSNS based on Option I.

EPA solicits comment on the revised costs, benefits, and economic impacts associated with this subcategory and on the appropriate technology basis for pretreatment standards for new and existing sources. The revised concentration-based limits for Option II are presented in section X of this document.

*C. Barge/Chemical & Petroleum Subcategory*

EPA is re-evaluating the proposed options in this subcategory due to changes in the industry since proposal and due to comments received on the proposal. At the time of proposal, EPA noted that there was only one identified facility discharging to a POTW. Since the proposal, several model facilities that previously discharged to surface waters have begun discharging or plan to discharge wastewater to a POTW. EPA is also considering several changes in response to comment that include revising the list of pollutants effectively removed and adjusting the cost model. As discussed in section II of this notice, EPA has also collected data from two additional facilities operating BAT treatment. EPA has used this data, which represents each facilities performance over a one year period, to develop Long Term Averages (LTAs) and variability factors for BOD and TSS.

Revisions to the cost model were made based on comments received and based on a thorough review of the model by EPA. Additionally, the cost model has been adjusted to reflect the changes in long term averages for BOD and TSS. The complete list of revisions to the cost model can be found in section 19.1 of the regulatory record. In summary, EPA increased several cost factors, corrected several cost model inaccuracies identified in the proposal rulemaking record, revised the methodology to credit treatment in place, and removed flow reduction. EPA also significantly reduced the monitoring costs associated with compliance due to the selection of indicator parameters (further discussed in section VIII.B) to replace specific pollutants proposed for regulation, and use of less expensive analytical methods.

1. BPT, BCT, BAT and NSPS for the Barge/Chemical & Petroleum Subcategory

The Agency's engineering assessment of BPT consisted of the following options:

*Option I:* Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, and Sludge Dewatering.

*Option II:* Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, Reverse Osmosis, and Sludge Dewatering.

EPA proposed Option I for BPT, and proposed to establish BCT, BAT and NSPS equivalent to BPT. EPA estimates the revised annualized costs for Option I at $82,000 ($134,000 pre-tax) and

Option II at $316,000 ($494,000 pre-tax). The costs to the industry have decreased significantly for several reasons. One, EPA is no longer costing flow reduction as a required component of the regulation because EPA may not establish mass based limits. Two, several model facilities which did not employ biological treatment at proposal have switched discharge status; and three, EPA has reduced the monitoring burden of the rule due to the use of indicator parameters. EPA determined that neither Option will result in any closures, revenue, or employment losses.

EPA estimates that both Option I and Option II removes 19,000 pounds of BOD and TSS. Based on the treatment technologies in place at the model facilities, EPA believes at this time that the regulation will not result in significant incremental removals of toxic pollutants. EPA predicts that Option II would not result in any additional removal of toxic pounds because most pollutants are already treated to very low levels, often approaching or at non-detect levels, by the technology utilized by Option I. EPA therefore continues to believe that BPT, BCT, BAT, and NSPS should be based on Option I levels of control. The revised concentration-based limits for Option I are presented in section X of this document.

2. PSES and PSNS for the Barge/Chemical & Petroleum Subcategory

The Agency's engineering assessment of PSNS consisted of the following options:

*Option I*—Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, and In-Line Filter Press.

*Option II*—Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, In-Line Filter Press, Biological Treatment, and Sludge Dewatering.

*Option III*—Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, In-Line Filter Press, Biological Treatment, Reverse Osmosis, and Sludge Dewatering.

EPA proposed Option II for PSNS. EPA did not propose PSES standards for the Barge/Chemical & Petroleum Subcategory because EPA identified only one facility discharging to a POTW. However, since the proposal, EPA has identified four facilities which previously discharged directly to surface waters and have since either switched or plan to switch discharge status. EPA now estimates that there are five facilities in EPA's model which discharge wastewater to a POTW.

EPA evaluated the treatment in place and levels of control currently being achieved by the model indirect discharging Barge/Chemical & Petroleum facilities. EPA was able to evaluate effluent discharge concentrations of BOD, TSS, and Oil & Grease from each of these model facilities. EPA did not have the data to evaluate the discharge concentrations of other parameters. Based on the discharge concentrations of these conventionals, EPA believes that all model indirect discharging facilities are meeting the levels of control that would be established under PSNS. Although EPA does not generally establish technology based pretreatment standards for conventionals, EPA believes that these parameters demonstrate a level of control similar to the systems being proposed for NSPS at Option II, and that the effluent concentrations of other pollutants of interest would also be controlled similarly.

Therefore, EPA estimates that the cost of implementing PSES standards equivalent to PSNS would be solely for increased monitoring costs, totaling approximately $60,000 annually. EPA believes that all indirectly discharging facilities have sufficient treatment in place to prevent pass through or interference and are predicted to be meeting standards that would be established under PSES. EPA predicts that there would be no incremental removals or benefits associated with establishing PSES standards. EPA therefore believes that it will continue to establish PSNS standards based on Option II, and that it will continue not to establish PSES standards.

EPA solicits comment on the conclusion that all indirect discharging Barge/Chemical & Petroleum facilities have treatment in place sufficient to prevent pass through or interference at a POTW.

*D. Food Subcategory*

EPA proposed to establish separate subcategories for the Barge/Food, Truck/Food, and Rail/Food subcategories due to the differences in water generated per cleaning by truck, rail, and barge facilities. The different volumes of wastewater were used to establish distinct mass-based limits in each of the subcategories. However, EPA will consider establishing concentration-based instead of mass-based limits, and EPA will therefore consider establishing one set of concentration limits for all food grade facilities. EPA is continuing to consider Option II as BPT, BCT, BAT, and NSPS.

BPT, BCT, BAT and NSPS for the Truck/Food, Rail/Food, and Barge/Food Subcategories

EPA considered the following BPT options for the food subcategories:

*Option I*—Flow Reduction and Oil/Water Separation.

*Option II*—Flow Reduction, Oil/Water Separation, Equalization, Biological Treatment and Sludge Dewatering.

The revised costs, loads, economic impacts, cost reasonableness, and environmental benefits for BPT, BCT, and BAT have not changed significantly since the proposal, and EPA is therefore not considering any changes to the options selected for the food subcategories.

The revised concentration-based limits for Option II are presented in section X of this document.

## X. Presentation of Concentration-Based Limitations

The following tables present the numerical standards that would be adopted based on the revisions described in this section and throughout this document. The data and methodology is located in section 21 of the regulatory record. The data and methodology is the same as proposed with several exceptions. One, EPA has calculated concentration instead of mass-based limits. Two, EPA has used data from two additional Barge/Chemical & Petroleum facilities in the calculation of BOD and TSS limits, as discussed in section II of this document. Third, EPA has used the pollutant-specific variability factor where available, and then calculated fraction and group level variability factors by taking a median of all pollutants effectively removed in a chemical class, rather than using the median of only those pollutants selected for regulation in a chemical class. EPA believes this revised methodology is appropriate because the Agency believes that all pollutants in a chemical class will behave similarly, regardless of whether or not it is selected for regulation. EPA requests comment on this conclusion and on the revision to its methodology.

Fourth, EPA has used technology transfer to establish PSES standards for SGT–HEM in the Truck/Chemical & Petroleum Subcategory. As in the proposal, EPA has continued to use technology transfer to establish BPT limits for conventional pollutants BOD, TSS, and oil and grease in the Truck/Chemical & Petroleum and Rail/Chemical & Petroleum Subcategories.

EPA does not have sampling data from a facility operating BPT biological treatment in either the Truck/Chemical

& Petroleum or Rail/Chemical & Petroleum Subcategories. Therefore, EPA will consider transferring effluent limitations for BOD, TSS, and oil and grease from a biological system in the Barge/Chemical & Petroleum Subcategory.

EPA proposed pretreatment standards for SGT–HEM in the Truck/Chemical Subcategory based on the data from two Truck/Chemical facilities. However, EPA feels that the SGT–HEM standards developed for this subcategory may not be achievable because the raw wastewater concentrations at these facilities were 65 mg/L and 61 mg/L, whereas the average raw wastewater concentration for this subcategory was measured to be 1,600 mg/L. EPA is aware that some facilities in the Truck/Chemical & Petroleum Subcategory may be generating wastewater with significantly higher concentrations of oil and grease than EPA considered in the proposed limitations. Therefore, EPA will consider transferring standards for SGT–HEM from similar treatment technologies operated in the Rail/Chemical & Petroleum Subcategory. As mentioned previously, this system consisted of oil water separation followed by DAF and achieved 98% removal of HEM for wastewater that had an influent concentration of 1,994 mg/L. EPA believes that technology transfer of SGT–HEM would establish limitations that would be achievable for all facilities in the Truck/Chemical & Petroleum Subcategory. As discussed in section VIII, EPA will consider using HEM (for direct dischargers) and SGT–HEM (for indirect dischargers) as indicator pollutants for several other constituents in the Truck/Chemical & Petroleum Subcategory.

The proposed mass-based standards were published in the **Federal Register** Notice of Proposed Rulemaking (63 FR 34685) and the associated concentration-based standards were presented in appendix E.1 through E.7 of the Statistical Support Document of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Industry. Concentration based limits are again presented in the tables below for the purposes of review and comment. In sections XV and XVI of the proposal, EPA outlined its requirements for submission of additional monitoring data which may be used in support of this guideline. EPA will continue to analyze monitoring data, statistical methodologies, and pass-through analysis for regulated pollutants prior to the final promulgation of effluent limitations and pretreatment standards.

TABLE 1-TRUCK/CHEMICAL & PETROLEUM SUBCATEGORY: BPT, BCT, BAT, AND NSPS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

| Pollutant or pollutant property | [mg/L] | |
|---|---|---|
| | Maximum for any one day | Monthly average |
| $BOD_5$ | 61 | 22 |
| TSS | 58 | 26 |
| Oil and Grease (HEM) | 36 | 16 |
| pH | Shall be in the range of 6.0 to 9.0 pH units | |
| Chromium | 0.055 | N/A |
| Copper | 0.14 | N/A |
| Zinc | 0.037 | N/A |
| Bis (2-ethylhexyl) phthalate | 0.032 | N/A |

TABLE 2—TRUCK/CHEMICAL & PETROLEUM SUBCATEGORY: PSES AND PSNS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO POTWS

| Pollutant or pollutant property | [mg/L] Maximum for any one day |
|---|---|
| Non-polar Material (SGT-HEM) | 26. |
| pH | Shall be in the range of 6.0 to 9.0 pH units. |
| Chromium | 0.055. |
| Copper | 0.143. |
| Zinc | 0.037 |
| Bis (2-ethylhexyl) phthalate | 0.032. |

TABLE 3—RAIL/CHEMICAL & PETROLEUM SUBCATEGORY: BPT, BCT, BAT AND NSPS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

| Pollutant or pollutant property | [mg/L] | |
|---|---|---|
| | Maximum for any one day | Monthly average |
| $BOD_5$ | 61 | 22 |
| TSS | 58 | 26 |
| Oil and Grease (HEM) | 36 | 16 |
| pH | Shall be in the range of 6.0 to 9.0 pH units | |
| Fluoranthene | 0.076 | N/A |
| Phenanthrene | 0.341 | N/A |

TABLE 4.—RAIL/CHEMICAL & PETROLEUM SUBCATEGORY: PSES AND PSNS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO POTWS

| Pollutant or pollutant property | [mg/L] Maximum for any one day |
|---|---|
| Non-polar Material (SGT–HEM) | 26. |
| pH | Shall be in the range of 6.0 to 9.0 pH units. |
| Fluoranthene | 0.076. |

TABLE 5.—BARGE/CHEMICAL & PETROLEUM SUBCATEGORY: BPT, BCT, BAT, AND NSPS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

| Pollutant or pollutant property | [mg/L] | |
|---|---|---|
| | Maximum for any one day | Monthly average |
| $BOD_5$ | 61 | 22 |
| TSS | 58 | 26 |
| Oil and Grease (HEM) | 36 | 16 |
| pH | Shall be in the range of 6.0 to 9.0 pH units | |
| Cadmium | 0.014 | N/A |
| Chromium | 0.42 | N/A |
| Copper | 0.10 | N/A |
| Lead | 0.11 | N/A |
| Nickel | 0.58 | N/A |
| Zinc8.3 | N/A | |
| 1-Methylphenanthrene | 0.11 | N/A |
| Bis (2-ethylhexyl) phthalate | 0.071 | N/A |

TABLE 6.—BARGE/CHEMICAL & PETROLEUM SUBCATEGORY: PSNS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO POTWS

| Pollutant or pollutant property | [mg/L] Maximum for any one day |
|---|---|
| Non-polar Material (SGT-HEM) | 22. |
| pH | Shall be in the range of 6.0 to 9.0 pH units. |
| Cadmium | 0.014. |
| Chromium | 0.42. |
| Copper | 0.10. |
| Lead | 0.11. |
| Nickel | 0.58. |
| Zinc | 8.3. |
| 1-Methylphenanthrene | 0.11. |
| Bis (2-ethylhexyl) phthalate | 0.071. |

TABLE 7.—FOOD SUBCATEGORY: BPT, BCT AND NSPS CONCENTRATION-BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

| Pollutant or pollutant property | [mg/L] | |
|---|---|---|
| | Maximum for any one day | Monthly average |
| $BOD_5$ | 56 | 24 |
| TSS | 225 | 86 |
| Oil and Grease (HEM) | 20 | 8.8 |
| pH | Shall be in the range of 6.0 to 9.0 pH units. | |

## XI. Solicitation of Comments

1. EPA solicits comment on setting concentration-based limitations. (Section III).

2. EPA solicits comments on the alternative subcategorization approach that combines the chemical and petroleum subcategories for rail and truck cleaning facilities. (Section IV).

3. EPA requests comment on the low flow exclusion from the TEC regulation of 100,000 gallons per year and on alternative low flow exclusions in the range of 100,000 to 500,000 gallons per year. (Section V).

4. EPA solicits comment on the revised methodology for calculating pollutant removals. (Section VI).

5. EPA solicits comment on the assumptions, methodology, and

conclusions of the market analysis conducted by EPA on the effect of not including IBCs within the scope of the TEC regulation. EPA solicits any information on the price of IBC cleaning, the volume of wastewater generated from IBCs, the economic importance of IBC cleaning to affected facilities, and the relative market shares of different types of facilities engaged in IBC cleaning. (Section VII.A).

6. EPA solicits comment on the revised applicability language of the rule, including the definition ''MP&M generated wastewaters''. (Section VII.B).

7. EPA solicits comment on the revised costs, benefits, and economic impacts associated with establishing PSES and PSNS at Option I for the Truck/Chemical & Petroleum Subcategory. (Section IX.A.2).

8. EPA solicits comment on establishing NSPS equivalent to BAT for the Rail/Chemical & Petroleum Subcategory. (Section IX.B.1).

9. EPA solicits comment on establishing PSES and PSNS at Option II, or alternatively at Option I, for the Rail/Chemical & Petroleum Subcategory. (Section IX.B.2).

10. EPA solicits comment on the conclusion that all indirect discharging Barge/Chemical & Petroleum facilities have treatment in place sufficient to prevent pass through or interference at a POTW. (Section IX.C.2).

11. EPA solicits comment on using HEM and SGT-HEM as indicator parameters and on the pass-through of SGT-HEM. (Section VIII.B and VIII.C).

12. EPA solicits comment on the list of analytes being considered for regulation in all subcategories. (Section VIII).

Dated: July 12, 1999.

J. Charles Fox,

*Assistant Administrator for Water.*

[FR Doc. 99–18478 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

**[ET Docket 99–231; FCC 99–149]**

### Spread Spectrum Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revise the rules for frequency hopping systems operating in the 2.4 GHz band (2400–2483.5 MHz) to allow for wider operational bandwidths. We also propose to refine the method for measuring the processing gain of direct sequence systems. This action is taken to facilitate the continued development and deployment of spread spectrum technology, particularly for high data rate wireless applications.

**DATES:** Comments must be filed on or before October 4, 1999, and reply comments must be filed on or before November 2, 1999.

**ADDRESSES:** Address all comments concerning this proposed rule to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Neal McNeil, Office of Engineering and Technology, (202) 418–2408, TTY (202) 418–2989, e-mail: nmcneil@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 99–231, FCC 99–149, adopted June 21, 1999, and released June 24, 1999. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center, (Room TW–A306) 445 12th Street SW, Washington, DC. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

### Summary of Notice of Proposed Rulemaking

1. *Frequency Hopping Systems.* Section 15.247 of the Commission's rules, permits frequency hopping spread spectrum systems to operate in the 2.4 GHz band with a maximum output power of 30 dBm (1 watt). The rules specify that frequency hopping systems operating in this spectrum must use a minimum of 75 hopping channels with each channel having a 20 dB bandwidth not exceeding 1 MHz. The average time of occupancy on any frequency must not be greater than 0.4 second within a 30 second period.

2. The Home RF Working Group (''HRFWG'') filed a request that the Commission interpret section 15.247 to allow frequency hopping systems in the 2.4 GHz band to operate with 3 MHz and 5 MHz bandwidths. HRFWG proposes to allow systems with bandwidths of up to 3 MHz to operate with output power no more than 25 dBm and channel occupancy time no greater than 0.05 second per hop. Each of the 75 channels will be used at least once during a 3.75 sec period. Like existing 1 MHz systems, the average time of occupancy on any channel will not be greater than 0.4 second within a 30 second period. HRFWG's proposal will allow systems using 5 MHz channels to operate with output power no more than 23 dBm and channel occupancy time no greater than 0.02 second per hop. Each of the 75 hopping channels will be used at least once during a 1.5 second period. Again, the average occupancy time on any channel will remain 0.4 second or less per 30 second period.

3. We do not believe these proposed rule changes will result in any significant increase in interference to direct sequence spread spectrum systems. We recognize that spectrum occupancy of frequency hopping systems in the 2.4 GHz band will increase as a result of the proposed changes. The existing rules require a minimum of 75 hopping channels each with a bandwidth of no more than 1 MHz. Given the 83.5 MHz of spectrum available in the 2.4 GHz band, no frequency is used more than once in the hop sequence. However, if the channel bandwidth is increased to 3 MHz or 5 MHz, overlapping channels will be needed to accommodate 75 hops. Accordingly, the average time of occupancy on any one frequency will increase. However, it appears that the proposed reduction in output power and time of occupancy would offset any potential increase in interference. Further, we observe that manufacturers of direct sequence systems that are concerned about interference can improve the robustness of their systems by increasing processing gain.

4. *Direct Sequence Processing Gain.* Under section 15.247(e) of the Commission's rules, direct sequence systems are required to exhibit a processing gain of at least 10 dB. The 10 dB minimum was established to ensure that a system is, in fact, spread spectrum in nature. Generally, systems employing a spreading rate of at least 10 chips/symbol meet the 10 dB processing gain requirement. The number of chips per symbol refers to the ratio of spreading imposed by the direct sequence high speed spreading code.

5. The Commission allows processing gain to be determined by either of two methods. The first is a direct measurement taken from the demodulated output of the receiver. The processing gain is calculated as the ratio, in dB, of the signal-to-noise ratio with the system spreading code turned off to the signal-to-noise ratio with the system spreading code turned on. Alternatively, in cases where the design of the system does not permit de-activation of the spreading code, an

indirect measurement of processing gain, based on receiver jamming margin (the ''CW jamming margin method''), is permitted. *See* 15 CFR 15.247(e)(2). The receiver jamming margin is representative of the ability of the receiver to reject other radio signals appearing on the same frequency. The test is generally viewed as an accurate measure of processing gain for systems employing spreading rates of at least 10 chips/symbol. However, in cases where the spreading rate is less, the results of the test are questionable.

6. The jamming margin test is based on use of a CW signal as an interference source. Some spread spectrum device manufacturers have suggested that the use of a Guassian noise interferer, instead of a CW interferer, would be more suitable for the jamming margin test. After reviewing the various submissions, we tentatively conclude that a Guassian interferer is likely to give a more accurate measure of processing gain because it is more closely related to the noise a system would encounter in a real-world environment. Therefore, we propose to permit the use of a Guassian interferer for determining receiver jamming margin.

7. The Commission has also received comments from manufacturers asserting that the current jamming margin test, along with a mathematical calculation of processing gain, should be required to demonstrate that systems using fewer than 10 chips per symbol are in compliance with the rules. The mathematical calculation would take into account the ''coding gain'' achieved by modulating and spreading of the baseband signal. We believe that this approach will provide greater assurance that the systems are in compliance. Accordingly, we propose to amend the rules to require manufacturers of direct sequence spread spectrum systems that use a spreading rate less than 10 chips per symbol to submit the results of the jamming margin test as well as a calculation of processing gain to verify compliance. Omnidirectional antenna operating at 250 mV/m.

**Initial Regulatory Flexibility Analysis**

8. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* (''NPRM''). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

*A. Reason for Action*

9. This rule making proceeding is initiated to obtain comment regarding proposed changes to the regulations for non-licensed transmitters.

*B. Legal Basis*

10. The proposed action is taken pursuant to Sections 4(i), 301, 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), and 303(r).

*C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

11. For the purposes of this NPRM, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. *See* 5 U.S.C. 601(3). Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). *See* 15 U.S.C. 632. SBA has defined a small business for Standard Industrial Classification (SIC) category 4812 (Radiotelephone Communications) to be small entities when they have fewer than 1500 employees. *See* 13 CFR 121.201. Given this definition, nearly all such companies are considered small.

*D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements*

12. Part 15 transmitters are already required to be authorized under the Commission's certification procedure as a prerequisite to marketing and importation. *See* 47 CFR 15.101, 15.201, 15.305, and 15.405. The changes proposed in this proceeding would not change any of the current reporting or recordkeeping requirements. Further, the proposed regulations adds permissible measurement techniques and methods of operation. The proposals would not require the modification of any existing products.

*E. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives*

13. None.

*F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule*

14. None.

**List of Subjects in 47 CFR Part 15**

Communications equipment.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 99–18428 Filed 7–19–99; 8:45 am]

BILLING CODE 6712–01–P

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## DEPARTMENT OF DEFENSE

## 48 CFR Parts 208, 212, 213, 214, 215, 232, and 252

**[DFARS Case 98–D026]**

## Defense Federal Acquisition Regulation Supplement; Streamlined Payment Practices

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to require use of the Governmentwide commercial purchase card as the method of purchase and/or method of payment for purchases valued at or below the micro-purchase threshold, unless an exception is authorized. Use of the purchase card streamlines purchasing and payment procedures and, therefore, increases operational efficiency.

**DATES:** Comments on the proposed rule should be submitted in writing to the address specified below on or before September 20, 1999, to be considered in the formation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan L. Schneider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 98–D026.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite DFARS Case 98–D026 in all correspondence related to this proposed rule. E-mail correspondence should cite DFARS Case 98–D026 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan L. Schneider, (703) 602–0131. Please cite DFARS Case 98–D026.

**SUPPLEMENTARY INFORMATION:**

## A. Background

This rule proposes amendments to the DFARS to require use of the Governmentwide commercial purchase card as the method of purchase and/or method of payment for DoD purchases valued at or below the micro-purchase threshold of $2,500, unless an exception is authorized. The rule implements a policy memorandum issued by the Principal Deputy Under Secretary of Defense (Acquisition and Technology) on October 2, 1998, Subject: Streamlined Payment Practices for Awards/Orders Valued at or below the Micro-Purchase Threshold; and a policy memorandum issued by the Under Secretary of Defense (Personnel and Readiness) on September 25, 1998, Subject: Use of Government-Wide Purchase Cards. The memoranda are available via the Internet at http://purchasecard.sarda.army.mil.

## B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the Governmentwide commercial purchase card is similar in nature to commercial credit cards that are commonly used in the commercial marketplace. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 98–D026 in correspondence.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*.

## List of Subjects in 48 CFR Parts 208, 212, 213, 214, 215, 232, and 252

Government procurement.

**Michele P. Peterson,**

*Executive Director, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 208, 212, 213, 214, 215, 232, and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 208, 212, 213, 214, 215, 232, and 252 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR chapter 1.

## PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.405–2 is amended by revising paragraph (4) to read as follows:

### 208.405–2 Order placement.

* * * * *

(4) If permitted under the schedule contract, use of the Governmentwide commercial purchase card—

(i) Is mandatory for placement of orders valued at or below the micro-purchase threshold; and

(ii) Is optional for placement of orders valued above the micro-purchase threshold.

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

3. Section 212.301 is amended by adding paragraph (f)(vi) to read as follows:

### 212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(vi) Use the clause at 252.232–7XXX, Mandatory Payment by Governmentwide Commercial Purchase Card, as prescribed in 232.1110.

4. Section 212.303 is added to read as follows:

### 212.303 Contract format.

Structure awards valued above the micro-purchase threshold (e.g., contract line items, delivery schedule, and invoice instructions) in a manner that will minimize the generation of invoices valued at or below the micro-purchase threshold.

## PART 213—SIMPLIFIED ACQUISITION PROCEDURES

5. Subpart 213.1 is added to read as follows:

## Subpart 213.1—Procedures

Sec.
213.101 General.

### 213.101 General.

Structure awards valued above the micro-purchase threshold (e.g., contract line items, delivery schedule, and invoice instructions) in a manner that will minimize the generation of invoices valued at or below the micro-purchase threshold.

6. Subpart 213.2 is added to read as follows:

## Subpart 213.2—Actions at or Below the Micro-Purchase Threshold

Sec.
213.270 Use of the Governmentwide commercial purchase card.

### 213.270 Use of the Governmentwide commercial purchase card.

Use the Governmentwide commercial purchase card as the method of purchase and/or method of payment for purchases valued at or below the micro-purchase threshold. This policy applies to all types of contract actions authorized by the FAR unless—

(1) The Deputy Secretary of Defense has approved an exception for an electronic commerce/electronic data interchange system or operational requirement that results in a more cost-effective payment process;

(2)(i) A general or flag officer or a member of the Senior Executive Service (SES) makes a written determination that—

(A) The source or sources available for the supply or service do not accept the purchase card; and

(B) The contracting office is seeking a source that accepts the purchase card.

(ii) To prevent mission delays, if an activity does not have a resident general or flag officer or SES member, delegation of this authority to the level of the senior local commander or director is permitted; or

(3) The purchase or payment meets one or more of the following criteria:

(i) The place of performance is entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(ii) The purchase is a Standard Form 44 purchase for aviation fuel or oil;

(iii) The purchase is an overseas transaction by a contracting officer in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7);

(iv) The purchase is a transaction in support of intelligence or other specialized activities addressed by Part 2.7 of Executive Order 12333;

(v) The purchase is for training exercises in preparation for overseas contingency, humanitarian, or peacekeeping operations;

(vi) The payment is made with an accommodation check;

(vii) The payment is for a transportation bill;

(viii) The purchase is under a Federal Supply Schedule contract that does not permit use of the Governmentwide commercial purchase card;

(ix) The purchase is for medical services and—

(A) It involves a controlled substance or narcotic;

(B) It requires the submission of a Health Care Summary Record to document the nature of the care purchased;

(C) The ultimate price of the medical care is subject to an independent determination that changes the price paid based on application of a mandatory CHAMPUS Maximum Allowable Charge determination that reduces the Government liability below billed charges;

(D) The Government already has entered into a contract to pay for the services without the use of a purchase card;

(E) The purchaser is a beneficiary seeking medical care; or

(F) The cardholder determines that use of the purchase card is not appropriate or cost-effective. The Medical Prime Vendor Program and the DoD Medical Electronic Catalog Program are two examples where use of the purchase card may not be cost-effective.

## PART 214—SEALED BIDDING

7. Section 214.201–1 is added to read as follows:

### 214.201–1 Uniform contract format.

Structure awards valued above the micro-purchase threshold (e.g., contract line items, delivery schedule, and invoice instructions) in a manner that will minimize the generation of invoices valued at or below the micro-purchase threshold.

## PART 215—CONTRACTING BY NEGOTIATION

8. Section 215.204–1 is added to read as follows:

### 215.204–1 Uniform contract format.

Structure awards valued above the micro-purchase threshold (e.g., contract line items, delivery schedule, and invoice instructions) in a manner that will minimize the generation of invoices valued at or below the micro-purchase threshold.

## PART 232—CONTRACT FINANCING

9. Subpart 232.11 is added to read as follows:

## Subpart 232.11—Electronic Funds Transfer

Sec.

232.1108 Payment by Governmentwide commercial purchase card.
232.1110 Solicitation provisions and contract clauses.

### 232.1108 Payment by Governmentwide commercial purchase card.

The Governmentwide commercial purchase card is the mandatory EFT payment method for purchases valued at or below the micro-purchase threshold, except as provided in 213.270.

### 232.1110 Solicitation provisions and contract clauses.

Use the clause at 252.232–7XXX, Mandatory Payment by Governmentwide Commercial Purchase Card, in solicitations, contracts, and agreements when—

(1) Placement of orders or calls valued at or below the micro-purchase threshold is anticipated; and

(2) Payment by Governmentwide commercial purchase card is required for orders or calls valued at or below the micro-purchase threshold under the contract or agreement.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 252.232–7XXX is added to read as follows:

### 252.232–7XXX Mandatory Payment by Governmentwide Commercial Purchase Card.

As prescribed in 232.1110, use the following clause:

MANDATORY PAYMENT BY GOVERNMENTWIDE COMMERCIAL PURCHASE CARD (XXX 1999)

The Contractor agrees to accept the Governmentwide commercial purchase card as the method of payment for orders or calls valued at or below $2,500 under this contract or agreement.

(End of clause)

[FR Doc. 99–18218 Filed 7–19–99; 8:45 am]

BILLING CODE 5000–04–M

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## 48 CFR Parts 1807, 1811, 1812, 1815, 1816, 1823, 1842, 1846, and 1852

## Risk Management

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would change the NASA FAR Supplement (NFS) to emphasize considerations of risk management, including safety, security (including information technology security), health, export control, and damage to the environment, within the acquisition process. The proposed rule addresses risk management within the context of acquisition planning, selecting sources, choosing contract type, structuring award fee incentives, administering contracts, and conducting contractor surveillance. Additionally, this proposed rule would require offeror proposals to include a risk management plan whenever the value of the resulting contract is expected to exceed $5,000,000, or whenever the contracting officer determines that it would be appropriate. Furthermore, this proposed rule would allow that contractors not be paid award fee for any evaluation period in which there is a major breach of safety or security.

**DATES:** Comments should be submitted on or before September 20, 1999.

**ADDRESSES:** Interested parties should submit written comments to Kenneth A. Sateriale, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments may also be submitted by e-mail to kenneth.sateriale@hq.nasa.gov

**FOR FURTHER INFORMATION CONTACT:** Kenneth A. Sateriale, (202) 358–0491.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The NASA Administrator, in a January 11, 1999 message, called upon NASA to become an agency of informed risk takers. Furthermore, he emphasized that it is critically important for NASA to achieve mission success without compromising safety. On February 26, 1999, the Administrator emphasized the need for NASA contractors, both on-site and others, to be supportive of, and accountable for safety. Safety, in this context, is freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property (including intellectual property), or damage to the environment. However, given the fact that many of NASA's activities involve advanced research, aeronautics, and space flight, NASA cannot completely avoid risk. Therefore, risk must be managed, i.e., comprehensively identified, analyzed, planned, tracked, and controlled. While risk management is not a new acquisition concept, NASA has initiated a risk-based acquisition management initiative to re-focus on risk as a core acquisition concern. That initiative will be implemented through training as well as through revisions to several of NASA's internal processes and guidelines. This proposed rule only implements that part of the initiative pertaining directly to the procurement process. Since NASA's activities often include contractor efforts, NASA's focus

on safety and mission success must be conveyed in NASA contracts. (Risk issues will also be addressed in a separate NFS revision to the NASA structured approach for developing a fee/profit negotiation objective.)

Sections 1816.405–274(c) and 1852.223–76(a)(1) in this proposed rule reference definitions in NASA Procedures and Guidelines (NPG) 8621.1, NASA Procedures and Guidelines for Mishap Reporting, Investigating, and Recordkeeping. NPG 8621.1 is currently in draft and will soon be published. Until such time, it will not be easy for the public to obtain access to the definitions. Therefore, draft definitions are provided below:

*Mishap*—Any unplanned occurrence or event resulting from any NASA operation or equipment anomaly, involving injury to or death of any persons (including the general public, astronauts and pilots, and NASA employees and contractors), damage to or loss of property or equipment, or mission failure.

*Type A Mishap*—A mishap causing death and/or damage to equipment or property equal to or greater than $1 million. Mishaps resulting in damage to aircraft, space hardware, or ground support equipment that meet these criteria are included, as are test failures in which the damage was unexpected or unanticipated.

*Type B Mishap*—A mishap resulting in permanent disability to one or more persons, hospitalization (within a 30-day period from the same mishap) of three or more persons, and/or damage to equipment, or property equal to or greater than $250,000, but less than $1 million. Mishaps resulting in damage to aircraft, space hardware, or ground support equipment that meet these criteria are included, as are test failures in which the damage was unexpected or unanticipated.

*Mission Failure*—A mishap of whatever intrinsic severity that, in the judgment of the Enterprise Associate Administrator/Institutional Program Officer, in coordination with the Associate Administrator for Safety and Mission Assurance, prevents the achievement of primary NASA mission objectives as described in the Mission Operations Report or equivalent document.

## B. Regulatory Flexibility Act

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because few small businesses are awarded contracts valued in excess of the $5,000,000 threshold established in the proposed rule for submission of a risk management plan and inclusion of the safety clause.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 41 U.S.C. 3501, *et seq.*

## List of Subjects in 48 CFR Parts 1807, 1811, 1812, 1815, 1816, 1823, 1842, 1846, and 1852

Government procurement.

**Tom Luedtke,**

*Associate Administrator for Procurement.*

Accordingly, 48 CFR Parts 1807, 1811, 1812, 1815, 1816, 1823, 1842, 1846, and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 1807, 1811, 1812, 1815, 1816, 1823, 1842, 1846, and 1852 continues to read as follows:

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

## PART 1807—ACQUISITION PLANNING

2. Section 1807.104 is added to read as follows:

### 1807.104 General procedures. (NASA supplements paragraph (a))

(a) Safety is NASA's highest core value. The acquisition planning team shall include representatives from the center offices responsible for matters of safety and mission assurance, occupational health, environmental protection, information technology, export control, and security. Their presence on the team shall help to ensure that all NASA acquisitions are structured in accordance with NASA safety, occupational health, environmental, export control, and security policy. As part of this process, the team shall recommend any appropriate solicitation or contract requirements for implementation of safety, occupational health, environmental, information technology, export control, and security concerns. (See NPG 8705.X, Risk Management Procedures and Guidelines.)

3. In section 1807.105, paragraph (a)(7) is added to read as follows:

### 1807.105 Contents of written acquisition plans.

(a)* * *

(7) Discuss project/program risks (see NPG 7120.5, NASA Program and Project Management Processes and Requirements, and NPG 8705.X, Risk Management Procedures and Guidelines). These risks include such considerations as: the security of personnel, information technology, and property; the NASA Export Control Program and risks of unauthorized technology transfer; damage to the environment; program test conduct and schedules; performance incentives and contract management concerns; and the necessary level of NASA personnel resources required to manage the project/program, including whether current staffing limitations require a special plan for surveillance. This discussion should also identify those areas that have safety risk, and how safety will be addressed in contract requirements and evaluated in the source selection, and how safety will be managed and incentivized, where appropriate. Appropriate planning, i.e., decisions to research, accept, watch, or mitigate, shall be identified for each risk.

* * * * *

## PART 1811—DESCRIBING AGENCY NEEDS

4. Section 1811.101(b) is added to read as follows:

### 1811.101 Order of precedence for requirements documents. (NASA supplements paragraph (b))

(b) When establishing product descriptions in either a solicitation or contract, contracting officers shall include safeguards, as applicable, to ensure safety and security, and preclude environmental damage.

## PART 1812—ACQUISITION OF COMMERCIAL ITEMS

5. Section 1812.301, paragraph (f)(i) is revised to read as follows:

### 1812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) The following clauses are authorized for use in acquisitions of commercial items when required by the clause prescription:

(A) 1852.214–71, Grouping for Aggregate Award.

(B) 1852.214–72, Full Quantities.

(C) 1852.215–84, Ombudsman.

(D) 1852.219–75, Small Business Subcontracting Reporting.

(E) 1852.219–76, NASA Small Disadvantaged Business Goal.

(F) 1852.223–71, Frequency Authorization.

(G) 1852.223–75, Risk Management Plan.

(H) 1852.228–72, Cross-Waiver of Liability for Space Shuttle Services.

(I) 1852.228–76, Cross-Waiver of Liability for Space Station Activities.

(J) 1852.228–78, Cross-Waiver of Liability for NASA Expendable Launch Vehicles.

(K) 1852.232–70, NASA Progress Payment Rates.

(L) 1852.246–72, Material Inspection and Receiving Report.

## PART 1815—CONTRACTING BY NEGOTIATION

6. In section 1815.201, paragraph (c)(6)(A) is revised to read as follows:

### 1815.201 Exchanges with industry before receipt of proposals.

(c)(6)(A) Except for acquisitions described in 1815.300–70(b), contracting officers shall issue draft requests for proposals (DRFPs) for all competitive negotiated acquisitions expected to exceed $1,000,000 (including all options or later phases of the same project). DRFPs shall invite comments from potential offerors on all aspects of the draft solicitation, including the requirements, schedules, proposal instructions, and evaluation approaches. Potential offerors should be specifically requested to identify unnecessary or inefficient requirements, and whether the requirements of any Government-unique standards may be satisfied by voluntary consensus standards or industry standards. Comments should also be requested on any perceived safety, occupational health, security (including information technology security), environmental, export control, and/or other programmatic risk issues associated with performance of the work. When considered appropriate, the statement of work or the specifications may be issued in advance of other solicitation sections.

* * * * *

7. In section 1815.304–70, paragraphs (b)(5) and (d)(4) are added to read as follows:

### 1815.304–70 NASA evaluation factors.

* * * * *

(b) * * *

(5) If the solicitation requires either the submission of a Safety and Health Plan (see 1823.7001(c)), or a Risk Management Plan (see 1823.7001(d)), then the Mission Suitability factor shall include a subfactor for safety, occupational health, and mission success. Otherwise use of that subfactor is optional. (For discussion of risk management, see NPG 7120.5, NASA Program and Project Management Processes and Requirements, and NPG 8705.X, Risk Management Procedures and Guidelines.)

* * * * *

(d) * * *

(4) The contracting officer shall evaluate the offeror's past performance in occupational health, security, environmental protection, and safety and mission success (e.g., mishap rates and problems in delivered hardware and software that resulted in mishaps or failures) when these areas are germane to the requirement.

8. In section 1815.305, paragraph (a)(vi) is revised to read as follows:

### 1815.305 Proposal evaluation.

(a) * * *

(vi) Any programmatic risk, e.g., technical, schedule, cost, safety, occupational health, security, export control, environmental. Risks may result from the offeror's technical approach, manufacturing plan, selection of materials, processes, equipment, or as a result of the cost, schedule, and performance impacts associated with its approach. Risk evaluations must consider the probability of success, the impact of failure, and the alternatives available to meet the requirements. Risk assessments shall be considered in determining Mission Suitability strengths, weaknesses, deficiencies, and numerical/adjectival ratings. Identified risks and the potential for cost impact shall be considered in the cost or price evaluation. The offeror's Risk Management Plan, if required, shall be used to support this evaluation.

* * * * *

9. In section 1815.406–170, paragraphs (c)(5) and (c)(6) are revised and paragraph (c)(7) is added to read as follows:

### 1815.406–170 Content of the prenegotiation position memorandum.

* * * * *

(c)* * *

(5) Contractor/Government investment in facilities and equipment (and any modernization to be provided by the contractor/Government);

(6) Any deviations, special clauses, or unusual conditions anticipated, for example, unusual financing, warranties, EPA clauses and when approvals were obtained, if required; and

(7) Any risk management issues, e.g., safety, occupational health, security.

* * * * *

## PART 1816—TYPES OF CONTRACTS

10. In section 1816.405–274, paragraphs (c), (d), (e), (f), (g), and (h) are redesignated as paragraphs (d), (e), (f), (g), (h), and (i), respectively; and new paragraph (c) is added to read as follows:

### 1816.405–274 Award fee evaluation factors.

* * * * *

(c) The technical factor, if used, must include consideration of risk management (including safety, security, health, export control, and damage to the environment, as appropriate) unless waived at a level above the contracting officer, with the concurrence of the project manager. The rationale for any waiver shall be documented in the contract file. When safety, export control, or security is considered under the technical factor, the award fee plan shall allow the following fee determinations, regardless of contractor performance in other evaluation factors, when there is a major breach of safety or security. A major breach of safety consists of either any Type A or Type B mishap, or Mission Failure, as defined in NPG 8621.1, NASA Procedures and Guidelines for Mishap Reporting, Investigating, and Recordkeeping, or any violation cited by the Occupational Safety and Health Administration that results in either a final order of the Review Commission assessing a civil penalty, or a criminal conviction. Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security results in damage or loss greater than $250,000 to the Government. A major breach of security may arise from any of the following: compromise of classified information; illegal technology transfer; workplace violence resulting in criminal conviction; sabotage; compromise or denial of information technology services; or theft.

(1) For evaluation of service contracts under 1816.405–273(a), an overall fee determination of zero for any evaluation period in which there is a major breach of safety or security; or

(2) For evaluation of end item contracts under 1816.405–273(b), an overall fee determination of zero for any interim evaluation period in which there is a major breach of safety or security. To ensure that the final award fee evaluation at contract completion reflects any major breach of safety or security in an interim period, the overall award fee pool shall be reduced by the amount of the fee available for the period in which the major breach occurred if a zero fee determination was made because of a major breach of safety or security.

* * * * *

## PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

11. 1823.7001 is revised to read as follows:

### 1823.7001 NASA solicitation provisions and contract clauses.

(a) Except as provided in paragraph (b) of this section, the clause at 1852.223–70, Safety and Health, shall be included in all solicitations and contracts for—

(1) Negotiated acquisitions of $1,000,000 or more;

(2) Construction, repair, or alteration in excess of the simplified acquisition threshold;

(3) Acquisitions having, within their total requirement, construction, repair, or alteration tasks in excess of the simplified acquisition threshold; and

(4) Acquisitions regardless of dollar amount when—

(i) Any deliverable contract end item is of a hazardous nature; or

(ii) It can reasonably be expected that hazards will be generated and controlled within the operational environment during the life of the contract and the contracting officer determines that they warrant inclusion of the clause.

(b) The clause prescribed in paragraph (a) of this section may be excluded—

(1) From any contract subject to the Walsh-Healey Public Contracts Act (see FAR subpart 22.6) or the Service Contract Act of 1965 (see FAR subpart 22.10) in which the application of either act and its implementing regulations constitute adequate safety and occupational health protection; or

(2) When the contracting officer, with the concurrence of the installation official(s) responsible for matters of safety and occupational health, makes a written determination that the clause is not necessary under the circumstances of the acquisition.

(c) The contracting officer shall insert the provision at 1852.223–73, Safety and Health Plan, in solicitations containing the clause at 1852.223–70, when a Safety and Health Plan is to be submitted with the offeror's proposal. This clause may be modified to identify specific information that is to be included in the plan. After receiving the concurrence of the center safety and occupational health official(s), the contracting officer shall include the plan in any resulting contract.

(d) The contracting officer shall insert the provision at 1852.223–75, Risk Management Plan, in all solicitations for negotiated acquisitions of $5,000,000 or more, unless waived at a level above the contracting officer with the concurrence of the project/program office and the center safety and occupational health official(s). For other solicitations, use of the provision is optional. After receiving the concurrence of the project/program office and the center safety and occupational health official(s), the contracting officer shall include the plan in any resulting contract.

(e) The contracting officer shall insert the clause at 1852.223–76, Major Breach of Safety or Security, in all solicitations and contracts with estimated values of $500,000 or more, unless waived at a level above the contracting officer with the concurrence of the project manager and the installation official(s) responsible for matters of security, export control, safety and occupational health. For other contracts, use of the clause is optional.

## PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

12. In section 1842.503, paragraph (1)(iv) is revised to read as follows:

### 1842.503 Postaward conferences.

(1) * * *

(iv) Complex contract management issues are expected, e.g., safety, security, occupational health, environmental protection, export control, and/or risk management.

* * * * *

## PART 1846—QUALITY ASSURANCE

13. Section 1846.000 is added to read as follows:

### 1846.000 Scope of part.

The Government has a duty to assure that appropriated funds are spent wisely. That duty is fulfilled in part through surveillance. Surveillance may be conducted through ''insight'' (i.e., monitoring of selected metrics and/or milestones) or ''oversight'' (i.e., Government review and concurrence with contractor decisions). The decision to use insight or oversight is based on an assessment of the risk inherent in the activity being surveilled. Surveillance must be conducted whether or not the contract effort has been structured as performance-based.

14. Section 1846.401 is added to read as follows:

### 1846.401 General. (NASA supplements paragraph (a)).

(a) The quality assurance surveillance plan (QASP) which the project office prepares in conjunction with the statement of work is preliminary. It reflects the Government's surveillance approach relative to the perceived programmatic risk, and is written at a general rather than specific level because the risks will not be completely identified at that time. After contract award, contracting officers shall ensure that the QASP is revised to reflect the risks associated with the successful proposal. This final QASP shall not be included in the contract, but should be periodically reviewed to ensure its currency.

## PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

15. Section 1852.223–70 is revised to read as follows:

### 1852.223–70 Safety and Health.

As prescribed in 1823.7004(c), insert the following clause:

Safety and Health

(Date)

(a) The Contractor shall take all reasonable safety and occupational health measures in performing this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and occupational health and with the safety and occupational health standards, specifications, reporting requirements, and any other relevant requirements of this contract.

(b) The Contractor shall take, or cause to be taken, any other safety and occupational health measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other provision of the contract.

(c) The Contractor shall immediately notify and promptly report to the Contracting Officer or a designee any accident, incident, or exposure resulting in fatality, lost-time occupational injury, occupational disease, contamination of property beyond any stated acceptable limits set forth in the contract Schedule, or property loss of $25,000 or more arising out of work performed under this contract. The Contractor is not required to include in any report an expression of opinion as to the fault or negligence of any employee.

(d) Service contractors (excluding construction contracts) shall provide quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the contract Schedule. The Contractor shall investigate all work-related incidents or accidents to the extent necessary to determine their causes and furnish the Contracting Officer a report, in such form as

the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.

(e)(1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. The Contractor shall promptly take and report any necessary corrective action.

(2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (e)(1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.

(f) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (f) and any applicable Schedule provisions, with appropriate changes of designations of the parties, in subcontracts of every tier that—

(1) Amount to $1,000,000 or more (unless the Contracting Officer makes a written determination that this is not required);

(2) Require construction, repair, or alteration in excess of $25,000; or

(3) Regardless of dollar amount, involve the use of hazardous materials or operations.

(g) Authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and occupational health measures under this clause.

(h) The contractor shall continually update the safety and health plan when necessary. In particular, the Contractor shall furnish a list of all hazardous operations to be performed, and a list of other major or key operations required or planned in the performance of the contract, even though not deemed hazardous by the Contractor. NASA and the Contractor shall jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the Contractor shall submit for NASA concurrence—

(1) Written hazardous operating procedures for all hazardous operations; and/or

(2) Qualification Standards for personnel involved in hazardous operations.

(End of clause)

16. In section 1852.223–73, Alternate I is removed and the basic clause is revised to read as follows:

**1852.223–73 Safety and health plan.**

* * * * *

Safety and Health Plan

(Date)

NASA requires that the contractor furnish supplies and services in a safe and healthful manner and develops, produces, and/or delivers products to NASA that will be safe and successful for their intended use. The offeror shall submit a detailed safety and occupational health plan, as part of its proposal. The plan must include a detailed discussion of the policies, procedures, and techniques that will be used to ensure the safety and occupational health of contractor employees and to ensure the safety of all working conditions throughout the performance of the contract. The plan must similarly address safety and occupational health for subcontractor employees for any proposed subcontract whose value is expected to exceed $500,000, including commercial services and services provided in support of a commercial item. Also, when applicable, the plan must address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of NASA employees and the public. This plan, as approved by the Contracting Officer, will be included in any resulting contract. (For additional detail on content for the Safety and Health Plan, see NPG 8715.1, NASA Safety Manual Procedures and Guidelines, Appendix H.)

(End of provision)

17. Section 1852.223–75 is added to read as follows:

**1852.223–75 Risk Management Plan.**

As prescribed in 1823.7001(d), insert the following provision:

Risk Management Plan

(Date)

The offeror shall submit a detailed Risk Management Plan, as part of the offeror's proposal. The plan must include a detailed description of the offeror's plan to use risk management techniques to manage programmatic risks (e.g., safety, technical, cost, schedule, security, export control, and damage to the environment) throughout the performance of the contract. The plan must conform to NASA's guidance on risk as described in NASA Procedures and Guidelines 8705.X, Risk Management Procedures and Guidelines. The plan must similarly address risk management for subcontracted effort whose value is expected to exceed $500,000. Costs solely attributable to risk management must be clearly identifiable in the offeror's proposal. This plan, as approved by the Contracting Officer, will be included in any resulting contract.

(End of provision)

18. Section 1852.223–76 is added to read as follows:

**1852.223–76 Safety.**

As prescribed in 1823.7001(e), insert the following clause:

Major Breach of Safety or Security

(Date)

(a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. Safety is essential to NASA and is a material part of this contract. A major breach of safety may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination for default. A major breach of safety may occur on or off Government installations, but must be related directly to the work on the contract. A major breach of safety is an act or omission of the contractor that results in either—

(1) Any Type A or Type B mishap, or Mission Failure as defined in NPG 8621.1, NASA Procedures and Guidelines for Mishap Reporting, Investigating, and Recordkeeping; or

(2) Any violation cited by the Occupational Safety and Health Administration that results in a final order of the Review Commission assessing a civil penalty, or a criminal conviction.

(b) Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination for default. A major breach of security may occur on or off Government installations, but must be related directly to the work on the contract. A major breach of security results in damage or loss greater than $250,000 to the Government. A major breach of security may arise from any of the following: compromise of classified information; illegal technology transfer; workplace violence resulting in criminal conviction; sabotage; compromise or denial of information technology services; or theft.

(c) In the event of a major breach of safety or security, the Contractor shall, if directed by the Contracting Officer, conduct its own investigation and report the results to the Government, and the Contractor shall cooperate with the Government investigation, if conducted.

(End of clause)

[FR Doc. 99–18414 Filed 7–19–99; 8:45 am]

BILLING CODE 7510–01–P

# Notices

Federal Register
Vol. 64, No. 138
Tuesday, July 20, 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

### Office of the Secretary

**[Docket No. 98–093–1]**

### Declaration of Emergency Because of the Mediterranean Fruit Fly and the Mexican Fruit Fly

Serious outbreaks of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), and the Mexican fruit fly, *Anastrepha ludens* (Loew), are occurring in California.

The Mediterranean fruit fly is one of the most destructive pests of over 200 species of fruits, nuts, and vegetables, especially citrus and stone fruits. The pest can develop rapidly and spread easily, causing severe damage to entire areas where citrus and other fruits and vegetables are grown.

The Mexican fruit fly is a destructive pest of citrus and many other types of fruits. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas.

As of July 1999, there is an infestation of the Mediterranean fruit fly in portions of Orange and Riverside Counties, CA. Also, an infestation of the Mexican fruit fly has been found in a portion of San Diego County, CA. The presence of these fruit flies in the continental United States could severely disrupt the fruit and vegetable industry due to crop damages, additional pesticide use, and quarantine requirements. The permanent presence of these pests in California would result in yearly losses of over $205 million. If allowed to spread throughout the United States, the estimated annual losses are over $1.5 billion for the Mediterranean fruit fly alone.

In cooperation with the State of California, the Animal and Plant Health Inspection Service (APHIS) has initiated a program to eradicate these fruit fly infestations in California. The State of California is assisting APHIS in the funding of the program costs. However, APHIS resources are insufficient to meet the estimated $8.7 million needed for the Federal share. In addition, some of these resources may be needed to fund other Mediterranean and Mexican fruit fly emergencies before the end of the year.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. (7 U.S.C. 147b), I declare that there is an emergency which threatens the citrus-and other fruit-and-vegetable-growing industries in this country and hereby authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the agencies or corporations of the United States Department of Agriculture for conducting a program to detect and identify Mediterranean fruit fly and Mexican fruit fly infested areas, to control and prevent the spread of the Mediterranean fruit fly and the Mexican fruit fly to noninfested areas in the United States, and to eradicate the Mediterranean fruit fly and the Mexican fruit fly wherever they may be found in the continental United States.

**EFFECTIVE DATE:** This declaration of emergency shall become effective July 9, 1999.

**Dan Glickman,**

*Secretary of Agriculture.*

[FR Doc. 99–18436 Filed 7–19–99; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

**[Docket No. 99–004–1]**

### Declaration of Emergency Because of the Mediterranean Fruit Fly in Mexico

A serious outbreak of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is occurring in Chiapas, Campeche, and Tabasco, Mexico.

The Mediterranean fruit fly (Medfly) is one of the most destructive pests of over 200 species of fruits, nuts, and vegetables, especially citrus and stone fruits. Infestations can develop rapidly and spread easily, causing severe damage to entire citrus and other fruit and vegetable growing areas. At least 43 countries are known to regulate in some manner for the Medfly.

In cooperation with the governments of Mexico and Guatemala, the Animal and Plant Health Inspection Service (APHIS) conducts activities in Mexico and Guatemala to maintain a sterile Medfly barrier in western Guatemala to prevent the spread of Medfly through Mexico and into the United States. This program is called the Moscamed Program.

During the summer and fall of 1998, APHIS and cooperators in Mexico detected 253 infestations of Medfly in the States of Chiapas, Campeche, and Tabasco, Mexico. Over 160 infestations are currently active in the State of Chiapas. Mexico has initiated programs to eradicate the infestations, but does not have the resources to eradicate the Medfly and keep the Moscamed Program running without assistance from the United States.

The establishment of Medfly in the continental United States could severely disrupt the fruit and vegetable industry due to crop damage and loss of export markets. An economic assessment completed in 1993 estimates that if Medfly were established in the continental United States, losses attributed to the Medfly would cost $1.5 billion annually. Keeping Mexico free of Medfly will greatly reduce the risk that this pest will be introduced into the United States. Fruit fly experts predict that if the pest is allowed to continue to spread in Mexico, the Medfly will reach the U.S. border by the year 2005.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b), I declare that there is an emergency that threatens the citrus and other fruit and vegetable industries of this country, and I authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the United States Department of Agriculture to conduct a program to detect, control, and prevent the spread of the Medfly in Mexico, in order to prevent its introduction into the United States.

**EFFECTIVE DATE:** This declaration of emergency shall become effective July 9, 1999.

**Dan Glickman,**

*Secretary of Agriculture.*

[FR Doc. 99–18437 Filed 7–19–99; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Willamette Provincial Advisory Committee (PAC)

**AGENCY:** Forest Service, USDA Forest Service.

**ACTION:** Action of meeting.

**SUMMARY:** The Willamette Province Advisory Committee (PAC) will meet on Thursday, August 12, 1999. The meeting is scheduled to be a field trip and is scheduled to leave the Eugene BLM at 8:30 a.m., and will conclude at approximately 5:00 p.m. The field trip will leave from the Eugene BLM Office, 2890 Chad Drive, Eugene, Oregon 97401, phone (541) 683–6000.

The PAC will visit various private, BLM, and Forest Service sites in the McKenzie Watershed to review road management practices. The public is welcome to attend, but will need to provide their own transportation.

An agenda, including a list of the field trip stops, will be available for the public. There will be no formal public forum due to the nature of this meeting; however, written comments may be submitted prior to the August 12 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding this meeting, contact Designated Federal Official Neal Forrester, Willamette National Forest, 211 East Seventh Avenue, Eugene, Oregon 97401; (541) 465–6924.

Dated: July 14, 1999.

**Darrell L. Kenops,**

*Forest Supervisor.*

[FR Doc. 99–18406 Filed 7–19–99; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DoC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 5).

*Agency:* Economic Development Administration.

*Title:* Requirement for Approved Construction Projects.

*Agency Form Number:* Not Applicable.

*OMB Approval Number:* 0610–0096.

*Type of Request:* Extension of a currently approved collection.

*Burden:* 23,200 hours.

*Number of Respondents:* Approximately 1,160 respondents.

*Average Hours Per Response:* 20.

*Needs and Uses:* This information collection is needed to monitor construction projects for compliance with Federal and other program and administrative requirements as set forth in EDA's authorizing legislation the Public Works and Economic Development Act of 1965, as amended, including the comprehensive amendments by the Economic Development Reform Act of 1998, Pub. L. 105–393, (PWEDA), EDA's implementing regulations at 13 CFR parts 305 and 308, and the Common Rule as set forth at 15 CFR parts 14 and 24. The information collected from grant recipients is used by EDA to safeguard the public's interest in the grant assets, and to promote the effective use of grant funds accomplishing the purpose for which they were granted. Additionally, the information is used to monitor project progress in order to detect delays and to offer assistance to resolve delays when appropriate. EDA uses information gathered to analyze and report on program performance.

*Affected Public:* State, local or tribal government and not-for-profit organizations.

*Frequency:* On occasion, quarterly and semiannually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DoC Forms Clearance Officer, (202) 482–3272, U.S. Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503.

Dated: July 15, 1999.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 99–18453 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–34–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

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

*Agency:* U.S. Census Bureau.

*Title:* Annual Survey of State & Local Government Finance.

*Form Number(s):* F–5, F–5A, F–11, F–12, F–13, F–21, F–22, F–25, F–28, F–29, F–32, F–42.

*Agency Approval Number:* 0607–0585.

*Type of Request:* Extension of a currently approved collection.

*Burden:* 22,798 hours.

*Number of Respondents:* 7,459.

*Avg Hours Per Response:* 3.1 hours.

Needs and Uses: The Census Bureau conducts the Annual Survey of State and Local Government Finance to collect data on state government finances and estimates of local government revenue, expenditures, debt, and assets, nationally and within state areas. Data are collected for all agencies, departments, and institutions of the fifty state governments and for a sample of all local governments (counties, municipalities, townships, and special districts). The forms and procedures are similar to those used in previous annual surveys. Data for school districts are collected under a separate survey.

The Census Bureau incorporates the data collected in this survey into its government finance program which has disseminated comprehensive and comparable governmental statistics since 1902. The Bureau of Economic Analysis uses our government finance data to develop the public sector components of the National Income and Product Accounts and to determine the gross domestic product. Other users include state and local government executives and legislators, policy makers, economists, researchers, the media, and the general public.

We are requesting no changes other than to extend the current OMB clearance for another three years.

*Affected Public:* State, local or tribal government.

*Frequency:* Annually.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 USC, Section 182.

*OMB Desk Officer:* Linda Hutton, (202) 395–7858.

Copies of the above information collection proposal can be obtained by

calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Linda Hutton, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 15, 1999.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 99–18454 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–07–P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 1043]**

## Expansion of Foreign-Trade Zone 202, Los Angeles, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Board of Harbor Commissioners of the City of Los Angeles, grantee of Foreign-Trade Zone 202, submitted an application to the Board for authority to expand existing Site 4, Dominguez Technology Center, and to include three new sites at the Harbor Gateway Center (Site 9), the Watson Industrial Center South (Site 10) and the Watson Corporate Center (Site 11) in the Los Angeles, California, area, within the Los Angeles/Long Beach Customs port of entry (FTZ Docket 42–98; filed August 28, 1998);

*Whereas,* notice inviting public comment was given in the **Federal Register** (63 FR 45998, September 10, 1998) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, therefore,* the Board hereby orders:

The application to expand FTZ 202 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the Board's standard 2,000 acre activation limit.

Signed at Washington, DC, this 9th day of July, 1999.

**Bernard Carreau,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

ATTEST:
Dennis Puccinelli,
Acting Executive Secretary.

[FR Doc. 99–18463 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 1044]**

## Expansion of Foreign-Trade Zone 37, Orange County, New York

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* Orange County, New York, grantee of Foreign-Trade Zone 37, submitted an application to the Board for authority to expand FTZ 37 to include five new sites, located at Stewart International Airport/Northeast Business Center (Site 3), the IBM Hudson Valley Research Park (Site 4), the AT&T Rockland Export Center (Site 5), the Port of Newburgh (Site 6), and the Goshen/Westgate FTZ Industrial Park (Site 7) in the Hudson Valley area, adjacent to the New York Seaport Area Customs port of entry (FTZ Docket 6–98; filed February 2, 1998, amended January 25, 1999);

*Whereas,* notice inviting public comment was given in the **Federal Register** (63 FR 6890, February 11, 1998) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal would be in the public interest, if approval is subject to the restrictions listed below;

*Now, therefore,* the Board hereby orders:

The amended application to expand FTZ 37 is approved, subject to the Act and the Board's regulations, including § 400.28, and further subject to the conditions and restrictions listed below.

1. The approval of FTZ status at Stewart Airport includes only that area east of Drury Lane.

2. The approval of FTZ status of the Port of Newburgh site includes only that area bounded by the Hudson River, Quassic Creek, South Water Street and South Williams Street.

3. Based on the amended application, the Middletown/Wallkill and Port Jervis CRAFT sites are not included in this action.

4. Each site, except the amended Stewart Airport site, is subject to a sunset provision that terminates FTZ status on December 31, 2004 unless the site is activated pursuant to 19 CFR part 146 of the U.S. Customs Service Regulations.

5. The zone project is subject to the Board's standard 2,000 acre activation limit.

6. All foreign steel mill products must be entered for consumption prior to admission to the Port of Newburgh site.

Signed at Washington, DC, this 9th day of July 1999.

**Bernard Carreau,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:
Dennis Puccinelli,
Acting Executive Secretary.

[FR Doc. 99–18464 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–301–602]**

## Certain Fresh Cut Flowers From Colombia: Final Results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order

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

**ACTION:** Notice of final results of changed circumstances antidumping duty administrative review, and revocation of antidumping duty order.

**SUMMARY:** On June 8, 1999, the Department of Commerce published a notice of initiation of a changed circumstances antidumping duty administrative review and preliminary results of review with intent to revoke the antidumping duty order on certain fresh cut flowers from Colombia. We are now revoking this order, retroactive to March 1, 1997, based on the fact that domestic parties no longer have an interest in maintaining the antidumping duty order.

**EFFECTIVE DATE:** July 20, 1999.

**FOR FURTHER INFORMATION CONTACT:** Rosa Jeong or Marian Wells, Office of AD/CVD Enforcement, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3853 or (202) 482–6309, respectively.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (1998).

### Background

On May 21, 1999, Timothy Haley, the president of Pikes Peak Greenhouses, a domestic wholesaler of the subject merchandise; the Floral Trade Council; and the FTC's Committees on Standard Carnations, Miniature Carnations, Standard Chrysanthemums, and Pompom Chrysanthemums (collectively ''the FTC and its Committees'') requested that the Department of Commerce conduct a changed circumstances administrative review to revoke the antidumping duty order on certain fresh cut flowers from Colombia retroactive to March 1, 1997. The FTC and its Committees stated that they no longer have an interest in maintaining the antidumping duty order. The FTC is a domestic interested party and was the petitioner in the less-than-fair-value (LTFV) investigation of this proceeding.

We preliminarily determined that the affirmative statement of no interest by the domestic interested party constituted changed circumstances sufficient to warrant revocation of this order. Consequently, on June 8, 1999, we published a notice of initiation of a changed circumstances antidumping duty administrative review and preliminary results of review with intent to revoke order (64 FR 30487). We invited interested parties to comment on the preliminary results of this changed circumstances review. We received no comments.

### Scope of Review

The products covered by this changed circumstances review are certain fresh cut flowers from Colombia including standard carnations, miniature (spray) carnations, standard chrysanthemums, and pompon chrysanthemums. These products are currently classifiable under item numbers 0603.10.30.00, 0603.10.70.10, 0603.10.70.20, and 0603.10.70.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS item numbers are provided for convenience and customs purposes, the Department's written description of the scope remains dispositive.

This changed circumstances review covers all producers and exporters of certain fresh cut flowers from Colombia.

### Final Results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order

Pursuant to section 751(d)(1) of the Act, the Department may revoke, in whole or in part, an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances. The Department's regulations at 19 CFR 351.216(d) require the Department to conduct a changed circumstances administrative review in accordance with 19 CFR 351.221 if it decides that changed circumstances sufficient to warrant a review exist. Section 782(h) of the Act and section 351.222(g)(1)(i) of the Department's regulations provide further that the Department may revoke an order, in whole or in part, if it concludes that the order under review is no longer of interest to domestic interested parties.

The FTC is a domestic interested party as defined by section 771(9)(E) of the Act and 19 CFR 351.102(b) and was the petitioner in the LTFV investigation of this proceeding. Based on the affirmative statement by the FTC and its Committees of no interest in the continued application of the order and the fact that no interested parties objected to or otherwise commented on our preliminary results of this review, we determine that there are changed circumstances sufficient to warrant revocation of the order. Therefore, the Department is revoking the antidumping duty order on certain fresh cut flowers from Colombia, retroactive to March 1, 1997.

As the result of the revocation, the Department is terminating the administrative reviews covering the following periods: March 1, 1997, through February 28, 1998 (initiated on April 21, 1998 (63 FR 19709)); March 1, 1998, through February 28, 1999 (initiated on April 30, 1999 (64 FR 23269)).

In accordance with 19 CFR 351.222(g)(4), we will instruct the Customs Service to end the suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of certain fresh cut flowers from Colombia on or after March 1, 1997. We will also instruct the Customs Service to pay interest on such refunds in accordance with section 778 of the Act.

This changed circumstances administrative review, revocation of the antidumping duty order and notice are in accordance with sections 751(b), 751(d) and 782(h) of the Act and 19 CFR 351.216 and 351.222.

Dated: July 13, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99–18462 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–588–837]**

## Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Notice of Initiation of Changed Circumstances Review of the Antidumping Duty Order

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

**ACTION:** Notice of initiation of changed circumstances antidumping duty review.

**SUMMARY:** In accordance with 19 CFR 351.216(b), Goss Graphic Systems, Inc., an interested party in this proceeding, requested a changed circumstances review. In response to this request, the Department of Commerce is initiating a changed circumstances review on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan.

**EFFECTIVE DATE:** July 20, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dinah McDougall or David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3773 or (202) 482–4136, respectively.

### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as

amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR Part 351 (1998).

**SUPPLEMENTARY INFORMATION:**

## Background

On May 28, 1999, Goss Graphic Systems, Inc. (Goss), the petitioner in this proceeding, requested that the Department revoke in part the antidumping duty order on large newspaper printing presses (LNPP) and components thereof, whether assembled or unassembled, from Japan. Specifically, Goss requested that the Department revoke the order with respect to imports of the elements and components of LNPP systems, and additions thereto, imported to fulfill a contract for one or more complete LNPP systems which feature a 22 inch cut-off, 50 inch web width and a rated speed no greater than 75,000 copies per hour, utilizing exclusively the type of printing unit and color keyless inking system detailed in Goss' request, in a tower configuration coupled with folder, reel tension paster, conveyance and access apparatus, and computerized control system meeting all of the specifications described in Goss' request.

Goss is a domestic producer of the subject merchandise and the petitioner in the underlying sales at less-than-fair-value investigation. In its changed circumstances request, Goss stated that it has no interest in maintaining the antidumping duty order on LNPPs from Japan with respect to the specific category of LNPP systems identified in its request.

In its May 28, 1999 letter, Goss also requested that the Department publish concurrently its notice of initiation and preliminary results of changed circumstances review, pursuant to 19 CFR 351.221(c)(3)(ii). Goss stated that it accounts for substantially all of the production of the domestic like product for which partial revocation is sought. Thus, since this portion of the order is no longer of interest to domestic parties, Goss stated that expedited action is warranted in this case. Goss requested that the effective date of this partial revocation be September 4, 1996, the publication date in the **Federal Register** of the antidumping duty order and amended final determination of sales at less-than-fair value.

On June 15, 1999, Tokyo Kikai Seisakusho, Ltd., (TKS), a Japanese exporter of the subject merchandise and a respondent in the underlying less-than-fair-value investigation and administrative review covering the period September 1, 1997, through August 31, 1998, submitted comments on Goss' changed circumstances request. TKS requested that, if the changed circumstances review were initiated, the Department determine and explain why it would be appropriate to exclude from the order the specific merchandise identified by the petitioner, but not the broader category of color keyless inking equipment as a whole. TKS has also requested that the Department investigate the basis of Goss' request.

## Scope of Review

The products covered by this antidumping order are large newspaper printing presses, including press systems, press additions and press components, whether assembled or unassembled, whether complete or incomplete, that are capable of printing or otherwise manipulating a roll of paper more than two pages across. A page is defined as a newspaper broadsheet page in which the lines of type are printed perpendicular to the running of the direction of the paper or a newspaper tabloid page with lines of type parallel to the running of the direction of the paper.

In addition to press systems, the scope of this order includes the five press system components. They are:

(1) A printing unit, which is any component that prints in monocolor, spot color and/or process (full) color;

(2) A reel tension paster, which is any component that feeds a roll of paper more than two newspaper broadsheet pages in width into a subject printing unit;

(3) A folder, which is a module or combination of modules capable of cutting, folding, and/or delivering the paper from a roll or rolls of newspaper broadsheet paper more than two pages in width into a newspaper format;

(4) Conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheet pages across through the production process and which provides structural support and access; and

(5) A computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

A press addition is comprised of a union of one or more of the press components defined above and the equipment necessary to integrate such components into an existing press system.

Because of their size, large newspaper printing press systems, press additions, and press components are typically shipped either partially assembled or unassembled, complete or incomplete, and are assembled and/or completed prior to and/or during the installation process in the United States. Any of the five components, or collection of components, the use of which is to fulfill a contract for large newspaper printing press systems, press additions, or press components, regardless of degree of assembly and/or degree of combination with non-subject elements before or after importation, is included in the scope of this antidumping duty order. Also included in the scope are elements of a LNPP system, addition or component, which taken altogether, constitute at least 50 percent of the cost of manufacture of any of the five major LNPP components of which they are a part.

For purposes of this antidumping duty order, the following definitions apply irrespective of any different definition that may be found in Customs rulings, U.S. Customs law or the HTSUS: (1) The term ''unassembled'' means fully or partially unassembled or disassembled; and (2) the term ''incomplete'' means lacking one or more elements with which the LNPP is intended to be equipped in order to fulfill a contract for a LNPP system, addition or component.

This scope does not cover spare or replacement parts. Spare or replacement parts imported pursuant to a LNPP contract, which are not integral to the original start-up and operation of the LNPP, and are separately identified and valued in a LNPP contract, whether or not shipped in combination with covered merchandise, are excluded from the scope of this order. Used presses are also not subject to this scope. Used presses are those that have been previously sold in an arm's length transaction to a purchaser that used them to produce newspapers in the ordinary course of business.

Further, the scope of the antidumping duty order covers all current and future printing technologies capable of printing newspapers, including, but not limited to, lithographic (offset or direct), flexographic, and letterpress systems. The products covered by this order are imported into the United States under subheadings 8443.11.10, 8443.11.50, 8443.30.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the HTSUS. Large newspaper printing presses may also enter under HTSUS subheadings 8443.21.00 and 8443.40.00. Large

newspaper printing press computerized control systems may enter under HTSUS subheadings 8471.49.10, 8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90.

The products covered by this changed circumstances review are elements and components of LNPP systems, and additions thereto, imported to fulfill a contract for one or more complete LNPP systems which feature a 22 inch cut-off, 50 inch web width and a rated speed no greater than 75,000 copies per hour. In addition to the specifications set out in this paragraph, all of which must be met in order for the product to fall within this changed circumstances review, the product must also possess all of the specifications detailed in the five (5) numbered sections following this paragraph and in any figures referenced below. If one or more of these criteria is not fulfilled, the product is not within the scope of this changed circumstances review:

1. *Printing Unit:* A printing unit which is a color keyless blanket-to-blanket tower unit with a fixed gain infeed and fixed gain outfeed, with a rated speed no greater than 75,000 copies per hour, which includes the following features:

- Each tower consisting of four levels, one or more of which must be populated.
- Plate cylinders which contain slot lock-ups and blanket cylinders which contain reel rod lock-ups both of which are of solid carbon steel with nickel plating and with bearers at both ends which are configured in-line with bearers of other cylinders.
- Keyless inking system which consists of a passive feed ink delivery system, an eight roller ink train, and a non-anilox and non-porous metering roller.
- The dampener system which consists of a two nozzle per page spraybar and two roller dampener with one chrome drum and one form roller.
- The equipment contained in the color keyless ink delivery system is designed to achieve a constant, uniform feed of ink film across the cylinder without ink keys. This system requires use of keyless ink which accepts greater water content.

2. *Folder:* A module which is a double 3:2 rotary folder with 160 pages collect capability and double (over and under) delivery, with a cut-off length of 22 inches. The upper section consists of three-high double formers (total of 6) with six sets of nipping rollers.

3. *RTP:* A component which is of the two-arm design with core drives and core brakes, designed for 50 inch diameter rolls; and arranged in the press line in the back-to-back configuration (left and right hand load pairs).

4. *Conveyance and Access Apparatus:* Conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheets across through the production process, and a drive system which is of conventional shafted design.

5. *Computerized Control System:* A computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

The order with regard to imports of other LNPPs is not affected by this request.

**Initiation of Changed Circumstances Antidumping Duty Review**

Pursuant to section 751(d)(1) of the Act, the Department may partially revoke an antidumping or countervailing duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. 19 CFR 351.222(g) provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

The Department concludes that it would be inappropriate to expedite this action pursuant to 19 CFR 351.221(c)(3)(ii) by issuing a preliminary determination prior to conducting an investigation in the instant case. The Department may need additional information regarding the basis for Goss' request and the ability of the U.S. Customs Service to enforce the antidumping duty order under the revised scope as proposed by Goss. Therefore, the Department is not issuing preliminary results of its changed circumstances antidumping duty administrative review at this time.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances antidumping duty administrative review, in accordance with 19 CFR 351.221(c)(3)(i), which will set forth the factual and legal conclusions upon which our preliminary results are based, and a description of any action proposed based on those results. Interested parties may submit comments for consideration in the Department's preliminary results not later than 20 days after publication of this notice. Responses to those comments may be submitted not later than 10 days following submission of the comments. All written comments must be submitted in accordance with 19 CFR 351.303, and must be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. The Department will also issue its final results of review within 270 days after the date on which the changed circumstances review is initiated, in accordance with 19 CFR 351.216(c), and will publish these results in the **Federal Register**.

While the changed circumstances administrative review is underway, the current requirement for a cash deposit of estimated antidumping duties on all subject merchandise, including the LNPP components and systems that are the subject of this changed circumstances review, will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This notice is in accordance with sections 751(b)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: July 12, 1999.

**Bernard Carreau,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99–18461 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–825]**

### Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Oil Country Tubular Goods from Korea

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

**EFFECTIVE DATE:** July 20, 1999.

**SUMMARY:** The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of the antidumping order on oil country

tubular goods from Korea, covering the period August 1, 1997 through July 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Lyons or Steve Bezirganian, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–0374 or (202) 482–0162, respectively.

**SUPPLEMENTARY INFORMATION:** Under section 751(a)(3)(A) of the Tariff Act, as amended (the Act), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 245 days after the last day of the anniversary month for the relevant order. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results until August 31, 1999. This extension fully extends the statutory deadline to 365 days after the last day of the anniversary month for the relevant order. The Department previously extended the time period for the preliminary results from May 3, 1999 to August 13, 1999. 64 FR 7855 (February 17, 1999).

Dated: July 14, 1999.

**Edward C. Yang,**

*Acting Deputy Assistant Secretary, Enforcement Group III.*

[FR Doc. 99–18465 Filed 7–19–99; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 990709188–9188–01]**

### National Weather Service (NWS) Modernization and Associated Restructuring; Final Certification of No Degradation of Service for the Combined Consolidation and/or Automation and Closure of Seven Weather Service Offices (WSO)

**AGENCY:** NWS, NOAA, Commerce.

**ACTION:** Notice.

**SUMMARY:** On July 7, 1999, the Under Secretary of Commerce for Oceans and Atmosphere transmitted to Congress notice of approval for five WSO consolidation, seven WSO automation, and seven WSO closure certifications. Pub. L. 102–567 requires the final certifications be published in the FR. This notice is intended to satisfy that requirement.

**EFFECTIVE DATE:** July 20, 1999.

**ADDRESSES:** Requests for copies of the final certification packages should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910–3283.

**FOR FURTHER INFORMATION CONTACT:** Tom Beaver at 301–713–0300 ext. 136.

**SUPPLEMENTARY INFORMATION:** The WSO Fresno, CA, automation and closure certification was proposed in the July 14, 1997, **Federal Register**. The 60-day public comment period closed on September 12, 1997. No public comments were received. At its September 24, 1997, meeting, the Modernization Transition Committee (MTC) endorsed the WSO Fresno certifications as not resulting in a degradation of service.

The automation and closure certifications for WSO Huntington, WV; and consolidation, automation, and closure certifications for WSO Chattanooga, TN, and WSO Syracuse, NY, were proposed in the April 9, 1998, **Federal Register**. The 60-day public comment period closed on June 8, 1998.

Fourteen public comments were received pertaining to WSO Syracuse. No comments were received pertaining to WSOs Huntington and Chattanooga. A synopsis of the public comments on WSO Syracuse and NWS response are set forth here for reference.

*Comments on WSO Syracuse, New York:* Fourteen public comments were received raising two concerns: loss of the snowfall measurements at the Syracuse airport, and a degradation of radar coverage and forecasting accuracy for lake effect snow events. One comment came from Representative James T. Walsh who stated, ''I write to you today to express my concerns regarding the removal of an accurate snow measuring system and on-site observation for Syracuse.'' One of the fourteen comments was in favor of closing the Syracuse office.

*NWS Response:* The NWS provided the following information to the Modernization Transition Committee (MTC) on June 18, 1998, in response to the concerns raised in the public comments. The NWS stated there will not be a loss of snowfall measurement because:

- Syracuse is a Service Level A airport, and there is a Federal Aviation Administration contractor in place to provide snow depth on the ground and snow increasing rapidly remarks in the observations.
- The Binghamton forecast office has an agreement with the contractor at the Syracuse airport to provide hourly snowfall updates as needed.
- 2 Cooperative observers are located within 20 miles and 4 cooperative observers are within 30 miles of the Syracuse airport to provide additional snowfall measurements.
- 17 volunteer snow spotters are located in Onondaga County including 2 within the Syracuse city limits.

The NWS stated there has not been a degradation of radar coverage or forecast accuracy for lake effect snow events because:

- The center of the Binghamton WSR–88D beam is 6500 feet over Syracuse and the center of the Montague WSR–88D beam is 6,000 feet over Syracuse providing non-degraded radar coverage of lake effect snow events. WSO Syracuse did not have a local radar.
- The 1995—1997 NWS Lake Effect Snow Study demonstrated forecast accuracy for lake effect snow events in the Syracuse area has improved.

At its June 18, 1998, meeting, the MTC endorsed the WSO Huntington, Chattanooga, and Syracuse certifications as not resulting in a degradation of service.

The consolidation, automation, and closure certifications for WSOs Charlotte, NC, Fort Wayne, IN, and South Bend, IN, were proposed in the July 17, 1998, FR. The 60-day comment period closed on September 15, 1998.

One public comment was received pertaining to WSO Fort Wayne. No public comments were received pertaining to WSOs Charlotte and South Bend. The public comment on WSO Fort Wayne and the NWS response are set forth here for reference. *Comment on WSO Fort Wayne, Indiana:* On July 23, 1998, Mr. Ned A. Speiser, CEM, Director, Defiance County Emergency management wrote, ''The service received has been poor to fair at best. Services I was use to receiving from the Cleveland Ohio NWS office are not offered by the North Webster Indian office. Services such as a paging system that warned of watches and warnings at no cost, a simple phone call from NWS to relay emergency information or to get information from me during bad weather. We do not receive the NOAA Radio transmission either.

There have been several bad storm cells that have moved through the area that warranted at least a watch, but none were received. Warnings have also not been received when NWS says there was one issued. They said it was due to

computer and technical communication problems. This is not acceptable.

The North Webster Indiana NWS informed me that they had put a cut off date on providing severe weather classes when I called to schedule a class. There was never a cut off date before. The Cleveland Office was always willing to work around my schedule as well as the people taking the class.

Last, but most important, is the attitude of the employees at the North Webster Office. We, other NW OHIO EMA Directors, and myself have had to call not one, but two emergency meetings in the past four months to discuss the above mentioned problems. Our complaints have fallen on deaf ears. It seems that they do not want to assist us in receiving the quality of service that we deserve and need to protect the citizens in our counties.

I would be happy to discuss this in further detail if you wish by contacting me at 419–782–1130. Thank you and I appreciate any help you may be able to offer.'' *NWS Response:* Mr. Michael Sabones, Meteorologist in Charge, Northern Indiana office worked with Mr. Speiser to satisfy his concerns. First, NWS has agreed to continue the pager service for Mr. Speiser. Second, there are areas of the country not covered by NOAA Weather Radio (NWR). The NWS is working with state and local governments and private entities in a public/private partnership to increase the NWR coverage. Third, outdated communications software has been updated with more reliable software which alleviated the technical and communications problems referred to by Mr. Speiser. Fourth, due to the upcoming severe weather season, the North Webster Indiana forecast office set a goal to complete spotter training by April 15. This did not fit with Mr. Speiser's schedule, and after clearing up the misunderstanding, a second training session was scheduled after April 15 for Defiance county spotters. On April 21, 1998, Mr. Speiser wrote, ''Thank you for providing the great informational Severe Weather Spotter classes in the month of April.'' Finally, the perceived attitude of the employees at the North Webster Indiana forecast office, related to the pager problem, was resolved to Mr. Speiser's satisfaction. Mr. Sabones met with Mr. Speiser on September 15, 1998, at the Ohio Emergency Management Association meeting and again on September 29, 1998, during a meeting to review flooding concerns in Defiance county. Mr. Speiser is satisfied with the efforts of the North Webster Indian forecast office to resolve his concerns.

At its September 20, 1998, meeting, the MTC endorsed the WSO Charlotte, WSO Fort Wayne, and WSO South Bend certifications as not resulting in a degradation of service.

After consideration of public comments received and the MTC endorsements, the Under Secretary of Commerce for Oceans and Atmosphere approved these seven combined consolidation and/or automation and closure certifications and transmitted notice of approval to Congress on July 7, 1999. Certification approval authority was delegated from the Secretary of Commerce to the Under Secretary in June 1996. The NWS is now completing the certification requirements of Pub. L. 102–567 by publishing the final consolidation and/or automation and closure certification notice in the **Federal Register**.

Dated: July 14, 1999.

**John E. Jones, Jr.**

*Deputy Assistant Administrator for Weather Services.*

[FR Doc. 99–18455 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–KE–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of an Import Limit for Certain Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

July 15, 1999.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting a limit.

**EFFECTIVE DATE:** July 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, 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 limit for Category 870 is being increased for swing.

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 67046, published on December 4, 1998.

**Troy H. Cribb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

July 15, 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 30, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on July 21, 1999, you are directed to increase the limit for Category 870 to 34,928,462 [1] kilograms, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and the People's Republic of China.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to 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.99–18466 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

July 15, 1999.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** July 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, 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, variously, for swing, special shift, carryover, carryforward and carryforward used.

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 64069, published on November 18, 1998.

**Troy H. Cribb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

July 15, 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 12, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on July 21, 1999, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Nepal:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| 336/636 | 315,299 dozen. |
| 340 | 471,102 dozen. |
| 341 | 1,056,370 dozen. |
| 342/642 | 275,067 dozen. |
| 347/348 | 904,593 dozen. |
| 640 | 108,754 dozen. |
| 641 | 329,149 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

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. 99–18467 Filed 7–19–99; 8:45 am]

BILLING CODE 3510–DR–F

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 2:00 p.m., Tuesday, July 20, 1999.

**PLACE:** 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Rule Enforcement Review.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Catherine D. Dixon,**

*Assistant Secretary of the Commission.*

[FR Doc. 99–18594 Filed 7–16–99; 2:40 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 2:00 p.m., Thursday, July 29, 1999.

**PLACE:** 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Enforcement Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Catherine D. Dixon,**

*Assistant Secretary of the Commission.*

[FR Doc. 99–18595 Filed 7–16–99; 2:40 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Privacy Act of 1974: System of Records

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of new systems of records.

**SUMMARY:** This notice adds three systems to the Commodity Futures Trading Commission's systems of records maintained under the Privacy Act: Freedom of Information Act requests, Privacy Act requests, and requests for confidential treatment. This notice informs the public of the existence and character of these systems and the routine uses which the Commission may make of the information contained in the systems.

**DATES:** Comments on the establishment of the new systems of records must be received no later than August 19, 1999. The new systems of records will be effective August 29, 1999 unless the Commission receives comments which would result in a contrary determination. .

**ADDRESSES:** Comments should be addressed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Comments may also be sent via electronic mail to secretary@cftc.gov.

**FOR FURTHER INFORMATION CONTACT:** Stacy Dean Yochum, Office of the Executive Director, (202) 418–5157, or Eileen Donovan, Office of the Secretariat, (202) 418–5096, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and the Commission's implementing regulations, 17 CFR part 146, the Commission is publishing a description of three new systems of records. Each is described in detail below.

1. **Freedom of Information Act Requests.** The Commission established this system of records to manage the processing of requests received under the Freedom of Information Act. Because this system allows retrieval of information about an individual through his or her name, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

The Freedom of Information Act (FOIA) provides individuals with a right of access to federal agency records,

except to the extent that such records are protected from disclosure by one of nine exemptions. When the Commission receives a FOIA request, the request is assigned a control number for tracking purposes and a letter is sent to the requester acknowledging receipt of the request.

Search forms are sent to the Commission offices or divisions which maintain the records requested. Staff members in the responding office or division complete the form and return it to the Commission's FOIA Compliance Office with any responsive material located. When all completed search forms have been returned, a response letter is prepared and sent to the requester with any responsive material not exempt from disclosure.

A file folder is maintained for each request received and each folder contains the original request, copies of the acknowledgment and response letters, the search forms, any memoranda or notes related to the processing of the request, a copy of the bill sent to the requester if fees were incurred, and a copy or record of the material provided to the requester. The records are kept in locked file cabinets until destroyed in accordance with National Archives and Records Administration (NARA) General Records Schedule (GRS) 14. Once a request is closed, the records are used only to expedite the processing of appeals and subsequent requests for the same information and to prepare the Commission's annual report to the Department of Justice on FOIA activity for the fiscal year, without reference to the individual who made the request. Information pertaining to the processing and disposition of each request is compiled electronically in the FOIA Tracking System database and destroyed in accordance with GRS–14.

2. **Privacy Act Requests.** The Commission established this system of records to manage the processing of requests received under the Privacy Act. Because this system allows retrieval of information about an individual through his or her name, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

The Privacy Act provides individuals with a right of access to records about themselves that are maintained in a federal agency's system of records. When the Commission receives a Privacy Act request, the request is assigned a control number for tracking purposes and a letter is sent to the requester acknowledging receipt of the request and asking for proof of the requester's identity.

Once the requester's identity is confirmed, search forms are sent to the Commission offices or divisions which maintain the records requested. Staff members in the responding office or division complete the form and return it to the Commission's FOIA Compliance Office with any responsive material located. When all completed search forms are returned, a response letter is prepared and sent to the requester with any responsive material not exempt from disclosure.

A file folder is maintained for each request received and each folder contains the original request, copies of the acknowledgement and response letters, the requester's proof of identity, the search forms, any memoranda or notes related to the processing of the request, a copy of the bill sent to the requester if fees were incurred, and a copy or record of the material provided to the requester. The records are kept in locked file cabinets until destroyed in accordance with GRS–14. Once a request is closed, the records are used only to process appeals and to prepare the Commission's biennial Privacy Act report to Congress, without reference to the individual who made the request. Information pertaining to the processing and disposition of each request is compiled electronically in the FOIA Tracking System database and destroyed in accordance with GRS–14.

3. **Requests for Confidential Treatment.** Individuals submitting information to the Commission may also submit a written request for confidential treatment of that information. The Commission maintains these requests for confidential treatment in a system of records so that if the Commission receives a FOIA request for the information, the submitter can be notified and given the opportunity to justify withholding the information from the requester. Because this system allows retrieval of information about an individual through his or her name, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public.

A submitter seeking confidential treatment must request such treatment in writing and copies of the request must be sent to the Commission office or division receiving the information for which confidential treatment is sought and to the Commission's FOIA Compliance Office. The request is indexed and placed in a file folder in a locked cabinet until a FOIA request for the subject information is received.

If such a FOIA request is received, the submitter is notified and asked to submit a detailed written justification of the confidential treatment request. Commission staff review the justification and determine whether confidential treatment should be granted or denied. If it is denied, the submitter may appeal that determination to the Commission's Office of the General Counsel. Information pertaining to the processing and disposition of each request is compiled electronically in the petitions database.

These new systems of records, as required by 5 U.S.C. 552a(r) of the Privacy Act, have been submitted to the Committee on Government Oversight and Reform of the U.S. House of Representatives, the Committee on Governmental Affairs of the U.S. Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996. Accordingly, the Commission is giving notice of the establishment of the following systems of records:

## CFTC–39

### SYSTEM NAME:

Freedom of Information Act Requests.

### SYSTEM LOCATION:

FOI, Privacy and Sunshine Acts Compliance Office, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the requests and any related internal administrative records may also be maintained by other offices involved in the processing of requests.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting information from the Commission pursuant to provisions of the Freedom of Information Act, 5 U.S.C. 552, and persons who are the subjects of Freedom of Information Act requests.

### CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, internal memoranda, response letters, appeals of denials, appeal determinations and electronic tracking data.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, 5 U.S.C. 301.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by Commission staff to process FOIA requests and appeals and to prepare an annual report to the Department of Justice on the Commission's FOIA activity. See also the Commission's ''General Statement of

Routine Uses,'' Nos. 1 and 2, Privacy Act Issuances, 1997 Comp.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer memory, computer printouts, and microfiche.

RETRIEVABILITY:

By assigned control number, by name of requester, or by subject of request.

SAFEGUARDS:

Paper records and microfiche are maintained in lockable file cabinets on secured premises. Information stored on computers is protected by a password, with access limited to persons whose official duties require access.

RETENTION AND DISPOSAL:

FOIA requests are retained in accordance with General Records Schedule 14 of the National Archives and Records Administration.

SYSTEM MANAGERS AND ADDRESS:

Assistant Secretary to the Commission for FOIA Matters, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

RECORD SOURCE CATEGORIES:

Persons requesting information from the Commission pursuant to the Freedom of Information Act and employees processing the requests.

## CFTC–40

SYSTEM NAME:

Privacy Act Requests.

SYSTEM LOCATION:

FOI, Privacy and Sunshine Acts Compliance Office, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the requests and any related internal administrative records may also be maintained by other offices involved in the processing of requests.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons filing requests for access to, correction of, or an accounting of disclosures of personal information contained in system of records maintained by the Commission, pursuant to the Privacy Act of 1974. 5 U.S.C. 552a.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, internal memoranda, response letters, appeals of denials, appeal determinations and electronic tracking data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by Commission staff to process Privacy Act requests and appeals and to prepare the Commission's Biennial Privacy Act report to Congress. See also the Commission's ''General Statement of Routine Uses,'' Nos. 1 and 2, Privacy Act Issuances, 1997 Comp.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer memory, computer printouts, and microfiche.

RETRIEVABILITY:

By assigned control number or by name of requester.

SAFEGUARDS:

Paper records and microfiche are maintained in lockable file cabinets on secured premises. Information stored on computers is protected by a password, with access limited to persons whose official duties require access.

RETENTION AND DISPOSAL:

Privacy Act requests are retained in accordance with General Records Schedule 14 of the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Secretary to the Commission for FOIA Matters, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

RECORD SOURCE CATEGORIES:

Persons requesting information from the Commission pursuant to the Privacy Act and employees processing the requests.

## CFTC–41

SYSTEM NAME:

Requests for Confidential Treatment.

SYSTEM LOCATION:

FOI, Privacy and Sunshine Acts Compliance Office, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. A copy of the request may also be kept by the office receiving the document for which confidential treatment is being requested.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting confidential treatment of, and persons who are the subjects of, documents filed with the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for confidential treatment, the documents for which confidential treatment is requested and electronic tracking data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

The records are used by Commission staff to determine whether to grant or deny confidential treatment of information submitted to the Commission for which a FOIA request has been received and to process appeals of determinations denying confidential treatment for submitted information. See also the Commission's ''General Statement of Routine Uses,'' Nos. 1 and 2, Privacy Act Issuances, 1997 Comp.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer memory, computer printouts, and microfiche.

**RETRIEVABILITY:**

By name of requester or by subject of request

**SAFEGUARDS:**

Paper records are maintained in lockable file cabinets on secured premises. Information stored on computers is protected by a password, with access limited to persons whose official duties require access.

**RETENTION AND DISPOSAL:**

Records are retained for 20 years, then destroyed.

**SYSTEM MANAGER AND ADDRESS:**

Assistant Secretary to the Commission for FOIA Matters, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Future Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

**RECORD SOURCE CATEGORIES:**

Persons submitting documents to the Commission.

Issued in Washington, DC this 14th day of July, 1999 by the Commodity Futures Trading Commission.

**Catherine D. Dixon,**

*Assistant Secretary to the Commission.*

[FR Doc. 99–18393 Filed 7–20–99; 8:45 am]

BILLING CODE 6351–01–M

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Meeting Notice

**AGENCY:** U.S. Consumer Product Safety Commission, Washington, DC 20207.

**TIME AND DATE:** Tuesday, July 27, 1999, 10:00 a.m.

**LOCATION:** Room 420, East West Towers, 4330 East-West Highway, Bethesda, Maryland.

**STATUS**

*Matter to be Considered*

Open to the Public.

*FY 2001 Budget Request*

The Commission will consider issues related to the Commission's budget for fiscal year 2001.

For a recorded message containing the latest agenda information, call (301) 504–0709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East-West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: July 15, 1999.

**Sadye E. Dunn,**

*Secretary.*

[FR Doc. 99–18648 Filed 7–16–99; 3:24 pm]

BILLING CODE 6355–01–M

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0139]**

### Proposed Collection; Comment Request Entitled Federal Acquisition and Community Right-To-Know

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance (9000–0139).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Federal Acquisition and Community Right-to-Know. The clearance currently expires on October 31, 1999.

**DATES:** Comments may be submitted on or before September 20, 1999.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501–1757.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

FAR Subpart 23.9 and its associate solicitation provision and contract clause implement the requirements of E.O. 12969 of August 8, 1995 (60 FR 40989, August 10, 1995), ''Federal Acquisition and Community Right-to-Know,'' and the Environmental Protection Agency's ''Guidance Implementing E.O. 12969; Federal Acquisition Community Right-to-Know; Toxic Chemical Release Reporting'' (60 FR 50738, September 29, 1995). The FAR coverage requires offerors in competitive acquisitions over $100,000 (including options) to certify that they will comply with applicable toxic chemical release reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (42 USC 11001–11050) and the Pollution Prevention Act of 1990 (42 USC 13101–13109).

### B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *167,487;* responses per respondent, *1;* total annual responses, *167,487,* preparation hours per response, *0.50;* and total response burden hours, *83,744.*

### Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202)208–7312. Please cite OMB Control No. 9000–0139, Federal Acquisition and Community Right-to-Know, in all correspondence.

Dated: July 14, 1999.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

[FR Doc. 99–18397 Filed 7–19–99; 8:45 am]

BILLING CODE 6820–34–P

## DEPARTMENT OF DEFENSE

### Waiver of 10 U.S.C. 2534 for Certain Defense Items Produced in the United Kingdom

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of waiver of 10 U.S.C. 2534 for certain defense items produced in the United Kingdom.

**SUMMARY:** The Under Secretary of Defense (Acquisition and Technology) is waiving the limitation of 10 U.S.C. 2534 for certain defense items produced to the United Kingdom (UK). 10 U.S.C. 2534 limits DoD procurement of certain items to sources in the national technology and industrial base. The waiver will permit procurement of items enumerated from sources in the UK, unless otherwise restricted by statute.

**EFFECTIVE DATE:** This waiver is effective for one year, beginning August 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Mutty, OUSD (A&T), Director of Defense Procurement, Foreign Contracting, Room 3C762, 3060 Defense Pentagon, Washington, DC 20301–3060, telephone (703) 697–9353.

**SUPPLEMENTARY INFORMATION:** Subsection (a) of 10 U.S.C. 2534 provides that the Secretary of Defense may procure the items listed in that subsection only if the manufacturer of the item is part of the national technology and industrial base. Subsection (i) of 10 U.S.C. 2534 authorizes the Secretary of Defense to exercise the waiver authority in subsection (d), on the basis of the applicability of paragraph (2) or (3) of that subsection, only if the waiver is made for a particular item listed in subsection (a) and for a particular foreign country. Subsection (d) authorizes a waiver if the Secretary determines that application of the limitation ''would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items'' and if he determines that ''that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.'' The Secretary of Defense has delegated the waiver authority of 10 U.S.C. 2534(d) to the Under Secretary of Defense (Acquisition and Technology).

DoD has a reciprocal procurement Memorandum of Understanding (MOU) with the UK that was signed on December 13, 1994.

The Under Secretary of Defense (Acquisition and Technology) finds that the UK does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in the UK, and also finds that application of the limitation in 10 U.S.C. 2534 against defense items produced in the UK would impede the reciprocal procurement of defense items under the MOU.

Under the authority of 10 U.S.C. 2534, the Under Secretary of Defense (Acquisition and Technology) has determined that application of the limitation of 10 U.S.C. 2534(a) to the procurement of any defense item produced in the UK that is listed below would impede the reciprocal procurement of defense items under the MOU with the UK.

On the basis of the foregoing, the Under Secretary of Defense (Acquisition and Technology) is waiving the limitation in 10 U.S.C. 2534(a) for procurements of any defense item listed below that is produced in the UK. This waiver applies only to the limitations in 10 U.S.C. 2534(a). It does not apply to any other limitation, including sections 8016 and 8067 of the DoD Appropriations Act for Fiscal Year 1999 (Pub. L. 105–262). This waiver applies to procurements under solicitations issued during the period from August 4, 1999, to August 3, 2000. A similar waiver was granted for the period from August 4, 1998, to August 3, 1999 (63 FR 38815, July 20, 1998). For contracts entered into prior to August 4, 1998, this waiver applies to procurements of the defense items listed below under—

(1) Subcontracts entered into during the period from August 4, 1999, to August 3, 2000, provided the prime contract is modified to provide the Government adequate consideration such as lower cost or improved performance; and

(2) Options that are exercised during the period from August 4, 1999, to August 3, 2000, if the option prices are adjusted for any reason other than the application of the waiver, and if the contract is modified to provide the Government adequate consideration such as lower cost or improved performance.

*List of Items to Which This Waiver Applies*

1. Air circuit breakers
2. Welded shipboard anchor and mooring chain with a diameter of four inches or less
3. Gyrocompasses
4. Electronic navigation chart systems
5. Steering controls
6. Pumps
7. Propulsion and machinery control systems
8. Totally enclosed lifeboats
9. Ball and roller bearings

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

[FR Doc. 99–18217 Filed 7–19–99; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

### U.S. Army Corps of Engineers, Department of the Army

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Construction of a Containerized Cargo and Cruise Ship Terminal, Along Port Road, East of Old Highway 146, in the Extra-territorial Jurisdiction of the City of Pasadena and the City of Seabrook, Harris County, Texas

**AGENCY:** U.S. Army Corps of Engineers, Galveston District, DoD.

**ACTION:** Revised Notice of Intent: Date and Location Change for Public Scoping Meeting.

**SUMMARY:** The U.S. Army Corps of Engineers, Galveston District intends to prepare a DEIS to access the social, economic and environmental effects of the proposed multi-year phased construction of a container terminal and cruise ship facility. The DEIS will assess potential impacts on a range of alternatives, including the preferred alternative.

**FOR FURTHER INFORMATION CONTACT:** For further information and/or questions about the proposed action and DEIS, please contact Mr. Mark King, Project Manager, by letter at U.S. Army Corps of Engineers, P.O. Box 1229, Galveston, Texas 77550, by telephone at (409) 766–3991, or by electronic mail at john.m.king@swg02.usace.army.mil.

**SUPPLEMENTARY INFORMATION:** The Galveston District intends to prepare a DEIS on the proposed container cargo and cruise ship terminal which would be located along Port Road, east of Old Highway 146, in the Extra-territorial Jurisdiction of the City of Pasadena and the City of Seabrook, Harris County, Texas. The Port of Houston Authority (PHA) proposes this project.

**1. Description of the Proposed Project**

The PHA proposes to construct containerized cargo loading areas, roadways, rail lines, an intermodal transit yard, and associated warehouses, administration, and operations buildings. It is the PHA's projection that initial construction would use approximately 1,600 feet of waterfront and 54 acres of land for a container

yard. Construction beyond this initial phase would occur in increments (50–100 acre yard expansions and associated waterfront construction). These additional phases of construction would occur based upon cargo demand. It is currently estimated that the ultimate build-out of the container terminal to seven berths and over 608 acres of container yard and a 90 acre intermodal transit facility (rail yard) could take 15 to 20 years. Cruise ship facilities beyond the initial single berth would be constructed based upon passenger demand.

### 2. Alternatives

The following alternatives will be examined to identify the reasonable alternatives to be fully evaluated in the DEIS: No Action; the modification of existing PHA facilities to meet the purpose and need of and for the proposed project; alternative locations within the jurisdictional authority of the PHA where the proposed facilities might be developed; off-site alternatives such as Spillman Island, Shoal Point (Texas City), and Galveston Harbor; modified on-site alternatives. The applicant's preferred alternative is the PHA owned property on the Bayport Ship Channel (95°00′ longitude and 29°36.7′ latitude).

### 3. Scoping and Public Involvement Process

A workshop and scoping meeting to gather information on the subjects to be studied in detail in the DEIS will be conducted on August 17, 1999, at the Pasadena Convention Center, 7902 Fairmont Parkway, Pasadena, Texas.

### 4. Significant Issues

Issues associated with the proposed facilities to be given significant analysis in the DEIS are likely to include, but may not be limited to, the potential impacts of the proposed dredging, the beneficial uses of dredged material, placement of fill, construction and operation of the proposed facility and surface transportation facilities, and of induced developments on: wetland resources; upland and aquatic biotic communities; water quality; fish and wildlife values including threatened and endangered species; noise and light levels in areas adjoining the proposed facilities; air quality; land forms and geologic resources; community cohesion; environmental justice; roadway traffic; socioeconomic environment; archaeological and cultural resources; recreation and recreational resources; public infrastructure and services; energy supply and natural resources; hazardous waste and materials; land use; aesthetics; public health and safety; navigation; flood plain values; shoreline erosion and accretion; and the needs and welfare of the people.

### 5. Cooperating Agencies

No other Federal agencies have been identified having permitting, certifying, or other approval authority for the proposed project. However, the Federal Highway Administration, the Environmental Protection Agency and Texas Natural Resources Conservation Commission have agreed to cooperate in the technical review of the DEIS.

### 6. Additional Review and Consultation

Additional review and consultation which will be incorporated into the preparation of this DEIS will include: compliance with the Texas Coastal Management Program; protection of cultural resources under Section 106 of the Historic Preservation Act; protection of navigation under the Rivers and Harbors Act of 1899; protection of water quality under Section 401 of the Clean Water Act; and protection of endangered and threatened species under Section 7 of the Endangered Species Act.

### 7. Availability of the DEIS

The Draft Environmental Impact Statement is projected to be available in March 2000. A Public Hearing will be conducted following the release of the DEIS.

Dated: July 2, 1999.

**Nicholas J. Buechler,**

*Col, EN Commanding.*

[FR Doc. 99–18391 Filed 7–19–99; 8:45 am]

BILLING CODE 3710–52–M

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## DEPARTMENT OF ENERGY

**[Docket No. EA–214]**

## Application To Export Electric Energy; Southern Company Energy Marketing L.P.

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Southern Company Energy Marketing L.P. (SCEM) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests or requests to intervene must be submitted on or before August 19, 1999.

**ADDRESS:** Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

**FOR FURTHER INFORMATION CONTACT:** Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–6667.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On July 2, 1999, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from SCEM to transmit electric energy from the United States to Canada. SCEM, a Delaware limited partnership, is a power marketer that does not own or control any electric generation or transmission facilities nor does it have any franchised service territory in the United States.

SCEM proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power & Light, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by SCEM, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

### Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the SCEM application to export electric energy to Canada should be clearly marked with Docket EA–214. Additional copies are to be filed directly with JoAnn P. Russell,

Esq., Glenn E. Camus, Esq., Southern Company Energy Marketing L.P., 900 Ashwood Parkway, Suite 490, Atlanta, GA 30338 AND James C. Beh, Esq., Antoine P. Cobb, Esq., Troutman Sanders LLP, Suite 500 East, 1300 I Street, N.W., Washington, D.C. 20005–3314.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on July 13, 1999.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.*

[FR Doc. 99–18430 Filed 7–19–99; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Notice of Wetland Involvement for Interim Measures for the Mixed Waste Management Facility (MWMF) Groundwater at the Burial Ground Complex (BGC), Savannah River Site, Aiken, South Carolina

**AGENCY:** Savannah River Operations Office (SR), Department of Energy (DOE).

**ACTION:** Notice of wetland involvement.

**SUMMARY:** DOE–SR proposes to install a small metal sheet pile wall dam which would be positioned to impound about 0.49 hectares (1.2 acres) of water around and over the BGC southwest groundwater seepline. This action would be taken in cooperation with the South Carolina Department of Health and Environmental Control (SCDHEC) to reduce the amount of tritium contaminated water seeping to the surface from the BGC southwest plume and eventually discharging to Fourmile Branch, an onsite stream. This interim measure is intended to control the movement and discharge of contaminated groundwater until the final, more permanent corrective measure is taken. In accordance with 10 CFR 1022, DOE will prepare a wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected wetland.

**DATES:** Comments on the proposed action due on or before August 4, 1999.

**ADDRESSES:** For further information, including a site map and/or copy of the wetland assessment, or to submit comments regarding this notice, contact A. R. Grainger, National Environmental Policy Act (NEPA) Compliance Officer, Savannah River Operations Office, Building 742–A, Room 185, Aiken, South Carolina 29808. The fax/phone number is (800) 881–7292. The e-mail address is nepa@srs.gov.

**FOR FURTHER INFORMATION ON GENERAL FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT:** Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone (202) 586–4600 or (800) 472–2756.

**SUPPLEMENTARY INFORMATION:** A groundwater contaminant plume has been detected and is emanating from the Old Radioactive Waste Burial Ground (ORWBG) which is located at the southwest corner of the BGC at SRS. Tritium-contaminated water from this southwest plume is seeping to the surface at areas along the Old F-Area Effluent Ditch (OFED). Currently, groundwater that emanates from this seep combines with surface drainage from the immediate area to form a small stream in the southern portion of the OFED. Eventually, this stream mixes with F-Area discharge water which then flows into Fourmile Branch, an onsite stream.

DOE–SR proposes to install a small metal sheet pile wall dam [approximately 1.5 to 2.1 meters (5 to 7 feet) high and 100.6 meters (330 feet) long] which would be positioned to impound about 0.49 hectares (1.2 acres) of water around and over the BGC southwest groundwater seepline. The impounded 0.49 hectares (1.2 acres) has been determined to be jurisdictional wetlands. The proposed action is not within the 100-year or baseline floodplain.

This action would be taken in cooperation with SCDHEC to reduce the amount of tritium-contaminated water seeping to the surface and eventually discharging to Fourmile Branch. The impoundment would retard surface water flow to Fourmile Branch by increasing travel time, thereby mitigating the discharge of tritium-contaminated water. In addition, a drip irrigation system is being evaluated to enhance the effectiveness of the interim measure. This feature would further minimize discharges to Fourmile Branch by pumping impounded water behind the dam during peak flow conditions to upstream locations.

The interim measure will also address the remediation of volatile organic compounds (VOCs) from ''hotspot'' regions associated with the southwest plume area. Airlift recirculation wells will be installed in ''hotspot'' regions where concentrations of VOCs have routinely exceeded drinking water standards. Airlift recirculation wells provide a means for removing VOCs from contaminated groundwater, through a combination of in place air stripping and airlift pumping processes.

This interim measure is intended to control the movement and discharge of contaminated groundwater until the final, more permanent corrective measure is taken.

Undertaking the proposed action will not affect DOE's ability to fully evaluate reasonable alternatives for the final action. An Environmental Assessment (EA) will also evaluate several alternatives to the proposed action.

In accordance with DOE regulations for compliance with wetland environmental review requirements (10 CFR 1022), DOE–SR will prepare a wetland assessment for this proposed DOE action. The assessment will be included in the EA (DOE/EA–1302) that is being prepared for the proposed action in accordance with the requirements of NEPA.

Issued in Aiken, SC, on July 7, 1999.

**Lowell E. Tripp,**

*Director, Engineering and Analysis Division, Savannah River Operations Office.*

[FR Doc. 99–18432 Filed 7–19–99; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

**[DE–PS26–99FT40613]**

### Federal Energy Technology Center; Notice of Intent To Issue a Program Solicitation for Cooperative Agreements

**AGENCY:** Federal Energy Technology Center, DOE.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the intent to issue a Program Solicitation No. DE–PS26–99FT40613 entitled ''Research and Development of Technologies for the Management of

Greenhouse Gases.'' The Federal Energy Technology Center invites any university or other institution of higher education, non-profit, not-for-profit or for-profit organization, non Federal agency, or other entity to submit competitive applications for cooperative agreements for the conduct of research and development that addresses the following six elements of the FETC sequestration program.

- Separation and Capture
- Sequestration of $CO_2$ in Geological Formations
- Ocean Sequestration
- Sequestration in Terrestrial Ecosystems
- Advanced Concepts
- Modeling and Assessments

**DATES:** Applications may be submitted at any time after the issuance date of the solicitation up to and including 1 year after the issue date. The issue date of the solicitation is expected to be August 1, 1999. Applications will be reviewed individually, or in groups which will be assembled as often as practical considering the number of applications received and availability of competent reviewers. Applications must be prepared and submitted in accordance with the instructions and forms in the Program Solicitation. Prospective offerors should check the Internet location frequently for any solicitation amendments prior to submitting applications.

**ADDRESSES:** The solicitation will be available for viewing and downloading from FETC's Internet site at http://www.fetc.doe.gov/business. Solicitations will not be distributed on diskette or in paper form. Candidates may register through FETC's Business Alert Notification service on our homepage. The category to register under is Advanced Electric Power Generation, Coal Conversion/Solid Fuels and Feedstocks, Oil and Gas, or Environmental R&D for Fossil Fuels. In accordance with FAR 52.232–18, ''Availability of Funds,'' funds are not presently available for this procurement. The Government's obligation under this award is contingent upon the availability of appropriated funds from which payment for award purposes can be made.

**SUPPLEMENTARY INFORMATION:** The overall goals for the FETC Carbon Sequestration Program are:

- To provide economically competitive and environmentally safe options to offset all projected growth in baseline emissions of greenhouse gases by the U.S. after 2010, with offsets starting in 2015.
- To achieve the long-term cost goal in the range of $10/ton of avoided net costs for carbon sequestration.
- To offset at least one-half the required reductions in global greenhouse gases, measured as the difference in a business-as-usual baseline and a strategy to stabilize atmospheric $CO_2$ concentrations at 550 ppm, beginning in the year 2025.

The latter goal represents the global potential for these technology options if broadly applied by the United States and other countries.

These research pathways stem directly from the Carbon Sequestration: State of the Science report, available from the Office of Fossil Energy's web site at www.fe.doe.gov/sequestration. The program portfolio covers the entire carbon sequestration ''life cycle'' of capture, separation, transport, and storage or reuse. Also of interest is the FETC Carbon Sequestration Program Plan is available on the web site at www.fetc.doe.gov/products/gcc.

DOE anticipates multiple cooperative agreement awards resulting from this solicitation and no fee or profit will be paid to a recipient or subrecipient under the awards.

Issued: July 9, 1999.

**Randolph L. Kesling,**

*Supervisory Contract Specialist, Acquisition and Assistance Division.*

[FR Doc. 99–18431 Filed 7–19–99; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Office of Fossil Energy

**[Docket No. FE C&E 99–15–Certification Notice—176]**

### Kissimmee Utility Authority; Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

**AGENCY:** Office of Fossil Energy, Department of Energy.

**ACTION:** Notice of filing.

**SUMMARY:** On June 22, 1999, Kissimmee Utility Authority submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

**ADDRESSES:** Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G-039, FE–27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20583.

**FOR FURTHER INFORMATION CONTACT:** Ellen Russell at (202) 586–9624.

**SUPPLEMENTARY INFORMATION:** Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 et seq.), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

*Owner:* Kissimmee Utility Authority and Florida Municipal Power Agency.

*Operator:* Kissimmee Utility Authority.

*Location:* Near Intercession City in Osceola County, FL.

*Plant Configuration:* Combined cycle.

*Capacity:* 250 megawatts.

*Fuel:* Natural gas.

*Purchasing Entities:* Kissimmee Utility Authority and the Florida Municipal Power Agency systems.

*In-Service Date:* June 2001.

Issued in Washington, D.C., July 14, 1999.

**Anthony J. Como,**

*Deputy Director, Electric Power Regulations, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.*

[FR Doc. 99–18429 Filed 7–19–99; 8:45 am]

BILLING CODE 6450–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC99–520–001, FERC–520]**

### Information Collection Submitted for Review and Request for Comments

July 14, 1999.

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission)

has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under the provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in responses to an earlier **Federal Register** notice of May 29, 1999 (64 FR 14894) and has made this notation in its submission to OMB.

**DATES:** Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

**ADDRESSES:** Address comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW, Washington, DC 20503. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Michael Miller, 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) 208–2425, and by e-mail at mike.miller@ferc.fed.us.

**SUPPLEMENTARY INFORMATION:**

## Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–520 ''Application for Authority to Hold Interlocking Directorate Positions''.

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* OMB No. 1902–0083.

The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection of data. There is an increase in the reporting burden due to an increase in the number of entities that submit this collection of information. This is a mandatory information collection requirement.

4. *Necessity of Collection of Information:* Submission of this information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of Section 305(b) of the Federal Power Act (FPA), 16 U.S.C. Section 305(b). This section specifies that the holding of certain defined interlocking corporate positions is unlawful unless the FERC has authorized the interlocks to be held, and requires of the applicant a showing that neither public nor private interests will be affected by the holding of such a position. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 45.

5. *Respondent Description:* The respondent universe currently comprises on average 28 entities subject to the Commission's jurisdiction.

6. *Estimated Burden:* 1,450 total burden hours, 28 respondents, 1 response annually, 51.8 hours per response.

7. *Estimated Cost Burden to Respondents:* 1,450 hours ÷ 2,080 hours per year × $109,889 per year = $76,605, average cost per respondent = $2,736.

**Statutory Authority:** Section 305(b) of the Federal Power Act, 16 U.S.C. 825(d).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–18444 Filed 7–19–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER99–1698–000]**

### The Detroit Edison Company; Notice of Filing.

July 14, 1999.

Take notice that on June 30, 1999, The Detroit Edison Company filed an amendment in response to the Federal Energy Regulatory Commission's (FERC) notification regarding the omission of the Specifications for Long-Term Firm Point-to-Point Transmission Service between the Detroit Edison Company and the Detroit Edison Company Merchant Operations.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 23, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 99–18445 Filed 7–19–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–435–000]**

### Maritimes & Northeast Pipeline, L.L.C.; Notice of Tariff Filing

July 14, 1999.

Take notice that on July 9, 1999 Maritimes & Northeast Pipleine, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to become effective August 1, 1999:

First Revised Sheet No. 230
Second Revised Sheet No. 292

Maritimes states that the purpose of this filing is to comply with Order No. 587–k, Final Rule issued on April 2, 1999 in Docket No. RM96–1–011. The revised tariff sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Maritimes states that copies of the filing were mailed to all affected customers of Maritimes and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

**David P. Boegers,**

*Secretary.*

[FR Doc. 99–18447 Filed 7–19–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP99–333–001]**

## Questar Pipeline Company; Tariff Filing

July 14, 1999.

Take notice that on July 9, 1999, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Seventh Revised Sheet No. 46, to be effective July 9, 1999.

On June 9, 1999, Questar filed tariff sheets to be effective July 9, 1999. The Commission issued a letter order in this proceeding on June 30, 1999, indicating that the red-lined version of Seventh Revised Sheet NO. 46 was not consistent with the proposed tariff sheet. This filing corrected this inconsistency as well as an incorrect section reference.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–18446 Filed 7–19–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL95–71–004, et al.]**

## Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc., et al., Electric Rate and Corporate Regulation Filings

July 13, 1999.

Take notice that the following filings have been made with the Commission:

### 1. Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.

[Docket No. EL95–71–004]

Take notice that on July 8, 1999, Public Service Company of New Hampshire tendered for filing a compliance filing in the above captioned matter. On June 16, 1999, the Commission ordered Public Service Company of New Hampshire (PSNH) to recalculate its billing for service to the New Hampshire Electric Cooperative, Inc. (NHEC) since June 6, 1998, to refund with interest certain charges it had made based upon those recalculated bills, and to file a refund report with the Commission. 87 FERC ¶61,294. PSNH provided a refund with interest relating to 0.45 megawatt of capacity from Bio Energy, a Qualifying Facility, claimed during the winter period under section 15.6 of the NEPOOL Agreement.

Copies of this filing were served upon the New Hampshire Electric Cooperative, Inc., counsel for Bio Energy Corporation, and the Executive Director and Secretary of the New Hampshire Public Utilities Commission.

*Comment date:* August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 2. Central Maine Power Company

[Docket No. EL99–76–000]

Take notice that on July 7, 1999, Central Maine Power Company (CMP) tendered for filing, pursuant to Section 385.207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207), and the Commission's Order No. 889 regarding a request for waiver of separation of functions requirement (18 CFR 37.4).

CMP requests that the waiver become effective in 60 days.

CMP has served a copy of this filing upon the Maine Public Utilities Commission.

*Comment date:* August 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 3. PanEnergy Lake Charles Generation, Inc.

[Docket No. ER96–1335–013]

Take notice that on July 8, 1999, in compliance with the Commission's May 17, 1996 Letter Order approving its market-based rate schedule, PanEnergy Lake Charles Generation, Inc. (Lake Charles) tendered for filing a Notification of Change in Status relating to the ownership of Lakes Charles' stock.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 4. Quark Power L.L.C. United American Energy Corp.

[Docket Nos. ER97–2374–009 and ER96–3092–012]

Take notice that on July 9, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

### 5. New England Power Pool

[Docket No. ER98–3853–004]

Take notice that on July 7, 1999, the New England Power Pool (NEPOOL) Participants Committee submitted unmarked versions of those portions of the Restated NEPOOL Open Access Transmission Tariff that were changed by the Thirty-Ninth Agreement Amending New England Power Pool Agreement in accordance with the Commission's order in New England Power Pool, 87 FERC ¶ 61,347 (1999).

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 6. Grayling Generating Station L.P., Direct Electric Inc., Central Hudson Gas & Electric Corporation

[Docket Nos. ER 99–791–001, ER94–1161–019, and ER97–2872–003]

Take notice that on July 8, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

**7. Duquesne Light Company**

[Docket No. ER99–1132–002]

Take notice that on July 7, 1999, Duquesne Light Company tendered for filing its compliance filing to amend Duquesne's Open Access Transmission Tariff in compliance with the Commission's Order of June 22, 1999 in Docket No. ER99–1132–001.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**8. SOWEGA Power LLC**

[Docket No. ER99–3427–000]

Take notice that on July 8, 1999, in the above-referenced docket, SOWEGA Power LLC (SOWEGA) amended its filing for authority to make sales at market-based rates. The original filing inadvertently omitted a copy of the proposed SOWEGA FERC Rate schedule No. 1, the market-based tariff for which approval is being sought, and which would provide the tariff authority for the two service agreements that were filed on June 30, 1999. SOWEGA hereby amends its filing to include a copy of the tariff.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**9. Tampa Electric Company**

[Docket No. ER99–3503–000]

Take notice that on July 7, 1999, Tampa Electric Company (Tampa Electric) tendered for filing an umbrella service agreement with Koch Energy Trading, Inc. (Koch) under Tampa Electric's Market-Based Sales Tariff. Tampa Electric proposes that the service agreement be made effective on June 7, 1999.

Copies of the filing have been served on Koch and the Florida Public Service Commission.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**10. Cleco Corporation**

[Docket No. ER99–3504–000]

Take notice that on July 7, 1999, Cleco Corporation, (Cleco) tendered for filing a service agreement under which Cleco will make market based power sales under its MR–1 tariff with the City of Ruston, Louisiana.

Cleco states that a copy of the filing has been served on the City of Ruston.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**11. Ameren Services Company**

[Docket No. ER99–3505–000]

Take notice that on July 7, 1999, Ameren Services Company (ASC) tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between ASC and Allegheny Energy, British Columbia Power Exchange Corporation, Duke Power, a division of Duke Energy Corporation, Kansas Electric Power Cooperative, Inc., Merrill Lynch Capital Services, Inc., and Southern Indiana Gas and Electric Company (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**12. Ameren Services Company**

[Docket No. ER99–3506–000]

Take notice that on July 7, 1999, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between ASC and Allegheny Energy, British Columbia Power Exchange Corporation, Duke Power, a division of Duke Energy Corporation, Kansas Electric Power Cooperative, Inc., Merrill Lynch Capital Services, Inc., and Southern Indiana Gas and Electric Company (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**13. New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange & Rockland Utilities, Inc., Rochester Gas & Electric Corp., Power Authority of the State of New York, New York Power Pool**

[Docket No. ER99–3508–000]

Take notice that on July 7, 1999, the New York Independent System Operator, Inc. (New York ISO) and the Member Systems of the New York Power Pool (Member Systems) tendered for filing Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities and an unexecuted letter agreement between the New York ISO and the Member Systems providing for a Cutover Plan.

The New York ISO and Member Systems request an effective date of September 1, 1999 and waiver of the Commission's notice requirements and of any applicable filing requirements not otherwise satisfied.

A copy of this filing was served upon all persons on the Commission's official service lists in Docket Nos. ER97–1523–000, OA97–470–000 and ER97–4234–000 (not consolidated), and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**14. Florida Power Corporation**

[Docket No. ER99–3509–000]

Take notice that on July 7, 1999, Florida Power Corporation (FPC) tendered for filing an unexecuted service agreement between El Paso Power Services Company and FPC for service under FPC's Cost-Based Wholesale Power Sales Tariff (CR–1), FERC Electric Tariff, Original Volume Number 9. This Tariff was accepted for filing by the Commission on April 20, 1998, effective as of October 29, 1997, in Docket No. ER98-374–000.

The service agreement is proposed to be effective June 8, 1999.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**15. Public Service Company of Colorado**

[Docket No. ER99–3510–000]

Take notice that on July 7, 1999, Public Service Company of Colorado filed a Service Agreement with Basin Electric Power Cooperative for Coordination Power and Energy sales under PS Colorado's Electric Coordination Service Tariff.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**16. Western Resources, Inc.**

[Docket No. ER99–3511–000]

Take notice that on July 8, 1999, Western Resources, Inc., tendered for filing an agreement between Western Resources and Northern Indiana Public Service Company. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' market-based power sales tariff on file with the Commission.

The agreement is proposed to become effective June 9, 1999.

Copies of the filing were served upon Northern Indiana Public Service Company and the Kansas Corporation Commission.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**17. Avista Corporation**

[Docket No. ER99–3512–000]

Take notice that on July 7, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission, pursuant to 18 CFR 35.13, an Executed Service Agreement under Avista Corporation's FERC Electric Tariff First Revised Volume No. 10, replacing a previously filed Unexecuted Service Agreement No. 4 under Docket No ER99–2826–000 with PacifiCorp, effective April 4, 1999.

Avista Corporation requests waiver of the prior notice requirements and requests an effective date of April 4, 1999.

Avista Corporation has served a copy of this filing to PacifiCorp.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**18. Ohio Valley Electric Corporation, Indiana-Kentucky Electric Corporation**

[Docket No. ER99–3513–000]

Take notice that on July 7, 1999, 1999, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC) tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service, dated February 1, 1999 between Avista Energy, Inc. (Avista) and OVEC.

OVEC proposes an effective date of June 16, 1999 and requests waiver of the Commission's notice requirement to allow the requested effective date.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

A copy of this filing was served upon Avista.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**19. Consolidated Edison Company of New York, Inc.**

[Docket No. ER99–3514–000]

Take notice that on July 7, 1999, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a service agreement to provide firm point-to-point transmission service pursuant to its Open Access Transmission Tariff to PP&L Energy Marketing Center (PP&L).

Con Edison states that a copy of this filing has been served by mail upon PP&L.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**20. Consolidated Edison Company of New York, Inc.**

[Docket No. ER99–3515–000]

Take notice that on July 7, 1999, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a service agreement to provide firm point-to-point transmission service pursuant to its Open Access Transmission Tariff to Southern Company Energy Marketing, L.P. (Southern).

Con Edison states that a copy of this filing has been served by mail upon Southern.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**21. Avista Corporation**

[Docket No. ER99–3516–000]

Take notice that on July 8, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, an Executed Service Agreement with Sovereign Power, Inc. under Avista Corporation's FERC Electric Tariff First Revised Volume No. 10.

Avista Corporation requests waiver of the prior notice requirements and requests an effective date of July 1, 1999.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**22. Central Hudson Gas & Electric Corporation**

[Docket No. ER99–3517–000]

Take notice that on July 7, 1999, Central Hudson Gas & Electric Corporation (CHG&E) tendered for filing, pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR, a Service Agreement for Firm Point-to-Point Transmission Service between CHG&E and The New York Power Authority. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 C.F.R. Section 35.11.

**CHG&E requests an effective date of May 20, 1999 for the Service Agreement.**

A copy of this filing has been served on the Public Service Commission of the State of New York.

*Comment date:* July 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

**23. Carolina Power & Light Company**

[Docket No. ER99–3518–000]

Take notice that on July 8, 1999, Carolina Power & Light Company (CP&L) tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with West Penn Power Company d/b/a Allegheny Energy. 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 30, 1999 for each Agreement.**

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**24. Ohio Edison Company and Pennsylvania Power Company**

[Docket No. ER99–3519–000]

Take notice that on July 8, 1999, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement with ACN Energy, Inc. under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Ohio Edison requests that the service agreement become effective on July 1, 1999.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**25. Florida Power Corporation**

[Docket No. ER99–3520–000]

Take notice that on July 8, 1999, Florida Power Corporation (Florida Power) tendered for filing a service agreement providing for non-firm point-to-point transmission service and a service agreement providing for short term firm point-to-point transmission service by Florida Power to Enron

Power Marketing, Inc. (Enron) pursuant to its open access transmission tariff.

Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on July 9, 1999.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**26. Florida Power and Light Company**

**FPL Energy Power Marketing, Inc.**

[Docket No. ER99–3521–000]

Take notice that on July 8, 1999, Florida Power and Light Company (FPL) and FPL Energy Power Marketing, Inc. (FPL Power Marketing) filed a request that Supplement No. 79 to Western Systems Power Pool (WSPP) Rate Schedule, FERC No. 1, be amended to reflect the transfer of FPL's membership in the WSPP to its affiliate, FPL Power Marketing.

FPL and FPL Power Marketing state that copies of this filing were served on other WSPP members and the general counsel of the WSPP.

*Comment date:* July 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

**27. Boston Edison Company**

[Docket No. ER99–3522–000]

Take notice that on July 8, 1999, Boston Edison Company (Boston Edison) tendered for filing a Standstill Agreement between itself and The Boylston Municipal Light Department, City of Holyoke Gas & Electric Department, Hudson Light and Power Department, Littleton Electric Light & Water Departments, Marblehead Municipal Light Department, Middleborough Gas and Electric Department, North Attleborough Electric Department, Peabody Municipal Light Plant, Shrewsbury's Electric Light Plant, Templeton Municipal Light Plant, Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, and Westfield Gas & Electric Light Department (Municipals). The Standstill Agreement extends the time in which the Municipals may institute a legal challenge to the 1997 true-up bill under their respective contracts to purchase power from Boston Edison's Pilgrim Nuclear Station, to permit finalization of a settlement in Docket Nos. EC99–18, et al.

Boston Edison requests waiver of the Commission's notice requirement to allow the Standstill Agreement to become effective July 12, 1999.

The Standstill Agreement relates to the following Boston Edison FERC Rate Schedules:

(1) Supplement to Rate Schedule No. 77—Standstill Agreement with Boylston Municipal Light Department
(2) Supplement to Rate Schedule No. 79—Standstill Agreement with Holyoke Gas and Electric Department
(3) Supplement to Rate Schedule No. 81—Standstill Agreement with Westfield Gas and Electric Light Department
(4) Supplement to Rate Schedule No. 83—Standstill Agreement with Hudson Light and Power Department
(5) Supplement to Rate Schedule No. 85—Standstill Agreement with Littleton Electric Light and Water Department
(6) Supplement to Rate Schedule No. 87—Standstill Agreement with Marblehead Municipal Light Department
(7) Supplement to Rate Schedule No. 89—Standstill Agreement with North Attleborough Electric Department
(8) Supplement to Rate Schedule No. 91—Standstill Agreement with Peabody Municipal Light Plant
(9) Supplement to Rate Schedule No. 93—Standstill Agreement with Shrewsbury's Electric Light Plant
(10) Supplement to Rate Schedule No. 95—Standstill Agreement with Templeton Municipal Light Plant
(11) Supplement to Rate Schedule No. 97—Standstill Agreement with Wakefield Municipal Light Department
(12) Supplement to Rate Schedule No. 99—Standstill Agreement with West Boylston Municipal Lighting Plant
(13) Supplement to Rate Schedule No. 102—Standstill Agreement with Middle- borough Gas and Electric Department

*Comment date:* July 28, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–18395 Filed 7–19–99; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6400–5]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request, NESHAP National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: ICR for NESHAP Subpart N, National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants, OMB Control Number 2060–0043, expiration date July 31, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1081.06.

**SUPPLEMENTARY INFORMATION:** *Title:* ICR for NESHAP Subpart N, National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants, OMB Control Number 2060–0043, EPA ICR Number 1081.06, expiration date July 31, 1999. This is a request for extension of a currently approved collection.

*Abstract:* These standards apply to each glass melting furnace that uses commercial arsenic as a raw material. This subpart does not apply to pot furnaces. Also, rebricking is not considered construction or modification

for the purposes of 40 CFR 61.05. This information is being collected to assure compliance with 40 CFR part 61, subpart N. The EPA is charged under section 112 of the Clean Air Act, as amended, to establish standards of performance for each category or subcategory of major sources and area sources of hazardous air pollutants. These standards are applicable to new or existing sources of hazardous air pollutants and shall require the maximum degree of emission reduction. Owners or operators of the affected facilities described are subject to the recordkeeping and reporting requirements in the NESHAP general provisions and the requirements of 40 CFR part 61, subpart N. The regulation requires initial notifications including construction, modifications, CMS demonstration, and performance testing. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to NESHAP subpart N, National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants provide information on the operation of the missions control device and compliance with the emission limit. Records and reports of approved control device bypass are required. Arsenic emission estimates and semiannual reports of uncontrolled Arsenic emission rates are required. These notifications, reports, and records are essential in determining compliance. All requirements are mandatory under 40 CFR part 61, subpart N. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least 2 years following the date of such measurements, reports, and records.

Approximately 47 sources are currently subject to the standard. There continues to be on growth in this industry, and it is estimated that no new sources will become subject to the standard in the next three years. All reports are sent to the delegated State or Local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

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 **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 01/05/99 (64 FR 499); no comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 157 hours per response. 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 maintain 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.

*Respondnets/Affected Entities:* Owners and Operators of Glass Manufacturing Plants.

*Estimated Number of Respondents:* 47.

*Frequency of Response:* Initial and semiannual.

*Estimate Total Annual Hour Burden:* 6,769 hours.

*Estimated Total Annualized Capital, O&M Cost Burden:* $164,500.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1081.06 and OMB Control No. 2060–0043 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: July 14, 1999.

**Joseph Retzer,**

*Director, Regulatory Information Division.*

[FR Doc. 99–18479 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL—6400–6]**

## Sun Laboratories Superfund Site/ Atlanta, Georgia; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Sun Laboratories Site (Site) located in Atlanta, Georgia, with Nasaro Incorporated. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: July 6, 1999.

**Franklin E. Hill,**

*Chief, Program Services Branch.*

[FR Doc. 99–18471 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6400–7]**

## Proposed Cost Recovery Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as Amended, 42 U.S.C. 9622(h)(1), Williams Gas Pipelines Central, Inc. Compressor Station Sites

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed cost recovery settlement under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(h)(1), Williams Gas Pipelines Central, Inc.

Compressor Station Sites, Americus, Corwin, Grabham, Matfield Green, Stafford, Tonganoxie and Welda, Kansas and Peculiar and Pierce City, Missouri.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is proposing to enter into a cost recovery administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(h)(1). This settlement is intended to resolve the liability of Williams Gas Pipelines Central, Inc. (WGPC) for response costs incurred by the EPA in connection with removal actions conducted by WGPC at nine compressor stations located in Kansas and Missouri. The compressor stations addressed in the proposed settlement are (1) Americus Compressor Station, Americus, Lyon County, Kansas; (2) Corwin Compressor Station, Corwin, Harper County, Kansas; (3) Grabham Compressor Station, Grabham, Montgomery County, Kansas; (4) Matfield Green Compressor Station, Matfield Green, Chase County, Kansas; (5) Peculiar Compressor Station, Peculiar, Cass County, Missouri; (6) Pierce City Compressor Station, Lawrence County, Missouri; (7) Stafford Compressor Station, Stafford, Stafford County, Kansas; (8) Tonganoxie Compressor Station, Tonganoxie, Leavenworth County, Kansas; and (9) Welda Compressor Station, Welda, Anderson County, Kansas. The proposed settlement agreement was signed by the Environmental Protection Agency (EPA) on May 20, 1999. Because EPA's total response costs did not exceed $500,000, the Attorney General's concurrence is not required for this settlement.

**DATES:** Written comments must be provided on or before August 19, 1999.

**ADDRESSES:** Comments should be addressed to Daniel J. Shiel, Office of Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to: *In the matter of Williams Gas Pipeline Central, Inc. Compressor Station Sites*, EPA Docket Nos. CERCLA–7–99–0018, CERCLA–7–99–0019, CERCLA–7–0020, CERCLA–7–99–0021, CERCLA–7–99–0022, CERCLA–7–99–0023, CERCLA–7–99–0024, CERCLA–7–99–0025, and CERCLA–7–99–0026.

The proposed administrative settlement may be examined in person at the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. To request a copy by mail please refer to the matter name and the docket numbers set forth above and enclose a check in the amount of $3.50 (25 cents per page for reproduction costs), payable to the United States Environmental Protection Agency.

**SUPPLEMENTARY INFORMATION:** The proposed administrative settlement concerns the nine compressor station sites listed above. Williams Gas Pipelines Central, Inc., formerly Williams Natural Gas Company, conducted removal actions at each of these sites pursuant to CERCLA section 160 administrative consent orders issued by EPA Region VII. Each of these consent orders required WGPC to reimburse EPA's oversight costs beginning on the effective date of each consent order, respectively. WGPC has reimbursed EPA's oversight costs as provided in the orders. However, in connection with each of the above WGPC Compressor Stations, EPA incurred response costs prior to the effective data of the consent order which have not been reimbursed by WGPC. EPA's unreimbursed response costs for the each of these WGPC Compressor Station Sites is as follows: (1) Americus Compressor Station, Site/Spill ID number 07GR, $39,537.27; (2) Corwin Compressor Station, Site/Spill ID number 07GZ, $4,006.24; (3) Grabham Compressor Station, Site/Spill ID number 07GT, $9,126.45; (4) Matfield Green Compressor Station Site/Spill ID number 07GP, $14,383.28; (5) Peculiar Compressor Station Site/Spill ID number 07TD, $1,670.60; (6) Pierce City Compressor Station Site/Spill ID number 07NT, $2,375.44; (7) Stafford Compressor Station Site/Spill ID number 07GQ, $19,168.57; (8) Tonganoxie Compressor Station Site/Spill ID number 07GS, $15,529.07; and (9) Welda Compressor Station Site/Spill ID number 07NW, $1,039.15. The total of these unreimbursed site costs is $106,836.07.

In the proposed settlement agreement, WGPC has agreed to reimburse EPA for $106,836.07, which is the full amount of these costs.

Dated: June 9, 1999.

**U. Gale Hutton,**

*Acting Regional Administrator, Region 7.*

[FR Doc. 99–18480 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

July 14 1999.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before September 20, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval Number:* 3060–0311.

*Title:* Section 76.54 Significantly viewed signals; method for special showing.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit entities.

*Number of Respondents:* 12.

*Estimated Time Per Response:* 15 hours.

*Frequency of Response:* On occasion third-party disclosure requirement.

*Total Annual Burden:* 180 hours.

*Total Annual Cost:* $48.

Needs and Uses: Section 76.54 requires that notice of an audience survey that is conducted by an organization for significantly viewed signal purposes is to be served on all licensees or permittees of television broadcast stations within whose predicted Grade B contour the cable community or communities are located, and all other system community units, franchisees and franchise applicants in the cable community or communities, as well as the franchise authority. This notification shall be made at least 30 days prior to the initial survey period and shall include the name of the survey organization and a description of the procedures to be used. The notifications are used by interested parties to give them an opportunity to file objections to the methodology of the survey.

*OMB Approval Number:* 3060–0315.

*Title:* Section 76.221 Sponsorship ID, list retention, related requirements.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit entities.

*Number of Respondents:* 450.

*Estimated Time Per Response:* 30 minutes.

*Frequency of Response:* On occasion notice and recordkeeping requirement.

*Total Annual Burden:* 225 hours.

*Total Annual Cost:* $900.

*Needs and Uses:* Section 76.221(a) and (c) state that when a cable operator engaged in origination cablecasting presents any matter for which valuable consideration is paid, the operator must announce the sponsorship of such matter if the sponsor has not already done so. Section 76.221(f) states that sponsorship announcements are waived with respect to the broadcast of ''want ads'' sponsored by an individual but the licensee shall maintain a list to be made available for public inspection showing the name, address and telephone number of each advertiser. Section 76.221(d) states that when a cablecast is of a political or controversial nature, the cable operator is required to retain a list of the executive officers, or board of directors, or executive committee, etc. of the organization sponsoring the cablecast. The records and sponsorship announcements are used by the public so that they may know by whom origination cablecasts are sponsored.

*OMB Approval Number:* 3060–0393.

*Title:* Section 73.54 Antenna resistance and reactance measurements.

*Form Number:* None.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 200 AM Licensees.

*Estimated Time Per Response:* 1.25 hours (0.25 hours consultation time; 1 hour contract consulting engineer).

*Frequency of Response:* Recordkeeping.

*Total Annual Burden:* 50.

*Total Annual Cost:* $30,000.

*Needs and Uses:* Section 73.54(d) requires that AM licensees file notification with the FCC when determining power by the direct method. This notification requirement is accomplished through a formal application process and has OMB approval under FCC Form 302, (OMB Control No. 3060–0029). In addition, Section 73.54(d) requires that background information regarding antenna resistance measurement data for AM stations must be kept on file at the station. The background information is used by FCC staff in field investigations to ensure that measurements are taken properly and by station licensees to identify any problems that may occur.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 99–18427 Filed 7–19–99; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 3, 1999.

**A. Federal Reserve Bank of Atlanta** (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

*1. Alice Bernice Sale*, Chattanooga, Tennessee; Tracie Lynn Calfee, Chattanooga, Tennessee; and David Reynolds Housley, Muscatine, Iowa; all to acquire additional voting shares of Rossville Bankshares, Inc., Rossville, Georgia, and thereby indirectly acquire additional voting shares of Rossville Bank, Rossville, Georgia.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. Michael Weeks, and Linda Weeks*, both of Premont, Texas; to acquire additional voting shares of Coastal Bend Bancshares, Inc., Corpus Christi, Texas, and thereby indirectly acquire additional voting shares of First Community Bank, NA, Alice, Texas.

Board of Governors of the Federal Reserve System, July 14, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–18398 Filed 7–19–99; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the

nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 13, 1999.

**A. Federal Reserve Bank of Boston** (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

*1. Westborough Bancorp, M.H.C., and Westborough Financial Services, Inc.*, both of Westborough, Massachusetts; to become bank holding companies by acquiring 100 percent of the voting shares of Westborough Savings Bank, Westborough, Massachusetts.

Board of Governors of the Federal Reserve System, July 14, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–18400 Filed 7–19–99; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 1999.

**A. Federal Reserve Bank of Chicago** (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

*1. Firstar Corporation*, Milwaukee, Wisconsin (Firstar); to acquire all the nonbank subsidiaries of Mercantile Bancorporation, Inc., St. Louis, Missouri (Mercantile), and to engage, directly or indirectly through such nonbank subsidiaries, in a variety of nonbanking activities that have previously been determined to be permissible for bank holding companies. The nonbanking companies that Firstar proposes to acquire are listed in the notice filed with the Board, and include FFG Trust, Inc., Springfield, Illinois, Mercantile Trust Company National Association, St. Louis, Missouri, D.D. Development of Sterling, Sterling, Illinois, Mercantile Consumer Loan Company, Rock Island, Illinois, and Mississippi Valley Life Insurance Company, St. Louis, Missouri. The nonbanking activities of the companies to be acquired also are listed in the notice and include engaging in trust company functions, pursuant to § 225.28(b)(5) of Regulation Y; community development financing and investment activities, pursuant to § 225.28(b)(12)(i) of Regulation Y; making and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y; and credit insurance activities, pursuant to § 225.28(b)(11)(i) of Regulation Y; and in engaging all activities that Mercantile currently is authorized to conduct.

Board of Governors of the Federal Reserve System, July 14, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–18399 Filed 7–19–99; 8:45 am]

BILLING CODE 6210–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

*Name of Committee*: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

*General Function of the Committee*: To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time*: The meeting will be held on July 29, 1999, 8 a.m. to 5 p.m.

*Location*: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

*Contact Person*: Mary J. Cornelius, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194, ext. 118, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. Please call the information Line for up-to-date information on this meeting.

*Agenda*: The committee will discuss, make recommendations, and vote on a premarket approval application for a urethral bulking and coaptation device for the treatment of stress urinary incontinence due to intrinsic sphincter insufficiency. The committee will also discuss possible revisions to the document entitled ''Draft Guidance For Preparation of PMA Applications for Testicular Prostheses,'' issued March 16, 1993. Single copies of the draft guidance are available to the public by calling 1–800–899–0381 or 301–827–0111, and requesting Facts-On-Demand document number 809, or on the Internet at ''http://www.fda.gov/cdrh/ode/oderp809.html''.

*Procedure*: On July 29, 1999, from 8:30 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 23, 1999. Oral presentations from the public will be scheduled between approximately 9 a.m. and 9:30 a.m., and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 23, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

*Closed Committee Deliberations*: On July 29, 1999, from 8 a.m. to 8:30 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding present and future FDA issues.

FDA regrets that it was unable to publish this notice 15 days prior to the

July 29, 1999 Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 29, 1999.

**Linda A. Suydam,**

*Senior Associate Commissioner.*

[FR Doc. 99–18383 Filed 7–19–99; 8:45 am]

BILLING CODE 4160–01–F

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[HCFA–0359/0360/R–0055]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Comprehensive Outpatient Rehabilitation Facility (CORF) Eligibility and Survey Forms and Information Collection Requirements in 42 CFR 485.56, 485.58, 485.60, 485.64, 485.66, 410.105; *Form No.:* HCFA–0359/0360/R–0055 (OMB #0938–0267); In order to participate in the Medicare proram as a CORF, providers must meet federal conditions of participation. The certification form is needed to determine if providers meet at least preliminary requirements. The survey form is used to record provider compliance with the individual conditions and report findings to HCFA.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 540; *Total Annual Responses:* 540; *Total Annual Hours:* 260,848.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address:

HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 12, 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. 99–18448 Filed 7–19–99; 8:45 am]

BILLING CODE 4120–03–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Notice of a Cooperative Agreement With the University of Southern California AIDS Social Policy Archive

The Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau (HAB) announces that it will award a cooperative agreement to The University of Southern California AIDS Social Policy Archive (USC).

The purpose of this cooperative agreement is to (1) assist USC in an expansion of training programs to help community-based organizations train, place, and support a cadre of HIV/AIDS peer treatment educators from racial and ethnic minority groups as a strategy to engage and retain more persons of color in high quality care and to evaluate the effectiveness of this type of intervention; and (2) establish a Center for Peer HIV/AIDS Treatment Educators in order to support the training and development of knowledgeable peer educators to work within minority communities on treatment education, to increase the awareness, acceptance and appropriate utilization of effective new therapies by HIV positive persons. This project is an essential part of HAB's response to address HIV/AIDS among racial and ethnic minority populations as a part of the Congressional Black Caucus Initiative. HRSA's role in the cooperative agreement will include providing consultation and technical assistance in planning, operating, and evaluating program activities; facilitating collaboration with Ryan White grantees and other HIV national and community organizations to reach the target population; facilitating efforts in the provision of technical assistance and training to specified individuals and organizations; participating, as appropriate, in planning and producing any conferences, meetings, or workgroups conducted during the period of the cooperative agreement; and maintaining an ongoing dialogue with the applicant concerning program plans, policies, and other issues which may have major implications for any activities undertaken by the applicant under the Cooperative Agreement.

#### Authorizing Legislation

An award will be made under the program authority of Section 2692 (a) of the Public Health Service Act, 42 U.S.C. 300ff–11.

#### Background

Assistance will only be provided to USC. No other applications are solicited, nor will they be accepted. This organization is the only qualified entity to administer this cooperative agreement because:

1. The University of Southern California AIDS Social Policy Archive is the only entity that has designed a university-based peer treatment educator training program that will create a cadre of highly-trained HIV/AIDS peer treatment educators for the purpose of increasing the numbers of HIV infected African Americans entering and remaining in health care, adhering to treatment regimes, and advocating for their own health care needs.

2. This organization and its staff are established leaders in developing and promoting national and local HIV-related treatment education and policy campaigns aimed at reducing the impact

of HIV in minority populations and improving health outcomes.

3. This organization has developed a base of critical knowledge, skills, and abilities related to HIV treatment and barriers to accessing and adhering to prescribed treatments.

4. This organization has nationally recognized experts in HIV treatments (FDA approved and experimental), process and outcome evaluation, and curriculum development as core resources to support the project through out the project period.

5. This organization has demonstrated the ability to work with minority and non-minority entities, the Federal Government, academic institutions, and health groups on mutually beneficial education, research, and health endeavors related to the goal of health promotion and disease prevention among racial and ethnic minority populations; the national leadership necessary to focus the Nation's attention on minority-related health issues; and the leadership needed to organize health care professionals to work with and train racial/ethnic minority treatment educators and advocates.

Up to $2,000,000 is available in fiscal year (FY) 1999 for a 12-month budget period with a project period of 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

### Where to Obtain Additional Information

Additional information may be obtained from Ms. Brenda Woods-Francis, HIV/AIDS Bureau, HRSA, 5600 Fishers Lane, Room 7–29, Rockville, MD 20857 or telephone (301) 443–0415.

Dated: July 14, 1999.

**Claude Earl Fox,**

*Administrator.*

[FR Doc. 99–18385 Filed 7–19–99; 8:45 am]

BILLING CODE 4160–15–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Health Resources and Services Administration

## Targeted Provider Education Demonstration Grants

**AGENCY:** Health Resources and Services Administration

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Health Resources and Services Administration (HRSA) announces the availability of funds for fiscal year 1999 for discretionary grants supporting Targeted Provider Education Demonstration (TPED) Grants. These demonstration grants will provide treatment education and training to health care and support service providers who deliver Ryan White CARE Act services.

The TPED Grants will serve as an adjunct to existing HRSA HIV training initiatives which focus on providing training to primary care providers on Department of Health and Human Services (DHHS) treatment guidelines including the ''DHHS Guidelines on the Use of Antiretroviral Agents in HIV infected Adults and Adolescents' and the ''Guidelines for the Use of Antiretroviral Agents in Pediatric HIV Infection''. The existing HIV training initiatives include: regional AIDS Education and Training Centers (AETC), the National AIDS Education and Training Centers Resource Center; and the National Minority AIDS and Education and Training Center.

The proposed demonstration grants will target HIV/AIDS providers such as case managers, peer counselors, mental health professionals, substance abuse providers, prison health and discharge providers, outreach workers, treatment educators, etc. who are not targeted to receive training through the other HRSA Ryan White Care Act training initiatives. Training topics supported under this grant announcement focus on areas required to support the delivery of quality health and social service support services through Ryan White CARE Act programs. Grantees will be expected to coordinate and work cooperatively with the AETCs and other HRSA training initiatives.

Successful grant applicants will propose to deliver innovative education and training programs tailored to the assessed training needs of the targeted populations. The proposed geographical area will be a region, state(s) or other large geographic area(s) defined by the applicant. The selected geographic area(s) should include areas with a demonstrable need for training providers that serve large minority and other underserved populations. The core components of the program will include a needs assessment, comprehensive evaluation component, and a time-framed implementation plan for education and training program activities.

### Eligible Applicants

Eligible applicants are public and nonprofit entities and schools and academic health science centers. In addition, the applicant should have a demonstrable track record in (1) designing and implementing training or educational programs, serving minority populations, and assessing HIV/AIDS service provider training needs; (2) be located within the training catchment area defined by the applicant; and (3) possess the capacity to use multifaceted strategies to outreach to minority providers and provide HIV/AIDS training.

### Availability of Funds

Up to $3.3 million dollars are available in FY 1999 to fund 5–10 awards. Funding will be allocated according to the number of grants awarded. It is expected that the awards will be made on or about September 30, 1999. Funding will be made available for 12-months, with a project period for up to three years. Continuation awards within the approved project period will be made on the basis of satisfactory progress and the availability of funds.

### Authorization

Section 2692 of the Public Health Service Act, 42 U.S.C. 300ff–11.

### Funding Priorities and/or Preferences

Funding priority will be given to proposals that propose to provide innovative education and training to targeted providers serving racial/ethnic minority communities highly impacted by HIV/AIDS. Geographical area and uniform national distribution of TPED programs will be considered in final funding decisions.

**DATES:** In order to be considered for competition, applications for these announced grants must be received at the HRSA Grants Application Center by the close of business 45 days following the date of this announcement. Applications shall be considered as meeting the deadline if they are: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing and submission to the review committee. Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications received after the deadline will be returned to the applicant and not reviewed.

**ADDRESSES:** All applications should be mailed or delivered to: Grants Management Officer, HRSA Grants Application Center, 5600 Fishers Lane, Room 4–91, Rockville, MD 20857. Grant applications sent to any address other than that above are subject to being returned. **Federal Register** notices and application guidance for the HIV/AIDS Bureau programs are available on the

World Wide Web via the Internet. The web site for the HIV/AIDS Bureau is: http://www.hrsa.gov/hab/. Federal grant application kits are available at the following Internet address: http://forms.psc.gov/phsforms.htm. For those applicants who are unable to access application materials electronically, a hard copy of the official grant application kit (PHS Form 6025–1) must be obtained from the HRSA Grants Application Center. The Center may be contacted by (1) telephone, 1–888–300–4772, (2) fax, 301–309–0579, or (3) e-mail, HRSA.GAC@ix.netcom.com.

**Where To Obtain Additional Information**

Additional technical information may be obtained from Brenda Woods-Francis, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–29, Rockville, MD 20857. The telephone number is (301) 443–0415 and the FAX number is (301) 443–6709.

Dated: July 14, 1999.

**Claude Earl Fox, M.D., M.P.H.,**

*Administrator.*

[FR Doc. 99–18384 Filed 7–19–99; 8:45 am]

BILLING CODE 4160–15–P

## DEPARTMENT OF THE INTERIOR

### Notice of Intent To Negotiate an Agreement Between the Central Utah Water Conservancy District and Department of the Interior for Construction of the Alpine Aqueduct Reach 3 Raw Water Bypass Pipeline, Utah County, UT

**AGENCY:** Office of the Assistant Secretary—Water and Science, Department of the Interior.

**ACTION:** Notice of intent to negotiate an agreement between the Central Utah Water Conservancy District (CUWCD) and Department of the Interior (Interior) for construction of the Alpine Aqueduct Reach 3 Raw Water Bypass Pipeline, Utah County, Utah.

**SUMMARY:** Under repayment contract No. 14–06–400–4286, dated December 28, 1965, as amended and supplemented, the United States and CUWCD agreed to the terms and conditions for the delivery of project water from the Bonneville Unit of the Central Utah Project. The project purposes for the Bonneville Unit include but are not limited to, irrigation, municipal and industrial, water conservation, water efficiency improvements, fish and wildlife, and recreation. As part of the Bonneville Unit, the Alpine Aqueduct System was constructed to convey Project municipal and industrial water to North Utah County. CUWCD is under contract for the operation and maintenance of Alpine Aqueduct System. Since treated Project water is not yet available for delivery through the Alpine Aqueduct, CUWCD intends to use Alpine Aqueduct Reach 3 to deliver untreated raw water. To deliver the raw water, a pipeline must be constructed to bypass the Utah Valley Water Purification Plant. This bypass pipeline, will be approximately 2,030 feet in length, up to 60 inches in diameter, and will connect Alpine Aqueduct Reach 1 to Alpine Aqueduct Reach 3, which will enable the delivery of the untreated municipal and industrial water to the North Utah County communities.

When construction of the bypass pipeline is completed it will become a CUP Project feature and title will be in the name of the United States. National Environmental Policy Act compliance will be completed by Interior.

**DATES:** Dates for public negotiation sessions will be announced in local newspapers.

**FOR FURTHER INFORMATION CONTACT:** Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Michael Hansen, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1194, Internet: mhansen@uc.usbr.gov

Dated: July 14, 1999.

**Ronald Johnston,**

*CUP Program Director, Department of the Interior.*

[FR Doc. 99–18408 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–RK–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WY–080–1610–00]**

### Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Newcastle Field Office Administrative Area, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Land Management (BLM) announces the availability of the Proposed Newcastle Resource Management Plan (RMP) and Final Environmental Impact Statement (FEIS). The proposed RMP describes the proposed future management direction for approximately 291,168 acres of BLM-administered public land surface and 1,407,698 acres of BLM-administered Federal mineral estate in the Wyoming portion of the Newcastle Field Office administrative area.

If you are interested in being involved in future activity planning and implementation of management decisions addressed in the proposed RMP, please contact the Newcastle Field Office at the address below.

The Proposed Newcastle Resource Management Plan and FEIS document is a complete reprinting of the material presented in the draft EIS document. It contains updated and revised chapter narratives, maps, tables, and appendices. Therefore, it should not be necessary to refer to the draft EIS in reviewing this proposed RMP and FEIS.

The Proposed Newcastle Resource Management Plan is a comprehensive land use plan for the management of the BLM-administered public lands in the Newcastle Field Office administrative area. The proposed RMP is a refinement of the preferred alternative presented in the draft EIS. Comments from the public, review and corrections by BLM staff, and new information developed since the distribution of the draft EIS have prompted some changes in the Preferred Alternative. The environmental effects of the proposed RMP are not substantively different from those of the Preferred Alternative. The proposed RMP focuses on the resolution of key resource management issues that were identified with public involvement early in the planning process. These issues include: (1) split estate land management; (2) special management area designations; and (3) resource accessibility and manageability.

The draft EIS for the Newcastle RMP was made available for public review and comment in April 1998. Comments received on the draft EIS were considered in preparing the Proposed Newcastle RMP and FEIS.

The following are changes made to the draft EIS in preparing the FEIS as a result of the public comments received, correcting errors, and updating information.

—Three planning criteria have been added: biological diversity, leasable minerals potential, and wild and scenic rivers. None of these additional criteria caused any changes in the Preferred Alternative.

—The ''Socioeconomic'' section in Chapter 3 has been updated and revised using current data.

—Map 3–18, ''Elk Hunt Areas'' and Map 3–24, ''Elk and Antelope Herd Unit Boundaries'' have been updated to reflect current information.

—Map 3–19, ''Threatened or Endangered Species Habitat,'' from the draft was eliminated because the information was incomplete and misleading.

—Information pertaining to big game population objectives was updated with current data.

—An Appendix N, ''Fire Management Implementation Plan for the BLM-Administered Public Lands in the State of Wyoming'' was added.

—Two appendices were updated with more current information: (1) Appendix H, ''A Detailed Discussion of Oil and Gas Activities and Processes in the Newcastle Resource Area,'' and (2) Appendix I, ''Reasonably Foreseeable Development Scenario for Oil and Gas.''

All or part of the Proposed Newcastle Resource Management Plan and FEIS may be protested by parties who participated in the planning process and who have an interest which is or may be adversely affected by the adoption of the plan. A protest may raise only those issues which were submitted for the record during the planning process and by only those parties who raised those issues.

**DATES:** Protests on the Proposed Newcastle RMP and FEIS must be postmarked no later than 30 days following the date that the Environmental Protection Agency Notice of Availability (NOA) is published in the **Federal Register**. That NOA is expected to be published on July 16, 1999.

**ADDRESSES:** Protests on the Proposed Newcastle RMP and FEIS should be sent to: Director (210), Bureau of Land Management, Attention: Brenda Williams, 1849 C Street NW, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Bill Hill, Newcastle Field Manager, Bureau of Land Management, 1101 Washington Blvd., Newcastle, Wyoming 82701, Phone: 307–746–4453.

Dated: July 14, 1999.

**Alan R. Pierson,**

*State Director.*

[FR Doc. 99–18407 Filed 7–19–99; 8:45 am]

BILLING CODE 4310 22–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR 125–09–6250–02–GP0249]**

### Closure Notice for Motor Vehicles on Designated Roads

**AGENCY:** Bureau of Land Management, U.S. Department of Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the following listed roads have been selected for closure to motorized vehicles in accordance with the Coos Bay Resource Management Plan & Environmental Impact Statement and its Record of Decision (BLM, 1995) (RMP); which is in conformance with the Final Supplemental and Environmental Impact Statement on Management of Habitat for Late Successional and Old-growth Forest Related Species within the Range of the Northern Spotted Owl and its Record of Decision (Interagency, 1984) (Northwest Forest Plan). Selected roads will have barriers installed on the Coos Bay District, within Coos and Douglas Counties. Closure is for an indefinite period (15 years or longer) beginning on or about 15 July, 1999, when roads will have barriers installed. Closures may be reversed by the BLM. Reopening of a road will be for temporary periods of time and the condition of the road will be restored to the original condition found (including erosion control and barriers). Acceptable reasons for reopening include the following: fire (prescribed or suppression), emergency, rescue, forestry management on lands administered by a private party (including but not limited to thinning, fertilization, stand exams, reforestation and harvesting activities on private lands and as authorized by the Area Manager on BLM administered lands). Closures otherwise may only be reopened for agency purposes by initiating an environmental assessment for a site specific project. Any use of motor vehicles by all parties within the closed areas is prohibited. This does not effect non-motorized forms of travel. The reason for this order is to implement the Northwest Forest Plan as it relates to road density management. Benefits to road closures include but are not limited to: improving water quality, reducing sedimentation, enhancing big game habitat, and reducing habitat disturbance to other wildlife species. Copies of the administrative determination and its environmental assessment, as well as maps of the roads affected are available from the Coos Bay District Office, at the address below.

All persons authorized to enforce state game laws may enforce this closure. Oregon State Police and the Coos and Douglas County Sheriff Departments are hereby authorized to enforce state and federal laws and regulations on federal properties affected in this notice.

This closure order is in accordance with the provisions of Pub. L. 93452, the Sikes Act (88 Stat. 1369), (16 U.S.C. 670 et seq.) and Pub. L. 94–579, the Federal Land Policy and Management Act of 1976 (90 stat. 2743), (43 U.S.C. 1701), 43 CFR, Subpart 8364 and 13LM Manual Handbook, State Office—Oregon H–2812–1—Logging Road Right-of-Way.

Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7 or as ordered through the Oregon Judicial system.

The following is a list of road closures identified by this order, by Field Office and road number. Unless noted otherwise, the location of the gates or barriers will be at or near the beginning of each road.

TABLE 1.—UMPGUA FIELD OFFICE PROPOSED ROAD CLOSURES

| Road No. | Approx. miles |
|---|---|
| 27–10–30.1 | 0.5 |
| 27–10–6.2* | 1.2 |
| 26–10–25.1 | 0.5 |
| 26–10–35.0 | 0.7 |
| 20–9–29 | 1.5 |
| Total | 4.4 |

*Only the portion of Road No. 27–10–6.2 north of the junction with Road No. 27–10–31.1 is proposed for closure.

**ADDRESSES:** Detailed information concerning this notice, including the environmental analysis, is available for review at the Bureau of Land Management's Coos Bay District Office, 1300 Airport Lane, North Bend, OR 97459–2000.

**DATES:** On or before August 19, 1999, interested parties may submit comments to the Umpqua Field Office Manager at the above address. Objections will be evaluated by the Field Office Manager, who may sustain, vacate or modify this action. In the absence of any objection, this action will become the final determination of the Bureau of Land Management.

**FOR FURTHER INFORMATION CONTACT:** Dan R. Van Slyke (541) 756–0100.

**Gary Johnson,**

*Umpqua Field Manager.*

[FR Doc. 99–18449 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[UT–942–1430–01; UTU 42936, UTU 42937, UTU 42942, UTU 42943, and UTU 42944]**

### Public Land Order No. 7401; Revocation of Secretarial Orders Dated February 29, 1912, April 16, 1913, and April 19, 1913, and Partial Revocation of Secretarial Orders Dated April 11, 1889, and May 2, 1914; Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes three Secretarial orders in their entirety and partially revokes two Secretarial orders insofar as they affect 5,457.36 acres of lands withdrawn for the Bureau of Reclamation's Utah Lake Reservoir Site and the Strawberry Valley Project. The lands are no longer needed for reclamation purposes and the Bureau of Reclamation has requested that the withdrawals be revoked. Of the lands included in these revocations, 2,563.86 acres are within overlapping withdrawals and will remain closed to surface entry and mining, and 2,171.80 acres will be made available for exchange. These lands have been and will remain open to mineral leasing. The remaining 721.70 acres will be transferred to the State of Utah in accordance with the Utah State Enabling Act.

**EFFECTIVE DATE:** August 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Michael Nelson, BLM Salt Lake Field Office (UT–020), 2370 South 2300 West, Salt Lake City, Utah 84119, 801–977–4355.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Orders dated February 29, 1912, April 16, 1913, and April 19, 1913, which withdrew lands for the Bureau of Reclamation's Strawberry Valley Project, are hereby revoked in their entirety as they affect the following described lands:

**Salt Lake Meridian**

T. 8 S., R. 1 E.,
Sec. 10, lots 1 to 8, inclusive, and SW¼SE¼;
Sec. 11, E½SW¼ and SW¼SE¼.
T. 9 S., R. 1 E.,
Sec. 8, W½SE¼NW¼, NE¼SW¼, SW¼NW¼SE¼, and SW¼SE¼SE¼;
Sec. 22, NE¼SW¼ and NW¼SW¼SE¼.
T. 7 S., R. 1 W.,
Sec. 13, lots 2, 3, 4, 9, 10, 11, and 12, and W½;
Sec. 22, lots 3, 4, 5, 6, 11, and 12, and NW¼;
Sec. 24, lots 1, 2, 3, 11, 12, 17, and 18, N½NW¼, and SW¼NW¼;
Sec. 26, NW¼NW¼ and NW¼SW¼;
Sec. 34, NW¼NE¼.

The areas described aggregate 1,927.00 acres in Utah County.

2. The Secretarial Order dated April 11, 1889, which withdrew lands for the Utah Lake Reservoir Site, is hereby revoked insofar as it affects the following described lands:

**Salt Lake Meridian**

T. 5 S., R. 1 E.,
Sec. 27, lot 3;
Sec. 29, lots 1 and 2;
Sec. 34, lot 1;
Sec. 36, lots 1 to 4, inclusive, N½NW¼, and SE¼NW¼.
T. 7 S., R., 1 E.,
Sec. 6, lot 1 and NE¼SE¼;
Sec. 7, lot 1;
Sec. 26, lot 1.
T. 8 S., R., 1 E.,
Sec. 10, lots 1, 2, 7, and 8.
T. 7 S., R., 2 E.,
Sec. 15, lot 1;
Sec. 25, lots 2, 3, and 4, and SE¼SW¼;
Sec. 26, lots 1 to 4, inclusive;
Sec. 27, lot 1;
Sec. 36, W½E½ and W½.
T. 5 S., R., 1 W.,
Sec. 23, lot 3;
Sec. 24, lots 2 and 4;
Sec. 36, lots 1 and 2.
T. 7 S., R. 1 W.,
Sec. 13, lots 9 to 12, inclusive;
Sec. 24, lots 1, 2, 3, 10, 11, 12, 13, 17, and 18, and NW¼;
Sec. 26, NW¼SW¼;
Sec. 34, NW¼NE¼.

The areas described aggregate 2,113.99 acres in Utah County.

3. The Secretarial Order dated May 2, 1914, which withdrew lands for the Bureau of Reclamation's Strawberry Valley Project is hereby revoked insofar as it affects the following described lands:

**Salt Lake Meridian**

T. 9 S., R. 1 E.,
Sec. 18, lots 1 and 2;
Sec. 20, W½NE¼ and W½.
T. 9 S., R. 1 W.,
Sec. 2, SW¼NE¼ and S½SE¼;
Sec. 11, lots 1, 2, 3, and 4, SW¼SW¼, N½SW¼, and NW¼;
Sec. 13, lots 1 to 4, inclusive;
Sec. 14, lots 1 to 4, inclusive, and W½W½;
Sec. 15, E½E½;
Sec. 22, E½;
Sec. 23, lots 1 and 2, NE¼SE¼, and S½SE¼.

The areas described aggregate 2,158.05 acres in Utah County.

4. The following described lands are within overlapping withdrawals and will remain closed to surface entry and mining:

**Salt Lake Meridian**

T. 7 S., R. 1 E.,
Sec. 26, lot 1.
T. 8 S., R. 1 E.,
Sec. 11, E½SW¼ and SW¼SE¼.
T. 9 S., R. 1 E.,
Sec. 18, lots 1 and 2;
Sec. 20, W½NE¼ and W½.
T. 7 S., R. 2 E.,
Sec. 15, lot 1;
Sec. 25, lots 2 and 3, and SE¼SW¼;
Sec. 26, lots 1 to 4, inclusive;
Sec. 27, lot 1.
T. 5 S., R. 1 W.,
Sec. 24, lots 2 and 4.
T. 9 S., R. 1 W.,
Sec. 2, SW¼NE¼ and S½SE¼;
Sec. 11, lots 1 to 4, inclusive, SW¼SW¼, N½SW¼, and NW¼;
Sec. 13, lots 1 to 4, inclusive;
Sec. 14, lots 1 to 4, inclusive, and W½W½;
Sec. 15, E½E½;
Sec. 22, E½;
Sec. 23, lots 1 and 2, NE¼SE¼, and S½SE¼.

The areas described aggregate 2,563.86 acres in Utah County.

5. The following described lands are being conveyed to the State of Utah in accordance with the Utah State Enabling Act:

**Salt Lake Meridian**

T. 5 S., R. 1 E.,
Sec. 36, lots 1 to 4, inclusive, N½NW¼, and SE¼NW¼.
T. 7 S., R. 2 E.,
Sec. 36, W½E½ and W½.
T. 5 S., R. 1 W.,
Sec. 36, lots 1 and 2.

The areas described aggregate 721.70 acres in Utah County.

6. At 10 a.m. on August 19, 1999 the lands described in Paragraphs 1, 2, and 3, except for those described in Paragraphs 4 and 5 will be opened for exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716 (1994), subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: July 8, 1999.

**John Berry,**

*Assistant Secretary of the Interior.*

[FR Doc. 99–18450 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–D9–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NV–930–4210–05; N–57883]**

### Notice of Realty Action: Segregation Terminated, Lease/Conveyance for Recreation and Public Purposes

**AGENCY:** Bureau of Land Management, DOI.

**ACTION:** Segregation Terminated, Recreation and Public Purpose Lease/Conveyance.

**SUMMARY:** The following described public land in Las Vegas, Clark County, Nevada was segregated on July 23, 1997 for exchange purposes under serial number N–61855. The exchange segregation on the subject lands will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes to use the lands for a public park.

**Mount Diablo Meridian, Nevada**

T. 19 S., R. 60 E., M.D.M., sec. 31, Lots 15, 18, 20,
SE¼NW¼SW¼, W½NE¼SW¼SW¼, W½NW¼SE¼SW¼, W½SW¼SE¼SW¼, SE¼SW¼SW¼,
T. 20 S., R. 60 E., M.D.M., sec. 6, Lots 27, 32–35, 37.

Containing 80.00 acres, more or less, located at Lone Mountain Road and Jensen Street.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.

2. Those rights for distribution line purposes which have been granted to Kern River Gas Company by Permit No. N–42581 under the Act of February 25, 1920 (30 U.S.C 185, sec. 28).

3. Those rights for distribution line purposes which have been granted to Nevada Power Company by Permit No. N–59043 under the Act of October 21, 1976 (43 U.S.C 1761).

4. Those rights for roadway purposes which have been granted to Clark County by Permit No. N–59198 under the Act of October 21, 1976 (43 U.S.C 1761).

5. Those rights for roadway purposes which have been granted to Clark County by Permit No. N–60728 under the Act of October 21, 1976 (43 U.S.C 1761).

6. Those rights for roadway purposes which have been granted to Clark County by Permit No. N–60903 under the Act of October 21, 1976 (43 U.S.C 1761).

7. Those rights for distribution line purposes which have been granted to Nevada Power Company by Permit No. N–61629 under the Act of October 21, 1976 (43 USC 1761).

8. Those rights for distribution line purposes which have been granted to Las Vegas Valley Water District by Permit No. N–62096 under the Act of October 21, 1976 (43 USC 1761).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Las Vegas Field Office Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

**Classification Comments**

Interested parties may submit comments involving the suitability of the land for a park site. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

**Application Comments**

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a park site.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: July 8, 1999.

**Rex Wells,**

*Assistant Field Office Manager, Las Vegas, NV.*

[FR Doc. 99–18392 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Availability of the Decision Notice and Finding of No Significant Impact for the Environmental Assessment of Restoration Alternatives for the March 28, 1993, Colonial Pipeline Oil Spill Near Reston, Virginia

**ACTION:** Notice of availability of the Decision Notice (DN) and Finding of No Significant Impact (FONSI) for the Environmental Assessment of Restoration Alternatives for the March 28, 1993, Colonial Pipeline Oil Spill near Reston, Virginia.

**SUMMARY:** Pursuant to the Council on Environmental Quality regulations, the Trustees, representing the National Park Service, U.S. Fish and Wildlife Service, Commonwealth of Virginia, and District of Columbia, prepared and made available for a 30-day public review the Draft Restoration Plan and Environmental Assessment for the Colonial Pipeline Oil Spill, Reston, Virginia (the EA). During the review period, the Trustees held a public meeting in Herndon, Virginia, to discuss the EA. See the notice of availability for the EA published in the **Federal Register** on October 23, 1998 (63 FR 56939).

After the end of the 30-day public availability period, the Trustees selected the preferred alternative, described in Sections 3.1 and 3.2 of the EA, and determined that the implementation of the preferred alternative will not cause a significant environmental impact (FONSI). In making that selection and determination, the Trustees considered the information and analysis contained in the EA and the comments received during the 30-day public availability period. As a result, the Trustees adopted certain modifications to the preferred

alternative. Those modifications are described in the DN/FONSI and will be incorporated in the Final Restoration Plan and Environmental Assessment.

The preferred alternative contains both primary and compensatory restoration actions. Natural recovery is the primary restoration action selected to return injured natural resources to their baseline conditions. A package of multiple compensatory restoration actions, including various wildlife habitat and recreational use enhancement projects, was selected to replace the interim loss of natural resource services. The goal of primary and compensatory restoration is to make the environment and the public whole for injuries to, or loss of, natural resources and services resulting from the oil spill.

**SUPPLEMENTARY INFORMATION:** Requests for copies of the DN/FONSI, or for any additional information, should be directed to Daniel Hamson, National Park Service, Environmental Quality Division, 1849 C Street, NW (Mail Stop 2749), Washington, DC 20240, Telephone: (202) 208–7504.

Dated: July 14, 1999.

**Mike Soukup,**

*Associate Director, Natural Resource Stewardship and Science, National Park Service.*

[FR Doc. 99–18386 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–70–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

## Notice of Intent to Prepare an Environmental Impact Statement for a Roads and Trails Management Plan for Big Fork National River and Recreation Area, Kentucky and Tennessee

**SUMMARY:** Road and trail uses are among the most serious and volatile issues facing Big South Fork National River and Recreation Area (BISO) personnel. Therefore, the National Park Service (NPS) has decided to prepare a Roads and Trails Management Plan (RTMP) which will include an Environmental Impact Statement (EIS). While roads and trails provide appropriate access to resources and recreational opportunities, their use often involves resource impacts, user conflicts, and carrying capacity concerns. Strong pressures exist to develop additional trails, and there are strongly held positions of various user groups concerning the amounts, locations, and types of roads and trails that are needed. Road and trail standards are needed. The RTMP will address these concerns and needs and provide guidance to BISO personnel. The EIS will provide an environmental evaluation of system options. The RTMP is considered a follow-up implementation effort to BISO's General Management Plan (GMP) which is nearing completion.

**DATES:** The NPS currently estimates formulating and evaluating alternatives by December 31, 1999, and comments would be most helpful prior to that date. Comments concerning roads and trails that were furnished by the public during the GMP process will be fully considered for development of the draft RTMP/EIS and need not be resubmitted. The public will be furnished an opportunity to review the draft RTMP/EIS and submit comments. Written comments and suggestions on the RTMP/EIS will be accepted anytime during the process.

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Big South Fork National River and Recreation Area, 4564 Leatherwood Road, Onieda, Tennessee 37841, Telephone (423) 569–2404.

Dated: July 9, 1999.

**W. Thomas Brown,**

*Regional Director, Southeast Region.*

[FR Doc. 99–18387 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–70–M

## DEPARTMENT OF THE INTERIOR

## National Park Service

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 10, 1999. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by August 4, 1999.

**Carol D. Shull,**

*Keeper of the National Register.*

**Connecticut**

Hartford County

Capewell Horse Nail Company, 60–70 Popieluszko St., Hartford, 99000927

Melrose Road Bridge, Melrose Rd. over Scantic River, East Windsor, 99000922

Town Bridge, Town Bridge over Farmington River, Canton, 99000923

Woodbridge Farmstead, 495 Middle Turnpike East, Manchester, 99000925

Middlesex County

Emmanuel Church, 50 Emmanuel Church Rd., Killingworth, 99000924

**Georgia**

Chatham County

Tybee Island Back River Historic District, Along Chatham Ave., from Tybee River to Venetian Dr., Tybee Island, 99000928

**Louisiana**

Avoyelles Parish

Bailey Hotel, 102 Magnolia St., Bunkie, 99000929

Ouachita Parish

Wossman House, 1205 St. John Dr., Monroe, 99000930

**Maryland**

Washington County

St. Mark's Episcopal Church—Lappans, 18313 Lappans Rd., Boonsboro vicinity, 99000931

**Minnesota**

Hennepin County

Glen Lake Children's Camp, 6350 Indian Chief Rd., Eden Prairie, 99000932

Nokomis Knoll Residential Historic District, Bounded by W. Fifty-Second St., West Lake Nokomis Parkway, E Fifty-Fourth St., and Bloomington Ave., Minneapolis, 99000938

Le Sueur County

Broadway Bridge (Reinforced-Concrete Highway Bridges in Minnesota MPS) MN 99 over Minnesota River, Saint Peter, 99000934

Nicollet County

Bridge No. 6422—Saint Peter (Reinforced-Concrete Highway Bridges in Minnesota MPS) MN 99 over Washington Ave., Saint Peter, 99000933

**Missouri**

Johnson County

Pleasant View School, 674 SW 131 Highway, Medford vicinity, 99000935

Osage County

Townley, Alvah Washington, Farmstead Historic District, 304 S. Market St., Chamois, 99000937

St. Louis Independent City

Bell Telephone Building, 920 Olive St., St. Louis, 99000936

**Nevada**

Washoe County

First Church of Christ, Scientist, 501 Riverside Dr., Reno, 99000939

**New Jersey**

Bergen County

Palisade Interstate Parkway, Palisade Interstate Parkway, Fort Lee, 99000940

**Oregon**

Jackson County

Rich Gulch Diggings, 0.75 mi. SW of Jacksonville, Jacksonville, 99000947

Josephine County

Nauke, William and Nannie, House, 24195 Redwood Highway, Kerby, 99000946

Lane County

Chase Gardens Residential Grouping, 274 S. Garden Way, Eugene vicinity, 99000943

Malheur County

Oregon Short Line Railroad Depot, 300 Depot Lane, Ontario, 99000950

Multnomah County

Abraham, Simon, Duplex (Eliot Neighborhood MPS) 522–530 NE San Rafael, Portland, 99000945

Crum, Virgil and Beulah, House, 4438 NE Alameda St., Portland, 99000944

Jensen Investment Company Building, 2500 NE Martin Luther King Jr. Blvd., Portland, 99000941

Johnson, Charles E., Building (Eliot Neighborhood MPS) 442 NE Russell, Portland, 99000949

Spencer, Arthur Champlin, and Margaret Fenton Spencer House (Architecture of Ellis F. Lawrence MPS) 1812 SE Myrtle St., Portland, 99000942

Union County

Liberty Theater, 1008 and 1010 Adams Ave., Lagrande, 99000948

South Dakota

Butte County

Newell Depot Bridge (Historic Bridges in South Dakota MPS) Local Rd. over Horse Creek, Newell vicinity, 99000953

Vale Bridge (Historic Bridges in South Dakota MPS) Local Rd. over Belle Fourche River, Vale vicinity, 99000954

Minnehaha County

Bridge No. 50–122–155—Brandon vicinity (Historic Bridges in South Dakota MPS) Local Rd. over Skunk Creek, Brandon Township vicinity, 99000956

Dell Rapids Bridge, Local Rd. over Big Sioux River, Dell Rapids, 99000952

Old Yankton Bridge (Historic Bridges in South Dakota MPS) Old Yankton Rd. over the Big Sioux River, Sioux Falls, 99000955

Turner County

Bridge No. 63–137–090—Parker (Historic Bridges in South Dakota MPS) Cty. Rd. 22 over unnamed stream,

Parker vicinity, 99000951

**Tennessee**

Davidson County

Castner—Knott Building, 616–618 Church Building St., Nashville, 99000957

**Virginia**

Buckingham County

Chellowe, VA 623, Sprouses Corner vicinity, 99000961

Gloucester County

Zion Poplars Baptist Church, 7000 T.C. Walker Rd., Gloucester, 99000970

Goochland County

Rochambeau Farm, 1080 Manakin Rd., Manakin-Sabot vicinity, 99000969

Halifax County

Pleasant Grove, Deer Run Rd., Halifax vicinity, 99000966

Hanover County

Oak Forest, 7400 Rual Point Road, Mechanicsville vicinity, 99000964

Henry County

Eltham Manor, 405 Riverside Dr., Bassett vicinity, 99000960

Ingleside,

500 Mica Rd., Ridgeway vicinity, 99000963

Loudoun County

Ashburn Presbyterian Church, 20962 Ashburn Rd., Leesburg vicinity, 99000962

Madison County

Homeplace, The, US 29, jct. with VA 603, Madison vicinity, 99000959

Orange County

Lessland, 4256 Bushy Mountain Rd., Culpepper vicinity, 99000965

Page County

Kanawha, 4 Jamison Rd., Luray, 99000968

Hampton Independent City

Scott House, 232 S. Armistead Ave., City of Hampton, 99000967

Norfolk Independent City

HUNTINGTON (Tugboat), 1 Waterside Dr.—Nauticus Pier, Norfolk, 99000958

A Request for a MOVE has been made for the following resource:

**VIRGINIA**

King George County

Office Hall, VA 3, King George, 90002164

A request for REMOVAL has been made for the following resources:

**ARKANSAS**

Cleburne County, Winkley Bridge, E of Heber Springs at Little Red River, Heber Springs vicinity, 84000020

Columbia County

Caraway Hall-Southern Arkansas University, Adjacent to E. Lane Dr., Magnolia, 93000088

Crawford County

Mountainburg High School, AR 71, Mountainburg, 93001216

Hot Springs County

Rockport Bridge, W of Rockport, across Ouachitar, Rockport vicinity, 82000829

Madison County

Alabam School, S of Alabam at jct. Of AR68 and AR127, Alabam, 76000432

Miller County

Red River Bridge, (Historic Bridges of Arkansas MPS), US 82, over the Red River, Garland City, 90000517

Monroe County

Old Monroe County Jail 2nd and Kendall, Clarendon, 77000262

Pulaski County

Second Street Bridge, (Historic Bridges of Arkansas MPS), Second St., over the Missouri-Pacific Railroad, Little Rock, 90000528

Union County

Ouachita River Bridge, (Historic Bridges of Arkansas MPS), US 167 over the Oachita River, Calion, 9000507

SAU at Dorado, (Thompson, Charles L., Design Collection TR), Summit at Clocks Sts., El Dorado, 82000939

Yell County

Achmum Creek Bridge, (Historic Bridges of Arkansas MPS), Co. Rd. 222, over Achmum Creek, Ola vicinity, 90000539

[FR Doc. 99–18396 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–70–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 collections of information for 30 CFR part 780, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans; and 30 CFR part 887, Subsistence Insurance Program Grants. These collection requests have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and the expected burden and cost.

**DATES:** OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 19, 1999 in order to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of either information collection request, explanatory information and related forms, contact John A. Trelease at (202) 208–2783, or electronically to jtreleas@osmre.gov.

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement 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)). OSM has submitted two requests to OMB to renew its approval of the collections of information contained in: 30 CFR part 780, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans; and 30 CFR part 887, Subsidence Insurance Program Grants. OSM is requesting a 3-year term of approval for each information collection activity

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 these collections of information are 1029–0036 for part 780, and 1029–0107 for part 887.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on April 16, 1999 (64 FR 18934). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

*Title:* Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan—30 CFR 780.

*OMB Control Number:* 1029–0036.

*Summary:* Permit application requirements in sections 507(b), 508(a), 510(b), 515(b) and (d), and 552 of Pub. L. 95–87 require the applicant to submit the operations and reclamation plan for coal mining activities. Information collection is needed to determine whether the mining and reclamation plan will achieve the reclamation and environmental protections pursuant to the Surface Mining Control and Reclamation Act. Without this information, Federal and State regulatory authorities cannot review and approve permit application requests.

*Bureau Form Number:* None.

*Frequency of Collection:* Once.

*Description of Respondents:* Applicants for surface coal mine permits.

*Total Annual Responses:* 420.

*Total Annual Burden Hours:* 186,081.

*Title:* Subsidence Insurance Programs Grants—30 CFR 887.

*OMB Control Number:* 1029–0107.

*Summary:* States and Indian tribes having an approved reclamation plan may establish, administer and operate self-sustaining State and Indian Tribe-administered programs to insure private property against damages caused by land subsidence resulting from underground mining. States and Indian tribes interested in requesting monies for their insurance programs would apply to the Director of OSM.

*Bureau Form Number:* None.

*Frquency of Collection:* Once.

*Description of Respondents:* States and Indian tribes with approved coal reclamation plans.

*Total Annual Responses:* 1.

*Total Annual Burden Hours:* 8.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to OMB control number 1029–0036 for part 780, and 1029–0107 for Part 887 in your correspondence.

**ADDRESSES:** Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, 210—SIB, Washington, DC 20240, or electronically to jtreleas@osmre.gov.

Dated: July 12, 1999.

**Richard G. Bryson,**

*Chief, Division of Regulatory Support.*

[FR Doc. 99–18440 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–05–M

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## 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 that the information collection requests for 30 CFR parts 740 and 745 which relate to surface coal mining and reclamation operations on Federal lands and State-Federal cooperative agreements, respectively. These collection requests have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and the expected burden and costs.

**DATES:** OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 19, 1999, in order to be assured of consideration.

**FUR FURTHER INFORMATION CONTACT:** To request a copy of either information collection request, explanatory information and related forms, contact John A. Trelease at (202) 208–2783, or electronically to jtrelease@osmre.gov.

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement 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)). OSM has submitted two requests to OMB to renew its approval of the collections of information contained in: 30 CFR part 740—General requirements for surface coal mining and reclamation operations on Federal lands; and 30 CFR part 745—State-Federal cooperative agreements. OSM is requesting a 3-year term of approval for each information collection activity.

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 these collections of information are 1029–0027 for Part 740, 1029–0092 for Part 745.

As required under 5 CFR 1320.8(d), **Federal Register** notices soliciting comments on these collections of information was published on March 16, 1999 (64 FR 13055). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities.

*Title:* 30 CFR Part 740—General requirements for surface coal mining and reclamation operations on Federal lands.

*OMB Control Number:* 1029–0027.

*Summary:* Section 523 of SMCRA requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. the information requested is needed to assist the regulatory authority determine the eligibility of an applicant to conduct surface coal mining operations on Federal lands.

*Frequency of Collection:* Once.

*Description of Respondents:* Coal mine operators on Federal lands.

*Total Annual Responses:* 31.

*Total Annual Burden Hours:* 1,582.

*Title:* State-Federal cooperative agreements—30 CFR 745.

*OMB Control Number:* 1029–0092.

*Summary:* 30 CFR 745 requires that States submit information when entering into a cooperative agreement with the Secretary of the Interior. OSM uses the information to make findings that the State has an approved program and will carry out the responsibilities mandated in the Surface Mining Control and Reclamation Act to regulate surface coal mining and reclamation activities.

*Bureau Form Number:* None.

*Frequency of Collection:* Annually.

*Description of Respondents:* State governments which regulate coal mining operations.

*Total Annual Responses:* 12.

*Total Annual Burden Hours:* 12,344.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to the appropriate OMB control numbers in all correspondence.

**ADDRESSES:** Office of information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210–SIB, Washington, DC 20240, or electronically to jtreleas@osmre.gov.

Dated: July 12, 1999.

**Richard G. Bryson,**

*Chief, Division of Regulatory Support*

[FR Doc. 99–18441 Filed 7–19–99; 8:45 am]

BILLING CODE 4310–05–M

## INTERNATIONAL TRADE COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** July 22, 1999 at 2:00 p.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. 731–TA–364 (Review)(Aspirin from Turkey)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on July 29, 1999.)
5. Inv. No. 731–TA–841 (Preliminary)(Certain Non-Frozen Concentrated Apple Juice from China)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on July 22, 1999.)
6. Outstanding action jackets:

(1.) Document No. EC–99–012: Approval of final report in Inv. No. 332–403 (Assessment of the Economic Effects on the United States of China's Accession to the WTO).

(2.) Document No. GC–99–057: Regarding Inv. No. 337–TA–412 (Certain Video Graphics Display Controllers and Products Containing Same).

(3.) Document No. GC–99–066: Regarding Inv. No. 731–TA–752 (Final)(Crawfish Tail Meat from China).

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.

Issued: July 15, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99–18563 Filed 7–16–99; 11:51 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### Agency Information Collection Activities: Comment Request

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of Information Collection Under Review; Application for Replacement Naturalization/Citizenship Document.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published by the Immigration and Naturalization Service (INS) in the **Federal Register** on February 19, 1999 at 64 FR 8405, allowing for a 60-day public review and comment period. The INS received no public comments. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days, until August 19, 1999. This process is conducted in accordance with 5 CFR 1320.10.

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: Reinstatement without change of previously approved collection.*

(2) *Title of the Form/Collection:* Application for Replacement Naturalization/ Citizenship Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–565. 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. This form is used by the INS to determine the applicant's eligibility for a replacement of a Declaration of Intention, Naturalization Certificate, Certificate of Citizenship or Repatriation Certificate that was lost, mutilated or destroyed, or if the applicant's name was changed by marriage or by court order after issuance of original document. This form may also be used to apply for special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 22,567 responses at 55 minutes (0.916) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20,671 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: July 14, 1999.

**Richard A. Sloan,**

*Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.*

[FR Doc. 99–18389 Filed 7–19–99; 8:45 am]

**BILLING CODE 4410–10–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determinations for Worker Adjustment Assistance**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA–W36,274; Dupont Newport, Holly Run Plant, Newport, DE*

*TA–W–36,123; Irwin Research & Development, Yakima, WA*

*TA–W–35,724 & A, B; IRI International, Headquartered in Houston, TX, Pampa, TX and Beaumont, TX*

*TA–W–35,994; National Roll Co., Avonmore, PA*

*TA–W–35,959; Bonney Forge Cop., Allentown, PA*

*TA–W–36,098; Panoramic, Inc., Janesville, WI*

*TA–W–36,200; AMG Resources Corp., Pittsburgh, PA*

*TA–W–36,259; Reef Chemical Co., Inc., Midland, TX*

*TA–W–35,952; Parker Hannafin Corp., Atlas Cylinder Div., Eugene, OR*

*TA–W–35,728; Teledyne Ryan Aeronautical, Aircraft Business Unit, San Diego, CA*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*TA–W–36,218; Trans Texas Gas Corp., Laredo, TX*

*TA–W–36,158; Command Security, Inc., Hopkinsville, KY*

*TA–W–35,900; Item Eyes, Inc., New York, NY*

*TA–W–36,084; Grant Geophysical Corp., Houston, TX*

*TA–W–36,261; Avondale Mills, New York, NY*

*TA–W–36,115; Siemens Westinghouse, Birmingham, AL*

*TA–W–36,170; Blue Flame, Inc., d/b/a Eagle Meter & Pump, Inc., Hobbs, NM*

*TA–W–36,309; Grainger Integrated Supply, Broussard, LA*

The workers firm does not produce an article as require for certification under Section 222 of the Trade Act of 1974.

*TA–W–35,984; Royal Monarch, Beaver Falls, PA*

*TA–W–36,389; Safecar, Inc., San Angelo, TX*

*TA–W–35,975; Goodyear Tire and Rubber Co., Logan, OH*

*TA–W–35,825; Keystone Powered Metal Co., St. Mary's PA*

*TA–W–36,287; Western Gas Resources, Inc., Giddings, TX*

*TA–W–36,160; Polaroid Corp., Film Manufacturing (Integral), R1, R2, & R3 Plants, Waltham, MA*

*TA–W–35,874; Southwestern Energy Production Co., Okahoma City, OK*

*TA–W–36,265; Ingersoll-Dresser Pump Co., Phillipsburg, NJ*

*TA–W–36,273 & A; McCulloch North America, Inc., Die Cast & Machining Operations, Lake Havasu City, AZ and Corporate Headquarters & Distribution Center, Tucson, AZ*

Increased imports did not contribute importantly to worker separations at the firm.

*TA–W–36,101; Dal-Tile Corp., Dallas Plant Die Shop, Dallas, TX*

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

*TA–W–35,992; Bayer Corp., Baytown, TX*

The investigation revealed that criteria (1) and criteria (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification.

*TA–W–36,233; ADC Solitra, Inc., Hutchinson, MN*

Company officials made a business decision to close its Hutchinson, MN facility and transfer production and employment to another domestic facility.

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

*TA–W–36,116; Smurfit-Stone Container Corp., Missoula, MT: April 9, 1998*

*TA–W–36,038; Phillips Petroleum Co., Odessa, TX: March 24, 1998*

*TA–W–36,176; Phoenix Production Co., Cody, WY: April 30, 1998*

*TA–W–36,231; BASF Corp Rensselaer, NY: April 26, 1998*

*TA–W–36,091; $ A, B, Texas Boot Co., Hartsville, TN, Carthage, TN and Lebanon, TN: March 30, 1998*

*TA–W–35,245; Clariant Corp & Hoechst Corp., Coventry, RI: May 10, 1998*

*TA–W–35,244; White Knight Healthcare, Douglas, AZ: May 7, 1998*

*TA–W–36,253; Venture Petroleum Inc., Noble, IL: April 19, 1998*
*TA–W–35,778; The Macwhyte Co., Kenosha, WI: February 18, 1998*
*TA–W–36,149; Franco Manufacturing Co., Inc, Monroe Prints Plant, Monroe, NC: April 16, 1998*
*TA–W–36,193; Andin International, Inc., New York, NY: October 30, 1998*
*TA–W–36,111; Berendsen Fluid Power, Rahway, NJ: April 1, 1998*
*TA–W–36,180; The Aromat Corp., San Jose, CA: April 12, 1998*
*TA–W–36,924; Beloit Corp., Beloit, WI: March 11, 1998*
*TA–W–36,006; Ansewn Shoe Co., Bangor, ME: March 19, 1999*
*TA–W–36,028; Black Hills Trucking, Williston, ND: January 27, 1998*
*TA–W–36,163; L.A. Roustabout, Inc., Kermit, TX: April 14, 1998*
*TA–W–35,838; Equistar Chemicals L.P., Port Arthur, TX: February 14, 1998*
*TA–W–36,896; Electroalloys Corp., Elyria, OH: March 12, 1998*
*TA–W–36,139; Russell Corp, Lafayette, AL: April 21, 1998*
*TA–W–36,705; Kelly Springfield Tire Co., Freeport, IL: February 11, 1998*
*TA–W–36,988; Mitsubishi International Corp., Durham, NC: March 5, 1998*
*TA–W–36,205; Dante Fashions, Jeannette, PA: April 26, 1998*
*TA–W–36,254; Riggs Petroleum Co., Graham, TX: April 27, 1998*
*TA–W–36,220 & A, B; Forcenergy, Inc., Anchorage, AK, McCook, NB and Metairie, LA: April 1, 1998*
*TA–W–36,217; Fairweather E & P, Inc., Anchorage, AK: April 6, 1998*
*TA–W–36,593; The Rival Co., Fayetteville, NC: January 18, 1998*
*TA–W–36,196; Biological Abstracts, d/b/a Boisis, Data Capture Section of The Database Production Dept, Philadelphia, PA: April 25, 1998*
*TA–W–36,120; D & A Industries, Inc., El Paso, TX: March 1, 1998*
*TA–W–35,983; Good Lad Co., Philadelphia, PA: March 19, 1998*
*TA–W–36,250; ASCG Inspection, Inc., Anchorage, AK: April 9, 1998*
*TA–W–36,184 & A; LM & Sons, Inc., Vineland, NJ and Marcyn, Inc., Vineland, NJ: April 22, 1998*
*TA–W–36,297; Woolrich, Inc., Soperton Facility, Soperton, GA: May 21, 1998*
*TA–W–36,181; Lighthouse Electric, Ltd, Middlesex, NC: April 23, 1998*
*TA–W–36,095; Ford Microelectronics, Inc., Including Adecco Employment Service, Olsten Staffing Service, Volt Services Group, Superior Technical Resources, Kelly Services, Colorado Springs, CO: March 26, 1998*
*TA–W–36,105; Streamline Cutting, Inc., New York, NY: April 8, 1998*
*TA–W–36,089; Burlington Resources Oil and Gas Co., Mid-Continent Div., Midland, TX: March 30, 1998*
*TA–W–35,833; Vanity Fair Intimates, Sabta Rosa Div., Melton, FL: February 22, 1998*
*TA–W–35,879; Marui International Products Corp., El Paso, TX: March 3, 1998*
*TA–W–35,803; Outokumpu Copper, Inc., Kenosha, WI: February 24, 1998*
*TA–W–36,012; Rhone-Poulenc AG Co., Ambler, PA: March 25, 1998*
*TA–W–35,914; Plainville Oil Well Service, Plainville, KS: February 8, 1998*
*TA–W–35,972; M. Wile & Co, d/b/a Intercontinental Branded Apparel, Whiteville, NC: April 16, 1998*
*TA–W–36,210; Flying J. Oil & Gas, Inc., Williston, ND & Operating at The Following Locations: A; Dickinson, ND, B; Douglas, WY, C; Casper, WY, D; Sidney, MT, E; Roosevelt, UT and F; Vernal, UT: April 8, 1998*
*TA–W–36,071; Bordo Knitting Mills, Union City, NJ: March 29, 1998*
*TA–W–36,018 & A; Gloria Gay Coats, Inc., New York, NY and HMC Fashion Coats, Inc., Brooklyn, NY: March 30, 1998*
*TA–W–36,064; Equitable Bag Co., Inc., Orange, TX: March 31, 1998*
*TA–W–36,248 & A, B & C; Levi Strauss & Co., Morrilton Sewing Facility, Morrilton, AR, Little Rock, Transportation Dept, Little Rock, AR, Murphy Sewing Facility, Murphy, NC and Charlotte, Transportation Dept, Charlotte, NC: May 10, 1998*
*TA–W–36,303; Monde Knitwear Limited, Middle Village, NY: May 18, 1998*
*TA–W–36,215; Circle C Tool and Wireline Co., Snyder, TX: April 14, 1998*
*TA–W–36,319; Unger Fabric, Los Angeles, CA: May 3, 1998*
*TA–W–36,300; Titanium Metals Corp. (TIMET), Henderson, NV: May 18, 1998*
*TA–W–36,345 & A; Thomas & Bets Corp. Including Leased Workers of Manpower, Inc., Vidalia, GA, Including Leased Workers of Manpower, Inc., Lyons, GA: May 22, 1998*
*TA–W–36,364; SWACO/Drilling Fluids, Div. of M–I L.L.C., Headquartered in Houston, TX & Operating in The Following States: A; TX, B; AK, C; CA, D; CO, E; LA, F; OK: March 24, 1998*
*TA–W–36,213; Veritas Geoservices, A Subsidiary of DGC Land, Inc., Dallas, TX: April 12, 1998*

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of June, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

**Negative Determinations NAFTA–TAA**

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

*NAFTA–TAA–03164; Rich Bar Processing, Inc., Bethlehem, PA*
*NAFTA–TAA–03238; Columbus Energy Corp., Sidney, MT*
*NAFTA–TAA–03119; Willow Creek Apparel, Inc., Jonesville, NC*
*NAFTA–TAA–03041; Parker Hannifin Corp., Atlas Cylinder Div., Eugene, OR*
*NAFTA–TAA–03086; JPS Converter and Industrial Corp., A Subsidiary of JPS Textile, Inc., Rocky Mount, VA*
*NAFTA–TAA–02979; Marui International Products Corp., El Paso, TX*
*NAFTA–TAA–03182; Baroid Drilling Fluids, A Halliburton Co., Potosi, MO*
*NAFTA–TAA–03114; ADC Solitra, Inc., Hutchinson, MN*

*NAFTA–TAA–03127; Polaroid Corp., Film Manufacturing (Integral), R1, R2 & R3 Plants, Waltham, MA*
*NAFTA–TAA–03017; Bonney Forge Corp., Allentown, PA*
*NAFTA–TAA–03076; Stonecutter Textiles, Inc., Spindale, NC*
*NAFTA–TAA–03093; Thomson Crown Wood Products, Mocksville, NC*
*NAFTA–TAA–03222; Modern Machine Works, Inc., Cudahy, WI*
*NAFTA–TAA–03020; Beloit Corp., Beloit, WI*
*NAFTA–TAA–03225; Crown Cork and Seal Co., Inc., Omaha, NE*
*NAFTA–TAA–03091; Harvard Industries, Trim Trends, Div., Snover Stamping Co., Snover, MI*
*NAFTA–TAA–02960; Keystone Powdered Metal Co., St. Mary's, PA*
*NAFTA–TAA–03107; Dal-Tile Corp., Dallas Plant Die Shop, Dallas, TX*
*NAFTA–TAA–03166; Reef Chemical Co., Inc., Midland, TX*
*NAFTA–TAA–03149; Lighthouse Electric, Ltd, Middlesex, NC*

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*NAFTA–TAA–03270; Televisa International, L.L.C.*

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

**Affirmative Determinations NAFTA–TAA**

*NAFTA–TAA–03266; Pilkington Libbey-Owens-Ford, a/k/a Libby Owens Ford, Sherman, TX: June 3, 1998*
*NAFTA–TAA–03250; Rockwell Automation Power Systems, Dodge Mechanical Group, Mishawaka, IN: June 7, 1998*
*NAFTA–TAA–03246; Salant Corp., Manhattan Accessories, Long Island City, NY: June 9, 1998*
*NAFTA–TAA–03170; C & D Technologies, Inc., Costa Mesa, CA: May 4, 1998*
*NAFTA–TAA–03184; McCulloch North America, Inc., Corporate Headquarters and Distribution Center, Tucson, AZ: May 24, 1998*
*NAFTA–TAA–03212; Crouzet Corp., Carrollton, TX: November 8, 1998*
*NAFTA–TAA–03151; Homemaker Industries, Inc., North Charleston, SC: May 4, 1998*
*NAFTA–TAA–03251; Dyersburg Corp., Alamac Knit Fabrics, Hamilton, NC: June 2, 1998*
*NAFTA–TAA–03198; General Motors Corp., Delco Defense Systems Operation (DDSO), Goleta, CA: March 19, 1999*
*NAFTA–TAA–03197; Royce Hosiery Mills, Inc., Conover, NC: May 14, 1998*
*NAFTA–TAA–03191; Medtronic, Inc., Parker, CO: May 19, 1998*
*NAFTA–TAA–03188; Philips Electronics North America Corp., Philips Components Div., Departments 133, 134, 136, 400, 630, 420, 240, 261 and 266, Saugerties, NY: May 19, 1998*
*NAFTA–TAA–03161 & A, B, C; Levi Strauss & Company, Morrilton Sewing Facility, Morrilton, AR, Little Rock Transportation Department, Little Rock, AR, Murphy Sewing Facility, Murphy, NC and Charlotte Transportation Department, Charlotte, NC: May 10, 1998*
*NAFTA–TAA–03221; National Wood Products, Glasgow, KY: May 26, 1998*
*NAFTA–TAA–03242; Woolrich, Inc., Soperton Facility, Soperton, GA: June 8, 1998*
*NAFTA–TAA–03232; May Tag & Label Corp., Div. Of ACCO Brands, Including Leased Workers of Agency Solution Staffing Services, Hillside, NJ: May 13, 1998*
*NAFTA–TAA–03218; Jantzen, Inc. Portland, OR: June 2, 1998*
*NAFTA–TAA–03255; Medtronics, Inc., & Temporary Employees from Norrell Temporary Services, Anaheim, CA: May 26, 1998*
*NAFTA–TAA–03173; Mitel, Inc., Manufacturing Div., Ogdensburg, NY: May 6, 1998*
*NAFTA–TAA–03102; D & A Industries, Inc., El Paso, TX: April 1, 1998*
*NAFTA–TAA–03106; General Electric Co., Power Management Div., Malvern, PA: April 12, 1998*
*NAFTA–TAA–03175; White Knight Healthcare, Douglas, AZ: May 13, 1998*
*NAFTA–TAA–03027; M. Wile and Company, d/b/a/ Intercontinental Branded Apparel, Whiteville, NC: March 22, 1998*
*NAFTA–TAA–03051; Ansewn Shoe Co., Bangor, ME: April 1, 1998*
*NAFTA–TAA–03028; The Aromat Corp., San Jose, CA: April 12, 1998*
*NAFTA–TAA–03187; Master Lock Co., Milwaukee, WI: May 4, 1998*
*NAFTA–TAA–03004; The Macwhyte Company, Kenosha, WI: February 18, 1998*
*NAFTA–TAA–03206; Federal-Mogul, Friction Products and World-Wide Aftermarket Distribution, Manila, AR: May 14, 1998*
*NAFTA–TAA–03034; Mishy Sportswear, Opa Locka, FL: March 24, 1998*

I hereby certify that the aforementioned determinations were issued during the month of June, 1999. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 13, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18421 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,321]**

### Blanch, Div. of Warnaco, New York, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 1, 1999 in response to a worker petition which was filed on June 1, 1999 on behalf of workers at Blanch, a division of Warnaco, located in New York, New York.

An active certification covering the petitioning group of workers remains in effect (TA–W–35,700). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 11th day of June, 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18418 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–36,401; TA–W–36,401A and TA–W–36,401B]**

### Coeur Rochester, Inc., Lovelock, Nevada; Klondike Mine, Austin, Nevada and Meridian Gold, Reno, Nevada: Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 14, 1999 in response to a worker petition which was filed on behalf of workers at Coeur Rochester, Lovelock, Nevada, Klondike Mine, Austin, and Meridian Gold, Reno, Nevada.

The petition was filed by one worker who was not a company official. By law the petition must be filed by three workers, a company official, or a union official. The petitioner was a part-time temporary worker and thus, not eligible to file on behalf of himself.

Further, the worker was separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 14th day of June, 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18419 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–36, 410]**

## Grey Wolf, Incorporated Alice, Texas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 14, 1999 in response to a worker petition which was filed on behalf of workers at Grey Wolf, Incorporated, Alice Texas.

One of the three petitioners were separated from the subject firm more than a year prior to the date of the petition (May 22, 1999). Section 223(b)(1) of the Trade Act of 1974 specifies that no certification may apply to any worker whose last separation occurred more than a year before the date of the petition.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of July, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18425 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–36,394]**

## Lambda Electronics, Inc., McAllen, Texas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 14, 1999, in response to a petition filed on behalf of workers at Lambda Electronics, Inc., McAllen, Texas.

On June 14, 1999, the petitioner formally requested that the petition be withdrawn. Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed in Washington, DC this 14th day of June, 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18417 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–36,130]**

## Lee Textile, Incorporated, Ewing, Virginia; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 3, 1999 in response to a worker petition which was filed on behalf of all workers at Lee Textile, Incorporated, located in Ewing, Virginia (TA–W–36,130).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 30th day of June, 1999.

**Linda Poole,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18416 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–35, 643]**

## Peak Oilfield Service Company Anchorage, AK; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Peak Oilfield Service Company, Anchorage, Alaska. 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–35,643; Peak Oilfield Service Company, Anchorage, Alaska (July 8, 1999)*

Signed at Washington, DC this 9th day of July, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18423 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–36, 172]**

## Pennant Etc., Incorporated, Long Island City, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 10, 1999 in response to a worker petition which was filed by U.N.I.T.E., Local Shop No. 102, on behalf of former workers at Pennant Etc., Incorporated, located in Long Island City, New York (TA–W–36, 172).

The Department of Labor has been unable to locate an official of the company to provide the information necessary 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, D.C. this 14th day of July, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18424 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–35,685]**

### The Worcester Company, New York, NY; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at The Worcester Company, New York, New York. 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–35,685; The Worcester Company, New York, New York (July 8, 1999)*

Signed at Washington, D.C. this 9th day of July, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18422 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA–2760]**

### International Paper Corporation, Containerboard Division, Gardiner, Oregon; Notice of Revised Determination on Reopening

On July 7, 1999, the Department, on its own motion, reopened its investigation for workers and former workers of the subject firm.

The initial investigation resulted in a negative determination issued on February 8, 1999, because workers of International Paper Corporation, Containerboard Division in Gardiner, Oregon did not import linerboard from sources located in Canada or Mexico, nor was there a shift of production to Canada or Mexico. Furthermore, a survey of the subject firm's customers revealed that none of the customers increased reliance on import purchases of linerboard from Canada or Mexico during the relevant periods. The denial notice was published in the **Federal Register** on February 25, 1999 (64 FR 9355).

New information obtained during a TAA petition investigation on reconsideration (TA–W–35,322) for the workers of the subject firm included additional customer survey conducted by the Department for the time period relevant to the investigation. The survey results show that a major declining customer of the subject firm increased import purchases of linerboard from Mexico and Canada while decreasing purchases from the subject firm from 1997 to 1998.

### Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles from Mexico or Canada, like or directly competitive with linerboard produced by the subject firm, contributed importantly to the decline in sales and to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

''All workers of International Paper Corporation, Containerbord Division, Gardiner, Oregon, who became totally or partially separated from employment on or after November 24, 1997, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 8th day of July, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99–18415 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of OTAA not later than July 30, 1999.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than July 30, 1999.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW Washington, DC 20210.

Signed at Washington, DC this 8th day of July, 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

APPENDIX

| Subject firm | Location | Date received at Governor's office | Petition No. | Articles produced |
|---|---|---|---|---|
| Procter and Gamble (Co.) | Greenville, NC | 6/10/1999 | NAFTA–3,247 | Feminine hygiene supplies. |
| Brady T-Shirt (Co.) | East Brady, PA | 6/8/1999 | NAFTA–3,248 | T-shirts and sportswear tops. |
| Lee County Textiles (Wkrs) | Giddings, TX | 6/9/1999 | NAFTA–3,249 | Printed baby bids and childrenswear. |
| Rockwell Automation Power Systems (USWA). | Mishawaka, IN | 6/7/1999 | NAFTA–3,250 | Cast iron sheaves. |
| Dyersburg (Co.) | Hamilton, NC | 6/8/1999 | NAFTA–3,251 | Knit fabrics. |
| Ovalstrapping—Strapping & Wire Machine (Wkrs). | Hoquiam, WA | 6/9/1999 | NAFTA–3,252 | Wire machines. |
| Wales Fabrics (Co.) | Gastonia, NC | 6/10/1999 | NAFTA–3,253 | Fabric. |
| Damascus Steel Casting (Wkrs) | New Brighton, PA | 6/11/1999 | NAFTA–3,254 | Crusing equipment and tubular tooling. |
| Medtronic (Co.) | Anaheim, CA | 6/7/1999 | NAFTA–3,255 | Medical devices. |
| Trim Master (Co.) | Ontario, CA | 6/7/1999 | NAFTA–3,256 | Flat, molded and graphic wood. |
| Skinner Engine (UAW) | Erie, PA | 6/7/1999 | NAFTA–3,257 | Intensive mixers and spare parts. |
| Vesuvius USA (IAMA) | Zelienople, PA | 6/15/1999 | NAFTA–3,258 | Slide gate refractories. |
| Unitog (UFCW) | Concordia, MO | 6/7/1999 | NAFTA–3,259 | Rental uniform, denim jeans. |
| Parker Hannifin—Parflex (Wkrs) | Mooresville, NC | 6/15/1999 | NAFTA–3,260 | Pneumatic fittings. |
| Miller Group (The) (Co.) | Schuylkill Haven, PA | 6/17/1999 | NAFTA–3,261 | T-shirts and sweatshirts. |
| Techneglas (GMP) | Pittston, PA | 6/16/1999 | NAFTA–3,262 | Glass for television screens. |
| Smurfit Stone (PACE) | Fulton, NY | 6/18/1999 | NAFTA–3,263 | Corrugated packaging, boxes, paper rolls. |
| Maine Rubber International (Co.) | Scarborough, ME | 6/18/1999 | NAFTA–3,264 | Base bands. |
| Georgia Pacific (AWPPW) | Bellingham, WA | 6/17/1999 | NAFTA–3,265 | Chlorine and related by products. |
| Pilkington Libbey Owens Ford (Wkrs) | Sherman, TX | 6/15/1999 | NAFTA–3,266 | Automotive windshields. |
| Thomson Precision Ball (Co.) | Unionville, CT | 6/17/1999 | NAFTA–3,267 | Precision balls. |
| Roxobel Curtain Company (Co.) | Roxobel, NC | 6/21/1999 | NAFTA–3,268 | Curtains. |
| International Paper Decorative Products (Wkrs). | Spring Hope, NC | 6/17/1999 | NAFTA–3,269 | Fiberboard. |
| Televisa International (Wkrs) | Miami, FL | 6/1/1999 | NAFTA–3,270 | Administration. |
| Ashmore Sportswear (Co.) | Leola, PA | 6/23/1999 | NAFTA–3,271 | T-shirts. |
| Sensus Tech (USWA) | Uniontown, PA | 6/23/1999 | NAFTA–3,272 | Water meters and registers. |
| Stuffed Shirt (Wkrs) | New York, NY | 6/28/1999 | NAFTA–3,273 | Women's clothing. |
| Acme United (Wkrs) | Goldsboro, NC | 6/24/1999 | NAFTA–3,274 | Scissors and medical instruments. |
| Cutler Hammer Sensors—Eaton (Co.) | Everett, WA | 6/28/1999 | NAFTA–3,275 | Photo electric sensors. |
| Bon Worth (Co.) | Victoria, VA | 7/1/1999 | NAFTA–3,276 | Ladies apparel. |
| Cajun Bag and Supply (Wkrs) | Evans, GA | 7/2/1999 | NAFTA–3,277 | Bulk containers. |
| Albany International—Appleton Wire (Co.) | Weaverville, NC | 6/29/1999 | NAFTA–3,278 | Fabrics. |
| Thomaston Mills (Co.) | Thomaston, GA | 7/2/1999 | NAFTA–3,279 | Denim, industrial and recreational fabrics. |
| Caterpillar Work Tools (Wkrs) | Dallas, OR | 6/30/1999 | NAFTA–3,280 | Pallet forks, couplers, landfill blades. |

APPENDIX—Continued

| Subject firm | Location | Date received at Governor's office | Petition No. | Articles produced |
|---|---|---|---|---|
| Willamette Industries (Wkrs) | Woodburn, OR | 6/30/1999 | NAFTA–3,281 | Wood I beams for floors. |
| Hewlett Packard (Co.) | Roseville, CA | 5/27/1999 | NAFTA–3,282 | Personal computer. |
| International Business Machines (Wkrs) | San Jose, CA | 6/24/1999 | NAFTA–3,283 | Hard disk drives and tape products. |
| United Technologies (SMWIA) | Syracuse, NY | 6/30/1999 | NAFTA–3,284 | Building size air conditioner. |
| Maid Bess—Fairfield Apparel (Co.) | Fairfield, VA | 6/29/1999 | NAFTA–3,285 | Men and women's medical uniforms. |
| ALBITI Consolidated (AWPPW) | Lakwood, WA | 6/29/1999 | NAFTA–3,286 | Paper from wood chips. |
| Baver Nike Hockey U.S.A. (Co.) | Greenland, NH | 6/25/1999 | NAFTA–3,287 | Hockey equipment, skates, elbow pads. |
| Martin County Residential Services (Co.) | Williamston, NC | 6/29/1999 | NAFTA–3,288 | Collars and welts for knit shirts. |
| Triple S Plastics (Co.) | Tucson, AZ | 6/30/1999 | NAFTA–3,289 | Plastics parts. |
| First Reserve Oil and Gas (Wkrs) | Houston, TX | 6/29/1999 | NAFTA–3,290 | Oil and gas. |
| Eagle Ottawa (GMP) | Milwaukee, WI | 7/6/1999 | NAFTA–3,291 | Finished leather. |

[FR Doc. 99–18420 Filed 7–19–99; 8:45 am]
BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

**[Docket No. NRTL–2–92]**

## Canadian Standards Association, Application for Expansion of Recognition; American Gas Association, Voluntary Termination of Recognition

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** This notice announces the application of Canadian Standards Association (CSA) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application. This notice also includes certain other changes requested by CSA for its recognition as an NRTL. In addition, this notice includes the voluntary termination of recognition of the American Gas Association.

**DATES:** Comments submitted by interested parties must be received no later than September 20, 1999. Only submit comments on the application for expansion.

**ADDRESSES:** Send comments concerning the application for expansion to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, at the above address, or phone (202) 693–2110.

**SUPPLEMENTARY INFORMATION:**

### Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that the Canadian Standards Association (CSA) has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). CSA's expansion request covers the use of an additional test standard. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of the preliminary finding on an application.

CSA has also informed OSHA of several changes to its operations that impact its recognition as an NRTL. The NRTL Program staff have reviewed these changes, which are detailed below, and will formally show them in OSHA's records on the CSA recognition.

In this notice, OSHA also includes the voluntary termination of recognition of the American Gas Association (AGA). As discussed below, AGA has transferred all of its NRTL facilities to CSA.

CSA's previous application as an NRTL covered its expansion of recognition for additional programs (60 FR 36763, July 12, 1996), which OSHA granted on November 20, 1996 (61 FR 59110).

The current addresses of the testing facilities (sites) ** that OSHA recognizes for CSA are:

Canadian Standards Association, Etobicoke (Toronto), 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3

CSA International, Pointe-Claire (Montreal), 865 Ellingham Street, Point-Clair, Quebec H9R 5E8

CSA International, Richmond (Vancouver), 13799 Commerce Parkway, Richmond, British Columbia V6V 2N9

CSA International, Edmonton, 1707–94th Street, Edmonton, Alberta T6N 1E6

CSA International, Cleveland, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131 (formerly part of the American Gas Association)

CSA International, Irvine, 2805 Barranca Parkway, Irving, California 92606 (formerly part of the American Gas Association)

### General Background on the Application

CSA has submitted a request, dated December 23, 1998 (see Exhibit 22A), to

** Note: As mentioned below, OSHA is deleting the sites located in Moncton and Winnipeg that it had recognized for CSA.

expand its recognition as an NRTL to include one (1) additional test standard, and provided some additional information relative to its request on January 5, 1999 (see Exhibit 22B). CSA seeks recognition for testing and certification of products to demonstrate compliance to the following test standard: UL 6500 Audio/Visual and Musical Instrument Apparatus for Household, Commercial, and Similar General Use. The designation and title of the test standard was current at the time of the preparation of this notice, and OSHA has determined the standard is appropriate, as prescribed by 29 CFR 1910.7(c). OSHA recognition of any NRTL for a particular test standard is limited to products for which OSHA safety standards (generally found in 29 CFR part 1910) require third party testing and certification before use in the workplace.

In letters dated March 5, 1999 (see Exhibit 22C), CSA has also informed OSHA regarding the following changes in its operations that affect its recognition as an NRTL: (1) It is also known as CSA International; (2) the markings for its NRTL activities will include the initials ''US'' in place of the initials ''NRTL''; (3) it no longer operates two Canadian sites formerly recognized by OSHA; (4) it has acquired two NRTL sites that OSHA formerly recognized for the American Gas Association (AGA); and (5) it has time-limited use of AGA's ''blue star'' marks for its NRTL certification activities. CSA has requested that OSHA amend its records to reflect the above changes. The NRTL Program staff has already indicated to CSA that it does not object to these changes, which the Agency will formally reflect in its records. OSHA has no requirement to give public notice of such changes, but it is doing so because some of the changes relate to information that the Agency has made public in previous notices regarding CSA's and AGA's recognitions. We give some details on these changes below but will not repeat these details in the notice of our final decision on the expansion request.

Regarding the change of initials, when OSHA recognized CSA as an NRTL (see 57 FR 61452, December 24, 1992), it imposed a condition on CSA to use the ''NRTL'' initials in the product markings that it authorized in its capacity as an NRTL. However, the NRTL Program staff believes there currently are no compelling reasons to continue this condition. CSA's use of the ''US'' initials is consistent with the markings of other NRTLs. Regarding the Canadian sites, CSA has stated it no longer uses the sites in Moncton, New Brunswick, and in Winnipeg, Manitoba, for its NRTL operations. OSHA recognized CSA for these two sites on August 9, 1994 (see 59 FR 40602).

Regarding the changes related to AGA, CSA acquired two testing sites that were a part of AGA when OSHA recognized it as an NRTL (see 55 FR 23312, June 7, 1990). As part of the acquisition, CSA also gained exclusive, but time-limited, use of the AGA ''blue star'' mark. In recognizing AGA's facilities for CSA, OSHA recognizes that the scope of recognition that now exists for the AGA sites will be integrated into the scope of recognition for CSA. This means the Agency will just list the former AGA sites under the CSA recognition, as if these sites had been recognized for CSA, and will not separately identify the test standards that OSHA had recognized for those sites. This treatment is consistent with the recognition that OSHA has granted to other NRTLs that operate multiple sites. For these NRTLs, OSHA generally recognizes the NRTL for the test standards for which it is qualified, and the NRTL may then use a site to perform product testing and certifications only to the test standards for which the site has the proper capability and programs. OSHA does not limit recognition of a site to particular test standards unless specific limitations are warranted.

**Notice of Voluntary Termination**

In transferring all of its NRTL facilities and mark to CSA, AGA has in effect provided OSHA notice of its voluntary termination of its recognition. Under section II.D of Appendix A to 29 CFR 1910.7, OSHA must ''inform the public of any voluntary termination by **Federal Register** notice.'' For convenience, the Agency is complying with this provision in conjunction with this notice on its preliminary finding on the CSA expansion request.

**Preliminary Finding on the Application**

CSA has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with this request, OSHA did not perform an on-site review of CSA's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and, in a memo dated February 10, 1999 (see Exhibit 23), recommended that CSA's recognition be expanded to include the additional test standard listed above.

Following a review of the application file, the assessor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant, to the CSA facilities listed above, the expansion of recognition to use the additional test standard. However, CSA must use a site to perform testing and certifications only to the test standards for which the site has the proper capability and programs. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that the Canadian Standards Association facilities listed above can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether CSA has met the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESS**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of CSA's requests, the memo on the recommendation, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–2–92, the permanent record of public information on CSA's recognition.

The NRTL Program staff will review all timely comments, and after resolution of issues raised by these comments, will recommend whether to grant CSA's expansion request. The Assistant Secretary will make the final decision on granting the expansion and, in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC, this 8th day of July, 1999.

**Charles N. Jeffress,**

*Assistant Secretary.*

[FR Doc. 99–18382 Filed 7–19–99; 8:45 am]

BILLING CODE 4510–26–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice.

**SUMMARY:** NARA is giving public notice that the agency proposes to request approval of an information collection currently in use without an OMB Control Number when veterans, dependents, and other authorized individuals request information from or copies of documents in military personnel, military medical, and dependent medical records. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be received on or before September 20, 1999.

**ADDRESSES:** Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

*Title:* Authorization for Release of Military Medical Patient Records, Request for Information Needed to Locate Medical Records, Request for Information Needed to Reconstruct Medical Data, and Questionnaire about Military Service.

*OMB number:* 3095–New.

*Agency form number:* NA Forms 13036, 13042, 13055, and 13075.

*Type of review:* Regular.

*Affected public:* Veterans, their authorized representatives, state and local governments, and businesses.

*Estimated number of respondents:* 79,800.

*Estimated time per response:* 5 minutes.

*Frequency of response:* On occasion (when respondent wishes to request information from a military personnel, military medical, and dependent medical record).

*Estimated total annual burden hours:* 6,650 hours.

*Abstract:* The information collection is prescribed by 36 CFR 1228.162. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT, U.S. Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military personnel and medical records of veterans after discharge, retirement, and death. In addition, NRPC administers the medical records of dependents of service personnel. When veterans, dependents, and other authorized individuals request information from or copies of documents on military personnel, military medical, and dependent medical records, they must provide on forms or in letters certain information about the veteran and the nature of the request. A major fire at the NPRC on July 12, 1973, destroyed numerous military records. If individuals' requests involve records or information from records that may have been lost in the fire, requesters may be asked to complete NA Form 13075, Questionnaire about Military Service, or NA Form 13055, Request for Information Needed to Reconstruct Medical Data, so that NPRC staff can search alternative sources to reconstruct the requested information. Requesters who ask for medical records of dependents of service personnel and hospitalization records of military personnel are asked to complete NA Form 13042, Request for Information Needed to Locate Medical Records, so that NPRC staff can locate the desired records. Certain types of information contained in military personnel and medical records are restricted from disclosure unless the veteran provides a more specific release authorization than is normally required. Veterans are asked to complete NA Form 13036, Authorization for Release of Military Medical Patient Records, to authorize release to a third party of a restricted type of information found in the desired record.

Dated: July 14, 1999.

**L. Reynolds Cahoon,**

*Assistant Archivist for Human Resources and Information Services.*

[FR Doc. 99–18442 Filed 7–19–99; 8:45 am]

BILLING CODE 7515–01–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice.

**SUMMARY:** NARA is giving public notice that the agency proposes to request approval of an information collection, currently in use without an OMB Control Number, used to advise requesters of (1) the correct procedures to follow when requesting certified copies of records for use in civil litigation or criminal actions in courts of law, and (2) the information to be provided so that records may be identified. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be received on or before September 20, 1999 to be assured of consideration.

**ADDRESSES:** Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information

collection; (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 information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

*Title:* Court Order Requirements.

*OMB number:* 3095—New.

*Agency form number:* NA Form 13027.

*Type of review:* Regular.

*Affected public:* Veterans and Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

*Estimated number of respondents:* 5,000.

*Estimated time per response:* 15 minutes.

*Frequency of response:* On occasion.

*Estimated total annual burden hours:* 1,250 hours.

*Abstract:* The information collection is prescribed by 36 CFR 1228.162. In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT), the NPRC also administers military service records of veterans after discharge, retirement, and death, and the medical records of these veterans, current members of the Armed Forces, and dependents of Armed Forces personnel. The NA Form 13027, Court Order Requirements, is used to advise requesters of (1) the correct procedures to follow when requesting certified copies of records for use in civil litigation or criminal actions in courts of law and (2) the information to be provided so that records may be identified.

Dated: July 14, 1999.

**L. Reynolds Cahoon,**

*Assistant Archivist for Human Resources and Information Services.*

[FR Doc. 99–18443 Filed 7–19–99; 8:45 am]

BILLING CODE 7515–01–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 meetings of the Combined Arts Panel, Local Arts Agencies Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on August 4–5, 1999 in Room 708 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. The panel will meet from 9 a.m. to 5 p.m. on August 4th and from 9 a.m. to 4:30 p.m. on August 5th. A portion of this meeting, from 1:45 p.m. to 3 p.m. on August 5th, will be open to the public for policy discussions.

The remaining portions of this meeting, from 9 a.m. to 5 p.m. on August 4th and from 9 a.m. to 1:45 p.m. and 3 p.m. to 4:30 p.m. on August 5th, 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: July 9, 1999.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. 99–18401 Filed 7–19–99; 8:45 am]

BILLING CODE 7537–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–410]**

### Central Hudson Gas & Electric Corporation (Nine Mile Point Nuclear Station, Unit No. 2); Order Extending Approval Regarding Restructuring of Central Hudson Gas & Electric Corporation by Establishment of a Holding Company Affecting License No. NPF–69, Nine Mile Point Nuclear Station, Unit No. 2

**I.**

By Order dated July 19, 1998, the Nuclear Regulatory Commission (the Commission or NRC) approved the proposed indirect transfer of Facility Operating License No. NPF–69, to the extent it is held by Central Hudson Gas & Electric Corporation (Applicant), to an unnamed holding company to be created with the Applicant, a wholly owned subsidiary, in accordance with electric industry restructuring goals established by the New York State Public Service Commission (NYSPSC). The approval was given in response to Applicant's application dated April 8, 1998, as resubmitted June 8, 1998, and supplemented by letters dated April 22 and July 9, 1998, for consent under Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.80). By its terms, the Order of July 19, 1998, becomes null and void if Applicant's proposed holding company restructuring is not completed by July 19, 1999, unless on application and for good cause shown, this date is extended by the Commission.

Applicant is licensed by the Commission to own and possess a 9-percent interest in Nine Mile Point Nuclear Station, Unit 2 (NMP2), under Facility Operating License No. NPF–69, issued by the Commission on July 2, 1987. In addition to Applicant, the other owners who may possess, but not operate, NMP2 are New York State Electric & Gas Corporation with an 18-percent interest, Long Island Lighting Company with an 18-percent interest, and Rochester Gas and Electric Corporation with a 14-percent interest. Niagara Mohawk Power Corporation (NMPC) owns a 41-percent interest in NMP2, is authorized to act as agent for the other owners, and has exclusive

responsibility and control over the operation and maintenance of NMP2. NMP2 is located in the town of Scriba, Oswego County, New York.

**II.**

Under cover of a letter dated June 7, 1999, Applicant submitted an application requesting that the expiration date set forth in the Order of July 19, 1998, be extended to June 30, 2000. According to this submittal, under the terms of paragraph VIB6 of the Amended and Restated Settlement Agreement (referenced in Part II of the NRC's Order dated July 19, 1998), the NYSPSC permitted Applicant to invest $100 million in its unregulated subsidiaries, but only before the date the holding company restructuring is effected. Thus far, Applicant has so invested $25.5 million. However, Applicant needs additional time to invest the remaining $74.5 million in suitable investments. Applicant further states that there have been no material changes from the facts set forth in its previous application, as resubmitted and supplemented, leading to the Order of July 19, 1998.

The NRC staff has considered the foregoing request of June 7, 1999, and has determined that Applicant has demonstrated good cause to extend the expiration date set forth in the Order of July 19, 1998, approving the proposed restructuring.

**III.**

Accordingly, pursuant to Sections 161b and 161i of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b) and 2201(i), *it is hereby ordered* That the effectiveness of the Order of July 19, 1998, approving the application regarding the proposed restructuring of Applicant by the establishment of a holding company, is extended such that if the restructuring is not completed by June 30, 2000, the Order of July 19, 1998, as hereby extended, shall become null and void.

This Order is effective upon issuance.

For further details with respect to this Order, see letter and request dated June 7, 1999, from Applicant which 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 Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 13th day of July 1999.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 99–18470 Filed 7–19–99; 8:45 am]

BILLING CODE 7590–01–U

## POSTAL SERVICE

### Periodicals Rate Anomaly; Changes in Classification and Rate Schedule

**AGENCY:** Postal Service.

**ACTION:** Notice of implementation of changes to the Domestic Mail Classification Schedule and Periodicals Regular Rate Schedule.

**SUMMARY:** This notice sets forth the changes to Domestic Mail Classification Schedule (DMCS) section 441 and to Periodicals Regular rate schedule 421, to be implemented as a result of the July 12, 1999, Decision of the Governors of the United States Postal Service on Periodicals Classification Change.

**EFFECTIVE DATE:** August 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** David Rubin, (202) 268–2986.

**SUPPLEMENTARY INFORMATION:** On April 9, 1999, pursuant to its authority under 39 U.S.C. 3621 *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on Periodicals classification changes designed to provide a remedy to a rate anomaly resulting from the last omnibus rate case, Docket No. R97–1. The PRC designated the filing as Docket No. MC99–3. On April 23, 1999, the PRC published a notice of the filing, with a description of the Postal Service's proposal, in the **Federal Register** (64 FR 13613–13617).

On June 23, 1999, pursuant to its authority under 39 U.S.C. 3624, the PRC issued to the Governors of the Postal Service its recommended decision on the Postal Service's request. The PRC recommended the changes proposed by the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on July 12, 1999. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Periodicals Classification Change, Docket No. MC99–3. The Governors approved the Commission's recommendations. The rate schedule and classification changes approved by the Governors were attached to that decision, and are set forth below.

Also on July 12, 1999, the Board of Governors of the Postal Service, pursuant to their authority under 39 U.S.C. § 3625(f), determined to make the classification and rate schedule changes approved by the Governors effective at 12:01 a.m. on August 1, 1999 (Resolution No. 99–6).

In accordance with the aforementioned Decision of the Governors and Resolution No. 99–6, the Postal Service hereby gives notice that the classification and rate schedule changes set forth below will become effective at 12:01 a.m. on August 1, 1999. Implementing regulations also become effective at that time, as noted elsewhere in this issue.

**Changes in the Domestic Mail Classification Schedule**

The following material represents changes to Domestic Mail Classification Schedule section 441, approved by the Governors of the United States Postal Service on July 12, 1999, in response to the Postal Rate Commission's Recommended Decision in Docket No. MC99–3.

**Periodicals**

**Classification Schedule**

* * * * *

440 POSTAGE AND PREPARATION

441 Postage.

Postage must be paid on Periodicals class mail as set forth in section 3000. *When the postage computed for a particular issue using the Nonprofit or Classroom rate schedule is higher than the postage computed using the Regular rate schedule, that issue is eligible to use the Regular rate schedule. For purposes of this section, the term issue is subject to certain exceptions related to separate mailings of a particular issue, as specified by the Postal Service.*

**Changes in Rate Schedule 421**

The following material represents changes to Rate Schedule 421 approved by the Governors of the United States Postal Service on July 12, 1999, in response to the Postal Rate Commission's Recommended Decision in Docket No. MC99–3.

**Periodicals**

RATE SCHEDULE 421

[Regular Subclass [1, 2]]

| | Postage rate unit | Rate [3] (cents) |
|---|---|---|
| Per Pound: | | |
| Nonadvertising Portion | Pound | 16.1 |
| Advertising Portion: [11] | | |
| Delivery Office [4] | Pound | 15.5 |
| SCF [5] | Pound | 17.8 |
| 1 & 2 | Pound | 21.5 |
| 3 | Pound | 22.9 |
| 4 | Pound | 26.3 |
| 5 | Pound | 31.6 |
| 6 | Pound | 37.1 |
| 7 | Pound | 43.8 |
| 8 | Pound | 49.5 |
| Science of Agriculture: | | |
| Delivery Office | Pound | 11.6 |
| SCF | Pound | 13.3 |
| Zones 1 & 2 | Pound | 16.1 |
| Per Piece: | | |
| Less Nonadvertising Factor [6] | | 5.9 |
| Required Preparation [7] | Piece | 29.4 |
| Presorted to 3-digit | Piece | 25.3 |
| Presorted to 5-digit | Piece | 19.7 |
| Presorted to Carrier Route | Piece | 12.2 |
| Discounts: | | |
| Prepared to Delivery Office [4] | Piece | 1.3 |
| Prepared to SCF [5] | Piece | 0.7 |
| High Density [8] | Piece | 1.9 |
| Saturation [9] | Piece | 3.7 |
| Automation Discounts for Automation Compatible Mail [10] | | |
| From Required: | | |
| Prebarcoded letter size | Piece | 6.2 |
| Prebarcoded flats | Piece | 4.6 |
| From 3-Digit: | | |
| Prebarcoded letter size | Piece | 4.7 |
| Prebarcoded flats | Piece | 3.9 |
| From 5-Digit: | | |
| Prebarcoded letter size | Piece | 3.5 |
| Prebarcoded flats | Piece | 2.9 |

**Schedule 421 Notes**

1. The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, non-profit, and classroom periodicals.

2. Rates do not apply to otherwise regular rate mail that qualifies for the Within County rates in Schedule 423.2.

3. Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

4. Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

5. Applies to mail delivered within the SCF area of the originating SCF office.

6. For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

7. Mail not eligible for carrier-route, 5-digit or 3-digit rates.

8. Applicable to high density mail, deducted from carrier route presort rate.

9. Applicable to saturation mail, deducted from carrier route presort rate.

10. For automation compatible mail meeting applicable Postal Service regulations.

11. *Not applicable to qualifying Nonprofit and Classroom publications containing 10 percent or less advertising content.*

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 99–18509 Filed 7–19–99; 8:45 am]

BILLING CODE 7710–12–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:* Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment.

(2) *Form(s) submitted:* G–19L.

(3) *OMB number:* 3220–0179.

(4) *Expiration date of current OMB clearance:* 10/31/1999.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 5,000.

(8) *Total annual responses:* 5,000.

(9) *Total annual reporting hours:* 1,250.

(10) *Collection description:* Under Section 2(e)(3) of the Railroad Retirement Act, an annuity is not payable or is reduced for any month in which the beneficiary works for a

railroad or earns more than the prescribed amounts. The collection obtains earnings information needed by the Railroad Retirement Board to determine possible reduction in annuities because of LPE earnings.

### 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. 99–18451 Filed 7–19–99; 8:45 am]

BILLING CODE 7905–01–M

## SMALL BUSINESS ADMINISTRATION

**[License No. 08/08–0155]**

### CapEx L.P.; Notice of Issuance of a Small Business Investment Company License

On May 8, 1998, an application was filed by CapEx L.P. at 1670 Broadway, Suite 3350, Denver, Colorado 80202 with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 08/08–0155 on March 4, 1999, to CapEx Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 6, 1999.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 99–18495 Filed 7–19–99; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[License No. 06/76–0317]**

### TD Origen Capital Fund, L.P.; Notice of Issuance of a Small Business Investment Company License

On September 14, 1998, an application was filed by TD Origen Capital Fund, L.P. at One Technology Center, 1155 University Blvd., S.E., Albuquerque, New Mexico 87106 with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 06/76–0317 on March 1, 1999, to TD Origen Capital Fund, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 6, 1999.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 99–18494 Filed 7–19–99; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[License No. 09/09–0365]**

### VK Capital Company; Notice of Surrender of License

Notice is hereby given that VK Capital Company, 600 California Street, Suite 1700, San Francisco, California 94108–2704, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act).

VK Capital Company, L.P. was licensed by the Small Business Administration on February 7, 1986.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was effective as of May 26, 1999, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 30, 1999.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 99–18493 Filed 7–19–99; 8:45 am]

BILLING CODE 8025–01–P

## TENNESSEE VALLEY AUTHORITY

### Peaking Capacity Additions

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Issuance of Record of Decision.

**SUMMARY:** This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA has decided to adopt the preferred alternative identified in its Final Environmental Impact Statement for Peaking Capacity Additions. The Final Environmental Impact Statement (EIS) was made available to the public on May 13, 1999. A Notice of Availability (NOA) of the Final EIS was published by the Environmental Protection Agency in the **Federal Register** on May 21, 1999. Under the preferred alternative, TVA will construct additional peaking capacity at two TVA fossil plants: 340 megawatts (MW) at Johnsonville Fossil Plant, in Humphreys County, Tennessee and 340 MW at Gallatin Fossil Plant in Sumner County, Tennessee. The additions will be gas fired simple cycle combustion turbines.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Armstrong Jr., NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, mail stop WT 8C, Knoxville, Tennessee 37902–1499; telephone (423) 632–8059 or e-mail rbarmstrong@tva.gov.

**SUPPLEMENTARY INFORMATION:** In December 1995, TVA issued its final Energy 2020 Integrated Resource Plan and Programmatic Environmental Impact Statement. This document projected demands for electricity in the TVA power service area through the year 2020 and evaluated different ways of meeting these projected increases. Under the forecast adopted by TVA, the demand for electricity was projected to exceed TVA's 1996 generating capacity of 28,000 (MW) by approximately 6,250 MW in the year 2005. TVA decided to meet this demand through a combination of supply-side options and customer service options.

One of the supply-side options was to construct additional peaking capacity within the TVA power system. Tiering

from the Energy Vision 2020 EIS, this Peaking Addition EIS evaluates the decision of adding up to 1,530 MW capacity among three existing TVA fossil plants; Colbert Fossil Plant, Colbert County, Alabama; Gallatin Fossil Plant, Sumner County and Johnsonville Fossil Plant, Humphreys County, Tennessee. The evaluation considered the following: the No Action Alternative, and seven Action Alternatives based on all combinations of the use of one, two or three candidate sites. Other options evaluated included generation technology, transmission connectivity and distribution, and fuel supply. The three candidate sites were selected based on the following criteria: location in the TVA service area, sites currently owned by TVA, and use of TVA fossil plants that now operate combustion turbines. Operating nuclear plant sites were not considered. The alternative selected was based on both economic and environmental considerations. The preferred alternative locates the capacity additions at Gallatin and Johnsonville Fossil Plants, Tennessee.

On August 12, 1998, TVA issued a Notice of Intent (NOI) to prepare an EIS on its proposed construction of additional peaking capacity at TVA existing sites. Press announcements were sent to TVA region news media on July 22, 1998, which generally described TVA's plans to add new peaking capacity by June 2000. On August 24, 1998, TVA issued a press release which contained specific information about TVA's intent to hold public scoping meetings concerning the peaking additions. Also, newspaper notices were published for the meetings. These meetings were held at the following locations: Gallatin, Sumner County, Tennessee; Waverly, Humphreys County, Tennessee and Cherokee, Colbert County, Alabama. Public comments were considered in preparing the draft EIS. A NOA of the draft EIS was published by the Environmental Protection Agency (EPA) in the **Federal Register** on January 29, 1999. Three public information and comment meetings were held on February 16, 18, and 22, 1999 at Waverly, Tennessee; Cherokee, Alabama; and Gallatin, Tennessee respectively. Comments were received from three federal and three state agencies, two corporations, and eight individuals. After considering all comments, TVA revised the EIS appropriately. The Final EIS was distributed to commenting agencies and the public on May 13, 1999. A NOA of the final EIS was published by EPA in the **Federal Register** on May 21, 1999.

**Alternatives Considered**

Alternative methods of meeting TVA's future electrical generation capacity requirements were evaluated in Energy Vision 2020. One of the selected methods was to construct additional electric generation capacity within the TVA system. Tiering from Energy Vision 2020, to address the peaking capacity additions, two alternatives were evaluated: a No Action Alternative and an Action Alternative.

Under the No Action Alternative, TVA would not construct additional peaking generation capacity and would not construct or upgrade transmission lines or natural gas lines connecting to the new facilities to the TVA transmission system and fuel supplies. Instead, TVA would select another fossil alternative evaluated in Energy Vision 2020, such as an option purchase agreement or spot market purchases. This would not necessarily preclude development and construction of additional generating capacity in the future by TVA or suppliers of power to TVA. However, this would be uncertain at this time.

Under the Preferred Alternative, TVA would construct peaking capacity additions of 340 MW at both Gallatin and Johnsonville Fossil Plant sites, increasing the total peaking capacity of the TVA system by 680 MW. Each site would receive four simple-cycle combustion turbines (CT) with a per unit capacity of 85 MW. These CTs are designed to operate with dual fuel capacity firing either natural gas or low sulfur distillate fuel oil to maximize fuel flexibility and lower operational cost. The CTs at both sites would be equipped with dry low nitrogen oxides ($NO_X$) burners for natural gas firing and would use water injection for $NO_X$ control when firing No. 2 distillate oil. The peaking capacity additions are proposed to be completed and operational by June 2000. In addition to the peaking capacity additions, associated transmission lines serving as a connection to TVA's power distribution system would be constructed and or upgraded.

**Decision**

TVA has decided to implement the Preferred Alternative at Gallatin and Johnsonville fossil plant sites, because it would add a total capacity of 680 MW to the TVA power system with minimal environmental impacts and would be more cost effective than constructing additional capacity at the Colbert Fossil Plant in Colbert County, Alabama. TVA will also build and upgrade the associated transmission lines serving as a connection to the TVA power distribution system. This will help TVA meet the projected demand for electricity in its service area as well as maintain reliable service to TVA customers.

**Environmentally Preferred Alternative**

TVA has concluded that the Preferred Alternative is the environmentally preferred alternative. Alternatives that included the Colbert Fossil plant required the construction of new or upgraded natural gas pipelines which had additional potential impacts. There is no clear basis for identifying either the No Action or the Preferred Alternative as environmentally preferable to the other. Selection of the No Action Alternative would eliminate potential adverse impacts from TVA's construction and operation of new generation peaking capacity. However, there is no assurance that power purchased by TVA under the No Action Alternative would be produced by existing facilities or by facilities with less environmental impacts than the facilities contemplated by the Preferred Alternative. To the contrary, given the current and projected needs for new power generation, it may be more reasonable to assume the purchased power would be produced by new generating units with unknown environmental cost. Also, by selecting the Preferred Alternative and constructing its own generation units, TVA can better assure that appropriate mitigation measures are employed and that the construction and operation of the new units will comply with all environmental regulations and policies. In addition, the Preferred Alternative may better assure the reliability necessary to meet customer demand.

**Environmental Consequences and Commitments**

Standard construction and best management practices would be followed in all aspects of the project construction and operation to avoid or minimize adverse environmental impacts. In addition, TVA has adopted the following mitigation measures pertaining to the construction and operation of the peaking capacity additions at Gallatin and Johnsonville:

- Air quality impacts of construction dust will be mitigated by sprinkling water on open construction areas and roads to reduce fugitive dust emissions.
- Air emission during operation will comply with limits set in the PSD permit to be issued by Tennessee Department of Environment and Conservation (TDEC).

- TVA will use natural gas and low sulfur distillate oil (maximum sulfur content of 0.05%) as fuels.
- TVA will install post-combustion emission controls on all CTs.
- Best Management Practices will be used at all stream and river crossings by natural gas pipelines and transmission line resagging, reconductoring, and new construction activities.
- All wetlands will be avoided by vans, trucks, bulldozers and other equipment used to access points along transmission ROW where resagging and reconductoring activities are required. In no case will equipment pass through wetlands.
- Discharges to surface waters will comply with limits set in NPDES permits issued by Tennessee Department of Environment and Conservation.
- Stormwater will be managed in accordance with Storm Water Pollution Prevention Control and Countermeasure plans.
- A TVA botanist will delineate a 50 feet buffer around each population of bladderpod (*Lesquerella perforata*) plant in the Spring Creek bottom area along the Gallatin to Lebanon Industrial Park ROW. No construction related traffic, vehicular or pedestrian, will be allowed within the delineated buffer area. Botanists from TVA and TDEC will meet on site with the transmission line reconductoring project engineer or project manager to emphasize the significance of the bladderpod populations and the importance of enforcing the restrictions of maintaining the non-intrusive 50 feet buffer zone. If any activities relating to the reconductoring of the transmission line through the Spring Creek bottom area are modified to the extent that these activities may directly or indirectly impact this species, TVA, U.S. Fish and Wildlife Service, and TDEC would meet to establish a strategy to protect the species.
- TVA will use BMP techniques in accordance with TVA guidelines for environmental protection (Muncey 1992) during the construction of transmission lines.
- Transmission line and natural gas pipeline ROW will be revegetated where natural vegetation is removed.
- TVA will avoid the removal of unique vegetation.
- Construction delivery trucks will not be loaded beyond legal limits and will meet all safety standards. Hauling will comply with all state, federal, and local ordinances.
- Impacts on cultural resources will be mitigated in accordance with the Memorandum of Agreement (MOA) between TVA and the Tennessee State Historical Preservation Officer and with Section 106 of the National Historical Preservation Act (NHPA). All proposed transmission line ROWs that require reconductoring, resagging or new construction will be surveyed for cultural, archaeological and historic resources.

Dated: June 28, 1999.

**Joseph R. Bynum,**

*Executive Vice President, Fossil Power Group.*

[FR Doc. 99–18452 Filed 7–19–99; 8:45 am]

BILLING CODE 8120–08–P

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## DEPARTMENT OF TRANSPORTATION

### Office of The Secretary

### Application of Puerto Rico Airways, Corp. for Issuance of New Certificate Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 99–7–7), Docket OST–98–4838.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Puerto Rico Airways, Corp. fit, willing, and able, and (2) awarding it a certificate to engage in interstate scheduled air transportation of persons, property, and mail.

**DATES:** Persons wishing to file objections should do so no later than July 27, 1999.

**ADDRESSES:** Objections and answers to objections should e filed in Docket OST–98–4838 and addressed to Department of Transportation Dockets (SVC–124 Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Mr. Galvin Coimbre, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–5347.

Dated: July 13, 1999.

**A. Bradley Mims,**

*Acting Secreatary for Aviation and International Affairs.*

[FR Doc. 99–18307 Filed 7–16–99; 8:45 am]

BILLING CODE 4910–62–M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG 1999–5126]**

### Collection of Information by Agency Under Review by the Office of Management and Budget (OMB)

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded the Information Collection Report (ICR) abstracted below to OMB for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OMB ensure we impose on the public the lightest burden of paperwork compatible with our performance of duties.

**DATES:** Please submit comments on or before August 19, 1999.

**ADDRESSES:** Please send comments to both (1) the Docket Management Facility (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW, Washington, DC 20590–0001, and (2) the Office of Information and Regulatory Affairs (OIRA), OMB, 725 17th Street NW, Washington, DC 20503, attention: USCG Desk Officer.

Copies of the complete ICR are available for inspection and copying in public docket USCG 1999–5126 of the DMS between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. They are also available for downloading, inspection, and printing from the internet at *http://dms.dot.gov;* and for inspection at Commandant (G–SII–2), U.S. Coast Guard, room 6106, 2100 Second Street SW, Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For questions on this document, call Barbara Davis, Office of Information Management of the Coast Guard, at 202–267–2326. For questions on this docket, call Dorothy Walker, Chief of Dockets of the DMS, at 202–366–9329.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published [64 FR 9371 (February 25, 1999)] the 60-day notice required by OMB. That request elicited no comments.

## Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for proper performance of the duties of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information sought in the collection; and (4) ways to minimize the burden of the collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, whether to DMS or to OIRA, must contain the OMB Control Number of the ICR addressed by the comments. Comments to DMS must contain the docket-number of this request, USCG 1999–5126. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

## Information Collection Request

*Title*: National Recreational Boating Survey.

*OMB Control Number*: 2115–0638.

*Type of Request*: Extension of currently approved collection.

*Affected Public*: Owners and operators of recreational boats.

*Form(s)*: National Recreational Boating Survey.

*Abstract*: The goal of the National Recreational Boating Survey is to obtain information on boating practices, safety, and exposure. This information will enable boating-safety officials to assess boating risks and implement appropriate strategies for safety intervention. It will also provide means to measure the effectiveness of the program in reducing the number of fatalities and injuries and the amount of property damage associated with the use of recreational boats.

*Annual Estimated Burden Hours:* The estimated burden is 3,926 hours annually.

**G.N. Naccara,**

*Director of Information and Technology.*

[FR Doc. 99–18498 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–15–P

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

**[Summary Notice No. PE–99–20]**

## Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before August 9, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

**FOR FURTHER INFORMATION CONTACT:** Cheri Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on July 14, 1999.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Petitions for Exemptions

*Docket No.:* 29499.

*Petitioner:* Alaska's Enchanted Lake Lodge, Inc.

*Section of the FAA Affected:* 14 CFR 43.3(a) and (g).

*Description of Relief Sought:* To permit pilots employed by AELL to perform the preventative maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

*Docket No.:* 29505.

*Petitioner:* Rough and Ready Guide Services, Inc. dba Nordic Flying Service.

*Sections of the FAA Affected:* 14 CFR 43.3(a) and (g).

*Description of Relief Sought:* To permit pilots employed by NFS to perform the preventative maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

*Docket No.:* 29598.

*Petitioner:* The Boeing Company.

*Section of the FAA Affected:* 14 CFR 25.571(b) and 25.671(c)(1).

*Description of Relief Sought:* To allow the McDonnell Douglas Corporation time to substantiate, including redesign and retrofit, as necessary, that the flap system on the Model 717–200 meets the damage-tolerance and fail-safe criteria of the subject regulations.

### Dispositions of Petitions

*Docket No.:* 29514.

*Petitioner:* Decatur Aero Club.

*Section of the FAA Affected:* 14 CFR 135.251, 135.255, and 135.353.

*Description of Relief Sought/Disposition:* To permit Decatur Aero Club to conduct sightseeing rides at an airport in the vicinity of Decatur, Illinois for their pancake breakfast on June 13, 1999, for compensation or hire, without complying with the drug and alcohol testing requirements in part 135. *GRANT, 6/11/99, Exemption No. 6899.*

[FR Doc. 99–18402 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

**[Summary Notice No. PE–99–21]**

## Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before August 10, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 14, 1999.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

## Petitions for Exemption

*Docket No.:* 27672
*Petition:* Skydive Chicago, Inc.
*Sections of the FAR Affected:*
14 CFR 91.307(a)(2) and (c)(1) and 105.43(a)(2)
*Description of Relief Sought/ Disposition:*
To permit SCI to allow nonstudent, foreign national parachutists to make intentional parachute jumps at SCI's facilities without complying with the parachute equipment packing requirement of § 105.43(a).

*Docket No.:* 28868
*Petition:* Skydive Space Center, Inc.
*Section of the FAR Affected:*
14 CFR 105.43(a)
*Description of Relief Sought:*
To permit SSC to continue to allow nonstudent parachutists who are foreign nationals to make intentional parachute jumps for the purpose of training and recreational activities at SSC's facilities without complying with the parachute equipment packing requirements of § 105.43(a).

*Docket No.:* 29516
*Petition:* Wildman Lake Lodge
*Sections of the FAR Affected:*
14 CFR 43.3(a) and (g) and paragraph (c) of appendix A of part 43.
*Description of Relief Sought:*
To permit pilots employed by WLL to perform the preventive maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

*Docket No.:* 29518
*Petition:* Brown Bear Air, Inc.
*Sections of the FAR Affected:*
14 CFR 43.3(a) and (g) and paragraph (c) of appendix A of part 43
*Description of Relief Sought:*
To permit pilots employed by BBA to perform the preventive maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

*Docket No.:* 29532
*Petition:* Cub Drivers
*Section of the FAR Affected:*
14 CFR 43(a) and (g)
*Description of Relief Sought/ Disposition:*
To permit pilots employed by Cub Drivers to perform the preventive maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

## Dispositions of Petitions

*Docket No.:* 27251
*Petitioner:* BPPP, Inc. and ABS/Air Safety Foundation
*Sections of the FAR Affected:*
14 CFR 91.109(a) and (b)(3)
*Description of Relief Sought/ Disposition:*
To permit BPPP and ABS/ASF flight instructors to conduct certain flight instruction and simulated instrument flights to meet the recent instrument experience requirements in Beechcraft Baron, Bonanza, and Travel Air airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

*Grant, 06/16/99, Exemption No. 5733D*

*Docket No.:* 28877
*Petitioner:* Mr. Itzhak Jacoby
*Sections of the FAR Affected:*
14 CFR 91.109(a) and (b)(3)
*Description of Relief Sought/ Disposition:*
To permit Mr. Jacoby to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

*Grant, 6/23/99, Exemption No. 6649A*

*Docket No.:* 29529
*Petitioner:* Oliver's Helicopters, Inc.
*Sections of the FAR Affected:*
14 CFR 135.143(c)(2)
*Description of Relief Sought/ Disposition:*
To permit OHI to operate its Enstrom Model 480 helicopter (Registration No. N480FX, Serial No. 5028) under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

*Grant, 6/23/99, Exemption No. 6907*

*Docket No.:* 29604
*Petitioner:* Lacon Aero Service, Inc.
*Sections of the FAR Affected:*
14 CFR 135.251, 135.255, 135.353, and Appendices I & J of part 121
*Description of Relief Sought/ Disposition:*
To permit Lacon to conduct local sightseeing rides at the Marshall County Airport for an annual fly-in/drive-in breakfast on June 20, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

*Grant, 6/18/99, Exemption No. 6903*

*Docket No.:* 29612
*Petitioner:* Blue Sky Flying Services, Inc.
*Sections of the FAR Affected:*
14 CFR 135.251, 135.255, 135.353, and Appendices I & J of part 121
*Description of Relief Sought/ Disposition:*
To permit Blue Sky to conduct local sightseeing rides at an airshow at the Lake in the Hills Airport on June 19, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

*Grant, 6/18/99, Exemption No. 6904*

[FR Doc. 99–18500 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–99–22]**

### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before August 10, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB) 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 14, 1999.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Petitions for Exemption

*Docket No.:* 29468
*Petition:* China Aircraft Services Limited
*Section of the FAR Affected:* 14 CFR 145.37(b)
*Description of Relief Sought/ Disposition:*
To permit CASL to qualify for a part 145 repair station certificate without meeting the special housing and facility requirements of § 145.37(b).

### Dispositions of Petitions

*Docket No.:* 20583
*Petitioner:* Tenneco
*Sections of the FAR Affected:*
14 CFR 61.57(a)(3) and (b)(2) and 61.58(e)
*Description of Relief Sought/ Disposition:*
To permit Tenneco's pilots to complete a 24-month pilot-in-command check conducted by Tenneco in an FAA-approved flight simulator without Tenneco holding a 14 CFR part 142 certificate.

*Denial, 6/18/99, Exemption No. 6906*

*Docket No.:* 28868
*Petitioner:* Skydive Space Center, Inc.
*Sections of the FAR Affected:*
14 CFR 105.43(a)
*Description of Relief Sought/ Disposition:*
To allow SSC to permit non-student parachutists who are foreign nationals to make intentional parachute jumps for the purpose of training and recreational activities at SSC's facilities without complying with the parachute equipment and packing requirements of § 105.43(a).

*Grant, 6/25/99, Exemption No. 6644A*

*Docket No.:* 29207
*Petitioner:* American Airlines Flight Academy
*Sections of the FAR Affected:*
14 CFR 121.434(c)(1)(ii)
*Description of Relief Sought/ Disposition:*
To permit AAL to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.424.

*Partial Grant, 7/6/99, Exemption No. 6916*

*Docket No.:* 29250
*Petitioner:* True North, Inc.
*Sections of the FAR Affected:*
14 CFR 135.299(a)
*Description of Relief Sought/ Disposition:*
To permit True North pilots to a accomplish a line operational evaluation in a Level C or Level D flight simulator in lieu of a line check in an aircraft

*Denial, 6/29/99, Exemption No. 6913*

*Docket No.:* 29481
*Petitioner:* Republic Helicopters, Inc.
*Sections of the FAR Affected:*
14 CFR 135.153(c)(2)
*Description of Relief Sought/ Disposition:*
To permit Republic Helicopters to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in each aircraft.

*Grant, 6/69/99, Exemption No. 6912*

*Docket No.:* 29513
*Petitioner:* Fairchild Dornier/Dornier Luftfahrt GmbH.
*Sections of the FAR Affected:*
14 CFR C36.9(e)(1)
*Description of Relief Sought/ Disposition:*
To permit the Dornier 328–300 noise certification reference approach speed to be determined on the basis of the 1–g stall speed.

*Grant, 6/14/99, Exemption No. 6900*

*Docket No.:* 29562
*Petitioner:* Sky King Soaring, L.L.C.
*Section of the FAR Affected:*
14 CFR 91.109(a) and (b)(3)
*Description of Relief Sought/ Disposition:*
To allow Mr. Russell M. Hustead to conduct certain flight instruction to meet recent experience requirements in Beechcraft Bonanza airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

*Grant, 6/29/99, Exemption No. 6909*

*Docket No.:* 29563
*Petitioner:* Mr. Ronald Jay Timmermans
*Section of the FAR Affected:*
14 CFR 91.109(a) and (b)(3)
*Description of Relief Sought/ Disposition:*
To allow Mr. Ronald Jay Timmermans to conduct certain flight instruction to meet recent experience requirements in Beechcraft Bonanza airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

*Grant, 6/28/99, Exemption No. 6914*

*Docket No.:* 29572

*Petitioner:* Spectrum Aeromed, Inc.,
*Section of the FAR Affected:*
14 CFR 25.562 and 25.785(b)
*Description of Relief Sought/ Disposition:*
To permit certification of medical stretchers for transport of persons whose medical condition dictates such accommodation. The exemption is for installation on Gulfstream Model G–V series airplanes

*Grant, 7/1/99, Exemption No. 6911*

*Docket No.:* 29596
*Petitioner:* EMBRAER—Empresa Brasileria de Aeronautica S.A.
*Section of the FAR Affected:*
14 CFR C36.9(e)(1)
*Description of Relief Sought/ Disposition:*
To allow EMBRAER to use the 1–g stall speed used for the 14 CFR part 25 airworthiness certification to also be used for the 14 CFR part 36 noise certification for the approach reference and test limitations on the EMBRAER EMB–135 model airplane.

*Grant, 6/30/99, Exemption No. 6910*

*Docket No.:* 29613
*Petitioner:* Torrance Air Fair Association
*Section of the FAR Affected:*
14 CFR 135.251, 135.255, 135.353 and 121 Appendices I & J
*Description of Relief Sought/ Disposition:*
To allow Benbow to conduct local sightseeing rides at Zamperini Field, Torrance Airport, for the 7th Annual Torrance Air Fair on July 10 and 11, 1999, for compensation or hire without complying with the anti-drug and alcohol misuse prevention requirements of part 135.

*Grant, 7/6/99, Exemption No. 6915*

*Docket No.:* 29638
*Petitioner:* Plainwell Pilots Association
*Section of the FAR Affected:*
14 CFR 135.251, 135.255, 135.353 and 121 Appendices I & J
*Description of Relief Sought/ Disposition:*
To allow Plainwell Pilots Association to conduct local sightseeing rides at Zamperini Field, Torrance Airport, for the 7th Annual Torrance Air Fair on July 10 and 11, 1999, for compensation or hire without complying with the anti-drug and alcohol misuse prevention requirements of part 135.

*Grant, 7/1/99, Exemption No. 6917*

[FR Doc. 99–18501 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Air Traffic Procedures Advisory Committee

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** the FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

**DATES:** The meeting will be held from July 26–29, 1999, from 9 a.m. to 5 p.m. each day.

**ADDRESSES:** The meeting will be held at the Experimental Aircraft Association Museum, 3000 Poberezny Road, Batten Room, OshKosh, Wisconsin, 54901.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eric Harrell, Executive Director, ATPAC, En Route/Terminal Operations and Procedures Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held July 26 through July 29, 1999, at the Experimental Aircraft Association Museum, 3000 Poberezny Road, Batten Room, OshKosh, Wisconsin, 54901.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than July 23, 1999. The next quarterly meeting of the FAA ATPAC is planned to be held from October 4–7, 1999, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on June 30, 1999.

**Eric Harrell,**

*Executive Director, Air Traffic Procedures Advisory Committee.*

[FR Doc. 99–18499 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Discretionary Cooperative Agreements To Support Seat Belt Enforcement in Major Metropolitan Areas

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Announcement of Discretionary Cooperative Agreements in conjunction with the *Buckle Up America campaign* to increase seat belt enforcement in major metropolitan areas.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to solicit support for the *Buckle Up America* (BUA) campaign. NHTSA solicits applications from law enforcement agencies which have jurisdiction in major metropolitan areas to participate in the BUA under this program. NHTSA seeks the participation and support of these law enforcement agencies to increase the use of seat belts and child safety seats, the most effective safety devices for reducing injuries and fatalities in traffic crashes.

**DATES:** Applications must be received at the office designated below on or before August 19, 1999.

**ADDRESSES:** Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN.: Joseph Comella, 400 7th Street S.W., Room 5301, Washington, D.C. 20590. All applications submitted must include a reference to NHTSA Program No. NTS–01–9–05102.

**FOR FURTHER INFORMATION CONTACT:** General administrative questions may be directed to Joseph Comella, Office of Contracts and Procurement, at (202) 366–9568. Programmatic questions should be directed to Mr. Philip Gulak, Occupant Protection Division, NHTSA,

Room 5118 (NTS–12), 400 7th Street, S.W., Washington, D.C., 20590 (202) 366–2725. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

**SUPPLEMENTARY INFORMATION:**

## Background

Each year, approximately 42,000 Americans die in traffic crashes and another three million are injured. Sadly, many of these deaths and injuries could have been prevented if the victims had been wearing seat belts or were properly restrained in child safety seats.

Seat belts, when properly used, are 45 percent effective in preventing deaths in potentially fatal crashes and 50 percent effective in preventing serious injuries. No other safety device has as much potential for immediately preventing deaths and injuries in motor vehicle crashes. The current level of seat belt use across the nation prevents more than 9,500 deaths and well over 200,000 injuries annually. Through 1997, more than 100,000 deaths and an estimated 2.5 million serious injuries have been prevented by seat belt use.

But, seat belt use rates and the resulting savings could be much higher. As of 1998, the average use rate among States in the U.S. was still well below the goal of 85 percent announced by the President for the year 2000 and at least a dozen States have use rates below 60 percent. On the other hand, use rates of 85–95 percent are a reality in most developed nations with seat belt use laws, and at least six States and the District of Columbia achieved use rates greater than 80 percent in 1998. A national use rate of 90 percent, among front seat occupants of all passenger vehicles, would result in prevention of an additional 5,500 deaths and 13,000 serious injuries annually. This would translate into a $9 billion reduction in societal costs, including 356 million for Medicare and Medicaid.

In April 1997, the *Buckle Up America* (BUA) campaign established ambitious national goals: (a) To increase seat belt use to 85 percent and reduce child-related fatalities (0–4 years) by 15 percent by the year 2000; and (b) to increase seat belt use to 90 percent and reduce child-related fatalities by 25 percent by the year 2005. This campaign advocates a four-part strategy: (1) Building public-private partnerships; (2) enacting strong legislation; (3) maintaining high visibility law enforcement; (4) and conducting effective public education. Central to this Campaign's successes is the implementation of two major enforcement mobilizations each year (Memorial Day and Thanksgiving holidays).

## Objectives

To help achieve the new national seat belt goals, NHTSA seeks to establish cooperative efforts between NHTSA and qualified major metropolitan law enforcement agencies to increase the use of seat belts and child safety seats. Specific objectives for this cooperative agreement program will be to support the BUA campaign by increasing periodic waves of high visibility enforcement and promoting participation in Operation: *A*merica *B*uckles Up *C*hildren (ABC) national mobilizations (May and November).

### *1. Periodic ''Waves'' of High Visibility Enforcement*

The history of efforts to increase seat belt use in the U.S. and Canada suggests that highly visible enforcement of seat belt laws must be the core of any successful program to increase seat belt use. No State has ever achieved a high seat belt use rate without such a component.

Canada currently has a national seat belt use rate well above 90 percent. Nearly every province first attempted to increase seat belt use through voluntary approaches involving public information and education. These efforts were effective in achieving only very modest usage rates (no higher than 30 percent). By 1985, it became obvious to Canadian and provincial officials that additional efforts would be needed to achieve levels of 80 percent or greater. These efforts, mounted from 1985 to 1995, centered around highly publicized ''waves'' of enforcement, a technique that had already been shown to increase seat belt use in Elmira, New York. When these procedures were implemented in the Canadian provinces, seat belt use generally increased from about 60 percent to well over 80 percent, within a period of 3–5 years.

The Canadian successes using periodic, highly visible ''waves'' of enforcement, as well as successes of such efforts implemented in local jurisdictions in the U.S., prompted NHTSA to implement *Operation Buckle Down* (also called the ''70'' by ''92'' Program) in 1991. This two-year program focused on Special Traffic Enforcement Programs (STEPs) to increase seat belt use. It was followed by a national usage rate increase from about 53 percent in 1990 to 62 percent by the end of 1992 (as measured by a weighted aggregate of State surveys). Neither the level of enforcement nor its public visibility was uniform in every State. Had these ''waves'' of enforcement been implemented in a more uniform fashion in every state, the impact would likely have been much greater.

In order to demonstrate the potential of periodic, highly visible enforcement in a more controlled environment, the State of North Carolina implemented its Click-It or Ticket program in 1993. In this program, waves of coordinated and highly publicized enforcement efforts (i.e., checkpoints) were implemented in every county. As a result, seat belt use increased statewide, from 65 percent to over 80 percent, in just a few months. This program provided the clearest possible evidence to demonstrate the potential of highly visible enforcement to increase seat belt use in a large jurisdiction.

### *2. National Mobilizations*

National law enforcement mobilizations have also proven effective in increasing seat belt use. The BUA campaign supports two national mobilizations each year (Memorial Day and Thanksgiving holidays). During the 1998 mobilizations conducted throughout the week surrounding Memorial Day and the week surrounding Thanksgiving, between 4,000 and 5,000 law enforcement agencies participated in Operation ABC. Their efforts were covered by several hundred national and local television organizations in all major media markets. More than 1,500 print articles were written in response to each mobilization. As a result of the May mobilization, seat belt use increased significantly nationwide as more than 6,000,000 motorists were convinced to buckle up. Since that time, seat belt use has continued to increase significantly.

## NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the cooperative agreement and to coordinate activities between the selected major metropolitan law enforcement agencies and NHTSA;

2. Provide information and technical assistance from government sources, within available resources and as determined appropriate by the COTR;

3. Act as a liaison between the selected metropolitan law enforcement agencies and with other government and private agencies as appropriate; and

4. Stimulate the exchange of ideas and information among cooperative

agreement recipients through periodic meetings.

**Availability of Funds and Period of Support**

Cooperative agreements may be awarded for a period of support for (1) year and (1) option year. The application for the funding period (12 months) should address what is proposed and can be accomplished during that period.

Subject to the availability of funds, the agency anticipates awarding up to four (4) cooperative agreements in the amount of $250,000 each, totaling $1,000,000. NHTSA may choose to extend the period of performance under this agreement for an additional 12 months, subject to the availability of funds. If NHTSA elects to do so, it will notify the recipients within 50 days prior to the expiration of this agreement and the recipient will submit a proposal for an additional 12 months of performance. Federal funding should be viewed as seed money to assist local law enforcement agencies in the development of traffic safety initiatives. Monies allocated for cooperative agreements are not intended to cover all of the costs that will be incurred in the process of completing the projects. Applicants should demonstrate a commitment of financial or in-kind resources to the support of the proposed projects.

**Eligibility Requirements**

In order to be eligible to participate in this cooperative agreement program, an applicant must be a metropolitan law enforcement agency and must meet the following requirements:

—have jurisdiction to enforce traffic safety laws within the metropolitan area;

—have support and political permission from the Mayor or other chief executive officer (in the form of a proclamation or letter of support) to conduct seat belt enforcement with the metropolitan area;

—have a population of at least 400 thousand within their metropolitan area's jurisdiction;

—obtain written support from the Governor's Representative or his/her designee in the State Highway Safety Agency (SHSA) demonstrating that the applicant's proposal is consistent with the State's overall plan;

**Application Procedure**

Each applicant must submit one original and two copies of their application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN.: Joseph Comella, 400 7th Street, S.W., Room 5301, Washington, D.C. 20590. An additional five copies will facilitate the review process, but are not required. Applications are due no later than August 19, 1999. Only complete application packages received by the due date shall be considered. Applications must be typed on one side of the page only. Applications must include a reference to NHTSA Program No. NTS–01–9–05102. The proposal shall not exceed 25 pages, not including budget, letters of endorsement, and résumés.

**Application Contents**

The application package must be submitted with OMB Standard Form 424 (Rev. 4–88), Application for Federal Assistance, including 424A, Budget Information—Nonconstruction Program, and 424B Assurances—Nonconstruction Programs, with the required information filled in and the certified assurances included. The OMB Standard Forms SF–424, SF–242A and SF424B may be downloaded directly from the OMB Internet web site, http://www.whitehouse.gov/WH/EOP/OMB/Grants/. While the Form 424–A deals with budget information, and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs (direct labor, including labor categories, level of effort and rate; direct material, including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontracts/subgrants with similar cost detail, if known; and overhead costs), as well as any costs which the applicant proposes to contribute in support of this effort. The budget should be a 1-year plan. Also, the application shall include a program narrative statement which addresses the following:

1. A description of the project to be pursued which provides:
   a. A detailed explanation of the proposed strategy to increase seat belt use in the metropolitan area, including methods for gaining support (both within the community and law enforcement leadership). In addition, strategies for participation in the operation ABC national mobilizations and plans to conduct ''waves'' of highly publicized seat belt enforcement. A description of efforts to address training needs (i.e., differential enforcement or diversity sensitivity).
   b. The goals, objectives, and the anticipated results and benefits of the project (supporting documentation from concerned interests other than the applicant can be used.)
   c. A summary which includes the population of the metropolitan area for which the law enforcement agency has traffic enforcement jurisdiction and evidence of support of the enforcement program. The project must have the written support from the State Highway Safety Agency; however additional written support may be provided from Mayoral, and other law enforcement agencies (with overlapping jurisdictions).
   d. List the project activities in chronological order to show the schedule or accomplishments and their target dates.
   e. An explanation demonstrating the need for assistance.
   f. Description of any unusual features, such as design or technological innovations, reductions in cost or time, or extraordinary social/community involvement.
2. A description of the applicant's previous experience related to this proposed program effort, i.e., past participation in highly publicized enforcement or participation in the Operation ABC national seat belt mobilizations.
3. An evaluation section which describes how the recipient will evaluate and measure the project activities and outcomes. Describe the methods for assessing actual results achieved. Outcomes can be documented in a number of ways (e.g., number of citations, seat belt use surveys, level of earned media coverage, etc.). Increases in observed seat belt and child safety seat use are the ultimate measure of success. Other measures may include: (i) Increases in number of law enforcement personnel trained to enforce occupant protection laws; (ii) increased metropolitan participation in Operation ABC enforcement mobilizations; (iii) increased perception of ongoing enforcement and public education activities; (iv) incentive programs to complement enforcement efforts or (v) integration of occupant protection enforcement activities with other local enforcement activities. Data sources should be identified and collection and analysis approaches should be described.
4. A statement of any technical assistance which the applicant may

require of NHTSA in order to successfully complete the proposed project.

5. Identification of the proposed program coordinator and other key personnel identified for participation in the proposed project effort, including a description of their qualifications, the nature of their contribution, and their respective organizational responsibilities.
6. A detailed breakdown of the proposed costs, as well the applicant's financial or in-kind resources to the support of the proposed projects.

**Review Process and Criteria**

Initially, all applications will be screened to ensure that they meet the eligibility requirements.

Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria:

1. The potential of the proposed project effort to significantly increase the enforcement of seat belt laws, with a corresponding increase in seat belt use within the major metropolitan area. (80 percent)

The evaluation will include the proposed strategy for participating in the Operation: *A*merica *B*uckles Up *C*hildren (ABC) national seat belt mobilizations and the applicant's proposed strategy to coordinate this effort with other law enforcement agencies with overlapping jurisdictions. The applicant's ability to demonstrate support from local government officials and national organizations will also be considered in evaluating the potential impact of the proposed project. (See Application Contents paragraphs 1, 2, 3, and 4)

2. The program management experience and technical expertise of the proposed personnel and the financial merit of the proposed project (20 percent)

Program management and technical expertise will be estimated by reviewing the qualifications and experience of the professional team, the various disciplines represented, and the relative level of effort proposed for professional, technical, contractual, and support staff. Consideration will be given to the adequacy of the organizational plan for accomplishing the proposed project effort. Also, the adequacy of the facilities, equipment, and other resources identified to accomplish the proposed project effort will be considered. Financial merit will be estimated by the cost of the cooperative agreement to be borne by NHTSA and the in-kind contribution provided by the applicant as compared to the anticipated benefits. (See Application Contents paragraphs 5 and 6)

**Terms and Conditions of Award**

1. Prior to award, the recipient must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restriction on Lobbying, and 49 CFR Part 29, Department of Transportation Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).
2. During the effective period of the cooperative agreement(s) awarded as a result of this notice, the agreement(s) shall be subject to NHTSA's General Provisions for Assistance Agreements (7/95).
3. Reporting Requirements
   a. Monthly Reports, which shall be due 15 days after the end of each month, shall be submitted to document project efforts and results. The reports should include up to date information (including summarizing accomplishments, obstacles and problems encountered, noteworthy activities) and should be suitable for public dissemination.
   b. Final Report: The recipient shall submit a final report summarizing the project effort within 30 days after the completion of the project. The final report will include an evaluation section as proposed in the initial proposal. An original and three copies of each of these reports shall be submitted to the COTR. The recipient shall submit a draft final report to the NHTSA COTR 60 days prior to end of the performance period. The COTR will review the draft report and provide comments to the recipient within 30 days of receipt of the document.
   c. Briefing to NHTSA: The recipient may be requested to conduct an oral presentation of project activities for the COTR and other interested NHTSA personnel. For planning purposes, assume that these presentations will be conducted at the NHTSA Office of Traffic and Injury Control Programs, Washington, D.C. An original and three copies of briefing materials shall be submitted to the COTR.

Issued on: July 15, 1999.

**Rose A. McMurray,**

*Associate Administrator for Traffic Safety Programs.*

[FR Doc. 99–18503 Filed 7–19–99; 8:45 am]

BILLING CODE 4910–59–P

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## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

**[STB Finance Docket No. 33770]**

## Norfolk Southern Railway Company—Trackage Rights Exemption—Grand Trunk Western Railroad Incorporated

Grand Trunk Western Railroad Incorporated (GTW), a wholly owned subsidiary of Canadian National Railway Company (CN), has agreed to grant non-exclusive overhead trackage rights to Norfolk Southern Railway Company (NSR) over a 4.4-mile segment of GTW's Shoreline Subdivision between the proposed CN/Consolidated Rail Corporation (Conrail) [1] connection at approximately milepost 54.6 at Milwaukee Junction in Detroit, MI, and the existing CN connection with NSR at approximately milepost 50.2 at West Detroit, MI. [2]

The transaction was expected to be consummated on or after July 7, 1999, the effective date of the exemption (7 days after notice of the exemption was filed).

The Shoreline Subdivision runs generally north-south through Detroit and connects with NSR, CSXT, and Conrail lines in Detroit. The trackage rights will permit NSR to move

[1] By decision served July 23, 1998, the Board approved, subject to certain conditions, the acquisition of control of Conrail, and the division of the assets thereof, by CSX Corporation and CSX Transportation, Inc. (referred to collectively as CSX) and Norfolk Southern Corporation and Norfolk Southern Railway Company (referred to collectively as NS). *See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation,* STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998). Acquisition of control of Conrail was effected by CSX and NS on August 22, 1998. The division of the assets of Conrail was effected by CSX and NS on June 1, 1999. *See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation,* STB Finance Docket No. 33388, Decision No. 127 (STB served May 20, 1999). Conrail continues to operate rail properties in Michigan, New Jersey, and Pennsylvania.

[2] A redacted version of the Trackage Rights Agreement between GTW and NSR was filed with the notice of exemption. The full version of the agreement was concurrently filed under seal along with a motion for a protective order. The motion will be addressed in a separate decision.

overhead traffic more safely, efficiently, and quickly through the Detroit area.

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 the notice 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. 33770, 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, a copy of each pleading must be served on James R. Paschall, Three Commercial Place, Norfolk, VA 23510–2191.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 13, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99–18329 Filed 7–19–99; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–33 (Sub–No. 138X)]**

### Union Pacific Railroad Company—Abandonment Exemption—in Adams County, CO

On June 30, 1999, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Boulder Branch, from Engineering Station 8+00 to the end of the line at Engineering Station 32+21, a distance of 2,421 feet at Brighton, Adams County, CO. The line traverses U.S. Postal Service Zip Code 80601. There are no stations on the line.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 18, 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 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 August 9, 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–33 (Sub-No. 138X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Joseph D. Anthofer, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the UP petition are due on or before August 9, 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.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 12, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99–18215 Filed 7–19–99; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[INTL–941–86 and INTL–655–87]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–941–86, and temporary regulation, INTL–655–87 (TD 8178), Passive Foreign Investment Companies (§§ 1.1294–1T and 1.1297–3T).

**DATES:** Written comments should be received on or before September 20, 1999 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Passive Foreign Investment Companies.

*OMB Number:* 1545–1028.

*Regulation Project Number:* INTL–941–86 (Notice of Proposed Rulemaking); INTL–655–87 (Temporary regulation).

*Abstract:* These regulations specify how United States persons who are shareholders of passive foreign investment companies (PFICs) make elections with respect to their PFIC stock.

*Current Actions:* There is no change to these existing regulations.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 275,000.

*Estimated Time Per Respondent:* 25 minutes.

*Estimated Total Annual Burden Hours:* 112,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 1999.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 99–18490 Filed 7–19–99; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 10001

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 10001, Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Rev. Proc. 96–41.

**DATES:** Written comments should be received on or before September 20, 1999 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Rev. Proc. 96–41.

*OMB Number:* 1545–1492.

*Form Number:* 10001.

*Abstract:* Form 10001 is used in conjunction with a closing agreement program involving certain issuers of tax-exempt advance refunding bonds. Revenue Procedure 96–41 established this voluntary compliance program and prescribed the filing of Form 10001 to request a closing agreement.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* State, local or tribal governments, and not-for-profit institutions.

*Estimated Number of Responses:* 100.

*Estimated Time Per Response:* 3 hours.

*Estimated Total Annual Burden Hours:* 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 12, 1999.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 99–18491 Filed 7–19–99; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Forms W–2, W–2c, W–2AS, W–2GU, W–2VI, W–3, W–3c, W–3cPR, W–3PR, and W–3SS

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms W–2, W–2c, W–2AS, W–2GU, W–2VI, W–3, W–3c, W–3cPR, W–3PR, and W–3SS.

**DATES:** Written comments should be received on or before September 20, 1999 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue

Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* W–2 (Wage and Tax Statement), W–2c (Corrected Wage and Tax Statement), W–2AS (American Samoa Wage and Tax Statement), W–2GU (Guam Wage and Tax Statement), W–2VI (U.S. Virgin Islands Wage and Tax Statement), W–3 (Transmittal of Wage and Tax Statements), W–3c (Transmittal of Corrected Wage and Tax Statements), W–3PR (Informe de Comprobantes de Retencion), W–3cPR (Transmision de Comprobantes de Retencion Corregidos), and W–3SS (Transmittal of Wage and Tax Statements).

*OMB Number:* 1545–0008.

*Form Number:* Forms W–2, W–2c, W–2AS, W–2GU, W–2VI, W–3, W-3c, W–3cPR, W–3PR, and W–3SS.

*Abstract:* Employers report income and withholding information on Form W–2. Forms W–2AS, W–2GU and W–2VI are variations of Form W–2 for use in U.S. possessions. The Form W–3 series is used to transmit W–2 series forms to the Social Security Administration. Forms W–2c, W–3c and W–3cPR are used to correct previously filed Forms W–2, W–3, and W–3PR. Individuals use Form W–2 to prepare their income tax returns.

*Current Actions:* There are no changes being made to these forms at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations individuals, or households, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

*Estimated Number of Responses:* 253,007,121.

*Estimated Time Per Response:* Varies.

*Estimated Total Annual Burden Hours:* 133,959,675.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 13, 1999.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 99–18492 Filed 7–19–99; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPAA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending June 30, 1999.

| Last name | First name | Middle name |
|---|---|---|
| ADAMS | WASHINGTON | |
| ALLEN | CHRISTOPHER | SAMUEL |
| ALLEN | MIA | LIZBET |
| BARILI | OK | PUN |
| BARTLETT | CHARLES | THOMAS |
| BARTLETT | INGEBURG | ALICE |
| BEAUCHAMP | DAMON | LEE |
| BIESANZ | BARRY | CHARLES |
| BOHANNON | GAIL | |
| BOHN | ROBERT | MURRAY |
| BOND | DAVID | ANTHONY |
| BOND | DAVID | ANTHONY |
| CABBETT-SIIMPSON | JEREMY | JOHN |
| CARRASCO | RANDI | |
| CECIL | ROBERT | SALISBURY |
| CHUNG | STEPHEN | CHIN-KIANG |
| CORTEZ | ALLAN | DWIGHT |
| DAVIS | TAURUS | MICHAEL |
| DE BEDIS | ANTHONY | PETERS |
| DE GASPE BEAUBIEN | FRANCOIS | MERCIER |
| DE GASPE BEAUBIEN | PHILIPPE | AUBERT |
| DE LIA | SPARTACUS | |
| DE SMOURS | LUIGI | DUSMET |
| DEMMERLE | RICHARD | ROLF |
| ECSERY-MERRENS | FRANCESCA | EVA |
| ESSELSTROM | JAN | UNO |
| FERGUSON | LARRY | WYLLIS |

| Last name | First name | Middle name |
|---|---|---|
| FIND | NATASCHA | BRIGIT |
| FLEMING | DENNIS | STOCKDALE |
| FONDAS-MITROGIANNIS | GABRIELLA | SOPHIA |
| FRITH | ALEXANDER | JOHN |
| GARBER | SYLVIA | LOUISE |
| GARDNER | WILLA | JOSEPHINE |
| GOLDEN-BJORNDAHL | CAROL | ANNE |
| GRAYKEN | JOHN | PATRICK |
| GRONIK | RICHARD | ALLEN |
| GROVES | KAREN | LOUISE |
| GRUYICH | MICHAEL | SAINOVICH |
| GULLAND | SANDRA | LEE |
| GULLICHISEN | ERIC | ALEXANDER |
| HAYASHI | KAZUKO | |
| HIEP | LAM | MINH |
| HIRAYAMA | KAORU. | |
| HUFF | CATHY | SHERMAN |
| HUISSEN | HAYATO | MICHAEL |
| HUISSEN | HITOMI | MICHELLE |
| JARRETT-GOODNOW | JACQUELINE | MARY |
| JISKRA | MICHAL | |
| KIM | ANGELA | |
| KIM | MYUNG | NAM |
| KOBAYASHI | TORU | |
| KRIEBLE | ROBERT | H. |
| KWAN | YUK | NOAN |
| LACHANCE | MARC | RICHARD |
| LATSIS | JOHN | SPIRO |
| LEE | JENNIFER | KYUNGAHE |
| LEE | KATIE | MI |
| LIU | CHUNG | LAUNG |
| LOVRET | DAVID | MICHAEL |
| LYNGBORG, NEE OFFNER | VLASTA | STANKA |
| MACDONALD-MILLER | JOHN | ANGUS |
| MAKI | ROBERT | ANTONOVICH |
| MARTIN | ANTHONY | VICTOR |
| MATHIESEN | HELLE | MARI |
| MOREDCHAY | IRYAH | HEUMAN |
| NIELSEN, NEE PAPARIELLO | CATHERINE | |
| OFSTAD | ELIZABETH | BAUMANN |
| PAK | KIEJOON | |
| PANNY | ROLF | ERNST |
| PARK | KEY | SOOK |
| PARK | SEON | JA |
| PIETILA | HELLEN | AMANDA |
| PISCIOTTA | WALTER | JAMES |
| PIXLEY | DANIEL | |
| PLATT | ANNELISE | |
| PRASHKER | DALIA | |
| RAHMEYER | THEA | ROXANNE |
| RANCK | JAMES | HUTCHISON |
| RASTALL | RICHARD | JOGE |
| RIVERS-SARASIN | LORETTA | DAWN |
| RO | VICTOR | |
| RUMDEY (K–A YONATAN YEHUDA RAMNI) | JONATHAN | JEHUDA |
| SANN | JOHN | |
| SAWCHUK | DMYTRO | |
| SELVAAG | OLAV | HINDAHL |
| SIMPSON | MICHAEL | PHILLIP |
| SMITH-AKA KYONG SUK CHO | KYONG | SUK |
| SOLHEIM (NEE CARLSEN) | MARGARET | |
| SONG | JASON | |
| STEERS | INGE | MARIE-GABRIELE |
| STROMKVIST | ERNST | OLA |
| SUBLETT | SOO | JA |
| SWEENEY | JOHN | EDWARD |
| TEMPLE | MAKOTO | HUGHES |
| TRAVOUSSIS | ALEXIA | FOTINI |
| VAN KAN | MARGARET | HAYS |
| WALRAVEN | PIETER | CORNELIS |
| WATANABE | HIDEKI | |
| WEBB | DAPHINE | PATRICIA |
| WEBB | DAVID | FREDERICK |
| WEIRSUUM | ROBERT | ROSS |

| Last name | First name | Middle name |
|---|---|---|
| WESSEL–AAS | OLA | PEDER |
| WONG | ARNOLD | CHI CHIU |
| WYNNE | ROBERT | GRAVES |
| YIM | KYUNG | BIN |
| ZAHARA | CAROL | ANN |

Approved: July 12, 1999.

**Doug Rogers,**

*Chief, Special Projects & Support Branch, International District.*

[FR Doc. 99–18459 Filed 7–19–99; 8:45 am]

BILLING CODE 4830–01–U

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Tax Counseling for the Elderly (TCE) Program, Availability of Application Packages

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Availability of TCE application packages.

**SUMMARY:** This document provides notice of the availability of Application Packages for the 2000 Tax Counseling for the Elderly (TCE) Program.

**DATES:** Application Packages are available from the IRS at this time. The deadline for submitting an application package to the IRS for the 2000 Tax Counseling for the Elderly (TCE) Program is August 27, 1999.

**ADDRESSES:** Application Packages may be requested by contacting: Internal Revenue Service, 5000 Ellin Road, Lanham, MD, 20706, Attention: Program Manager, Tax Counseling for the Elderly Program, OP:C:E:W:E, Building C–7, Room 185.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Lynn Tyler, OP:C:E:W:E, Building C–7, Room 185, Internal Revenue Service, 5000 Ellin Road, Lanham, MD 20706. The non-toll-free telephone number is (202) 283–0189.

**SUPPLEMENTARY INFORMATION:** Authority for the Tax Counseling for the Elderly (TCE) Program is contained in Section 163 of the Revenue Act of 1978, Pub. L. 95–600, (92 Stat. 12810), November 6, 1978. Regulations were published in the **Federal Register** at 44 FR 72113 on December 13, 1979. Section 163 gives the IRS authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Because applications are being solicited before the FY 2000 budget has been approved, cooperative agreements will be entered into subject to appropriation of funds. Once funded, sponsoring agencies and organizations will receive a grant from the IRS for administrative expenses and to reimburse volunteers for expenses incurred in training and in providing tax return assistance. The Tax Counseling for the Elderly (TCE) Program is referenced in the Catalog of Federal Domestic Assistance in Section 21.006.

Dated: July 2, 1999.

**John B. Gunner,**

*National Director, Education, Walk-In, and Correspondence Improvement Division.*

[FR Doc. 99–18388 Filed 7–19–99; 8:45 am]

BILLING CODE 4830–01–P

# Corrections

**Federal Register**

Vol. 64, No. 138

Tuesday, July 20, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–379–000]**

### Dynergy Midstream Pipeline, Inc.; Tariff Filing

*Correction*

In notice document 99–17690, beginning on page 37759 in the issue of Tuesday, July 13, 1999, the docket number should appear set forth above.

[FR Doc. C9–17690 Filed 7–19–99; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

*Correction*

In notice document 99–16532, beginning on page 34839 in the issue of Tuesday, June 29, 1999, make the following correction:

On page 34839, in the second column, in the **ADDRESSES** section, in the second line, after ''General Aviation Manufacturers'', add ''Association, 1400 K Street NW, Washington, DC 20005-2485.''

[FR Doc. C9–16532 Filed 7–19–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Tuesday
July 20, 1999

# Part II

# Environmental Protection Agency

## 40 CFR Part 63

## National Emission Standards for Hazardous Air Pollutants for Source Categories: National Emission Standards for Off-Site Waste and Recovery Operations; Rule and Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[FRL–6377–5]**

**RIN 2060–AH96**

## National Emission Standards for Hazardous Air Pollutants for Source Categories: Off-Site Waste and Recovery Operations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; amendments to rule.

**SUMMARY:** The EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for off-site waste and recovery operations (OSWRO) that the EPA promulgated on July 1, 1996, under authority of section 112 of the Clean Air Act (CAA). The rule applies to owners and operators of facilities that are major sources of hazardous air pollutants (HAP) and manage certain wastes, used oil, or used solvents received from off-site locations. The EPA is amending specific provisions in the rule to resolve issues and questions raised after promulgation of the final rule. In addition, the EPA is amending other rule language to correct technical omissions; to make specific requirements consistent and up-to-date with recent decisions made by the Agency for other related air rules; and to correct typographical, printing, and grammatical errors. The amendments do not significantly change the EPA's original projections for the rule's environmental benefits, compliance costs, burden on industry, or the number of affected facilities.

**DATES:** Effective Date. This rule is effective on September 20, 1999 without further notice, unless the EPA receives adverse comment by August 19, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments. Interested parties having adverse comments on this action may submit these comments in writing (in duplicate, if possible) to Docket No. A–92–16 at the following address: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street, SW, Room 1500, Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below. The docket is located at the above address in Room M–1500, Waterside mall (ground floor).

Today's document and other materials related to this direct final rulemaking are available for review in the docket. Copies of this information may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elaine Manning, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–5499, facsimile number (919) 541–0246, electronic mail address ''manning.elaine@epa.gov''.

**SUPPLEMENTARY INFORMATION:**

### Regulated Entities

Entities potentially regulated by this action include the following types of facilities if the facility receives ''off-site material'' as defined in the rule, and the facility is determined to be a major source of HAP emissions as defined in 40 CFR 63.2.

| Category | Examples of regulated entities |
|---|---|
| Industry | Businesses that receive waste, used oil, or used solvent from off-site locations and manage this material in any of the following waste management or recovery operations: hazardous waste treatment, storage, and disposal facilities (TSDF); hazardous wastewater treatment operations exempted from air emission control requirements in 40 CFR part 264 or 265; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery operations; recovery operations that recycle or reprocess hazardous waste and are exempted from regulation as a TSDF in 40 CFR part 264 or 265; and used oil re-refineries. |
| Federal Government | Federal agency facilities that operate any of the waste management or recovery operations that meet the description of the entities listed under the ''Industry'' category in this table. |

This 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 the EPA is now aware could potentially be regulated by this action.

A comprehensive list of Standard Industrial Classification (SIC) codes cannot be compiled for businesses potentially regulated by this action due to the structure of the rule. The rule may be applicable to any business that receives waste, used oil, or used solvent from an off-site location and then manages this material in one of the operations or processes specified in the rule. Thus, for many businesses subject to the rule, the regulated sources (i.e., off-site waste management or recovery operations) are only a small part of the overall manufacturing process or service conducted at the facility. In these cases, the SIC code indicates the primary product produced or service provided at the facility rather than the presence of an off-site waste management or recovery operation at the site which is operated to support the predominate function of the facility. For example, SIC code classifications likely to have off-site waste management or recovery operations at some (but not all) facilities include, but are not limited to, petroleum refineries (SIC code 2911), industrial organic chemical manufacturing (SIC code 286x), plastic materials and synthetics manufacturing (SIC code 282x), and miscellaneous chemical products manufacturing (SIC code 289x). However, the EPA also is aware of off-site waste management or recovery operations potentially subject to the rule being located at a few facilities listed under SIC codes for refuse systems, waste management, business services, miscellaneous services, and nonclassifiable. Thus, the SIC code alone for a given facility does not determine whether the facility is or is not potentially subject to this rule.

To determine whether your facility is regulated by the action, you should carefully examine the applicability criteria in § 63.680 under 40 CFR part 63, subpart DD. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this document.

### Internet

The text of today's document is also available on the EPA's web site on the Internet under recently signed rules at the following address: http://

www.epa.gov/ttn/oarpg/rules.html. The EPA's Office of Air and Radiation (OAR) homepage on the Internet also contains a wide range of information on the air toxics program and many other air pollution programs and issues. The OAR's homepage address is: http://www.epa.gov/oar/.

### Electronic Access and Filing Addresses

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under Docket No. A–92–16 (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address listed in the **ADDRESSES** section at the beginning of this document.

Interested parties having adverse comments on this action may submit those comments electronically to the EPA's Air and Radiation Docket and Information Center at: ''A-and-R-Docket@epa.gov.'' Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A–92–16). No CBI should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

### Judicial Review

Under section 307(b)(1) of the CAA, judicial review of an 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 document may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

### Outline

The information in this document is organized as follows.

I. Statutory Authority
II. Background
III. Amendments to Subpart DD—National Emission Standards for Off-Site Waste and Recovery Operations
A. Applicability
B. Definitions
C. Standards: General
D. Standards: Off-Site Material Treatment
E. Standards: Tanks
F. Standards: Process Vents
G. Standards: Closed-Vent Systems and Control Devices
H. Testing Methods and Procedures
I. Inspection and Monitoring Requirements
J. Notification and Reporting Requirements
K. HAP List for Subpart DD
IV. Amendments to Subpart OO—National Emission Standards for Tanks—Level 1
A. Definitions
B. Standards—Tank Fixed Roof
C. Test Methods and Procedures
D. Inspection and Monitoring Requirements
V. Amendments to Subpart PP—National Emission Standards for Containers
A. Definitions
B. Test Methods and Procedures
C. Inspection and Monitoring Requirements
VI. Amendments to Subpart QQ—National Emission Standards for Surface Impoundments
A. Definitions
B. Test Methods and Procedures
C. Inspection and Monitoring Requirements
VII. Amendments to Subpart RR—National Emission Standards for Individual Drain Systems
VIII. Amendments to Subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators
A. Definitions
B. Standards—Pressurized Separator
C. Test Methods and Procedures
D. Inspection and Monitoring Requirements
IX. Administrative Requirements
A. Docket
B. Executive Order 12866: Regulatory Planning and Review
C. Executive Order 12875: Enhancing the Intergovernmental Partnerships
D. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
F. Unfunded Mandates Reform Act
G. Regulatory Flexibility Act
H. Paperwork Reduction Act
I. Submission to Congress and the General Accounting Office
J. National Technology Transfer and Advancement Act

## I. Statutory Authority

The statutory authority for this action is provided by sections 101, 112, 114, 116, and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*).

## II. Background

The EPA, under 40 CFR part 63, subpart DD promulgated National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (hereinafter referred to as the ''OSWRO NESHAP'') on July 1, 1996 (see 61 FR 34140). The OSWRO NESHAP establishes standards to control HAP emissions from certain waste management and recovery operations that are not subject to Federal air standards under other subparts in 40 CFR parts 61 or 63. Subpart DD specifies the rule's applicability, standards for affected sources, compliance requirements, and reporting and recordkeeping provisions. In addition, subpart DD cross-references other subparts in 40 CFR part 63 for the specific air emissions control requirements to be used for affected tanks, surface impoundments, containers, individual drain systems, and oil-water and organic-water separators. The cross-referenced subparts are Subpart OO—National Emission Standards for Tanks—Level 1, Subpart PP—National Emission Standards for Containers, Subpart QQ—National Emission Standards for Surface Impoundments, Subpart RR—National Emission Standards for Individual Drain Systems, and Subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators.

Since the promulgation of the OSWRO NESHAP, the EPA has received many inquiries asking for the Agency's interpretation of specific provisions of the rule. In addition, the Chemical Manufacturers Association (CMA), the Environmental Technology Council (ETC), and the Hazardous Waste Management Association (HWMA) petitioned for judicial review of the final rule, as provided for in CAA section 307(b), with respect to certain provisions regarding rule applicability, definitions, process vent standards, test methods, and inspection and monitoring requirements.

To resolve issues and questions raised after promulgation of the final rule, the EPA decided that technical amendments to subparts DD, OO, PP, QQ, RR, and VV in 40 CFR part 63 are appropriate and to use a direct final rulemaking action to promulgate these amendments. Also, as part of this action, the EPA is amending other rule language to correct technical omissions; to make specific requirements consistent and up-to-date with recent EPA decisions made for other related air rules; and to correct terminology, typographical, printing, and grammatical errors. The amendments do not significantly change the EPA's original projections for the rule's compliance costs, environmental benefits, burden on industry, or the number of affected facilities.

The EPA is publishing these amendments to subparts DD, OO, PP, QQ, RR, and VV in 40 CFR part 63 without prior proposal, because we

view the amendments to be noncontroversial and anticipate no adverse comment. The amendments do not change the substantive requirements of the rule. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal of the identical amendments to these subparts if adverse comments are filed. The amendments will be effective 60 days from today's date without further notice, unless we receive adverse comment by the date specified in the **DATES** section at the beginning of this document. If the EPA receives adverse comment on these amendments, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments will not take effect. We will address the comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period for these amendments. Any parties interested in commenting on the amendments must do so at this time (see **ADDRESSES** section at the beginning of this document).

## III. Amendments to Subpart DD—National Emission Standards for Off-Site Waste and Recovery Operations

The EPA is amending 40 CFR part 63, subpart DD, to clarify the Agency's intent for applying and implementing specific rule requirements and to correct unintentional omissions and editorial errors. Also, we are amending the OSWRO NESHAP to make the applicable provisions of the rule consistent (to the extent permissible and practicable under the CAA) with a related set of air standards for hazardous waste treatment, storage, and disposal facilities (TSDF) established under the Resource Conservation Recovery Act (RCRA) in 40 CFR part 264, subpart CC and 40 CFR part 265, subpart CC. A summary of amendments to 40 CFR part 63, subpart DD, and the rationale for the amendments is presented below.

### *A. Applicability*

The EPA is amending § 63.680 to clarify which types of materials received at a plant site are ''off-site materials'' and to clarify the designation of the affected sources at a plant site subject to the rule as discussed below. In addition, the EPA is extending the compliance date by 7 months to February 1, 2000. We believe this is appropriate to allow affected sources time to comply with today's amended rule.

1. ''Off-Site Material''

The OSWRO NESHAP applies to those plant sites that are a ''major source'' as defined in 40 CFR 63.2 and receive ''off-site material'' as specified in subpart DD. For implementing the OSWRO NESHAP, a material is an ''off-site material'' if the material meets all three of the criteria specified in § 63.680(b)(1). To clarify that a given material must meet all three criteria to be considered an ''off-site material,'' the wording in § 63.680(b)(1)(ii) and (b)(1)(iii) is revised by replacing the word ''material'' with the phrase ''waste, used oil, or used solvent.''

Section 63.680(b)(2) lists specific categories of wastes that are not considered ''off-site material'' regardless if the waste contains HAP or is received from an off-site location. The rule language is amended to clarify the compliance liability of an owner or operator potentially subject to the OSWRO NESHAP but receiving a waste that is exempted from the rule because it is already complying with air emission control requirements under the National Emission Standards for Benzene Waste Operations (40 CFR part 61, subpart FF) or the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry under 40 CFR part 63 (the HON). Section 63.680(b)(2)(v) is revised to clarify that a waste is not an ''off-site material'' under the OSWRO NESHAP when it is transferred from a chemical manufacturing plant or other facility subject to the HON provisions for wastewater under 40 CFR part 63, subpart G (i.e., § 63.132 through 63.147), and the owner or operator of the facility from which the waste is transferred complies with the HON provisions in § 63.132(g). Similarly, § 63.680(b)(2)(vi) is revised to clarify that a waste is not an ''off-site material'' under the OSWRO NESHAP when it is transferred from a chemical manufacturing plant, petroleum refinery, or coke by-product recovery plant subject to 40 CFR part 61, subpart FF, and the owner or operator of the facility from which the waste is transferred complies with the provisions of § 61.342(f) of the Benzene Waste Operations NESHAP.

Finally, the list of wastes not considered off-site material under the OSWRO NESHAP is amended by adding another waste category under § 63.680(b)(2)(viii). This category is RCRA hazardous waste stored for 10 days or less at a transfer facility and in compliance with the provisions for hazardous waste transporters in 40 CFR part 263. When the EPA was developing the OSWRO NESHAP, the Agency did not intend that subpart DD be applicable to those waste management operations that serve to consolidate multiple, small hazardous waste shipments into a single, larger load which then can be more efficiently delivered to the final destination for the waste. For example, a hazardous waste transporter may use a fleet of trucks to pickup small shipments of hazardous waste from many different waste generators; deliver these shipments to an interim transfer facility where the small shipments are unloaded; store the waste in the shipping containers at the transporter's facility for a short period (10 days or less); and then, when a sufficient quantity of waste has been collected, consolidate the containers as a single load on another truck or railcar for shipment of the waste to the facility where the waste is to be treated or disposed.

2. Designation of Affected Sources

Section 63.680(c) is revised to clarify for a plant site subject to the OSWRO NESHAP which processes, units, and equipment are designated as affected sources under the rule. These amendments are format and editorial revisions that do not substantively change the affected sources regulated under the rule, but are made to clarify the EPA's intent and improve ease of implementing these affected source designations.

First, the designation of ''off-site material management units'' in § 63.680(c)(1) is revised to clarify that a given tank or container cannot be subject to both the air standards for off-site material management units (as applicable to the particular type of unit) and for process vents. Language is added to clarify that if a tank or container is equipped with a vent that serves as a process vent for one of the six treatment processes specified in the rule, then the unit is not part of the ''off-site material management unit'' affected source. Instead, the unit (i.e., the process vent on this unit) is subject to the standards for process vents in § 63.683(c). The standards for off-site material management units in § 63.683(b) do not apply to the unit. An example of such a case is the vent on a distillate receiver vessel serving a distillation column used for reprocessing used solvent. Although the distillate receiver vessel meets the definition for a ''tank'' in the rule, it is not regulated as a tank under § 63.683(b), but instead the vessel is considered part of the ''process vent'' affected source.

Second, the designation of ''process vents'' in § 63.680(c)(2) is revised to explicitly state the six types of treatment processes vented to the atmosphere that are considered ''process vent'' affected sources under the OSWRO NESHAP. The EPA intended the air standards for process vents under the OSWRO NESHAP to apply to the same types of processes that the Agency regulates under related RCRA air rules for process vents in 40 CFR part 264, subpart AA, and 40 CFR part 265, subpart AA. These processes are distillation processes, fractionation processes, thin-film evaporation processes, solvent extraction processes, steam stripping processes, and air stripping. The revision to § 63.680(c)(2) includes detailed descriptions for each of the six treatment process types. The description included for each type of process is consistent with the definition used by the EPA for the process under the RCRA air rules in 40 CFR part 264, subpart AA, and 40 CFR part 265, subpart AA.

Finally, the criteria designating which equipment components are subject to the equipment leak standards under the OSWRO NESHAP are moved from § 63.683(b)(3) to § 63.680(c)(3). This is a format and editorial revision to facilitate ease of understanding and implementing the rule and does not change the criteria used to designate which equipment components are subject to the leak standards under the rule.

*B. Definitions*

The amendments revise several existing rule definitions and add two new definitions to § 63.681. These definition changes are made in support of other amendments that the EPA has made to subpart DD to resolve applicability issues and to clarify the intent of certain standards under the rule.

The definition for a ''used solvent'' as used in § 63.680(b) to determine which types of materials received at a plant site are ''off-site materials'' is revised to mean a mixture of aliphatic hydrocarbons or a mixture of one and two ring aromatic hydrocarbons used as a solvent which because of such use is contaminated by physical or chemical impurities. This wording revision is made to clarify that only solvents considered under the rule to be an ''off-site material'' are those spent or otherwise contaminated solvents resulting from use by a consumer (e.g., solvents used for cleaning, degreasing, paint stripping, etc.) and subsequently returned to a facility for recycling or reprocessing.

The ''process vent'' definition is revised to be consistent with revisions made to § 63.680(c)(2) designating the ''process vent'' affected sources under the OSWRO NESHAP (see section III.A.2 of this document). Additional wording is also added to the definition for a ''process vent'' to clarify that for the purpose of implementing the OSWRO NESHAP, a process vent is neither a vent used as a safety device (as defined in the rule) nor an open-ended line or other vent that is subject to the rule's equipment leak control requirements in § 63.691.

A new definition is added for the term ''off-site material service'' for use in the revisions made to § 63.680(c)(3) designating the equipment leak affected sources under the OSWRO NESHAP (see section III.A.2 of this document). ''Off-site material service'' means any time when a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, or instrumentation system contains or contacts off-site material.

The definition for ''HAP'' or ''hazardous air pollutants'' as used throughout subpart DD is clarified. The definition is revised to mean the specific organic chemical compounds, isomers, and mixtures listed in Table 1 of subpart DD. The definition for ''volatile organic hazardous air pollutant concentration'' (also referred to as ''VOHAP concentration'') is revised to clarify that the VOHAP concentration of an off-site material by definition is measured using Method 305 in 40 CFR part 63, appendix A. However, as an alternative to using Method 305, an owner or operator may determine the HAP concentration of an off-site material using any one of the alternative test methods specified in § 63.694(b)(2)(ii). When one of these alternative test methods is used to determine the speciated HAP concentration of an off-site material, the individual compound concentration may be adjusted by the corresponding $f_{m305}$ value listed in Table 1 of subpart DD to determine an equivalent VOHAP concentration.

The definition for ''point-of-treatment'' is revised to clarify procedures for demonstrating compliance with the off-site material treatment standards in § 63.684. ''Point-of-treatment'' is revised to mean the point after the treated material exits the treatment process but before the first point downstream of the process where the organic constituents in the treated material have the potential to volatilize and be released to the atmosphere. For applying this definition to the rule, the first point downstream of the treatment process exit is not a fugitive emission point due to an equipment leak from any of the following equipment components: pumps, compressors, valves, connectors, instrumentation systems, or safety devices.

Several definition amendments are made to clarify the requirements for air emission control equipment under § 63.693. The definition for a ''control device'' is revised to clarify that a control device means equipment used for recovering, removing, oxidizing, or destroying organic vapors. The definition for a ''cover'' is revised to clarify that a cover must provide a continuous barrier over the off-site material, and that each cover opening (e.g., access hatches, sampling ports) must be in the closed position when the opening is not in use. A new definition is added to the rule for the term ''flow indicator'' in conjunction with amendments to the closed-vent system standards in § 63.693(c) (see section III.G.1 of this document). A ''flow indicator'' means a device that indicates whether gas is flowing, or whether the valve position would allow gas to flow in a bypass line.

Finally, the definition for a ''safety device'' is amended to mean a closure device (e.g., a pressure relief valve, frangible disc, fusible plug) which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors from the equipment during unsafe conditions resulting from an unplanned, accidental, or emergency event. The EPA has made this revision to the wording of the definition to provide owner and operator flexibility in the use and location of these necessary devices. Wording changes clarify that a safety device may be used on not just the air pollution control equipment operated to comply with the rule but also on the controlled source's process and ancillary equipment. Also, instead of venting a safety device directly to the atmosphere when emergency relief is necessary, a common practice at some facilities is to vent the safety device directly to equipment designed specifically and solely to contain or control the vented gases and vapors. The EPA made a second wording change to clarify that the EPA did not intend to preclude from the control equipment operating conditions allowed under the rule, the opening of a safety device when used with additional safety equipment.

*C. Standards: General*

Several revisions are made to the exemptions from air standards allowed

under the OSWRO NESHAP for ''off-site material management unit'' and ''process vent'' affected sources. These amendments do not significantly change the HAP emission reductions and the implementation costs expected for the rule. Also, the format and organization used for the section is revised to improve the ease of understanding and applying the standards. The requirements and exemptions are grouped together by affected source type. For example, all of the requirements and exemptions applicable to off-site material management units are now found in § 63.683(b).

1. Off-Site Material Management Unit Exemptions

Amendments are made to two of the exemptions for off-site material management units in § 63.683(b). First, the exemption in § 63.683(b)(2)(iii) for a tank or surface impoundment used for a biological treatment process is revised to eliminate a redundant qualification condition. As originally published, to qualify for this exemption the OSWRO NESHAP required an owner or operator to demonstrate that the biological treatment process achieves two conditions: (1) an overall HAP reduction efficiency of 95 percent or more, and (2) a HAP biodegradation efficiency of 95 percent or more. Upon review of this requirement, the EPA concluded that demonstrating a HAP biodegradation efficiency of 95 percent or more also means that the process achieves an overall HAP reduction efficiency of at least 95 percent. Consequently, requiring an owner or operator electing to qualify for this exemption to perform the determination of overall HAP reduction efficiency is unnecessary. Therefore, § 63.683(b)(2)(iii) is amended by deleting the requirement to demonstrate that the process achieves a HAP reduction efficiency greater than or equal to 95 percent.

The exemption in § 63.683(b)(2)(iv) for an off-site material management unit in which RCRA hazardous waste is managed according to the applicable conditions specified by the RCRA Land Disposal Restrictions (LDR) in 40 CFR part 268, is amended. This provision is revised to clarify application of the exemption to those situations when the off-site material is a type of hazardous waste not prohibited from land disposal or is composed of a mixture of different hazardous wastes. The EPA previously addressed this question in amendments to related RCRA air rules in 40 CFR part 264, subpart CC and 40 CFR part 265, subpart CC (see 62 FR 64636, December 8, 1997). The preamble to these amendments provides a detailed discussion of this provision, how it interacts with the RCRA LDR, and how the EPA interprets the application of this exemption in specific situations (see 62 FR 64643). The EPA is amending § 63.683(b)(2)(iv) by adopting the same rule language used for the provision in the RCRA air rules.

2. Process Vent Exemptions

Amendments for process vents in § 63.683(c) add new provisions to exempt certain vents that are part of a ''process vent'' affected source from the air rule standards. Three specific exemptions for process vents are provided in the amended rule. These exemptions do not significantly change the level of HAP emission reduction achieved under the OSWRO NESHAP for process vents.

The first exemption is added to be consistent with an exemption already provided in the rule for off-site material management units. A process vent is exempted from the air emission control requirements of the OSWRO NESHAP if the HAP emissions from the vent are already being controlled in compliance with the provisions specified in another subpart in 40 CFR part 61 or 40 CFR part 63.

The EPA is also adding exemptions for certain process vent streams with low flow, low HAP concentration characteristics, in response to comments received after promulgation of the rule, regarding the technical difficulty and high cost of controlling these process vent streams to achieve standards under the OSWRO NESHAP. The EPA acknowledges that, under certain circumstances, it may be technically difficult and costly to control a low flow, low HAP concentration vent stream to a level that achieves the standard for process vents specified in the rule (i.e., removal or destruction of the HAP from each individual affected process vent gas stream by 95 percent or more on a mass basis). For example, use of a thermal vapor incinerator to control a low flow, low organic HAP concentration vent stream may only achieve a 95 percent emission reduction by incurring the substantially higher equipment and operating costs required to overcome the technical limitations of enclosed combustion control devices. Other conventional air emission control devices commonly used at existing OSWRO sources (e.g., carbon adsorbers, condensers, catalytic vapor incinerators) also have technological constraints relative to controlling low flow, low concentration vent streams. Consequently, the level of potential HAP emission reduction that can be achieved for the low flow, low organic HAP concentration vent streams typically emitted from processes regulated by the OSWRO NESHAP is limited, in practical terms, by the technical limitations of conventional air pollution control devices and the costs to overcome these limitations.

The EPA reconsidered the potential HAP emission reduction levels achievable when conventional air emission control devices are applied to low flow, low organic HAP concentration vent streams from OSWRO processes. The EPA decided that it is reasonable and appropriate to exempt from the air emission control requirements under the OSWRO NESHAP those process vent streams for which the potential for HAP emission reduction is small and the application of conventional air emission control devices is not practical.

To exempt very low flow rate vent streams, the EPA selected an approach consistent with the approach the Agency has used for other NESHAP to exempt these types of process vent streams. A process vent is exempted from the air emission control requirements of the OSWRO NESHAP if the owner or operator determines the process vent stream flow rate to be less than 0.005 standard cubic meters per minute. Considering the range of the vent stream organic HAP concentrations typically emitted from the types of processes regulated by the OSWRO NESHAP, the potential HAP emission reductions achieved by controlling process vent streams below this flow rate cutoff value are extremely low regardless of the organic HAP concentration level.

The EPA decided that it is not appropriate to exempt OSWRO process vent streams with flow rates greater than 0.005 standard cubic meters per minute independent of considering the organic HAP concentration of the vent stream. Even though a given process vent stream has a low organic HAP concentration, the level of total organic HAP emissions to the atmosphere can still be substantial if the gas stream volume emitted is moderately high. Considering the organic HAP concentration of process vent streams for OSWRO sources, the EPA concluded that requiring control of those process vent streams having both a flow rate below 6.0 standard cubic meters per minute and a total organic HAP concentration less than 20 parts per million by volume (ppmv) does not provide sufficient HAP emission reductions from these sources to justify the substantial compliance costs for the OSWRO facility owner and operator. Therefore, the EPA is

amending the OSWRO NESHAP to exempt those affected process vent streams having a flow rate less than 6.0 standard cubic meters per minute and a total HAP concentration in the vent stream less than 20 ppmv. This process vent exemption requires that both the process vent flow rate and the organic HAP concentration criteria be met to qualify for the exemption.

*D. Standards: Off-Site Material Treatment*

Use of air emission controls for an affected off-site material management unit or process vent is not required under the OSWRO NESHAP if the HAP contained in the off-site material is removed or destroyed before placing the material in the affected unit. To comply with this provision, the rule provides alternative treatment standards in § 63.684. Revisions are made to several of the alternative treatment standards allowed under the rule. These amendments do not significantly change the HAP emission reductions and the implementation costs expected for the rule.

Some facility owners and operators misinterpreted the VOHAP concentration treatment alternative under § 63.684(b)(1)(ii), as published in the July 1996 version of the rule, to apply only to off-site material streams with a VOHAP concentration less than 500 parts per million by weight (ppmw), and that the EPA was requiring treatment of these low HAP streams contrary to the general standards stated in § 63.683. This is not the EPA's intent, and the rule language is amended to clarify that this alternative is used for the situation where the off-site material entering a treatment process is composed of a mixture of off-site material streams having an average VOHAP concentration greater than 500 ppmw with off-site material streams having an average VOHAP concentration less than 500 ppmw.

The HAP efficiency treatment alternative in § 63.684(b)(3) is amended to clarify that this treatment alternative is not applicable to a biological degradation process conducted in open tanks or surface impoundments (for open biodegradation processes an owner or operator may comply with § 63.684(b)(4)). Demonstrating an overall HAP reduction efficiency for a treatment process that is open to the atmosphere does not ensure that the HAP in the off-site material is actually destroyed or removed. A portion or all of the volatile organic HAP constituents present when the off-site material enters the process may volatilize directly to the atmosphere from the exposed surface of the material in an open tank or surface impoundment before this material finally exits the process.

Also in § 63.684(b)(3), a correction is made to the value of the HAP removal efficiency performance level required in circumstances where the off-site material stream entering the treatment process has an average VOHAP concentration equal to or greater than 10,000 ppmw at the point-of-delivery. The value for HAP removal efficiency performance level is corrected to read 99 percent (not 95 percent as published in July 1996). A treatment process can only meet the second condition of the standard that requires the average VOHAP concentration of the off-site material at the point-of-treatment to be less than 100 ppmw by achieving a HAP removal efficiency of at least 99 percent.

The biodegradation treatment alternative in § 63.684(b)(4) is amended to clarify that this alternative applies only to a biological degradation treatment process conducted in open tanks or surface impoundments. Also, consistent with the amendment made by the EPA to the exemption in § 63.683(b)(2)(iii) for a tank or surface impoundment used for biological treatment (see section III.B.1 of this document), § 63.684(b)(4)(i) is revised to eliminate the redundant condition requiring determination of the overall HAP reduction efficiency for the biodegradation process.

Provisions are added in § 63.684(e)(4) requiring the owner or operator to establish and implement a procedure to monitor appropriate parameters that demonstrate proper operation of a biological treatment unit according to the evaluation required in § 63.694(h). Under this requirement, the owner or operator must list the operating parameters monitored and state the frequency of monitoring to ensure that the biological treatment unit is operating between the minimum and maximum operating parameter values to establish that the unit is continuously achieving the relevant performance requirement.

*E. Standards: Tanks*

The standards for a tank required under § 63.685(b)(1) to use Tank Level 1 controls are amended to provide two alternatives for complying with the rule. First, an alternative is added to the rule (see § 63.685(c)(2)(ii)) to explicitly clarify that the owner or operator of the tank may instead choose to use the more stringent Tank Level 2 controls to comply with the rule. The EPA's intent is that an owner or operator may select a more stringent control level than the minimum control requirement. Second, an alternative is added to the rule (see § 63.685(c)(2)(iii)) for the special circumstance when a tank is used as an interim transfer point to transfer off-site material from containers to another off-site material management unit. An example of such a tank is an in-ground tank into which organic-contaminated debris is dumped from roll-off boxes or dump trucks, and then this debris is promptly transferred from the tank to a macroencapsulation unit by a backhoe. This alternative allows the cover to be removed during those periods of time when the material transfer activity is occurring. At all other times, air emissions from the tank must be controlled in accordance with the provisions specified in 40 CFR part 63, subpart OO—National Emission Standards for Tanks—Level 1. The EPA previously included provisions for these types of tanks in the related air rules for waste management units under the RCRA subpart CC air rules in 40 CFR parts 264 and 265 (see docket A–92–16, document VI–B–2).

The standards in § 63.685(b)(4) for a tank that manages off-site material having a maximum HAP vapor pressure that is equal to or greater than 76.6 kilopascals (kPa) are amended to provide two additional compliance alternatives. These additional compliance alternatives are using either (1) a pressure tank, or (2) a tank located inside an enclosure vented through a closed vent system to an enclosed combustion device. These two additional control alternatives provide a level of HAP emission control equivalent to the original control requirement (i.e., venting the tank directly to a control device), while at the same time providing greater compliance flexibility to the owners and operators subject to the rule.

The requirements in § 63.685(h) for owners and operators electing to use the Tank Level 2 control alternative of a pressure tank are amended to allow the purging of inert materials from the pressure tank. Inert material purging is a short duration maintenance procedure required by good engineering practice to ensure proper operation of this type of tank system.

The requirements in § 63.685(i) for owners and operators electing to use the Tank Level 2 control alternative of an enclosure vented to an enclosed combustion control device are amended to add a provision allowing a safety device to open anytime conditions require it to do so to avoid an unsafe condition. The EPA included this safety provision for all of the other tank control alternatives under the OSWRO NESHAP, but the provision

inadvertently was not included in the regulatory language for this Tank Level 2 control alternative when the final rule was published in July 1996.

*F. Standards: Process Vents*

The air emission control requirements for process vents in § 63.690(b) are amended to clarify that for the purpose of complying with this standard, the EPA considers a primary condenser associated with an affected process to be part of the process and not the air emission control device. The primary condenser is a condenser for which the predominant function is the recovery or capture of solvents or other organics for use, reuse, or sale. The EPA considers a secondary condenser or other organic recovery device that is operated downstream of the primary condenser to be a control device for the purpose of complying with the OSWRO NESHAP.

*G. Standards: Closed-Vent Systems and Control Devices*

Amendments to the standards for closed-vent systems and control devices in § 63.693 correct technical omissions, update specific requirements consistent with recent decisions made by the EPA for other NESHAP, and correct terminology, typographical, printing, and grammatical errors. These amendments do not significantly change the HAP emission reductions and implementation costs expected for the rule.

1. Closed-Vent System Requirements

The inspecting and monitoring requirements for a closed-vent system in § 63.693(b)(5) are amended to add an alternative procedure. This alternative allows an owner or operator to inspect and monitor the closed-vent system according to the procedure specified in 40 CFR part 63, subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (specifically the procedure in § 63.172(f) through (h)). Although some details of the subpart H procedure vary from the procedure already specified in the OSWRO NESHAP, both procedures achieve the same overall result of ensuring that the closed-vent system continues to operate properly after its initial installation and testing. This amendment allows those owners and operators who are already inspecting and monitoring other closed-vent systems at their facility using the subpart H procedure to comply with another NESHAP allowing the flexibility to use a common procedure for all of the affected closed-vent systems at the facility.

Section 63.693(c) is amended to update the requirements for those situations when a closed-vent system bypass device is installed to be consistent with other recently promulgated NESHAP. The revised language does not significantly change the technical requirements but does clarify the requirements for an owner or operator choosing to use a flow indicator to comply with the provision. The rule requires that this device merely indicate the presence of gas flow through the bypass line or duct. The device does not need to measure or quantify the flow rate (although a flow measurement device can be used to comply with this provision of the rule if an owner or operator chooses to do so).

2. General Control Device Requirements

The requirements in § 63.693(b)(8) for using a design analysis to demonstrate that a given control device achieves the applicable performance requirements of the rule are amended. If the design analysis prepared by the owner or operator is determined by the Administrator to be incomplete or deficient, the amended rule allows the Administrator to first request that the design analysis be revised or amended by the owner or operator to correct the deficiencies identified by the Administrator. If the owner or operator and the Administrator still do not agree on the acceptability of using this revised design analysis to demonstrate that the control device achieves the applicable performance requirements, then the disagreement is to be resolved using the results of a performance test conducted by the owner or operator.

3. Carbon Adsorption System Requirements

The monitoring requirements in § 63.693(d)(3) for carbon adsorption control devices are amended to clarify the requirements. Section 63.693(d)(3)(i) is amended to clarify that owners and operators choosing this monitoring alternative for regenerative-type carbon adsorption systems must monitor both total regeneration stream mass flow and the carbon bed temperature. Section 63.693(d)(3)(ii) is amended to add a requirement that the daily average concentration level of organic compounds in the exhaust stream from the control device must be monitored. The EPA considers an averaging time to be necessary to properly determine compliance.

The spent carbon management requirements in § 63.693(d)(4) are amended to add two more alternatives. The amendments add the alternatives of using: (1) a thermal treatment unit using air emission controls according to the control device standards under the OSWRO NESHAP, or (2) a thermal treatment unit using organic air emission controls according to another NESHAP in 40 CFR part 61 or 40 CFR part 63. These changes make this requirement consistent with other air rules that affect similar waste management sources (see section 264.1088(c)(3)(ii) and section 265.1089(c)(3)(ii)).

4. Condenser Requirements

The monitoring requirements in § 63.693(e)(3) for condenser control devices are amended to clarify the requirements. Section 63.693(e)(3)(i) and (ii) are amended to require monitoring of either the daily average exhaust gas temperature or the daily average concentration level of organic compounds in the exhaust stream. The EPA considers monitoring one of these parameters to be necessary to properly determine compliance.

5. Vapor Incinerator Requirements

The monitoring requirements in § 63.693(f) for vapor incinerators are amended to add a requirement that owners and operators measure and record the daily average of the particular parameter being monitored (i.e., temperature or concentration). The EPA considers monitoring these parameters to be necessary to properly determine compliance.

6. Boiler and Process Heater Requirements

The monitoring requirements in § 63.693(g) for boilers and process heaters are amended to include provisions requiring that the monitoring systems for boilers and process heaters used as control devices measure and record the daily average of the particular parameter being monitored (i.e., temperature or concentration). The provision of a daily averaging time for control device monitoring parameters is necessary to properly determine compliance.

7. Flare Requirements

The requirements in § 63.693(h) for flares are amended to clarify the compliance demonstration and monitoring procedures to be used for a flare. Section 63.693(h)(2) is added to the rule to specify the procedure an owner or operator must use to demonstrate that the flare achieves the requirements in 40 CFR 63.11(b). This amendment is added because the cross-reference to the General Provisions in 40 CFR part 63, subpart A, as specified in

the version of the final rule published in July 1996, does not explain the specific flare compliance demonstration procedure that an owner or operator is to use for the OSWRO NESHAP.

The flare monitoring requirements are now specified in § 63.693(h)(3) and are amended to require that the owner or operator record for each 1-hour period whether the required pilot flame monitor was continuously operating and whether a flame was present during each hour as required. This change is made to add an averaging time.

*H. Testing Methods and Procedures*

1. Alternative Methods for Determination of Average VOHAP Concentration

The EPA is adding three more alternative methods in § 63.694(b)(ii) that an owner or operator may choose to determine the average HAP concentration of an off-site material. The methods added are Method 625 in 40 CFR part 136, appendix A, and Method 8260 and Method 8270 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication No. SW–846, Third Edition, September 1986, as amended by Update I, November 15, 1992 (or any more recent, updated version of these methods approved by the EPA). The EPA developed these methods for use in implementing rules under the Clean Water Act and RCRA, respectively. The methods measure the concentration of organic pollutants in municipal and industrial wastewaters. Commenters suggested that these methods are also applicable to the OSWRO NESHAP for the determination of off-site material HAP concentration. After review of the methods, the EPA decided that using the three methods for direct measurement of the HAP concentration of certain off-site material is reasonable and adding them to the OSWRO NESHAP is appropriate. The EPA believes that with the addition of these methods, the rule now provides a range of alternatives for determining the HAP concentration of an off-site material such that every owner and operator of facilities subject to the OSWRO NESHAP have available practical and inexpensive VOHAP determination alternatives.

It is important to note that for each of the alternative methods allowed under § 63.694(b)(ii) (i.e., the listed methods other than Methods 305 and 25D), there is a published list of chemical compounds that the EPA considers the method appropriate to measure. An owner or operator may only use an alternative method to measure compounds that are on the list associated with that method, unless the specified validation procedures are also performed. Furthermore, for a VOHAP concentration determination, the owner or operator must evaluate the total mass of HAP compounds in an off-site material (i.e., all compounds listed in Table 1 of subpart DD). Therefore, the owner or operator is responsible for determining that the analytical method used for a VOHAP concentration determination is sufficient to evaluate all of the applicable organic compounds contained in the off-site material. If an owner or operator chooses to use an alternative to Method 305 to analyze an off-site material that contains unknown compounds or many different compounds, performing ''screening'' analyses may first be necessary to verify that the alternative method chosen is, in fact, appropriate to evaluate all the necessary compounds.

The alternative test methods measure the total concentration of the HAP constituents listed in Table 1 of subpart DD. The VOHAP concentration of an off-site material by definition is the fraction by weight of those compounds listed in Table 1 as measured using Method 305. Owners and operators may choose to ''correct'' the HAP values measured by an alternative method to equate to the VOHAP values that would be measured using Method 305. This correction is made by multiplying the total concentration measured values times the appropriate ''$f_{m305}$ factor'' listed in Table 1 of subpart DD to obtain the Method 305 VOHAP concentration equivalent.

Method 625 is appropriate for determining the HAP concentration of an off-site material provided that the corrections for the measured compounds in Table 7 of the method are made. Methods 8260 and 8270 are also considered appropriate provided that formal quality assurance procedures are established, followed, and recorded to address those elements of the methods considered relevant for measuring the actual concentration of organic compounds. The quality assurance program must address procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, and preparation steps, as well as addressing the overall accuracy and precision of the specific method used.

None of the alternative methods specify sample collection and handling procedures considered adequate by the EPA to minimize the volatilization of organics from the sample before analysis. Therefore, to ensure that a representative sample of an off-site material is analyzed, an owner or operator that chooses to use either Method 624, 625, 1624, 1625, 8260, or 8270 for the OSWRO NESHAP is required to develop and follow a written sampling plan. This plan describes a step-by-step procedure for collecting representative samples of the off-site materials such that material integrity is maintained and minimal loss of organics from the sample occurs throughout the collection and analysis process. An example of an acceptable sampling plan is one that incorporates sample collection and sample handling procedures similar to those specified in Method 25D. The sampling plan is to be maintained on-site in the facility records.

The provisions in § 63.694(c)(ii) listing the alternative methods for determining the average VOHAP concentration of an off-site material at the point-of-treatment are revised and simplified to cross-reference all of the methods allowed under § 63.694(b)(ii).

2. Equation Corrections

The equation in § 63.694(b)(2)(iii) used for calculating the average VOHAP concentration of an off-site material is amended to correct the rule citation used to define the term ''$C_i$.'' The correct citation is § 63.694. The same correction is made for the terms ''$C_i$'' in the equation in § 63.694(c)(3), ''y'' and ''$C_y$'' in the equation in § 63.694(e)(4), and ''$Q_{bj}$'' and ''$C_{bl}$'' in the equation in § 63.694(g)(4).

The equation in § 63.694(c)(3) used for calculating the average VOHAP concentration on a mass-weighted basis is corrected to clarify the inputs to the equation. In the equation, the value for $Q_t$ is the sum of the $Q_i$'s used in the equation. This value represents the sum or total off-site material quantity used to characterize the off-site material over the averaging period. Each VOHAP concentration determination must have a corresponding off-site material quantity that represents the amount of material generated or received over the averaging period used to determine the VOHAP concentration value. To calculate a mass-weighted average VOHAP concentration over the averaging period, multiply each VOHAP concentration by the quantity of material it represents and then divide by the total quantity of material (i.e., the sum of the individual off-site material quantities).

3. Procedure for Determination of No Detectable Emissions

Several amendments are made to the procedure for determination of no

detectable emissions in § 63.694(k). As discussed in the appropriate later sections of this document, the same changes are made to the procedure as specified in 40 CFR part 63, subparts OO, PP, QQ, and VV.

The procedure is amended to allow either methane or n-hexane to be used as the calibration gas for the detection instrument. It is the EPA's intent that the calibration procedure be consistent with the procedure as applied to related air rules (e.g., see the equipment leak test methods and procedures at sections 264.1063 and 265.1063). Therefore, the requirement for calibration gases in § 63.694(k)(4) is amended to provide the owner or operator the choice of using methane or n-hexane as allowed under these other rules.

Section 63.694(k)(6) is amended to allow an owner or operator the option of choosing to adjust or not adjust the detection instrument readings to account for the background organic concentration level. Frequently at a source, the maximum organic concentration value measured by the detection instrument is well below the organic concentration value that defines ''no detectable emissions.'' In this case, requiring an ambient background correction is an unnecessary step. Thus, the EPA decided that it is reasonable and appropriate for the correction of the measured value for the ambient background level to be an option used at the owner's or operator's discretion. If an owner or operator chooses to adjust the instrument readings for the background level, the background level value must be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

Finally, the procedure is amended to add provisions for determination of no detectable emissions from a seal used around a rotating shaft that passes through a cover opening. In this case, if the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level is less than 10,000 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions. This addition is made for consistency with other related EPA air rules regarding the determination of no detectable emissions.

4. Determination of Process Vent Stream Flow Rate and Total HAP Concentration

A new § 63.694(m) is added to subpart DD specifying the testing methods and procedures that an owner or operator must follow to determine a process vent stream flow rate and total organic HAP concentration. These new requirements are added to the rule to support the amendments to § 63.683(b) adding exemptions for process vents based on the vent stream flow rate and total organic HAP concentration (see section III.F of this document). The procedures and test methods added to the rule for these determinations are the EPA reference methods in appendix A of 40 CFR part 60 for measuring gas stream flow rates and organic concentrations.

*I. Inspection and Monitoring Requirements*

Section 63.695 is amended to consolidate the inspection and monitoring requirements under subpart DD in this section, update the control device monitoring requirements to be consistent with recent decisions made by the EPA for compliance assurance monitoring of sources subject to using air emission controls under a NESHAP, and to make minor technical modifications. The amendments do not significantly change the estimated inspection and monitoring costs for the rule.

The inspection requirements for covers, closed-vent systems, and transfer systems in § 63.695 are amended to make allowances for units or equipment that an owner or operator determines to be unsafe to inspect on an annual interval. The rule requires that the owner or operator perform an initial inspection of the control equipment used to comply with the rule, and follow-up inspections at least once per calendar year. A new paragraph under § 63.695(f) is added to the rule that provides that following the initial inspection of an air pollution control device, an owner or operator may perform subsequent inspections at intervals longer than 1 year when the owner or operator determines that performing the applicable inspection and monitoring procedures would expose a worker to dangerous, hazardous, or otherwise unsafe conditions. In such a case, the owner or operator is required to: (1) Prepare written documentation that explains the reasons why the equipment is unsafe to inspect or monitor on an annual basis; and (2) develop and implement a written plan and schedule to inspect and monitor the air pollution control equipment using the applicable procedures specified in this section during times when a worker can safely access the air pollution control equipment. The required inspections and monitoring must be performed as frequently as practicable but do not need to be performed more frequently than the periodic schedule that would otherwise be applicable to the air pollution control equipment under the provisions of the rule. For example, when the rule requires a cover to be inspected at least once per calendar year, inspection of a cover designated as ''unsafe to inspect'' need not be performed more frequently than once during a calendar year if during that year unscheduled process shutdowns or other unexpected events create multiple times when a worker could safely access the cover.

A provision is added to the inspection requirements in § 63.695(b)(1) for tanks and in § 63.695(d)(1) for transfer systems to clarify that in the case where a tank or transfer system is buried partially or entirely underground, inspection is required only for those portions of the equipment and those connections to the equipment (such as fill ports, access hatched, or gauge wells) that extend to or above the ground surface and can be opened to the atmosphere. It was not the EPA's intent that those portions of the tank or transfer system that are located below ground and, consequently, not easily accessible, be inspected annually. The EPA previously included this provision in other related air rules for waste management units (e.g., the RCRA subpart CC air rules in 40 CFR parts 264 and 265).

The control device monitoring requirements under the rule are revised and updated to be consistent with the EPA's application of compliance assurance monitoring to sources under a NESHAP. A new § 63.695(e) is added to consolidate the control device monitoring requirements. This section establishes the technical specifications for continuous monitoring of control device operating parameters; establishes the criteria for calculating the daily average value for each monitored operating parameter; incorporates a requirement that the owner or operator establish appropriate operating parameter limits for the range of conditions at which the control device must be operated to continuously achieve the applicable performance requirements; and defines the conditions under which an excursion for a given control device is determined to have occurred based on the monitoring data results.

The EPA considers an excursion to be a failure to achieve the applicable standards due to improper operation of the control device. The rule allows one excused excursion for a control device per semiannual period for any reason. Should any additional excursions occur during this period (other than those that occur during the specific conditions listed in § 63.695(e)(6)(i)), each of these

additional excursions is a violation of the standard. Conditions under which an excursion of the operating parameter limit is not a violation of the standard are: (1) periods of startup, shutdown, and malfunction if during the period the affected unit or facility is operated according to the facility's startup, shutdown, and malfunction plan; and (2) periods of non-operation of the unit or process that is vented to the control device that result in cessation of HAP emissions to which the monitoring applies.

*J. Notification and Reporting Requirements*

The notification requirements in § 63.697(a) are amended to allow owners and operators of existing sources subject to the amended OSWRO NESHAP, to file an initial notification (as required in § 63.9(b)) on or before 30 days after the date that today's amendments become effective. This provision is added to the rule in recognition by the EPA that, as a result of the clarifying amendments made by today's direct final rulemaking, there may be some facility owners and operators who now understand, for the first time, that their facility is subject to the OSWRO NESHAP.

The reporting requirements in § 63.697(b)(4) are amended by adding language to clarify the type of information the owner or operator should include in the semiannual report regarding control device excursions. The semiannual report must include a description of all excursions, as defined in the subpart, that have occurred during the 6-month reporting period. This includes excursions caused when the daily average value of a monitored operating parameter is outside the established operating parameter limit as well as excursions caused by a lack of adequate monitoring data.

*K. HAP List for Subpart DD*

Table 1 in subpart DD lists the specific organic chemical compounds, isomers, and mixtures that are HAP for the purpose of implementing the requirements of OSWRO NESHAP. Two changes are made to this table. First, the listing for the compound, 1,1-dimethyl hydrazine, is deleted from Table 1. As discussed in the preamble for the final rule (see 61 FR 34140), 1,1-dimethyl hydrazine was one of the specific compounds that EPA decided to delete from its proposed HAP list for this rulemaking because of the low potential for the compound to be emitted from the type of waste management and recovery operations subject to the rule. This compound inadvertently was not deleted from the version of Table 1 published in July 1996.

Table 1 also is amended to clarify that for the glycol ethers chemical group listing in the table, only those glycol ethers that have a Henry's Law constant value equal to or greater than 0.1 Y/X ($1.8 \times 10^{-6}$ atm/gm-mole/$m^3$) at 25 °C must be included in the determination of the VOHAP concentration. The group of glycol ether chemicals contains a large number of compounds that have Henry's Law constant values both above and below this cutoff value. Therefore, rather than attempt to list the specific glycol ether compounds in the table and potentially omit a given glycol ether HAP, the criteria for identifying which glycol ether compounds must be included in the VOHAP determination was added to the rule.

## IV. Amendments to Subpart OO—National Emission Standards for Tanks—Level 1

The EPA is amending 40 CFR part 63, subpart OO, to clarify several specific rule requirements, to correct minor typographical and terminology errors, and to make the provisions of subpart OO consistent with the technical amendments made to 40 CFR part 63, subpart DD, where applicable. The amendments to 40 CFR part 63, subpart OO, are summarized below.

*A. Definitions*

The definition for a ''safety device'' specified in § 63.901 is amended to incorporate the same changes made to the definition for a ''safety device'' for 40 CFR part 63, subpart DD, in § 63.681. These changes are discussed in section III.B of this document.

*B. Standards—Tank Fixed Roof*

The standards for fixed roof tanks in § 63.902 are amended with additional language to clarify the EPA's intent for compliance with two specific provisions. First, § 63.902(a) is amended to specifically state that the standards under this section do not apply to a fixed roof tank that is also equipped with an internal floating roof. Second, § 63.902(b) is amended with additional language to specifically state that a facility owner or operator is allowed to install a closure device on a tank manifold system or header vent when a series of tanks have their vents (i.e., tank openings) connected to a common header. This amendment makes EPA's application of the fixed roof standards to a tank connected to a manifold system consistent with other air rules that affect similar waste management sources (see 62 FR 64648, December 8, 1997).

*C. Test Methods and Procedures*

The procedure for determination of no detectable organic emissions specified in § 63.905 is amended to incorporate the same revisions and additions made to the procedure for 40 CFR part 63, subpart DD, in § 63.694(k). The specific amendments are discussed in section III.G of this document.

*D. Inspection and Monitoring Requirements*

The inspection and monitoring provisions for owners and operators that use a tank equipped with a fixed roof is amended by adding a new paragraph (d) to § 63.906 which allows alternative inspection intervals longer than 1 year when an owner or operator determines that performing a required inspection or monitoring procedures would expose a worker to dangerous, hazardous, or otherwise unsafe conditions. The alternative inspection interval provision is the same as that for 40 CFR part 63, subpart DD, in § 63.695(f). The alternative inspection interval provision and related compliance requirements are discussed in section III.I of this document.

## V. Amendments to Subpart PP—National Emission Standards for Containers

The EPA is amending 40 CFR part 63, subpart PP, to clarify several definitions, to correct minor typographical and terminology errors, and to make the provisions of subpart PP consistent with the technical amendments made to 40 CFR part 63, subpart DD, where applicable. The amendments to 40 CFR part 63, subpart PP, are summarized below.

*A. Definitions*

Two of the definitions in § 63.921 are revised to clarify the EPA's intent in applying each definition to provisions in the rule. The definition for an ''empty container'' is revised to remove redundant language regarding a container that meets the definition of an ''empty container'' used for implementing RCRA hazardous waste rules (see 40 CFR 261.7(b)). The definition for a ''safety device'' is amended to incorporate the same revision made to the definition for a ''safety device'' for 40 CFR part 63, subpart DD, in § 63.681. This change is discussed in section III.B of this document.

*B. Test Methods and Procedures*

The procedure for determination of no detectable organic emissions specified in § 63.925 is amended to incorporate the same revisions and additions made

to the procedure for 40 CFR part 63, subpart DD, in § 63.694(k). The specific amendments are discussed in section III.G of this document.

*C. Inspection and Monitoring Requirements*

The EPA has received questions regarding the implementation of the inspection requirements for containers using either Container Level 1 or Container Level 2 controls as specified under the rule. The EPA is amending several provisions in § 63.926 to clarify which containers are required to be inspected and when these inspections need to be performed.

The regulatory language in § 63.926(a)(1) is amended to clarify when the initial inspection must be performed for a container that already contains a regulated material when it is delivered to a facility. A visual inspection is required when the owner or operator first accepts possession of the container at the facility site if the container is not emptied (i.e., does not meet the conditions for an ''empty container'' as defined in the rule) within 24 hours after the container has been accepted at the facility site.

For a container that is delivered to an affected facility containing a regulated material but is not emptied within the allowed 24-hour period, the container must be inspected according to the requirements of the rule by the calendar day on which the facility owner or operator accepts possession of the container. For the purpose of compliance with subpart PP, this date of acceptance is the date of signature by the facility owner or operator on the manifest or shipping papers accompanying the container. It is allowable under subpart PP to have a party other than the owner or operator of the affected facility perform the inspection prior to the acceptance date. For example, if an owner or operator of an affected facility accepts a shipment of containers that arrives at the facility on a truck, it is allowable under the rule to have the shipper or transporter perform the visual inspection of the individual containers before or during loading of the containers onto the truck for transport to the affected facility. In this case, the party performing the inspections (e.g., the container shipper or transporter) needs to provide the owner or operator of the recipient facility with written documentation to verify that the containers have been inspected in accordance with the requirements of § 63.926. Regardless of who performs the inspections, it is ultimately the responsibility of the owner or operator of the affected facility to ensure that the inspections have been performed in compliance with all of the applicable requirements under subpart PP.

Section 63.926(a)(2) is amended to clarify the conditions under which additional visual inspections must be conducted for those containers, using either Container Level 1 or Container Level 2 controls that remain at the facility for more than 1 year. When a container, filled or partially filled with regulated-material, remains unopened at the facility site for a period of 1 year or more, the container and its cover and closure devices must be visually inspected by the owner or operator initially, and thereafter, at least once every calendar year.

Section 63.926(a)(3) is amended to provide additional compliance alternatives to owners and operators for those situations when a defective container is found during an inspection. The rule is amended to allow the owner or operator the alternatives of either emptying the regulated-material from the defective container or repairing the defective container. If the owner or operator elects to empty the regulated material from the defective container, the owner or operator must empty the defective container (i.e., meet the conditions for an ''empty container'' as defined in the rule) and transfer the removed material to either: (1) a container that meets the applicable standards under subpart PP; or (2) to a tank, process, or treatment unit that meets the applicable standards under a NESHAP referencing subpart PP. The defective container must be emptied no later than 5 calendar days after detection of the defect. The emptied defective container must be either repaired, destroyed, or used for purposes other than management of regulated-material. If the owner or operator elects to repair the defective container, first efforts at repair of the defect must be made no later than 24 hours after detection, and repair must be completed as soon as possible but no later than 5 calendar days after detection. If repair of a defect cannot be completed within 5 calendar days, then the regulated-material must be emptied from the container and the container must not be used to manage regulated-material until the defect is repaired.

## VI. Amendments to Subpart QQ—National Emission Standards for Surface Impoundments

The EPA is amending 40 CFR part 63, subpart QQ, to clarify several definitions, to correct minor typographical and terminology errors, and to make the provisions of subpart QQ consistent with the technical amendments made to 40 CFR part 63, subpart DD, where applicable. The amendments to 40 CFR part 63, subpart QQ, are summarized below.

*A. Definitions*

Two of the definitions in § 63.941 are revised to clarify the EPA's intent in applying the definitions. The definition for a ''cover'' is amended by adding examples of types of surface impoundment covers (e.g., a floating membrane cover placed on the surface of the material in the surface impoundment, an air-supported structure installed over the surface impoundment). The definition for a ''safety device'' is amended to incorporate the same change made to the definition for a ''safety device'' for 40 CFR part 63, subpart DD, in § 63.681. This change is discussed in section III.B of this document.

*B. Test Methods and Procedures*

The procedure for determination of no detectable organic emissions specified in § 63.945 is amended to incorporate the same revisions and additions made to the procedure for 40 CFR part 63, subpart DD, in § 63.694(k). The specific amendments are discussed in section III.G of this document.

*C. Inspection and Monitoring Requirements*

The inspection and monitoring provisions for air pollution control equipment are amended by adding a new paragraph (d) to § 63.946 which allows alternative inspection intervals longer than 1 year when an owner or operator determines that performing a required inspection or monitoring procedure would expose a worker to dangerous, hazardous, or otherwise unsafe conditions. The alternative inspection interval provision is the same as that for 40 CFR part 63, subpart DD, in § 63.695(f). The alternative inspection interval provision and related compliance requirements are discussed in section III.I of this document.

## VII. Amendments to Subpart RR—National Emission Standards for Individual Drain Systems

The EPA is amending 40 CFR part 63, subpart RR, to clarify the EPA's intent with regard to the types of wastewater streams to which air emission controls must be applied in accordance with 40 CFR part 63, subpart RR. A definition for a ''regulated-material'' is added to § 63.961 to mean the wastewater streams, residuals, and any other materials specified by the referencing

subpart to be managed in accordance with the standards under subpart RR. The definition is needed to clarify the EPA's intent that this rule apply to waste streams and residuals in addition to wastewater. In conjunction with this change, a change is made throughout subpart RR to replace the word ''wastewater'' with the term ''regulated material.''

## VIII. Amendments to Subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators

The EPA is amending 40 CFR part 63, subpart VV, to add a new air emission control alternative, to clarify several specific rule requirements, to correct minor typographical and terminology errors, and to make the provisions of subpart VV consistent with the technical amendments made to 40 CFR part 63, subpart DD, where applicable. The amendments to 40 CFR part 63, subpart VV, are summarized below.

### *A. Definitions*

The definition for a ''safety device'' specified in § 63.1041 is amended to incorporate the same changes made to the definition for a ''safety device'' for 40 CFR part 63, subpart DD, in § 63.681. These changes are discussed in section III.B of this document.

### *B. Standards—Pressurized Separator*

A new section, § 63.1045, is added to subpart VV which allows owners and operators to control air emissions from an oil-water or organic-water separator by using a pressurized separator that is operated as a closed-system. The provision requires that the pressurized separator be designed not to vent to the atmosphere as a result of compression of the vapor headspace during operation of the separator at its design capacity. All separator openings must be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in the subpart. Whenever a regulated-material is in the separator, the separator must be operated as a closed system that does not vent to the atmosphere except under emergency and maintenance conditions specified in the rule.

### *C. Test Methods and Procedures*

The procedure for determination of no detectable organic emissions specified in § 63.1046(a) is amended to incorporate the same revisions and additions made to the procedure for 40 CFR part 63, subpart DD, in § 63.694(k). The specific amendments are discussed in section III.G of this document.

### *D. Inspection and Monitoring Requirements*

The inspection and monitoring provisions for owners and operators that use a tank equipped with a fixed roof is amended by adding a new paragraph (e) to § 63.1047 which allows alternative inspection intervals longer than 1 year when an owner or operator determines that performing a required inspection or monitoring procedure would expose a worker to dangerous, hazardous, or otherwise unsafe conditions. This alternative inspection interval provision is the same as that for 40 CFR part 63, subpart DD, in § 63.695(f). The alternative inspection interval provision and related compliance requirements are discussed in section III.I of this document.

## IX. Administrative Requirements

### *A. Docket*

The docket is intended to be an organized and complete file of the administrative records complied by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See CAA section 307(d)(7)(A).) The docket for this rulemaking containing the information considered by the EPA in development of the amendments is Docket No. A–92–16. This docket is available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday, except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW, Washington, DC 20460; telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

### *B. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the 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 obligation of recipients thereof; or

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

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

### *C. Executive Order 12875: Enhancing the Intergovernmental Partnerships*

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide OMB a description of the extent of the EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

The OSWRO NESHAP does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities, and State, local, and tribal governments are not directly impacted by this rule; i.e., they 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 action.

*D. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

Executive Order 13045 (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 the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA 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 analyses required under section 5–501 of the Order has the potential to influence the regulation. These amendments to the OSWRO NESHAP are not subject to Executive Order 13045 because the OSWRO NESHAP is based on technology performance and not on health or safety risks. In addition, the amendments are not economically significant regulatory actions as defined by E.O. 12866.

*E. Executive Order 13084: Consultations and Coordination with Indian Tribal Governments*

Under Executive Order 13084, the 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 the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the 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.''

The OSWRO NESHAP does not significantly or uniquely affect the communities of Indian tribal governments. The rule does not impose any enforceable duties on tribal governments unless they own or operate a facility subject to the OSWRO NESHAP. Indian tribal governments which own or operate facilities subject to the OSWRO NESHAP would incur compliance costs; however, the EPA does not believe that there are many, if any, tribal governments which either own or operate such facilities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

*F. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the 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 the 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 the 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 the EPA establishes any regulatory requirements that may significantly or uniquely affect small 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 amendments to the OSWRO NESHAP will likely reduce the costs of complying with the rule for many affected owners and operators. These amendments do not increase expenditures by State, local, and tribal governments or the private sector. Therefore, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternatives because these amendments are estimated to result in the expenditure by State and local governments, in aggregate, or by the private sector of less than $100 million in any 1 year. Because small governments will not be affected by this rule, the EPA is not required to develop a plan with regard to small governments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

*G. 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. The EPA determined that these amendments to the OSWRO NESHAP do not have a significant impact on a substantial number of small entities. The EPA has also determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this action. These amendments will not result in increased impacts to small entities and will result in reduced impacts in all cases.

*H. Paperwork Reduction Act*

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the OMB. A copy of this Information Collection Request (ICR) document (OMB control number 1717.02) may be obtained from Sandy Farmer, OP Regulator Information Division; U.S. Environmental Protection Agency, 401 M Street, SW (mail code 2136), Washington, DC 20460, or by calling (202) 260–2740.

Today's amendments to the OSWRO NESHAP have no impact on the information collection burden estimates made previously. No additional certifications or filings were

promulgated. Therefore, the ICR has not been revised.

*I. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of Congress and to the Comptroller General of the United States. 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**. These amendments are not a ''major rule'' as defined by 5 U.S.C. 804(2). These amendments will be effective July 20, 1999.

*J. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d)(15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary consensus standards are not used by the EPA, the NTTAA requires the Agency to provide Congress, through OMB, an explanation of the reasons for not using such standards. This section summarizes the EPA's response to the requirements of the NTTAA for the test methods added to the OSWRO NESHAP as part of today's amendments.

The OSWRO NESHAP involves technical standards. The amendments to the OSWRO NESHAP include the addition of test methods and procedures necessary for the determination of compliance and enforcement of air standards under the rule. Today's amendments increase the number of alternative test methods available to an owner or operator to determine the VOHAP concentration of an off-site material and provide for the use of other methods (i.e., those specified in the rule) subject to EPA approval. The EPA has determined that the owner or operator of an affected source must use the specified EPA reference methods when needed. While the American Society of Testing and Materials and other organizations have published a number of test methods and procedures applicable to organic content and material specifications which could be used to determine the flow rate and organic concentration of a process vent stream, these methods are not applicable to determining the volume, concentration, and type of air emissions from the affected sources. The use of these voluntary consensus standards would, therefore, have been impractical.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Containers, Hazardous air pollutants, Incorporation by reference, Individual drain systems, Oil-water separators, Organic-water separators, Recycling, Reporting and recordkeeping requirements, Surface impoundments, Tanks, Used oil, Used solvent, Waste management.

Dated: July 7, 1999.

**Carol W. Browner,**

*Administrator.*

For the reasons set forth in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

## PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

## Subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations

2. Section 63.680 is amended by adding paragraph (b)(2)(viii) and by revising paragraphs (a)(2)(v), (b)(1)(ii), (b)(1)(iii), (b)(2)(v), (b)(2)(vi), (c), (d), and (e) to read as follows:

### § 63.680 Applicability and designation of affected sources.

(a) * * *

(2) * * *

(v) A recovery operation that recycles or reprocesses used solvent which is an off-site material and the operation is not part of a chemical, petroleum, or other manufacturing process that is required to use air emission controls by another subpart of 40 CFR part 63 or 40 CFR part 61.

* * * * *

(b) * * *

(1) * * *

(ii) The waste, used oil, or used solvent is not produced or generated within the plant site, but the material is delivered, transferred, or otherwise moved to the plant site from a location outside the boundaries of the plant site; and (iii) The waste, used oil, or used solvent contains one or more of the hazardous air pollutants (HAP) listed in Table 1 of this subpart based on the composition of the material at the point-of-delivery, as defined in § 63.681 of this subpart.

(2) * * *

(v) Waste that is transferred from a chemical manufacturing plant or other facility for which both of the following conditions apply to the waste:

(A) The management of the waste at the facility is required either under part 63 subpart F—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry or under another subpart in 40 CFR part 63 to meet the air emission control standards for process wastewater specified in 40 CFR 63.132 through 63.147; and

(B) The owner or operator of the facility from which the waste is transferred has complied with the provisions of 40 CFR 63.132(g)(1)(ii) and (g)(2).

(vi) Waste that is transferred from a chemical manufacturing plant, petroleum refinery, or coke by-product recovery plant which is subject to 40 CFR part 61, subpart FF—National Emission Standards for Benzene Waste Operations, and for which both of the following conditions apply to the waste:

(A) The waste is generated at a facility that is not exempted under the provisions of 40 CFR 61.342(a) from meeting the air emission control standards of 40 CFR part 61, subpart FF; and

(B) The owner or operator of the facility from which the waste is transferred has complied with the provisions of 40 CFR 61.342(f)(2).

(vii) * * *

(viii) Hazardous waste that is stored for 10 days or less at a transfer facility in compliance with the provisions of 40 CFR 263.12.

(c) *Affected sources.* (1) *Off-site material management units.* For each operation specified in paragraphs (a)(2)(i) through (a)(2)(vi) of this section that is located at the plant site, the affected source is the entire group of off-site material management units associated with the operation. An off-site material management unit is a tank, container, surface impoundment, oil-water separator, organic-water separator, or transfer system used to manage off-site material. For the purpose of implementing the standards under this

subpart, a unit that meets the definition of a tank or container but also is equipped with a vent that serves as a process vent for any of the processes listed in paragraphs (c)(2)(i) through (c)(2)(vi) of this section is not an off-site material management unit but instead is a process vent and is to be included in the appropriate affected source group under paragraph (c)(2) of this section. Examples of such a unit may include, but are not limited to, a distillate receiver vessel, a primary condenser, a bottoms receiver vessel, a surge control tank, a separator tank, and a hot well.

(2) *Process vents.* For each operation specified in paragraphs (a)(2)(i) through (a)(2)(vi) of this section that is located at the plant site, the affected source is the entire group of process equipment associated with the process vents for the processes listed in paragraphs (c)(2)(i) through (c)(2)(vi) of this section.

(i) Distillation process used for the treatment, recycling, or recovery of off-site material. Distillation means a process, either batch or continuous, separating one or more off-site material feed streams into two or more exit streams having different component concentrations from those in the feed stream or streams. The separation is achieved by the redistribution of the components between the liquid and vapor phases as they approach equilibrium within the distillation unit.

(ii) Fractionation process used for the treatment, recycling, or recovery of off-site material. Fractionation means a liquid mixture separation process or method used to separate a mixture of several volatile components of different boiling points in successive stages, each stage removing from the mixture some proportion of one of the components.

(iii) Thin-film evaporation process used for the treatment, recycling, or recovery of off-site material. Thin-film evaporation means a liquid mixture separation process or method that uses a heating surface consisting of a large diameter tube that may be either straight or tapered, horizontal or vertical. Liquid is spread on the tube wall by a rotating assembly of blades that maintain a close clearance from the wall or actually ride on the film of liquid on the wall.

(iv) Solvent extraction process used for the treatment, recycling, or recovery of off-site material. Solvent extraction means a separation process or method in which a solid or a solution is contacted with a liquid solvent (the material and the solvent being relatively insoluble in each other) to preferentially dissolve and transfer one or more components into the solvent.

(v) Steam stripping process used for the treatment, recycling, or recovery of off-site material. Steam stripping means a liquid mixture separation process or method in which vaporization of the volatile components of a liquid mixture occurs by the introduction of steam directly into the process.

(vi) Gas stripping process used for the treatment, recycling, or recovery of off-site material. Gas stripping means a desorption process or method used to transfer one or more volatile components from a liquid mixture into a gas stream either with or without the application of heat to the liquid. Packed towers, spray towers, and bubble-cap, sieve, or valve-type plate towers are examples of the process configurations used for contacting the gas and a liquid.

(3) *Equipment leaks.* For each operation specified in paragraphs (a)(2)(i) through (a)(2)(vi) of this section that is located at the plant site, the affected source is the entire group of equipment components for which each component meets all of the conditions specified in paragraphs (c)(3)(i) through (c)(3)(iii) of this section. If any one of these conditions do not apply to an equipment component, then that component is not part of the affected source for equipment leaks.

(i) The equipment component is a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, or instrumentation system;

(ii) The equipment component contains or contacts off-site material having a total HAP concentration equal to or greater than 10 percent by weight; and

(iii) The equipment component is intended to operate for 300 hours or more during a calendar year in off-site material service, as defined in § 63.681 of this subpart.

(d) *Facility-wide exemption.* The owner or operator of affected sources subject to this subpart is exempted from the requirements of §§ 63.682 through 63.699 of this subpart in situations when the total annual quantity of the HAP that is contained in the off-site material received at the plant site is less than 1 megagram per year. For a plant site to be exempted under the provisions of this paragraph (d), the owner or operator must meet the requirements in paragraphs (d)(1) through (d)(3) of this section.

(1) The owner or operator must prepare an initial determination of the total annual HAP quantity in the off-site material received at the plant site. This determination is based on the total quantity of the HAP listed in Table 1 of this subpart as determined at the point-of-delivery for each off-site material stream.

(2) The owner or operator must prepare a new determination whenever the extent of changes to the quantity or composition of the off-site material received at the plant site could cause the total annual HAP quantity in the off-site material received at the plant site to exceed the limit of 1 megagram per year.

(3) The owner or operator must maintain documentation to support the owner's or operator's determination of the total annual HAP quantity in the off-site material received at the plant site. This documentation must include the basis and data used for determining the HAP content of the off-site material.

(e) *Compliance dates.* (1) *Existing sources.* The owner or operator of an affected source that commenced construction or reconstruction before October 13, 1994, must achieve compliance with the provisions of this subpart on or before the date specified in paragraph (e)(1)(i) or (e)(1)(ii) of this section as applicable to the affected source.

(i) For an affected source that commenced construction or reconstruction before October 13, 1994 and receives off-site material for the first time before February 1, 2000, the owner or operator of this affected source must achieve compliance with the provisions of the subpart on or before February 1, 2000 unless an extension has been granted by the Administrator as provided in 40 CFR 63.6(i).

(ii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first time on or after February 1, 2000, the owner or operator of the affected source must achieve compliance with the provisions of this subpart upon the first date that the affected source begins to manage off-site material.

(2) *New sources.* The owner or operator of an affected source for which construction or reconstruction commences on or after October 13, 1994, must achieve compliance with the provisions of this subpart on or before July 1, 1996, or upon initial startup of operations, whichever date is later as provided in 40 CFR 63.6(b).

* * * * *

3. Section 63.681 is amended by adding in alphabetical order the definitions of ''Flow indicator'' and ''Hazardous air pollutants,'' by removing the definition of ''HAP,'' and by revising the definitions of ''Control device,'' ''Cover,'' ''Point-of-treatment,'' ''Process vent,'' ''Safety device,'' ''Used solvent,'' ''Volatile organic hazardous air pollutant concentration,'' and ''Waste stabilization process'' to read as follows:

**§ 63.681 Definitions.**

* * * * *

*Control device* means equipment used for recovering, removing, oxidizing, or destroying organic vapors. Examples of such equipment include but are not limited to carbon adsorbers, condensers, vapor incinerators, flares, boilers, and process heaters.

*Cover* means a device or system that provides a continuous barrier over the material managed in a off-site material management unit to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings needed for operation, inspection, sampling, maintenance, and repair of the unit provided that each opening is closed when not in use (e.g., access hatches, sampling ports). A cover may be a separate piece of equipment which can be detached and removed from the unit or a *cover* may be formed by structural features permanently integrated into the design of the unit.

* * * * *

*Flow indicator* means a device that indicates whether gas is flowing, or whether the valve position would allow gas to flow in a bypass line.

* * * * *

*Hazardous air pollutants* or *HAP* means the specific organic chemical compounds, isomers, and mixtures listed in Table 1 of this subpart.

* * * * *

*Off-site material service* means any time when a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, or instrumentation system contains or contacts off-site material.

* * * * *

*Point-of-treatment* means a point after the treated material exits the treatment process but before the first point downstream of the treatment process exit where the organic constituents in the treated material have the potential to volatilize and be released to the atmosphere. For the purpose of applying this definition to this subpart, the first point downstream of the treatment process exit is not a fugitive emission point due to an equipment leak from any of the following equipment components: pumps, compressors, valves, connectors, instrumentation systems, or safety devices.

* * * * *

*Process vent* means an open-ended pipe, stack, or duct through which a gas stream containing HAP is continuously or intermittently discharged to the atmosphere from any of the processes listed in § 63.680(c)(2)(i) through (c)(2)(vi) of this section. For the purpose of this subpart, a process vent is none of the following: a pressure-relief vent or other vent that is used as a safety device (as defined in this section); an open-ended line or other vent that is subject to the equipment leak control requirements under § 63.691 of this subpart; or a stack or other vent that is used to exhaust combustion products from a boiler, furnace, process heater, incinerator, or other combustion device.

* * * * *

*Safety device* means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose 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 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.

* * * * *

*Used solvent* means a mixture of aliphatic hydrocarbons or a mixture of one and two ring aromatic hydrocarbons that has been used as a solvent and as a result of such use is contaminated by physical or chemical impurities.

* * * * *

*Volatile organic hazardous air pollutant concentration* or *VOHAP concentration* means the fraction by weight of those compounds listed in Table 1 of this subpart that are in an off-site material as measured using Method 305 in appendix A of this part and expressed in terms of parts per million (ppm). As an alternative to using Method 305, an owner or operator may determine the HAP concentration of an off-site material using any one of the other test methods specified in § 63.694(b)(2)(ii) of this subpart. When a test method specified in § 63.694(b)(2)(ii) of this subpart other than Method 305 is used to determine the speciated HAP concentration of an off-site material, the individual compound concentration may be adjusted by the corresponding $f_{m305}$ value listed in Table 1 of this subpart to determine a VOHAP concentration.

* * * * *

*Waste stabilization process* means any physical or chemical process used to either reduce the mobility of hazardous constituents in a waste or eliminate free liquids as determined by Test Method 9095—Paint Filter Liquids Test in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication No. SW–846, Third Edition, September 1986, as amended by Update I, November 15, 1992. (As an alternative, an owner or operator may use any more recent, updated version of Method 9095 approved by the EPA.) A waste stabilization process includes mixing the waste with binders or other materials and curing the resulting waste and binder mixture. Other synonymous terms used to refer to this process are ''waste fixation'' or ''waste solidification.'' A waste stabilization process does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

4. Section 63.683 is revised to read as follows:

**§ 63.683 Standards: General.**

(a) The general standards under this section apply to owners and operators of affected sources as designated in § 63.680(c) of this subpart.

(b) *Off-site material management units.* (1) For each off-site material management unit that is part of an affected source, the owner or operator must meet the requirements in either paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section except for those off-site material management units exempted under paragraph (b)(2) of this section.

(i) The owner or operator controls air emissions from the off-site material management unit in accordance with the applicable standards specified in §§ 63.685 through 63.689 of this subpart.

(ii) The owner or operator removes or destroys HAP in the off-site material before placing the material in the off-site material management unit by treating the material in accordance with the standards specified in § 63.684 of this subpart.

(iii) The owner or operator determines before placing off-site material in the off-site material management unit that the average VOHAP concentration of the off-site material is less than 500 parts per million by weight (ppmw) at the

point-of-delivery. The owner or operator must perform an initial determination of the average VOHAP concentration of the off-site material using the procedures specified in § 63.694(b) of this subpart. This initial determination must be performed either before the first time any portion of the off-site material stream is placed in the unit or by the compliance date, whichever date is later. Thereafter, the owner or operator must review and update, as necessary, this determination at least once every calendar year following the date of the initial determination for the off-site material stream.

(2) An off-site material management unit is exempted from the requirements in paragraph (b)(1) of this section when the owner or operator meets one of the exemptions provided in paragraphs (b)(2)(i) through (b)(2)(iv) of this section as applicable to the unit.

(i) An off-site material management unit is exempted from the requirements in paragraph (b)(1) of this section if the off-site material management unit is also subject to another subpart under 40 CFR part 63 or 40 CFR part 61, and the owner or operator is controlling the HAP listed in Table 1 of this subpart that are emitted from the unit in compliance with the provisions specified in the other applicable subpart under part 61 or part 63.

(ii) At the discretion of the owner or operator, one or a combination of off-site material management units may be exempted from the requirements in paragraph (b)(1) of this section when these units meet the condition that the total annual quantity of HAP contained in the off-site material placed in the units exempted under this paragraph (b)(2)(ii) is less than 1 megagram per year. For the off-site material management units selected by the owner or operator to be exempted from the requirements in paragraph (b)(1) of this section, the owner or operator must meet the requirements in paragraphs (b)(2)(ii)(A) and (b)(2)(ii)(B) of this section. An owner or operator may change the off-site material management units selected to be exempted under this paragraph (b)(2)(ii) by preparing a new designation for the exempt-units as required by paragraph (b)(2)(ii)(A) of this section and performing a new determination as required by paragraph (b)(2)(ii)(B) of this section.

(A) The owner or operator must designate each of the off-site material management units selected by the owner or operator to be exempt under paragraph (b)(2)(ii) of this section by either submitting to the Administrator a written notification identifying the exempt-units or permanently marking the exempt-units at the plant site. If an owner or operator chooses to prepare and submit a written notification, this notification must include a site plan, process diagram, or other appropriate documentation identifying each of the exempt-units. If an owner or operator chooses to permanently mark the exempt-units, each exempt-unit must be marked in such a manner that it can be readily identified as an exempt-unit from the other off-site material management units located at the plant site.

(B) The owner or operator must prepare an initial determination of the total annual HAP quantity in the off-site material placed in the units exempted under this paragraph (b)(2)(ii). This determination is based on the total quantity of the HAP listed in Table 1 of this subpart as determined at the point where the off-site material is placed in each exempted unit. The owner or operator must perform a new determination whenever the extent of changes to the quantity or composition of the off-site material placed in the exempted units could cause the total annual HAP content in the off-site material to exceed 1 megagram per year. The owner or operator must maintain documentation to support the most recent determination of the total annual HAP quantity. This documentation must include the basis and data used for determining the HAP content of the off-site material.

(iii) A tank or surface impoundment is exempted from the requirements in paragraph (b)(1) of this section if the unit is used for a biological treatment process that meets the requirements in either paragraph (b)(2)(iii)(A) or (b)(2)(iii)(B) of this section and the owner or operator complies with the monitoring requirements in § 63.684(e)(4) of this subpart.

(A) The HAP biodegradation efficiency ($R_{bio}$) for the biological treatment process is equal to or greater than 95 percent. The HAP biodegradation efficiency ($R_{bio}$) shall be determined in accordance with the requirements of § 63.694(h) of this subpart.

(B) The total actual HAP mass removal rate ($MR_{bio}$) for the off-site material treated by the biological treatment process is equal to or greater than the required HAP mass removal rate (RMR) for the off-site material. The total actual HAP mass removal rate ($MR_{bio}$) must be determined in accordance with the requirements of § 63.694(i) of this subpart. The required HAP mass removal rate (RMR) must be determined in accordance with the requirements of § 63.694(e) of this subpart.

(iv) An off-site material management unit is exempted from the requirements in paragraph (b)(1) of this section if the off-site material placed in the unit is a hazardous waste that meets the conditions specified in either paragraph (b)(2)(iv)(A) or (b)(2)(iv)(B) of this section.

(A) The hazardous waste meets the numerical organic concentration limits, applicable to the hazardous waste, as specified in 40 CFR part 268—Land Disposal Restrictions, listed in the table, ''Treatment Standards for Hazardous Waste'' in 40 CFR 268.40.

(B) The organic hazardous constituents in the hazardous waste have been treated by the treatment technology established by the EPA for the hazardous waste in 40 CFR 268.42(a), or have been removed or destroyed by an equivalent method of treatment approved by the EPA under 40 CFR 268.42(b).

(v) A tank used for bulk feed of off-site material to a waste incinerator is exempted from the requirements specified in paragraph (b)(1) of this section if the tank meets all of the conditions specified in paragraphs (b)(2)(v)(A) through (b)(2)(v)(C) of this section.

(A) The tank is located inside an enclosure vented to a control device that is designed and operated in accordance with all applicable requirements specified under 40 CFR part 61, subpart FF—National Emission Standards for Benzene Waste Operations for a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 megagrams per year;

(B) The enclosure and control device serving the tank were installed and began operation prior to July 1, 1996; and

(C) The enclosure is designed and operated in accordance with the criteria for a permanent total enclosure as specified in ''Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure'' under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical or electrical equipment; or to direct air flow into the enclosure. The owner or operator must annually perform the verification procedure for the enclosure as specified in Section 5.0 to ''Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure.''

(c) *Process vents.* (1) For each process vent that is part of an affected source, the owner or operator must meet the requirements in either paragraph (c)(1)(i) or (c)(1)(ii) of this section except for those process vents exempted under paragraph (c)(2) of this section.

(i) The owner or operator controls air emissions from the process vent in accordance with the standards specified in § 63.690 of this subpart.

(ii) The owner or operator determines before placing off-site material in the process equipment associated with the process vent that the average VOHAP concentration of the off-site material is less than ppmw at the point-of-delivery. The owner or operator must perform an initial determination of the average VOHAP concentration of the off-site material using the procedures specified in § 63.694(b) of this subpart before any portion of the off-site material stream is placed in the unit. Thereafter, the owner or operator must review and update, as necessary, this determination at least once every calendar year following the date of the initial determination for the off-site material stream.

(2) A process vent is exempted from the requirements of paragraph (c)(1) of this section when the owner or operator meets one of the exemptions provided in paragraphs (c)(2)(i) through (c)(2)(iii) of this section.

(i) A process vent is exempted from the requirements in paragraph (c)(1) of this section if the process vent is also subject to another subpart under part 63 or 40 CFR part 61, and the owner or operator is controlling the HAP listed in Table 1 of this subpart that are emitted from the process vent in compliance with the provisions specified in the other applicable subpart under part 61 or part 63.

(ii) A process vent is exempted from the requirements specified in paragraph (c)(1) of this section if the owner or operator determines that the process vent stream flow rate is less than 0.005 cubic meters per minute ($m^3$/min) at standard conditions (as defined in 40 CFR 63.2). The process vent stream flow rate shall be determined in accordance with the procedures specified in § 63.694(m) of this subpart. Documentation must be prepared by the owner or operator and maintained at the plant site to support the determination of the process vent stream flow rate. This documentation must include identification of each process vent exempted under this paragraph and the test results used to determine the process vent stream flow rate.

(iii) A process vent is exempted from the requirements specified in paragraph (c)(1) of this section if the owner or operator determines that the process vent stream flow rate is less than 6.0 $m^3$/min at standard conditions (as defined in 40 CFR 63.2) and the total HAP concentration is less than 20 ppmv. The process vent stream flow rate and total HAP concentration shall be determined in accordance with the procedures specified in § 63.694(m) of this subpart. Documentation must be prepared by the owner or operator and maintained at the plant site to support the determination of the process vent stream flow rate and total HAP concentration. This documentation must include identification of each process vent exempted under this paragraph (c)(2)(iii) and the test results used to determine the process vent stream flow rate and total HAP concentration. The owner or operator must perform a new determination of the process vent stream flow rate and total HAP concentration when the extent of changes to operation of the unit on which the process vent is used could cause either the process vent stream flow rate to exceed the limit of 6.0 $m^3$/min or the total HAP concentration to exceed the limit of 20 ppmv.

(d) *Equipment leaks.* The owner or operator must control equipment leaks from each equipment component that is part of the affected source specified in § 63.680(c)(3) of this subpart by implementing leak detection and control measures in accordance with the standards specified in § 63.691 of this subpart.

5. Section 63.684 is amended by revising paragraphs (a), (b) introductory text, (b)(1)(ii), (b)(3) introductory text, (b)(4) introductory text, (b)(5), (d), (e), (f), and (g) to read as follows:

**§ 63.684 Standards: Off-site material treatment.**

(a) The provisions of this section apply to the treatment of off-site material to remove or destroy HAP for which § 63.683(b)(1)(ii) of this subpart references the requirements of this section for such treatment.

(b) The owner or operator shall remove or destroy the HAP contained in off-site material streams to be managed in the off-site material management unit in accordance with § 63.683(b)(1)(ii) of this subpart using a treatment process that continuously achieves, under normal operations, one or more of the performance levels specified in paragraphs (b)(1) through (b)(5) of this section (as applicable to the type of treatment process) for the range of off-site material stream compositions and quantities expected to be treated.

(1) * * *

(ii) In the case when off-site material streams entering the treatment process are a mixture of off-site material streams having an average VOHAP concentration equal to or greater than 500 ppmw at the point-of-delivery with off-site material streams having average VOHAP concentrations less than 500 ppmw at the point-of-delivery, then the VOHAP concentration of the off-site material must be reduced to a level at the point-of-treatment that meets the performance level specified in either paragraph (b)(1)(ii)(A) or (b)(1)(ii)(B) of this section.

* * * * *

(3) *HAP reduction efficiency.* For any treatment process except a treatment process that uses biological degradation and is performed in an open tank or surface impoundment, the treatment process must achieve the applicable performance level specified in either paragraph (b)(3)(i) or (b)(3)(ii) of this section.

* * * * *

(4) *Biological degradation performed in an open tank or surface impoundment.* A treatment process using biological degradation and performed in an open tank or surface impoundment must achieve the performance level specified in either paragraph (b)(4)(i) or (b)(4)(ii) of this section.

* * * * *

(5) *Incineration.* The treatment process must destroy the HAP contained in the off-site material stream using one of the combustion devices specified in paragraphs (b)(5)(i) through (b)(5)(iv) of this section.

(i) An incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270, and the incinerator is designed and operated in accordance with the requirements of 40 CFR part 264, subpart O—Incinerators, or

(ii) An incinerator for which the owner or operator has certified compliance with the interim status requirements of 40 CFR part 265, subpart O—Incinerators.

(iii) A boiler or industrial furnace for which the owner or operator has been issued a final permit under 40 CFR part 270, and the combustion unit is designed and operated in accordance with the requirements of 40 CFR part 266, subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces.

(iv) A boiler or industrial furnace for which the owner or operator has certified compliance with the interim status requirements of 40 CFR part 266,

subpart H Hazardous Waste Burned in Boilers and Industrial Furnaces.

* * * * *

(d) When the owner or operator treats the off-site material to meet one of the performance levels specified in paragraphs (b)(1) through (b)(4) of this section, the owner or operator shall demonstrate that the treatment process achieves the selected performance level for the range of expected off-site material stream compositions expected to be treated. An initial demonstration shall be performed as soon as possible but no later than 30 days after first time an owner or operator begins using the treatment process to manage off-site material streams in accordance with the requirements of either § 63.683(b)(1)(ii) or § 63.683(b)(2)(ii) of this subpart as applicable to the affected off-site material management unit or process equipment. Thereafter, the owner or operator shall review and update, as necessary, this demonstration at least once every calendar year following the date of the initial demonstration.

(e) When the owner or operator treats the off-site material to meet one of the performance levels specified in paragraphs (b)(1) through (b)(4) of this section, the owner or operator shall ensure that the treatment process is achieving the applicable performance requirements by continuously monitoring the operation of the process when it is used to treat off-site material by complying with paragraphs (e)(1) through (e)(3) or, for biological treatment units, paragraph (e)(4) of this section:

(1) A continuous monitoring system shall be installed and operated for each treatment that measures operating parameters appropriate for the treatment process technology. This system shall include a continuous recorder that records the measured values of the selected operating parameters. The monitoring equipment shall be installed, calibrated, and maintained in accordance with the equipment manufacturer's specifications or other written procedures that provide reasonable assurance that the monitoring equipment is operating properly. The continuous recorder shall be a data recording device that records either an instantaneous data value at least once every 15 minutes or an average value for intervals of 15 minutes or less.

(2) For each monitored operating parameter, the owner or operator shall establish a minimum operating parameter value or a maximum operating parameter value, as appropriate, to define the range of conditions at which the treatment process must be operated to continuously achieve the applicable performance requirements of this section.

(3) When the treatment process is operating to treat off-site material, the owner or operator shall inspect the data recorded by the continuous monitoring system on a routine basis and operate the treatment process such that the actual value of each monitored operating parameter is greater than the minimum operating parameter value or less than the maximum operating parameter value, as appropriate, established for the treatment process.

(4) When the treatment process is a biological treatment process that is complying with paragraph (b)(4) of this section, the owner or operator must establish and implement a written procedure to monitor the appropriate parameters that demonstrate proper operation of the biological treatment unit in accordance with the evaluation required in § 63.694(h) of this subpart. The written procedure must list the operating parameters that will be monitored and state the frequency of monitoring to ensure that the biological treatment unit is operating between the minimum operating parameter values and maximum operating parameter values to establish that the biological treatment unit is continuously achieving the performance requirement.

(f) The owner or operator must maintain records for each treatment process in accordance with the requirements of § 63.696(a) of this subpart.

(g) The owner or operator must prepare and submit reports for each treatment process in accordance with the requirements of § 63.697(a) of this subpart.

* * * * *

6. Section 63.685 is amended by adding paragraph (i)(3) and by revising paragraphs (b), (c)(2), (f)(1)(ii)(A), (g)(2)(i)(B), (h)(2), (h)(3), and (i) introductory text to read as follows:

**§ 63.685 Standards: Tanks.**

* * * * *

(b) The owner or operator shall control air emissions from each tank subject to this section in accordance with the following applicable requirements:

(1) For a tank that is part of an existing affected source but the tank is not used to manage off-site material having a maximum HAP vapor pressure kilopascal (kPa) that is equal to or greater than 76.6 kPa nor is the tank used for a waste stabilization process as defined in § 63.681 of this subpart, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 3 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(2) For a tank that is part of a new affected source but the tank is not used to manage off-site material having a maximum HAP vapor pressure that is equal to or greater than 76.6 kPa nor is the tank used for a waste stabilization process as defined in § 63.681 of this subpart, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 4 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(3) For a tank that is used for a waste stabilization process, the owner or operator shall control air emissions from the tank by using Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(4) For a tank that manages off-site material having a maximum HAP vapor pressure that is equal to or greater than 76.6 kPa, the owner or operator must control air emissions by using one of the tanks specified in paragraphs (b)(4)(i) through (b)(4)(iii) of this section.

(i) A tank vented through a closed-vent system to a control device in accordance with the requirements specified in paragraph (g) of this section;

(ii) A pressure tank designed and operated in accordance with the requirements specified in paragraph (h) of this section; or

(iii) A tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in paragraph (i) of this section.

(c) * * *

(2) The owner or operator must control air emissions from the tank in accordance with the requirements in either paragraph (c)(2)(i), (c)(2)(ii), or (c)(2)(iii) of this section, as applicable to the tank.

(i) The owner or operator controls air emissions from the tank in accordance with the provisions specified in subpart 00 of 40 CFR part 63—National Emission Standards for Tanks—Level 1.

(ii) As an alternative to meeting the requirements in paragraph (c)(2)(i) of this section, an owner or operator may control air emissions from the tank in accordance with the provisions for Tank Level 2 controls as specified in paragraph (d) of this section.

(iii) As an alternative to meeting the requirements in paragraph (c)(2)(i) of this section when a tank is used as an interim transfer point to transfer off-site material from containers to another off-site material management unit, an owner or operator may control air emissions from the tank in accordance with the requirements in paragraphs (c)(2)(iii)(A) and (c)(2)(iii)(B) of this section. An example of such a tank is an in-ground tank into which organic-contaminated debris is dumped from roll-off boxes or dump trucks, and then this debris is promptly transferred from the tank to a macroencapsulation unit by a backhoe.

(A) During those periods of time when the material transfer activity is occurring, the tank may be operated without a cover.

(B) At all other times, air emissions from the tank must be controlled in accordance with the provisions specified in 40 CFR part 67, subpart 00—National Emission Standards for Tanks—Level 1.

* * * * *

(f) * * *

(1) * * *

(ii) * * *

(A) The primary seal shall be a liquid-mounted seal or a metallic shoe seal, as defined in § 63.681 of this subpart. The total area of the gaps between the tank wall and the primary seal shall not exceed 212 square centimeters (cm2) per meter of tank diameter, and the width of any portion of these gaps shall not exceed 3.8 centimeters (cm). If a metallic shoe seal is used for the primary seal, the metallic shoe seal shall be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 centimeters (24 inches) above the liquid surface.

* * * * *

(g) * * *

(2) * * *

(i) * * *

(B) To remove accumulated sludge or other residues from the bottom of the tank.

* * * * *

(h) * * *

(2) All tank openings shall be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in § 63.694(k) of this subpart.

(3) Whenever an off-site material is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except under either of the following conditions as specified in paragraph (h)(3)(i) or (h)(3)(ii) of this section.

(i) At those times when opening of a safety device, as defined in § 63.681 of this subpart, is required to avoid an unsafe condition.

(ii) At those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of § 63.693 of this subpart.

(i) The owner or operator who elects to control air emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in paragraphs (i)(1) through (i)(3) of this section.

* * * * *

(3) Opening of a safety device, as defined in § 63.681 of this subpart, is allowed at any time conditions require it to do so to avoid an unsafe condition.

7. Section 63.686 is amended by revising the paragraph (b) introductory text and adding paragraph (b)(3) to read as follows:

**§ 63.686 Standards: Oil-water and organic-water separators.**

* * * * *

(b) The owner or operator shall control air emissions from each separator subject to this section by using one of the following:

* * * * *

(3) A pressurized separator that operates as a closed system in accordance with all applicable provisions specified in 40 CFR part 63, subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators.

8. Section 63.687 is amended by revising the paragraph (b) introductory text to read as follows:

**§ 63.687 Standards: Surface impoundments.**

* * * * *

(b) The owner or operator shall control air emissions from each surface impoundment subject to this section by using one of the following:

* * * * *

9. Section 63.688 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 63.688 Standards: Containers.**

* * * * *

(b) The owner or operator shall control air emissions from each container subject to this section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in paragraph (c) of this section apply to the container.

(1) For a container having a design capacity greater than 0.1 $m^3$ and less than or equal to 0.46 $m^3$, the owner or operator must control air emissions from the container in accordance with the requirements in either paragraph (b)(1)(i) or (b)(1)(ii) of this section.

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 1 controls as specified in 40 CFR part 63, subpart PP—National Emission Standards for Containers.

(ii) As an alternative to meeting the requirements in paragraph (b)(1)(i) of this section, an owner or operator may choose to control air emissions from the container in accordance with the standards for either Container Level 2 controls or Container Level 3 controls as specified in subpart PP of this part 63—National Emission Standards for Containers.

(2) For a container having a design capacity greater than 0.46 $m^3$ and the container is not in light-material service as defined in § 63.681 of this subpart, the owner or operator must control air emissions from the container in accordance with the requirements in either paragraph (b)(1)(i) or (b)(1)(ii) of this section.

(3) For a container having a design capacity greater than 0.46 $m^3$ and the container is in light-material service as defined in § 63.681 of this subpart, the owner or operator must control air emissions from the container in accordance with the requirements in either paragraph (b)(3)(i) or (b)(3)(ii) of this section.

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 2 controls as specified in 40 CFR part 63, subpart PP—National Emission Standards for Containers.

(ii) As an alternative to meeting the requirements in paragraph (b)(3)(i) of

this section, an owner or operator may choose to control air emissions from the container in accordance with the standards for Container Level 3 controls as specified in 40 CFR part 63, subpart PP—National Emission Standards for Containers.

(c) When a container subject to this subpart and having a design capacity greater than 0.1 $m^3$ is used for treatment of an off-site material by a waste stabilization process as defined in § 63.681 of this subpart, the owner or operator shall control air emissions from the container at those times during the process when the off-site material in the container is exposed to the atmosphere in accordance with the standards for Container Level 3 controls as specified in 40 CFR part 63, subpart PP—National Emission Standards for Containers.

10. Section 63.689 is amended by revising paragraphs (b), (c), (d) introductory text, and (d)(5) introductory text to read as follows:

**§ 63.689 Standards: Transfer systems.**

* * * * *

(b) For each transfer system that is subject to this section and is an individual drain system, the owner or operator shall control air emissions in accordance with the standards specified in 40 CFR part 63, subpart RR—National Emission Standards for Individual Drain Systems.

(c) For each transfer system that is subject to this section but is not an individual drain system, the owner or operator shall control air emissions by using one of the transfer systems specified in paragraphs (c)(1) through (c)(3) of this section.

(1) A transfer system that uses covers in accordance with the requirements specified in paragraph (d) of this section.

(2) A transfer system that consists of continuous hard-piping. All joints or seams between the pipe sections shall be permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed flange).

(3) A transfer system that is enclosed and vented through a closed-vent system to a control device in accordance with the requirements specified in paragraphs (c)(3)(i) and (c)(3)(ii) of this section.

(i) The transfer system is designed and operated such that an internal pressure in the vapor headspace in the enclosure is maintained at a level less than atmospheric pressure when the control device is operating, and

(ii) The closed-vent system and control device are designed and operated in accordance with the requirements of § 63.693 of this subpart.

(d) Owners and operators controlling air emissions from a transfer system using covers in accordance with the provisions of paragraph (c)(1) of this section shall meet the requirements specified in paragraphs (d)(1) through (d)(6) of this section.

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(5) Whenever an off-site material is in the transfer system, the cover shall be installed with each closure device secured in the closed position except as specified in paragraph (d)(5)(i) or (d)(5)(ii) of this section.

* * * * *

11. Section 63.690 is revised to read as follows:

**§ 63.690 Standards: Process vents.**

(a) The provisions of this section apply to the control of air emissions from process vents for which § 63.683(c)(1)(i) of this subpart references the use of this section for such air emission control.

(b) The owner or operator must route the vent stream from each affected process vent through a closed-vent system to a control device that meets the standards specified in § 63.693 of this subpart. For the purpose of complying with this paragraph (b), a primary condenser is not a control device; however, a second condenser or other organic recovery device that is operated downstream of the primary condenser is considered a control device.

12. Section 63.691 is revised to read as follows:

**§ 63.691 Standards: Equipment leaks.**

(a) The provisions of this section apply to the control of air emissions from equipment leaks for which § 63.683(b)(3) of this subpart references the use of this section for such air emission control.

(b) The owner or operator shall control the HAP emitted from equipment leaks in accordance with the applicable provisions specified in either paragraph (b)(1) or (b)(2) of this section.

(1) The owner or operator controls the HAP emitted from equipment leaks in accordance with § 61.242 through § 61.247 in 40 CFR part 61, subpart V—National Emission Standards for Equipment Leaks; or

(2) The owner or operator controls the HAP emitted from equipment leaks in accordance with § 63.162 through § 63.182 in subpart H—National Emission Standards for Organic Hazardous Air Pollutants from Equipment Leaks.

13. Section 63.693 is revised to read as follows:

**§ 63.693 Standards: Closed-vent systems and control devices.**

(a) The provisions of this section apply to closed-vent systems and control devices used to control air emissions for which another standard references the use of this section for such air emission control.

(b) For each closed-vent system and control device used to comply with this section, the owner or operator shall meet the following requirements:

(1) The owner or operator must use a closed-vent system that meets the requirements specified in paragraph (c) of this section.

(2) The owner or operator must use a control device that meets the requirements specified in paragraphs (d) through (h) of this section as applicable to the type and design of the control device selected by the owner or operator to comply with the provisions of this section.

(3) Whenever gases or vapors containing HAP are vented through a closed-vent system connected to a control device used to comply with this section, the control device must be operating except at those times listed in either paragraph (b)(3)(i) or (b)(3)(ii) of this section.

(i) The control device may be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the emission point vented to the control device is shutdown. On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance shall not exceed 240 hours per each calendar year.

(ii) The control device may be bypassed for the purpose of correcting a malfunction of the closed-vent system or control device. The owner or operator shall perform the adjustments or repairs necessary to correct the malfunction as soon as practicable after the malfunction is detected.

(4) The owner or operator must inspect and monitor each closed-vent system in accordance with the requirements specified in either paragraph (b)(4)(i) or (b)(4)(ii) of this section.

(i) The owner or operator inspects and monitors the closed-vent system in accordance with the requirements specified in § 63.695(c) of this subpart, and complies with the applicable recordkeeping requirements in § 63.696 of this subpart and the applicable reporting requirements in § 63.697 of this subpart.

(ii) As an alternative to meeting the requirements specified in paragraph (b)(4)(i) of this section, the owner or operator may choose to inspect and monitor the closed-vent system in accordance with the requirements under 40 CFR part 63, subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks as specified in 40 CFR 63.172(f) through (h), and complies with the applicable recordkeeping requirements in 40 CFR 63.181 and the applicable reporting requirements in 40 CFR 63.182.

(5) The owner or operator must monitor the operation of each control device in accordance with the requirements specified in paragraphs (d) through (h) of this section as applicable to the type and design of the control device selected by the owner or operator to comply with the provisions of this section.

(6) The owner or operator shall maintain records for each control device in accordance with the requirements of § 63.696 of this subpart.

(7) The owner or operator shall prepare and submit reports for each control device in accordance with the requirements of § 63.697 of this subpart.

(8) In the case when an owner or operator chooses to use a design analysis to demonstrate compliance of a control device with the applicable performance requirements specified in this section as provided for in paragraphs (d) through (g) of this section, the Administrator may request that the design analysis be revised or amended by the owner or operator to correct any deficiencies identified by the Administrator. If the owner or operator and the Administrator do not agree on the acceptability of using the design analysis (including any changes requested by the Administrator) to demonstrate that the control device achieves the applicable performance requirements, then the disagreement must be resolved using the results of a performance test conducted by the owner or operator in accordance with the requirements of § 63.694(l) of this subpart. The Administrator may choose to have an authorized representative observe the performance test conducted by the owner or operator. Should the results of this performance test not agree with the determination of control device performance based on the design analysis, then the results of the performance test will be used to establish compliance with this subpart.

(c) Closed-vent system requirements.

(1) The vent stream required to be controlled shall be conveyed to the control device by either of the following closed-vent systems:

(i) A closed-vent system that is designed to operate with no detectable organic emissions using the procedure specified in § 63.694(k) of this subpart; or

(ii) A closed-vent system that is designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gage 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 control device is operating.

(2) In situations when the closed-vent system includes bypass devices that could be used to divert a vent stream from the closed-vent system to the atmosphere at a point upstream of the control device inlet, each bypass device must be equipped with either a flow indicator as specified in paragraph (c)(2)(i) of this section or a seal or locking device as specified in paragraph (c)(2)(ii) of this section. For the purpose of complying with this paragraph (c)(2), low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, or pressure relief valves needed for safety reasons are not subject to the requirements of this paragraph (c)(2).

(i) If a flow indicator is used, the indicator must be installed at the entrance to the bypass line used to divert the vent stream from the closed-vent system to the atmosphere. The flow indicator must indicate a reading at least once every 15 minutes. The owner or operator must maintain records of the following information: hourly records of whether the flow indicator was operating and whether flow was detected at any time during the hour; and records of all periods when flow is detected or the flow indicator is not operating.

(ii) If a seal or locking device is used, the bypass line valve must be secured in the non-diverting position with a car-seal or a lock-and-key type configuration. The seal or locking device must be placed on the mechanism by which the bypass device position is controlled (e.g., valve handle, damper lever) when the bypass device is in the non-diverting position such that the bypass device cannot be moved to the diverting position without breaking the seal or removing the lock. The owner or operator must visually inspect the seal or closure mechanism at least once every month to determine that the bypass line valve is maintained in the non-diverting position and the vent stream is not diverted through the bypass line.

(d) Carbon adsorption control device requirements.

(1) The carbon adsorption system must achieve the performance specifications in either paragraph (d)(1)(i) or (d)(1)(ii) of this section.

(i) Recover 95 percent or more, on a weight-basis, of the total organic compounds (TOC), less methane and ethane, contained in the vent stream entering the carbon adsorption system; or

(ii) Recover 95 percent or more, on a weight-basis, of the total HAP listed in Table 1 of this subpart contained in the vent stream entering the carbon adsorption system.

(2) The owner or operator must demonstrate that the carbon adsorption system achieves the performance requirements in paragraph (d)(1) of this section by either performing a performance test as specified in paragraph (d)(2)(i) of this section or a design analysis as specified in paragraph (d)(2)(ii) of this section.

(i) An owner or operator choosing to use a performance test to demonstrate compliance must conduct the test in accordance with the requirements of § 63.694(l) of this subpart.

(ii) An owner or operator choosing to use a design analysis to demonstrate compliance must include as part of this design analysis the information specified in either paragraph (d)(2)(ii)(A) or (d)(2)(ii)(B) of this section as applicable to the carbon adsorption system design.

(A) For a regenerable carbon adsorption system, the design analysis shall address the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature and shall establish the design exhaust vent stream organic compound concentration, adsorption cycle time, number and capacity of carbon beds, type and working capacity of activated carbon used for carbon beds, design total regeneration steam 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 the carbon.

(B) For a nonregenerable carbon adsorption system (e.g., a carbon canister), the design analysis shall address the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature and shall establish the design exhaust vent stream organic compound concentration, carbon bed capacity, activated carbon type and working capacity, and design carbon replacement interval based on the total

carbon working capacity of the control device and emission point operating schedule.

(3) The owner or operator must monitor the operation of the carbon adsorption system in accordance with the requirements of § 63.695(e) of this subpart using one of the continuous monitoring systems specified in paragraphs (d)(3)(i) through (d)(3)(iii) of this section.

(i) For a regenerative-type carbon adsorption system:

(A) A continuous parameter monitoring system to measure and record the average total regeneration stream mass flow or volumetric flow during each carbon bed regeneration cycle. The integrating regenerating stream flow monitoring device must have an accuracy of ±10 percent; and

(B) A continuous parameter monitoring system to measure and record the average carbon bed temperature for the duration of the carbon bed steaming cycle and to measure the actual carbon bed temperature after regeneration and within 15 minutes of completing the cooling cycle. The accuracy of the temperature monitoring device must be ±1 percent of the temperature being measured, expressed in degrees Celsius or ±5°C, whichever is greater.

(ii) A continuous monitoring system to measure and record the daily average concentration level of organic compounds in the exhaust gas stream from the control device. The accuracy of the organic monitoring device must be ±1 percent of the concentration being measured.

(iii) A continuous monitoring system that measures other alternative operating parameters upon approval of the Administrator as specified in 40 CFR 63.8(f)(1) through (f)(5) of this part.

(4) The owner or operator shall manage the carbon used for the carbon adsorption system, as follows:

(i) Following the initial startup of the control device, all carbon in the control device shall be replaced with fresh carbon on a regular, predetermined time interval that is no longer than the carbon service life established for the carbon adsorption system.

(ii) The spent carbon removed from the carbon adsorption system must be either regenerated, reactivated, or burned in one of the units specified in paragraphs (d)(4)(ii)(A) through (d)(4)(ii)(G) of this section.

(A) Regenerated or reactivated in a thermal treatment unit for which the owner or operator has been issued a final permit under 40 CFR part 270 that implements the requirements of 40 CFR part 264, subpart X.

(B) Regenerated or reactivated in a thermal treatment unit equipped with and operating air emission controls in accordance with this section.

(C) Regenerated or reactivated in a thermal treatment unit equipped with and operating organic air emission controls in accordance with a national emission standard for hazardous air pollutants under another subpart in 40 CFR part 63 or 40 CFR part 61.

(D) Burned in a hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270 that implements the requirements of 40 CFR part 264, subpart O.

(E) Burned in a hazardous waste incinerator for which the owner or operator has designed and operates the incinerator in accordance with the interim status requirements of 40 CFR part 265, subpart O.

(F) Burned in a boiler or industrial furnace for which the owner or operator has been issued a final permit under 40 CFR part 270 that implements the requirements of 40 CFR part 266, subpart H.

(G) Burned in a boiler or industrial furnace for which the owner or operator has designed and operates the unit in accordance with the interim status requirements of 40 CFR part 266, subpart H.

(e) Condenser control device requirements.

(1) The condenser must achieve the performance specifications in either paragraph (e)(1)(i) or (e)(1)(ii) of this section.

(i) Recover 95 percent or more, on a weight-basis, of the total organic compounds (TOC), less methane and ethane, contained in the vent stream entering the condenser; or

(ii) Recover 95 percent or more, on a weight-basis, of the total HAP, listed in Table 1 of this subpart, contained in the vent stream entering the condenser.

(2) The owner or operator must demonstrate that the condenser achieves the performance requirements in paragraph (e)(1) of this section by either performing a performance test as specified in paragraph (e)(2)(i) of this section or a design analysis as specified in paragraph (e)(2)(ii) of this section.

(i) An owner or operator choosing to use a performance tests to demonstrate compliance must conduct the test in accordance with the requirements of § 63.694(l) of this subpart.

(ii) An owner or operator choosing to use a design analysis to demonstrate compliance must include as part of this design analysis the following information: description of the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature; and specification of the design outlet organic 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.

(3) The owner or operator must monitor the operation of the condenser in accordance with the requirements of § 63.695(e) of this subpart using one of the continuous monitoring systems specified in paragraphs (e)(3)(i) through (e)(3)(iii) of this section.

(i) A continuous parameter monitoring system to measure and record the daily average temperature of the exhaust gases from the control device. The accuracy of the temperature monitoring device shall be ±1 percent of the temperature being measured, expressed in degrees Celsius or ±5°C, whichever is greater.

(ii) A continuous monitoring system to measure and record the daily average concentration of organic compounds in the exhaust vent stream from the control device. The accuracy of the concentration monitoring device shall be ±1 percent of the concentration being measured.

(iii) A continuous monitoring system that measures other alternative operating parameters upon approval of the Administrator as specified in 40 CFR 63.8(f)(1) through (f)(5) of this part.

(f) Vapor incinerator control device requirements.

(1) The vapor incinerator must achieve the performance specifications in either paragraph (f)(1)(i), (f)(1)(ii), or (f)(1)(iii) of this section.

(i) Destroy the total organic compounds (TOC), less methane and ethane, contained in the vent stream entering the vapor incinerator either:

(A) By 95 percent or more, on a weight-basis, or

(B) To achieve a total incinerator outlet concentration for the TOC, less methane and ethane, of less than or equal to ppmv on a dry basis corrected to 3 percent oxygen.

(ii) Destroy the HAP listed in Table 1 of this subpart contained in the vent stream entering the vapor incinerator either:

(A) By 95 percent or more, on a total HAP weight-basis, or

(B) To achieve a total incinerator outlet concentration for the HAP, listed in Table 1 of this subpart, of less than or equal to ppmv on a dry basis corrected to 3 percent oxygen.

(iii) Maintain the conditions in the vapor incinerator combustion chamber at a residence time of 0.5 seconds or

longer and at a temperature of 760°C or higher.

(2) The owner or operator must demonstrate that the vapor incinerator achieves the performance requirements in paragraph (f)(1) of this section by either performing a performance test as specified in paragraph (f)(2)(i) of this section or a design analysis as specified in paragraph (f)(2)(ii) of this section.

(i) An owner or operator choosing to use a performance test to demonstrate compliance must conduct the test in accordance with the requirements of § 63.694(l) of this subpart.

(ii) An owner or operator choosing to use a design analysis to demonstrate compliance must include as part of this design analysis the information specified in either paragraph (f)(2)(ii)(A) or (f)(2)(ii)(B) of this section as applicable to the vapor incinerator design.

(A) For a thermal vapor incinerator, the design analysis shall address the vent stream composition, constituent concentrations, and flow rate and shall establish the design minimum and average temperatures in the combustion chamber and the combustion chamber residence time.

(B) For a catalytic vapor incinerator, the design analysis shall address the vent stream composition, constituent concentrations, and flow rate and shall establish the design minimum and average temperatures across the catalyst bed inlet and outlet, and the design service life of the catalyst.

(3) The owner or operator must monitor the operation of the vapor incinerator in accordance with the requirements of § 63.695(e) of this subpart using one of the continuous monitoring systems specified in paragraphs (f)(3)(i) through (f)(3)(iv) of this section as applicable to the type of vapor incinerator used.

(i) For a thermal vapor incinerator, a continuous parameter monitoring system to measure and record the daily average temperature of the exhaust gases from the control device. The accuracy of the temperature monitoring device must be ±1 percent of the temperature being measured, expressed in degrees Celsius of ±0.5°C, whichever is greater.

(ii) For a catalytic vapor incinerator, a temperature monitoring device capable of monitoring temperature at two locations equipped with a continuous recorder. One temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

(iii) For either type of vapor incinerator, a continuous monitoring system to measure and record the daily average concentration of organic compounds in the exhaust vent stream from the control device. The accuracy of the concentration monitoring device must be ±1 percent of the concentration being measured.

(iv) For either type of vapor incinerator, a continuous monitoring system that measures alternative operating parameters other than those specified in paragraph (f)(3)(i) or (f)(3)(ii) of this section upon approval of the Administrator as specified in 40 CFR 63.8(f)(1) through (f)(5) of this part.

(g) Boilers and process heaters control device requirements.

(1) The boiler or process heater must achieve the performance specifications in either paragraph (g)(1)(i), (g)(1)(ii), (g)(1)(iii), (g)(1)(iv), or (g)(1)(v) of this section.

(i) Destroy the total organic compounds (TOC), less methane and ethane, contained in the vent stream introduced into the flame zone of the boiler or process heater either:

(A) By 95 percent or more, on a weight-basis, or

(B) To achieve in the exhausted combustion gases a total concentration for the TOC, less methane and ethane, of less than or equal to 20 parts ppmv on a dry basis corrected to 3 percent oxygen.

(ii) Destroy the HAP listed in Table 1 of this subpart contained in the vent stream entering the vapor incinerator either:

(A) By 95 percent or more, on a total HAP weight-basis, or

(B) To achieve in the exhausted combustion gases a total concentration for the HAP, listed in Table 1 of the subpart, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

(iii) Introduce the vent stream into the flame zone of the boiler or process heater and maintain the conditions in the combustion chamber at a residence time of 0.5 seconds or longer and at a temperature of 760°C or higher.

(iv) Introduce the vent stream with the fuel that provides the predominate heat input to the boiler or process heater (i.e., the primary fuel); or

(v) Introduce the vent stream to a boiler or process heater for which the owner or operator either has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H of this chapter; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H of this chapter.

(2) The owner or operator must demonstrate that the boiler or process heater achieves the performance specifications in paragraph (g)(1) of this section chosen by the owner or operator using the applicable method specified in paragraph (g)(2)(i) or (g)(2)(ii) of this section.

(i) If an owner or operator chooses to comply with the performance specifications in either paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this section, the owner or operator must demonstrate compliance with the applicable performance specifications by either performing a performance test as specified in paragraph (g)(2)(i)(A) of this section or a design analysis as specified in paragraph (g)(2)(i)(B) of this section.

(A) An owner or operator choosing to use a performance test to demonstrate compliance must conduct the test in accordance with the requirements of § 63.694(l) of this subpart.

(B) An owner or operator choosing to use a design analysis to demonstrate compliance must include as part of this design analysis the following information: description of the vent stream composition, constituent concentrations, and flow rate; specification of the design minimum and average flame zone temperatures and combustion zone residence time; and description of the method and location by which the vent stream is introduced into the flame zone.

(ii) If an owner or operator chooses to comply with the performance specifications in either paragraph (g)(1)(iv) or (g)(1)(v) of this section, the owner or operator must demonstrate compliance by maintaining the records that document that the boiler or process heater is designed and operated in accordance with the applicable requirements of this section.

(3) For a boiler or process heater complying with the performance specifications in either paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this section, the owner or operator must monitor the operation of a boiler or process heater in accordance with the requirements of § 63.695(e) of this subpart using one of the continuous monitoring systems specified in paragraphs (g)(3)(i) through (g)(3)(iii) of this section.

(i) A continuous parameter monitoring system to measure and record the daily average combustion zone temperature. The accuracy of the temperature sensor must be ±1 percent of the temperature being measured, expressed in degrees Celsius or ±0.5°C, whichever is greater;

(ii) A continuous monitoring system to measure and record the daily average concentration of organic compounds in the exhaust vent stream from the control device. The accuracy of the concentration monitoring device must be ±1 percent of the concentration being measured.

(iii) A continuous monitoring system that measures alternative operating parameters other than those specified in paragraph (g)(3)(i) or (g)(3)(ii) of this section upon approval of the Administrator as specified in 40 CFR 63.8(f)(1) through (f)(5) of this part.

(h) Flare control device requirements.

(1) The flare must be designed and operated in accordance with the requirements in 40 CFR 63.11(b).

(2) The owner or operator must demonstrate that the flare achieves the requirements in paragraph (h)(1) of this section by performing the procedures specified in paragraph (h)(2)(i) of this section. A previous compliance demonstration for the flare that meets all of the conditions specified in paragraph (h)(2)(ii) of this section may be used by an owner or operator to demonstrate compliance with this paragraph (h)(2).

(i) To demonstrate that a flare achieves the requirements in paragraph (h)(1) of this section, the owner or operator performs all of the procedures specified in paragraphs (h)(2)(i)(A) through (h)(2)(i)(C) of this section.

(A) The owner or operator conducts a visible emission test for the flare in accordance with the requirements specified in 40 CFR 63.11(b)(4).

(B) The owner or operator determines the net heating value of the gas being combusted in the flare in accordance with the requirements specified in 40 CFR 63.11(b)(6); and

(C) The owner or operator determines the flare exit velocity in accordance with the requirements applicable to the flare design as specified in 40 CFR 63.11(b)(7) or 40 CFR 63.11(b)(8).

(ii) A previous compliance demonstration for the flare may be used by an owner or operator to demonstrate compliance with paragraph (h)(2) of this section provided that all conditions for the compliance determination and subsequent flare operation are met as specified in paragraphs (h)(2)(ii)(A) and (h)(2)(ii)(B) of this section.

(A) The owner or operator conducted the compliance determination using the procedures specified in paragraph (h)(2)(i) of this section.

(B) No flare operating parameter or process changes have occurred since completion of the compliance determination which could affect the compliance determination results.

(3) The owner or operator must monitor the operation of the flare using a heat sensing monitoring device (including but not limited to a thermocouple, ultraviolet beam sensor, or infrared sensor) that continuously detects the presence of a pilot flame. The owner or operator must record, for each 1-hour period, whether the monitor was continuously operating and whether a pilot flame was continuously present during each hour as required in § 63.696(b)(3) of this subpart.

14. Section 63.694 is amended by adding paragraphs (a)(12) and (m) and by revising paragraphs (b)(2)(ii), (b)(2)(iii), (b)(3)(i), (c), (e), (f), (g), (h), (i) and (k) to read as follows:

**§ 63.694 Testing methods and procedures.**

(a) * * *

(12) To determine process vent stream flow rate and total organic HAP concentration for compliance with the standards specified in § 63.693 of this subpart, the testing methods and procedures are specified in paragraph (m) of this section.

(b) * * *

(2) * * *

(ii) *Analysis.* Each collected sample must be prepared and analyzed in accordance with one of the following methods as applicable to the sampled off-site material for the purpose of measuring the HAP listed in Table 1 of this subpart:

(A) Method 305 in 40 CFR part 63, appendix A.

(B) Method 25D in 40 CFR part 60, appendix A.

(C) Method 624 in 40 CFR part 136, appendix A. If this method is used to analyze one or more compounds that are not on the method's published list of approved compounds, the Alternative Test Procedure specified in 40 CFR 136.4 and 40 CFR 136.5 must be followed.

(D) Method 625 in 40 CFR part 136, appendix A. For the purpose of using this method to comply with this subpart, the owner or operator must perform corrections to these compounds based on the ''accuracy as recovery'' using the factors in Table 7 of the method. If this method is used to analyze one or more compounds that are not on the method's published list of approved compounds, the Alternative Test Procedure specified in 40 CFR 136.4 and 40 CFR 136.5 must be followed.

(E) Method 1624 in 40 CFR part 136, appendix A.

(F) Method 1625 in 40 CFR part 136, appendix A.

(G) Method 8260 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication No. SW–846, Third Edition, September 1986, as amended by Update I, November 15, 1992. As an alternative, an owner or operator may use any more recent, updated version of Method 8260 approved by the EPA. For the purpose of using Method 8260 to comply with this subpart, the owner or operator must maintain a formal quality assurance program consistent with section 8 of Method 8260, and this program must include the following elements related to measuring the concentrations of volatile compounds:

(*1*) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, and preparation steps.

(*2*) Documentation of specific quality assurance procedures followed during sampling, sample preparation, sample introduction, and analysis.

(*3*) Measurement of the average accuracy and precision of the specific procedures, including field duplicates and field spiking of the off-site material source before or during sampling with compounds having similar chemical characteristics to the target analytes.

(H) Method 8270 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication No. SW–846, Third Edition, September 1986, as amended by Update I, November 15, 1992. As an alternative, an owner or operator may use any more recent, updated version of Method 8270 approved by the EPA. For the purpose of using Method 8270 to comply with this subpart, the owner or operator must maintain a formal quality assurance program consistent with Method 8270, and this program must include the following elements related to measuring the concentrations of volatile compounds:

(*1*) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, and preparation steps.

(*2*) Documentation of specific quality assurance procedures followed during sampling, sample preparation, sample introduction, and analysis.

(*3*) Measurement of the average accuracy and precision of the specific procedures, including field duplicates and field spiking of the off-site material source before or during sampling with compounds having similar chemical characteristics to the target analytes.

(I) Any other analysis method that has been validated in accordance with the procedures specified in section 5.1 and

section 5.3 and the corresponding calculations in section 6.1 or section 6.3 of Method 301 in appendix A in 40 CFR part 63. The data are acceptable if they meet the criteria specified in section 6.1.5 or section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range of 0.7 to 1.30. Other sections of Method 301 are not required.

(iii) Calculations. The average VOHAP concentration (C) on a mass-weighted basis shall be calculated by using the results for all samples analyzed in accordance with paragraph (b)(2)(ii) of this section and the following equation. An owner or operator using a test method that provides species-specific chemical concentrations may adjust the measured concentrations to the corresponding concentration values which would be obtained had the off-site material samples been analyzed using Method 305. To adjust these data, the measured concentration for each individual HAP chemical species contained in the off-site material is multiplied by the appropriate species-specific adjustment factor ($f_{m305}$) listed in Table 1 of this subpart.

$$\overline{C} = \frac{1}{Q} \times \sum_{i=1}^{n} \left(Q_i \times C_i\right)$$

Where:

$\overline{C}$ = Average VOHAP concentration of the off-site material at the point-of-delivery on a mass-weighted basis, ppmw.

i = Individual sample ''i'' of the off-site material.

n = Total number of samples of the off-site material collected (at least 4) for the averaging period (not to exceed 1 year).

$Q_i$ = Mass quantity of off-site material stream represented by $C_{i,\ kg/hr.}$

$Q_T$ = Total mass quantity of off-site material during the averaging period, kg/hr.

$C_i$ = Measured VOHAP concentration of sample ''i'' as determined in accordance with the requirements of § 63.694(a), ppmw.

* * * * *

(3) * * *

(i) Documentation shall be prepared that presents the information used as the basis for the owner's or operator's knowledge of the off-site material stream's average VOHAP concentration. Examples of information that may be used as the basis for knowledge include: material balances for the source or process generating the off-site material stream; species-specific chemical test data for the off-site material stream from previous testing that are still applicable to the current off-site material stream; previous test data for other locations managing the same type of off-site material stream; or other knowledge based on information in documents such as manifests, shipping papers, or waste certification notices.

* * * * *

(c) Determination of average VOHAP concentration of an off-site material stream at the point-of-treatment.

(1) *Sampling.* Samples of the off-site material stream shall be collected at the point-of-treatment in a manner such that volatilization of organics contained in the sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

(i) The averaging period to be used for determining the average VOHAP concentration for the off-site material stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the off-site material stream but shall not exceed 1 year.

(ii) A sufficient number of samples, but no less than four samples, shall be collected to represent the complete range of HAP compositions and HAP quantities that occur in the off-site material stream during the entire averaging period due to normal variations in the operating conditions for the treatment process. Examples of such normal variations are seasonal variations in off-site material quantity or fluctuations in ambient temperature.

(iii) All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the off-site material stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the plant site operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in accordance with the requirements specified in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication No. SW–846 or Method 25D in 40 CFR part 60, appendix A.

(2) *Analysis.* Each collected sample must be prepared and analyzed in accordance with one of the methods specified in paragraphs (b)(2)(ii)(A) through (b)(2)(ii)(I) of this section, as applicable to the sampled off-site material, for the purpose of measuring the HAP listed in Table 1 of this subpart.

(3) *Calculations.* The average VOHAP concentration ($\overline{C}$) a mass-weighted basis shall be calculated by using the results for all samples analyzed in accordance with paragraph (c)(2) of this section and the following equation. An owner or operator using a test method that provides species-specific chemical concentrations may adjust the measured concentrations to the corresponding concentration values which would be obtained had the off-site material samples been analyzed using Method 305. To adjust these data, the measured concentration for each individual HAP chemical species contained in the off-site material is multiplied by the appropriate species-specific adjustment factor ($f_{m305}$) listed in Table 1 of this subpart.

$$\overline{C} = \frac{1}{Q_T} \times \sum_{i=1}^{n} \left(Q_i \times C_i\right)$$

Where:

$\overline{C}$ = Average VOHAP concentration of the off-site material on a mass-weighted basis, ppmw.

i = Individual sample ''i'' of the off-site material.

n = Total number of samples of the off-site material collected (at least 4) for the averaging period (not to exceed 1 year).

$Q_i$ = Mass quantity of off-site material stream represented by $C_i$, kg/hr.

$Q_T$ = Total mass quantity of off-site material during the averaging period, kg/hr.

$C_i$ = Measured VOHAP concentration of sample ''i'' as determined in accordance with the requirements of § 63.694(a), ppmw.

* * * * *

(e) Determination of required HAP mass removal rate (RMR).

(1) Each individual stream containing HAP that enters the treatment process shall be identified.

(2) The average VOHAP concentration at the point-of-delivery for each stream identified in paragraph (e)(1) of this section shall be determined using the test methods and procedures specified in paragraph (b) of this section.

(3) For each stream identified in paragraph (e)(1) of this section that has an average VOHAP concentration equal to or greater than 500 ppmw at the point-of-delivery, the average volumetric flow rate and the density of the off-site material stream at the point-of-delivery shall be determined.

(4) The required HAP mass removal rate (RMR) shall be calculated by using the average VOHAP concentration, average volumetric flow rate, and density determined in paragraph (e)(3) of this section for each stream and the following equation:

$$RMR = \sum_{y=1}^{n}\left[V_y \times k_y \times \frac{\left(\overline{C_y} - 500\ \text{ppmw}\right)}{10^6}\right]$$

Where:

RMR = Required HAP mass removal rate, kg/hr.

y = Individual stream ''y'' that has a VOHAP concentration equal to or greater than 500 ppmw at the point-of-delivery as determined in § 63.694(b).

n = Total number of ''y'' streams treated by process.

$V_y$ = Average volumetric flow rate of stream ''y'' at the point-of-delivery, $m^3$/hr.

$k_y$ = Density of stream ''y'', kg/$m^3$.

$C_y$ = Average VOHAP concentration of stream ''y'' at the point-of-delivery as determined in § 63.694(b)(2), ppmw.

(f) Determination of actual HAP mass removal rate (MR).

(1) The actual HAP mass removal rate (MR) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be 1 hour.

(2) The HAP mass flow entering the process ($E_b$) and the HAP mass flow exiting the process ($E_a$) shall be determined using the test methods and procedures specified in paragraphs (g)(2) through (g)(4) of this section.

(3) The actual mass removal rate shall be calculated using the HAP mass flow rates determined in paragraph (f)(2) of this section and the following equation:

$MR = E_b - E_a$

where:

MR = Actual HAP mass removal rate, kg/hr.

$E_b$ = HAP mass flow entering process as determined in paragraph (f)(2) of this section, kg/hr.

$E_a$ = HAP mass flow exiting process as determined in paragraph (f)(2) of this section, kg/hr.

(g) Determination of treatment process HAP reduction efficiency (R).

(1) The HAP reduction efficiency (R) for a treatment process shall be determined based on results for a minimum of three consecutive runs.

(2) Each individual stream containing HAP that enters the treatment process shall be identified. Each individual stream containing HAP that exits the treatment process shall be identified. The owner or operator shall prepare a sampling plan for measuring the identified streams that accurately reflects the retention time of the material in the process.

(3) For each run, information shall be determined for each stream identified in paragraph (g)(2) of this section as specified in paragraphs (g)(3)(i) through (g)(3)(iii) of this section.

(i) The mass quantity shall be determined for each stream identified in paragraph (g)(2) of this section as entering the process ($Q_b$). The mass quantity shall be determined for each stream identified in paragraph (g)(2) of this section as exiting the process ($Q_a$).

(ii) The average VOHAP concentration at the point-of-delivery shall be determined for each stream entering the process ($C_b$) (as identified in paragraph (g)(2) of this section) using the test methods and procedures specified in paragraph (b) of this section.

(iii) The average VOHAP concentration at the point-of-treatment shall be determined for each stream exiting the process ($C_a$) (as identified in paragraph (g)(2) of this section) using the test methods and procedures specified in paragraph (c) of this section.

(4) The HAP mass flow entering the process ($E_b$) and the HAP mass flow exiting the process ($E_a$) shall be calculated using the results determined in paragraph (g)(3) of this section and the following equations:

$$E_a = \frac{1}{10^6}\sum_{j=1}^{m}\left(Q_{aj} \times \overline{C_{aj}}\right)$$

$$E_b = \frac{1}{10^6}\sum_{j=1}^{m}\left(Q_{bj} \times \overline{C_{bj}}\right)$$

Where:

$E_b$ = HAP mass flow entering process, kg/hr.

$E_a$ = HAP mass flow exiting process, kg/hr.

m = Total number of runs (at least 3)

j = Individual run ''j''

$Q_{bj}$ = Mass quantity of material entering process during run ''j'', kg/hr.

$Q_{aj}$ = Average mass quantity of material exiting process during run ''j'', kg/hr.

$C_{aj}$ = Average VOHAP concentration of material exiting process during run ''j'' as determined in § 63.694(c), ppmw.

$C_{bj}$ = Average VOHAP concentration of material entering process during run ''j'' as determined in § 63.694(b)(2), ppmw.

(5) The HAP reduction efficiency (R) shall be calculated using the HAP mass flow rates determined in paragraph (g)(4) of this section and the following equation:

$$R = \frac{E_b - E_a}{E_b} \times 100$$

Where:

R = HAP reduction efficiency, percent.

$E_b$ = HAP mass flow entering process as determined in paragraph (g)(4) of this section, kg/hr.

$E_a$ = HAP mass flow exiting process as determined in accordance with the requirements of paragraph (g)(4) of this section, kg/hr.

(h) Determination of HAP biodegradation efficiency ($R_{bio}$).

(1) The fraction of HAP biodegraded ($F_{bio}$) shall be determined using one of the procedures specified in appendix C of this part 63.

(2) The HAP biodegradation efficiency ($R_{bio}$) shall be calculated by using the following equation:

$R_{bio} = F_{bio} \times 100$

where:

$R_{bio}$ = HAP biodegradation efficiency, percent.

$F_{bio}$ = Fraction of HAP biodegraded as determined in paragraph (h)(1) of this section.

(i) Determination of actual HAP mass removal rate ($MR_{bio}$).

(1) The actual HAP mass removal rate ($MR_{bio}$) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be 1 hour.

(2) The HAP mass flow entering the process ($E_b$) shall be determined using the test methods and procedures specified in paragraphs (g)(2) through (g)(4) of this section.

(3) The fraction of HAP biodegraded ($F_{bio}$) shall be determined using the procedure specified in 40 CFR part 63, appendix C of this part.

(4) The actual mass removal rate shall be calculated by using the HAP mass

flow rates and fraction of HAP biodegraded determined in paragraphs (i)(2) and (i)(3), respectively, of this section and the following equation:

$MR_{bio} = E^b \times F_{bio}$

Where:

$MR_{bio}$ = Actual HAP mass removal rate, kg/hr.

$E_b$ = HAP mass flow entering process, kg/hr.

$F_{bio}$ = Fraction of HAP biodegraded.

* * * * *

(k) Procedure for determining no detectable organic emissions for the purpose of complying with this subpart.

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

(2) The test shall be performed when the unit contains a material having a total organic concentration representative of the range of concentrations for the materials expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the material placed in the unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air (less than 10 ppmv hydrocarbon in air); and

(ii) A mixture of methane or n-hexane in air at a concentration of approximately, but less than, 10,000 ppmv.

(6) An owner or operator may choose to adjust or not adjust the detection instrument readings to account for the background organic concentration level. If an owner or operator chooses to adjust the instrument readings for the background level, the background level value must be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

(8) An owner or operator must determine if a potential leak interface operates with no detectable emissions using the applicable procedure specified in paragraph (k)(8)(i) or (k)(8)(ii) of this section.

(i) If an owner or operator chooses not to adjust the detection instrument readings for the background organic concentration level, then the maximum organic concentration value measured by the detection instrument is compared directly to the applicable value for the potential leak interface as specified in paragraph (k)(9) of this section.

(ii) If an owner or operator chooses to adjust the detection instrument readings for the background organic concentration level, the value of the arithmetic difference between the maximum organic concentration value measured by the instrument and the background organic concentration value as determined in paragraph (k)(6) of this section is compared with the applicable value for the potential leak interface as specified in paragraph (k)(9) of this section.

(9) A potential leak interface is determined to operate with no detectable emissions using the applicable criteria specified in paragraphs (k)(9)(i) and (k)(9)(ii) of this section.

(i) For a potential leak interface other than a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (k)(8) is less than 500 ppmv.

(ii) For a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (k)(8) is less than 10,000 ppmv.

* * * * *

(m) Determination of process vent stream flow rate and total HAP concentration.

(1) Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, must be used for selection of the sampling site.

(2) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter.

(3) Process vent stream gas volumetric flow rate must be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

(4) Process vent stream total HAP concentration must be measured using the following procedures:

(i) Method 18 of 40 CFR part 60, appendix A, must be used to measure the total HAP concentration. Alternatively, any other method or data that has been validated according to the protocol in Method 301 of appendix A of this part may be used.

(ii) Where Method 18 of 40 CFR part 60, appendix A, is used, the following procedures must be used to calculate parts per million by volume concentration:

(A) The minimum sampling time for each run must be 1 hour in which either an integrated sample or four grab samples must be taken. If grab sampling is used, then the samples must be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(B) The total HAP concentration ($C_{HAP}$) must be computed according to the following equation:

$$C_{HAP} = \frac{\sum_{i=1}^{x}\left(\sum_{j=1}^{n} C_{ji}\right)}{X}$$

Where:

$C_{HAP}$ = Total concentration of HAP compounds listed in Table 1 of this subpart, dry basis, parts per million by volume.

$C_{ji}$ = Concentration of sample component j of the sample i, dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

15. Section 63.695 is revised to read as follows:

**§ 63.695 Inspection and monitoring requirements.**

(a) This section specifies the inspection and monitoring procedures required to perform the following:

(1) To inspect tank fixed roofs and floating roofs for compliance with the Tank Level 2 controls standards specified in § 63.685 of this subpart, the inspection procedures are specified in paragraph (b) of this section.

(2) To inspect and monitor closed-vent systems for compliance with the standards specified in § 63.693 of this subpart, the inspection and monitoring procedures are specified in paragraph (c) of this section.

(3) To inspect and monitor transfer system covers for compliance with the standards specified in § 63.689(c)(1) of this subpart, the inspection and monitoring procedures are specified in paragraph (d) of this section.

(4) To monitor control devices for compliance with the standards specified in § 63.693 of this subpart, the monitoring procedures are specified in paragraph (e) of this section.

(b) Tank Level 2 fixed roof and floating roof inspection requirements.

(1) Owners and operators that use a tank equipped with an internal floating roof in accordance with the provisions of § 63.685(e) of this subpart shall meet the following inspection requirements:

(i) The floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air emissions. Defects include, but are not limited to, the internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the waste surfaces from the atmosphere; or the slotted membrane has more than 10 percent open area.

(ii) The owner or operator shall inspect the internal floating roof components as follows except as provided for in paragraph (b)(1)(iii) of this section:

(A) Visually inspect the internal floating roof components through openings on the fixed-roof (e.g., manholes and roof hatches) at least once every calendar year after initial fill, and

(B) Visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 10 years. Prior to each inspection, the owner or operator shall notify the Administrator in accordance with the reporting requirements specified in § 63.697 of this subpart.

(iii) As an alternative to performing the inspections specified in paragraph (b)(1)(ii) of this section for an internal floating roof equipped with two continuous seals mounted one above the other, the owner or operator may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 5 years. Prior to each inspection, the owner or operator shall notify the Administrator in accordance with the reporting requirements specified in § 63.697 of this subpart.

(iv) In the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (b)(4) of this section.

(v) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 63.696 of this subpart.

(2) Owners and operators that use a tank equipped with an external floating roof in accordance with the provisions of § 63.685(f) of this subpart shall meet the following requirements:

(i) The owner or operator shall measure the external floating roof seal gaps in accordance with the following requirements:

(A) The owner or operator shall perform measurements of gaps between the tank wall and the primary seal within 60 days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every 5 years. Prior to each inspection, the owner or operator shall notify the Administrator in accordance with the reporting requirements specified in § 63.697 of this subpart.

(B) The owner or operator shall perform measurements of gaps between the tank wall and the secondary seal within 60 days after initial operation of the separator following installation of the floating roof and, thereafter, at least once every year. Prior to each inspection, the owner or operator shall notify the Administrator in accordance with the reporting requirements specified in § 63.697 of this subpart.

(C) If a tank ceases to hold off-site material for a period of 1 year or more, subsequent introduction of off-site material into the tank shall be considered an initial operation for the purposes of paragraphs (b)(2)(i)(A) and (b)(2)(i)(B) of this section.

(D) The owner shall determine the total surface area of gaps in the primary seal and in the secondary seal individually using the following procedure.

(*1*) The seal gap measurements shall be performed at one or more floating roof levels when the roof is floating off the roof supports.

(*2*) Seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where a 0.32-centimeter (cm) (⅛-inch) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each such location.

(*3*) For a seal gap measured under paragraph (b)(2) of this section, the gap surface area shall be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance.

(*4*) The total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in § 63.685(f)(1) of this subpart.

(E) In the event that the seal gap measurements do not conform to the specifications in § 63.685(f)(1) of this subpart, the owner or operator shall repair the defect in accordance with the requirements of paragraph (b)(4) of this section.

(F) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 63.696 of this subpart.

(ii) The owner or operator shall visually inspect the external floating roof in accordance with the following requirements:

(A) The floating roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air emissions. Defects include, but are not limited to: holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(B) The owner or operator shall perform the inspections following installation of the external floating roof and, thereafter, at least once every year.

(C) In the event that a defect is detected, the owner or operator shall repair the defect in accordance with the

requirements of paragraph (b)(4) of this section.

(D) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 63.696(d) of this subpart.

(3) Owners and operators that use a tank equipped with a fixed roof in accordance with the provisions of § 63.685(g) of this subpart shall meet the following requirements:

(i) The fixed roof and its closure devices shall be visually inspected by the owner or operator to check for defects that could result in air emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the separator wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices. In the case when a tank is buried partially or entirely underground, inspection is required only for those portions of the cover that extend to or above the ground surface, and those connections that are on such portions of the cover (e.g., fill ports, access hatches, gauge wells, etc.) and can be opened to the atmosphere.

(ii) The owner or operator must perform an initial inspection following installation of the fixed roof. Thereafter, the owner or operator must perform the inspections at least once every calendar year except as provided for in paragraph (f) of this section.

(iii) In the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (b)(4) of this section.

(iv) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 63.696(e) of this subpart.

(4) The owner or operator shall repair each defect detected during an inspection performed in accordance with the requirements of paragraph (b)(1), (b)(2), or (b)(3) of this section in the following manner:

(i) The owner or operator shall within 45 calendar days of detecting the defect either repair the defect or empty the tank and remove it from service. If within this 45-day period the defect cannot be repaired or the tank cannot be removed from service without disrupting operations at the plant site, the owner or operator is allowed two 30-day extensions. In cases when an owner or operator elects to use a 30-day extension, the owner or operator shall prepare and maintain documentation describing the defect, explaining why alternative storage capacity is not available, and specify a schedule of actions that will ensure that the control equipment will be repaired or the tank emptied as soon as possible.

(ii) When a defect is detected during an inspection of a tank that has been emptied and degassed, the owner or operator shall repair the defect before refilling the tank.

(c) Owners and operators that use a closed-vent system in accordance with the provisions of § 63.693 of this subpart shall meet the following inspection and monitoring requirements:

(1) Each closed-vent system that is used to comply with § 63.693(c)(1)(i) of this subpart shall be inspected and monitored in accordance with the following requirements:

(i) At initial startup, the owner or operator shall monitor the closed-vent system components and connections using the procedures specified in § 63.694(k) of this subpart to demonstrate that the closed-vent system operates with no detectable organic emissions.

(ii) After initial startup, the owner or operator shall inspect and monitor the closed-vent system as follows:

(A) Closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of hard piping or a bolted and gasketed ducting flange) shall be visually inspected at least once per year to check for defects that could result in air emissions. The owner or operator shall monitor a component or connection using the procedures specified in § 63.694(k) of this subpart to demonstrate that it operates with no detectable organic emissions following any time the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted).

(B) Closed-vent system components or connections other than those specified in paragraph (c)(1)(ii)(A) of this section, shall be monitored at least once per year using the procedures specified in § 63.694(k) of this subpart to demonstrate that components or connections operate with no detectable organic emissions.

(iii) In the event that a defect or leak is detected, the owner or operator shall repair the defect or leak in accordance with the requirements of paragraph (c)(3) of this section.

(iv) The owner or operator shall maintain a record of the inspection and monitoring in accordance with the requirements specified in § 63.696 of this subpart.

(2) Each closed-vent system that is used to comply with § 63.693(c)(1)(ii) of this subpart shall be inspected and monitored in accordance with the following requirements:

(i) The closed-vent system shall be visually inspected by the owner or operator to check for defects that could result in air emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in ductwork or piping; loose connections; or broken or missing caps or other closure devices.

(ii) The owner or operator must perform an initial inspection following installation of the closed-vent system. Thereafter, the owner or operator must perform the inspections at least once every calendar year except as provided for in paragraph (f) of this section.

(iii) In the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (c)(3) of this section.

(iv) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 63.696 of this subpart.

(3) The owner or operator shall repair all detected defects as follows:

(i) The owner or operator shall make first efforts at repair of the defect no later than 5 calendar days after detection and repair shall be completed as soon as possible but no later than 45 calendar days after detection.

(ii) Repair of a defect may be delayed beyond 45 calendar days if either of the conditions specified in paragraph (c)(3)(ii)(A) or (c)(3)(ii)(B) occurs. In this case, the owner or operator must repair the defect the next time the process or unit that vents to the closed-vent system is shutdown. Repair of the defect must be completed before the process or unit resumes operation.

(A) Completion of the repair is technically infeasible without the shutdown of the process or unit that vents to the closed-vent system.

(B) The owner or operator determines that the air emissions resulting from the repair of the defect within the specified period would be greater than the fugitive emissions likely to result by delaying the repair until the next time the process or unit that vents to the closed-vent system is shutdown.

(iii) The owner or operator shall maintain a record of the defect repair in accordance with the requirements specified in § 63.696 of this subpart.

(d) Owners and operators that use a transfer system equipped with a cover in accordance with the provisions of § 63.689(c)(1) of this subpart shall meet the following inspection requirements:

(1) The cover and its closure devices shall be visually inspected by the owner or operator to check for defects that

could result in air emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the cover sections or between the cover and its mounting; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices. In the case when a transfer system is buried partially or entirely underground, inspection is required only for those portions of the cover that extend to or above the ground surface, and those connections that are on such portions of the cover (e.g., access hatches, etc.) and can be opened to the atmosphere.

(2) The owner or operator must perform an initial inspection following installation of the cover. Thereafter, the owner or operator must perform the inspections at least once every calendar year except as provided for in paragraph (f) of this section.

(3) In the event that a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(5) of this section.

(4) The owner or operator shall maintain a record of the inspection in accordance with the requirements specified in § 63.696 of this subpart.

(5) The owner or operator shall repair all detected defects as follows:

(i) The owner or operator shall make first efforts at repair of the defect no later than 5 calendar days after detection and repair shall be completed as soon as possible but no later than 45 calendar days after detection except as provided in paragraph (d)(5)(ii) of this section.

(ii) Repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the transfer system and no alternative transfer system is available at the site to accept the material normally handled by the system. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the material handled by the transfer system stops operation. Repair of the defect must be completed before the process or unit resumes operation.

(iii) The owner or operator shall maintain a record of the defect repair in accordance with the requirements specified in § 63.696 of this subpart.

(e) *Control device monitoring requirements.* For each control device required under § 63.693 of this subpart to be monitored in accordance with the provisions of this paragraph (e), the owner or operator must ensure that each control device operates properly by monitoring the control device in accordance with the requirements specified in paragraphs (e)(1) through (e)(7) of this section.

(1) A continuous parameter monitoring system must be used to measure the operating parameter or parameters specified for the control device in § 63.693(d) through § 63.693(g) of this subpart as applicable to the type and design of the control device. The continuous parameter monitoring system must meet the following specifications and requirements:

(i) The continuous parameter monitoring system must measure either an instantaneous value at least once every 15 minutes or an average value for intervals of 15 minutes or less and continuously record either:

(A) Each measured data value; or

(B) Each block average value for each 1-hour period or shorter periods calculated from all measured data values during each period. If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the hourly (or shorter period) block average instead of all measured values.

(ii) The monitoring system must be installed, calibrated, operated, and maintained in accordance with the manufacturer's specifications or other written procedures that provide reasonable assurance that the monitoring equipment is operating properly.

(2) Using the data recorded by the monitoring system, the owner or operator must calculate the daily average value for each monitored operating parameter for each operating day. If operation of the control device is continuous, the operating day is a 24-hour period. If control device operation is not continuous, the operating day is the total number of hours of control device operation per 24-hour period. Valid data points must be available for 75 percent of the operating hours in an operating day to compute the daily average.

(3) For each monitored operating parameter, the owner or operator must establish a minimum operating parameter value or a maximum operating parameter value, as appropriate, to define the range of conditions at which the control device must be operated to continuously achieve the applicable performance requirements specified in § 63.693(b)(2) of this subpart. Each minimum or maximum operating parameter value must be established in accordance with the requirements in paragraphs (e)(3)(i) and (e)(3)(ii) of this section.

(i) If the owner or operator conducts a performance test to demonstrate control device performance, then the minimum or maximum operating parameter value must be established based on values measured during the performance test and supplemented, as necessary, by the control device design specifications, manufacturer recommendations, or other applicable information.

(ii) If the owner or operator uses a control device design analysis to demonstrate control device performance, then the minimum or maximum operating parameter value must be established based on the control device design analysis and supplemented, as necessary, by the control device manufacturer recommendations or other applicable information.

(4) An excursion for a given control device is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (e)(4)(i) through (e)(4)(iii) of this section being met. When multiple operating parameters are monitored for the same control device and during the same operating day more than one of these operating parameters meets an excursion criterion specified in paragraphs (e)(4)(i) through (e)(4)(iii) of this section, then a single excursion is determined to have occurred for the control device for that operating day.

(i) An excursion occurs when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit) established for the operating parameter in accordance with the requirements of paragraph (e)(3) of this section.

(ii) An excursion occurs when the period of control device operation is 4 hours or greater in an operating day and the monitoring data are insufficient to constitute a valid hour of data for at least 75 percent of the operating hours. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(iii) An excursion occurs when the period of control device operation is less than 4 hours in an operating day and more than 1 of the hours during the period does not constitute a valid hour of data due to insufficient monitoring data. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(5) For each excursion, except as provided for in paragraph(e)(6) of this section, the owner or operator shall be deemed to have failed to have applied control in a manner that achieves the required operating parameter limits. Failure to achieve the required operating parameter limits is a violation of this standard.

(6) An excursion is not a violation of this standard under any one of the conditions specified in paragraphs (e)(6)(i) and (e)(6)(ii) of this section.

(i) An excursion is not a violation nor does it count toward the number of excused excursions allowed under paragraph (e)(6)(ii) of this section when the excursion occurs during any one of the following periods:

(A) During a period of startup, shutdown, or malfunction when the affected facility is operated during such period in accordance with the facility's startup, shutdown, and malfunction plan; or

(B) During periods of non-operation of the unit or the process that is vented to the control device (resulting in cessation of HAP emissions to which the monitoring applies).

(ii) For each control device, one excused excursion is allowed per semiannual period for any reason. The initial semiannual period is the 6-month reporting period addressed by the first semiannual report submitted by the owner or operator in accordance with § 63.697(b)(4) of this subpart.

(7) Nothing in paragraphs (e)(1) through (e)(6) of this section shall be construed to allow or excuse a monitoring parameter excursion caused by any activity that violates other applicable provisions of this subpart.

(f) *Alternative inspection and monitoring interval.* Following the initial inspection and monitoring of a piece of air pollution control equipment in accordance with the applicable provisions of this section, subsequent inspection and monitoring of the equipment may be performed at intervals longer than 1 year when an owner or operator determines that performing the required inspection or monitoring procedures would expose a worker to dangerous, hazardous, or otherwise unsafe conditions and the owner or operator complies with the requirements specified in paragraphs (f)(1) and (f)(2) of this section.

(1) The owner or operator must prepare and maintain at the plant site written documentation identifying the specific air pollution control equipment designated as ''unsafe to inspect and monitor.'' The documentation must include for each piece of air pollution control equipment designated as such a written explanation of the reasons why the equipment is unsafe to inspect or monitor using the applicable procedures under this section.

(2) The owner or operator must develop and implement a written plan and schedule to inspect and monitor the air pollution control equipment using the applicable procedures specified in this section during times when a worker can safely access the air pollution control equipment. The required inspections and monitoring must be performed as frequently as practicable but do not need to be performed more frequently than the periodic schedule that would be otherwise applicable to the air pollution control equipment under the provisions of this section. A copy of the written plan and schedule must be maintained at the plant site.

16. Section 63.697 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 63.697 Reporting requirements.**

(a) Each owner or operator of an affected source subject to this subpart must comply with the notification requirements specified in paragraph (a)(1) of this section and the reporting requirements specified in paragraph (a)(2) of this section.

(1) The owner or operator of an affected source must submit notices to the Administrator in accordance with the applicable notification requirements in 40 CFR 63.9 as specified in Table 2 of this subpart. For the purpose of this subpart, an owner or operator subject to the initial notification requirements under 40 CFR 63.9(b)(2) must submit the required notification on or before October 19, 1999.

(2) The owner or operator of an affected source must submit reports to the Administrator in accordance with the applicable reporting requirements in 40 CFR 63.10 as specified in Table 2 of this subpart.

(b) The owner or operator of a control device used to meet the requirements of § 63.693 of this subpart shall submit the following notifications and reports to the Administrator:

(1) A Notification of Performance Tests specified in § 63.7 and § 63.9(g) of this part,

(2) Performance test reports specified in § 63.10(d)(2) of this part, and

(3) Startup, shutdown, and malfunction reports specified in § 63.10(d)(5) of this part.

(i) If actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are not completely consistent with the procedures specified in the source's startup, shutdown, and malfunction plan specified in § 63.6(e)(3) of this part, the owner or operator shall state such information in the report. The startup, shutdown, or malfunction report shall consist of a letter, containing the name, title, and signature of the responsible official who is certifying its accuracy, that shall be submitted to the Administrator, and

(ii) Separate startup, shutdown, or malfunction reports are not required if the information is included in the summary report specified in paragraph (b)(4) of this section.

(4) A summary report specified in § 63.10(e)(3) of this part shall be submitted on a semiannual basis (i.e., once every 6-month period). The summary report must include a description of all excursions as defined in § 63.695(e) of this subpart that have occurred during the 6-month reporting period. For each excursion caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the exceedance occurred. For each excursion caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

* * * * *

17. Table 1 in Subpart DD is revised to read as follows:

TABLE 1 TO SUBPART DD—LIST OF HAZARDOUS AIR POLLUTANTS (HAP) FOR SUBPART DD

| CAS No.[a] | Chemical name | $f_{m\ 305}$ |
|---|---|---|
| 75–07–0 | Acetaldehyde | 1.000 |
| 75–05–8 | Acetonitrile | 0.989 |
| 98–86–2 | Acetophenone | 0.314 |

TABLE 1 TO SUBPART DD—LIST OF HAZARDOUS AIR POLLUTANTS (HAP) FOR SUBPART DD—Continued

| CAS No.[a] | Chemical name | $f_{m\ 305}$ |
|---|---|---|
| 107–02–8 | Acrolein | 1.000 |
| 107–13–1 | Acrylonitrile | 0.999 |
| 107–05–1 | Allyl chloride | 1.000 |
| 71–43–2 | Benzene (includes benzene in gasoline) | 1.000 |
| 98–07–7 | Benzotrichloride (isomers and mixture) | 0.958 |
| 100–44–7 | Benzyl chloride | 1.000 |
| 92–52–4 | Biphenyl | 0.864 |
| 542–88–1 | Bis(chloromethyl)ether[b] | 0.999 |
| 75–25–2 | Bromoform | 0.998 |
| 106–99–0 | 1,3-Butadiene | 1.000 |
| 75–15–0 | Carbon disulfide | 1.000 |
| 56–23–5 | Carbon tetrachloride | 1.000 |
| 43–58–1 | Carbonyl sulfide | 1.000 |
| 133–90–4 | Chloramben | 0.633 |
| 108–90–7 | Chlorobenzene | 1.000 |
| 67–66–3 | Chloroform | 1.000 |
| 107–30–2 | Chloromethyl methyl ether[b] | 1.000 |
| 126–99–8 | Chloroprene | 1.000 |
| 98–82–8 | Cumene | 1.000 |
| 94–75–7 | 2,4-D, salts and esters | 0.167 |
| 334–88–3 | Diazomethane[c] | 0.999 |
| 132–64–9 | Dibenzofurans | 0.967 |
| 96–12–8 | 1,2-Dibromo-3-chloropropane | 1.000 |
| 106–46–7 | 1,4-Dichlorobenzene(p) | 1.000 |
| 107–06–2 | Dichloroethane (Ethylene dichloride) | 1.000 |
| 111–44–4 | Dichloroethyl ether (Bis(2-chloroethyl ether) | 0.757 |
| 542–75–6 | 1,3-Dichloropropene | 1.000 |
| 79–44–7 | Dimethyl carbamoyl chloride[c] | 0.150 |
| 64–67–5 | Diethyl sulfate | 0.0025 |
| 77–78–1 | Dimethyl sulfate | 0.086 |
| 121–69–7 | N,N-Dimethylaniline | 0.0008 |
| 51–28–5 | 2,4-Dinitrophenol | 0.0077 |
| 121–14–2 | 2,4-Dinitrotoluene | 0.0848 |
| 123–91–1 | 1,4-Dioxane (1,4-Diethyleneoxide) | 0.869 |
| 106–89–8 | Epichlorohydrin (1-Chloro-2,3-epoxypropane) | 0.939 |
| 106–88–7 | 1,2-Epoxybutane | 1.000 |
| 140–88–5 | Ethyl acrylate | 1.000 |
| 100–41–4 | Ethyl benzene | 1.000 |
| 75–00–3 | Ethyl chloride (Chloroethane) | 1.000 |
| 106–93–4 | Ethylene dibromide (Dibromoethane) | 0.999 |
| 107–06–2 | Ethylene dichloride (1,2-Dichloroethane) | 1.000 |
| 151–56–4 | Ethylene imine (Aziridine) | 0.867 |
| 75–21–8 | Ethylene oxide | 1.000 |
| 75–34–3 | Ethylidene dichloride (1,1-Dichloroethane) | 1.000 |
| | Glycol ethers[d] that have a Henry's Law constant value equal to or greater than 0.1 Y/X (1.8 x $10^{-6}$ atm/gm-mole/$m^3$) at 25°C. | (e) |
| 118–74–1 | Hexachlorobenzene | 0.97 |
| 87–68–3 | Hexachlorobutadiene | 0.88 |
| 67–72–1 | Hexachloroethane | 0.499 |
| 110–54–3 | Hexane | 1.000 |
| 78–59–1 | Isophorone | 0.506 |
| 58–89–9 | Lindane (all isomers) | 1.000 |
| 67–56–1 | Methanol | 0.855 |
| 74–83–9 | Methyl bromide (Bromomethane) | 1.000 |
| 74–87–3 | Methyl chloride (Choromethane) | 1.000 |
| 71–55–6 | Methyl chloroform (1,1,1-Trichloroethane) | 1.000 |
| 78–93–3 | Methyl ethyl ketone (2-Butanone) | 0.990 |
| 74–88–4 | Methyl iodide (Iodomethane) | 1.0001 |
| 108–10–1 | Methyl isobutyl ketone (Hexone) | 0.9796 |
| 624–83–9 | Methyl isocyanate | 1.000 |
| 80–62–6 | Methyl methacrylate | 0.916 |
| 1634–04–4 | Methyl tert butyl ether | 1.000 |
| 75–09–2 | Methylene chloride (Dichloromethane) | 1.000 |
| 91–20–3 | Naphthalene | 0.994 |
| 98–95–3 | Nitrobenzene | 0.394 |
| 79–46–9 | 2-Nitropropane | 0.989 |
| 82–68–8 | Pentachloronitrobenzene (Quintobenzene) | 0.839 |
| 87–86–5 | Pentachlorophenol | 0.0898 |
| 75–44–5 | Phosgene[c] | 1.000 |
| 123–38–6 | Propionaldehyde | 0.999 |
| 78–87–5 | Propylene dichloride (1,2–Dichloropropane) | 1.000 |
| 75–56–9 | Propylene oxide | 1.000 |

TABLE 1 TO SUBPART DD—LIST OF HAZARDOUS AIR POLLUTANTS (HAP) FOR SUBPART DD—Continued

| CAS No.[a] | Chemical name | $f_{m\ 305}$ |
|---|---|---|
| 75–55–8 | 1,2–Propylenimine (2–Methyl aziridine) | 0.945 |
| 100–42–5 | Styrene | 1.000 |
| 96–09–3 | Styrene oxide | 0.830 |
| 79–34–5 | 1,1,2,2–Tetrachloroethane | 0.999 |
| 127–18–4 | Tetrachloroethylene (Perchloroethylene) | 1.000 |
| 108–88–3 | Toluene | 1.000 |
| 95–53–4 | o-Toluidine | 0.152 |
| 120–82–1 | 1,2,4–Trichlorobenzene | 1.000 |
| 71–55–6 | 1,1,1–Trichloroethane (Methyl chlorform) | 1.000 |
| 79–00–5 | 1,1,2–Trichloroethane (Vinyl trichloride) | 1.000 |
| 79–01–6 | Trichloroethylene | 1.000 |
| 95–95–4 | 2,4,5–Trichlorophenol | 0.108 |
| 88–06–2 | 2,4,6–Trichlorophenol | 0.132 |
| 121–44–8 | Triethylamine | 1.000 |
| 540–84–1 | 2,2,4–Trimethylpentane | 1.000 |
| 108–05–4 | Vinyl acetate | 1.000 |
| 593–60–2 | Vinyl bromide | 1.000 |
| 75–01–4 | Vinyl chloride | 1.000 |
| 75–35–4 | Vinylidene chloride (1,1–Dichloroethylene) | 1.000 |
| 1330–20–7 | Xylenes (isomers and mixture) | 1.000 |
| 95–47–6 | o-Xylenes | 1.000 |
| 108–38–3 | m-Xylenes | 1.000 |
| 106–42–3 | p-Xylenes | 1.000 |

**Notes:**

$f_{m\ 305}$ = Method 305 fraction measure factor.

a. CAS numbers refer to the Chemical Abstracts Services registry number assigned to specific compounds, isomers, or mixtures of compounds.

b. Denotes a HAP that hydrolyzes quickly in water, but the hydrolysis products are also HAP chemicals.

c. Denotes a HAP that may react violently with water, exercise caustic is an expected analyte.

d. Denotes a HAP that hydrolyzes slowly in water.

e. The $f_{m305}$ factors for some of the more common glycol ethers can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

18. Table 2 in Subpart DD is revised to read as follows:

TABLE 2 TO SUBPART DD—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD

| Subpart A reference | Applies to Subpart DD | Explanation |
|---|---|---|
| 63.1(a)(1) | Yes | |
| 63.1(a)(2) | Yes | |
| 63.1(a)(3) | Yes | |
| 63.1(a)(4) | No | Subpart DD (this table) specifies applicability of each paragraph in subpart A to subpart DD. |
| 63.1(a)(5)–63.1(a)(9) | No | |
| 63.1(a)(10) | Yes | |
| 63.1(a)(11) | Yes | |
| 63.1(a)(12) | Yes | |
| 63.1(a)(13) | Yes | |
| 63.1(a)(14) | Yes | |
| 63.1(b)(1) | No | Subpart DD specifies its own applicability. |
| 63.1(b)(2) | Yes | |
| 63.1(b)(3) | No | |
| 63.1(c)(1) | No | Subpart DD explicitly specifies requirements that apply. |
| 63.1(c)(2) | No | Area sources are not subject to subpart DD. |
| 63.1(c)(3) | No | |
| 63.1(c)(4) | Yes | |
| 63.1(c)(5) | Yes | Except that sources are not required to submit notifications overridden by this table. |
| 63.1(d) | No | |
| 63.1(e) | No | |
| 63.2 | Yes | § 63.681 of subpart DD specifies that if the same term is defined in subparts A and DD, it shall have the meaning given in subpart DD. |
| 63.3 | Yes | |
| 63.4(a)(1)–63.4(a)(3) | Yes | |
| 63.4(a)(4) | No | Reserved. |
| 63.4(a)(5) | Yes | |
| 63.4(b) | Yes | |

TABLE 2 TO SUBPART DD—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD—Continued

| Subpart A reference | Applies to Subpart DD | Explanation |
|---|---|---|
| 63.4(c) | Yes | |
| 63.5(a)(1) | Yes | Except replace term ''source'' and ''stationary source'' in § 63.5(a)(1) of subpart A with ''affected source.'' |
| 63.5(a)(2) | Yes | |
| 63.5(b)(1) | Yes | |
| 63.5(b)(2) | No | Reserved. |
| 63.5(b)(3) | Yes | |
| 63.5(b)(4) | Yes | Except the cross-reference to § 63.9(b) is changed to § 63.9(b)(4) and (5). Subpart DD overrides § 63.9(b)(2) and (b)(3). |
| 63.5(b)(5) | Yes | |
| 63.5(b)(6) | Yes | |
| 63.5(c) | No | Reserved. |
| 63.5(d)(1)(i) | Yes | |
| 63.5(d)(1)(ii) | Yes | |
| 63.5(d)(1)(iii) | Yes | |
| 63.5(d)(2) | No | |
| 63.5(d)(3) | Yes | |
| 63.5(d)(4) | Yes | |
| 63.5(e) | Yes | |
| 63.5(f)(1) | Yes | |
| 63.5(f)(2) | Yes | |
| 63.6(a) | Yes | |
| 63.6(b)(1) | No | Subpart DD specifies compliance dates for sources subject to subpart DD. |
| 63.6(b)(2) | No | |
| 63.6(b)(3) | Yes | |
| 63.6(b)(4) | No | May apply when standards are proposed under section 112(f) of the Clean Air Act. |
| 63.6(b)(5) | No | § 63.697 of subpart DD includes notification requirements. |
| 63.6(b)(6) | No | |
| 63.6(b)(7) | No | |
| 63.6(c)(1) | No | § 63.680 of subpart DD specifies the compliance date. |
| 63.6(c)(2)–63.6(c)(4) | No | |
| 63.6(c)(5) | Yes | |
| 63.6(d) | No | |
| 63.6(e) | Yes | |
| 63.6(f)(1) | Yes | |
| 63.6(f)(2)(i) | Yes | |
| 63.6(f)(2)(ii) | Yes | Subpart DD specifies the use of monitoring data in determining compliance with subpart DD. |
| 63.6(f)(2)(iii) (A), (B), and (C) | Yes | |
| 63.6(f)(2)(iii) (D) | No | |
| 63.6(f)(2)(iv) | Yes | |
| 63.6(f)(2)(v) | Yes | |
| 63.6(f)(3) | Yes | |
| 63.6(g) | Yes | |
| 63.6(h) | No | Subpart DD does not require opacity and visible emission standards. |
| 63.6(i) | Yes | Except for § 63.6(i)(15), which is reserved. |
| 63.6(j) | Yes | |
| 63.7(a)(1) | No | Subpart DD specifies required testing and compliance demonstration procedures. |
| 63.7(a)(2) | Yes | |
| 63.7(a)(3) | Yes | |
| 63.7(b) | No | |
| 63.7(c) | No | |
| 63.7(d) | Yes | |
| 63.7(e)(1) | Yes | |
| 63.7(e)(2) | Yes | |
| 63.7(e)(3) | No | Subpart DD specifies test methods and procedures. |
| 63.7(e)(4) | Yes | |
| 63.7(f) | No | Subpart DD specifies applicable methods and provides alternatives. |
| 63.7(g) | Yes | |
| 63.7(h)(1) | Yes | |
| 63.7(h)(2) | Yes | |
| 63.7(h)(3) | Yes | |
| 63.7(h)(4) | No | |
| 63.7(h)(5) | Yes | |
| 63.8(a) | No | |
| 63.8(b)(1) | Yes | |
| 63.8(b)(2) | No | Subpart DD specifies locations to conduct monitoring. |
| 63.8(b)(3) | Yes | |

TABLE 2 TO SUBPART DD—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD—Continued

| Subpart A reference | Applies to Subpart DD | Explanation |
|---|---|---|
| 63.8(c)(1)(i) | Yes | |
| 63.8(c)(1)(ii) | Yes | |
| 63.8(c)(1)(iii) | Yes | |
| 63.8(c)(2) | Yes | |
| 63.8(c)(3) | Yes | |
| 63.8(c)(4) | No | Subpart DD specifies monitoring frequency |
| 63.8(c)(5)–63.8(c)(8) | No | |
| 63.8(d) | No | |
| 63.8(e) | No | |
| 63.8(f)(1) | Yes | |
| 63.8(f)(2) | Yes | |
| 63.8(f)(3) | Yes | |
| 63.8(f)(4)(i) | Yes | |
| 63.8(f)(4)(ii) | Yes | |
| 63.8(f)(4)(iii) | No | |
| 63.8(f)(5)(i) | Yes | |
| 63.8(f)(5)(ii) | No | |
| 63.8(f)(5)(iii) | Yes | |
| 63.8(f)(6) | Yes | |
| 63.8(g) | Yes | |
| 63.9(a) | Yes | |
| 63.9(b)(1)(i) | Yes | |
| 63.9(b)(1)(ii) | No | |
| 63.9(b)(2) | Yes | |
| 63.9(b)(3) | No | |
| 63.9(b)(4) | Yes | |
| 63.9(b)(5) | Yes | |
| 63.9(c) | Yes | |
| 63.9(d) | Yes | |
| 63.9(e) | No | |
| 63.9(f) | No | |
| 63.9(g) | No | |
| 63.9(h) | Yes | |
| 63.9(i) | Yes | |
| 63.9(j) | No | |
| 63.10(a) | Yes | |
| 63.10(b)(1) | Yes | |
| 63.10(b)(2)(i) | Yes | |
| 63.10(b)(2)(ii) | Yes | |
| 63.10(b)(2)(iii) | No | |
| 63.10(b)(2)(iv) | Yes | |
| 63.10(b)(2)(v) | Yes | |
| 63.10(b)(2)(vi)–(ix) | Yes | |
| 63.10(b)(2)(x) | Yes | |
| 63.10(b)(2) (xii)–(xiv) | No | |
| 63.10(b)(3) | Yes | |
| 63.10(c) | No | |
| 63.10(d)(1) | No | |
| 63.10(d)(2) | Yes | |
| 63.10(d)(3) | No | |
| 63.10(d)(4) | Yes | |
| 63.10(d)(5)(i) | Yes | |
| 63.10(d)(5)(ii) | Yes | |
| 63.10(e) | No | |
| 63.10(f) | Yes | |
| 63.11–63.15 | Yes | |

[a] Wherever subpart A specifies ''postmark'' dates, submittals may be sent by methods other than the U.S. Mail (e.g., by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.

## Subpart OO—National Emission Standards for Tanks—Level 1

19. Section 63.901 is amended by revising the definition of ''Safety device'' to read as follows:

**§ 63.901 Definitions.**

* * * * *

*Safety device* means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose 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 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.

* * * * *

20. Section 63.902 is amended by revising paragraphs (a) and (b)(3) introductory text to read as follows:

**§ 63.902 Standards—Tank fixed roof.**

(a) This section applies to owners and operators subject to this subpart and controlling air emissions from a tank using a fixed roof. This section does not apply to a fixed-roof tank that is also equipped with an internal floating roof.

(b) * * *

(3) Each opening in the fixed roof, and any manifold system associated with the fixed roof, shall be either:

* * * * *

21. Section 63.905 is revised to read as follows:

**§ 63.905 Test methods and procedures.**

(a) Procedure for determining no detectable organic emissions for the purpose of complying with this subpart.

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

(2) The test shall be performed when the unit contains a material having a total organic concentration representative of the range of concentrations for the materials expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the material placed in the unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air (less than 10 ppmv hydrocarbon in air); and

(ii) A mixture of methane or n-hexane in air at a concentration of approximately, but less than 10,000 ppmv.

(6) An owner or operator may choose to adjust or not adjust the detection instrument readings to account for the background organic concentration level. If an owner or operator chooses to adjust the instrument readings for the background level, the background level value must be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

(8) An owner or operator must determine if a potential leak interface operates with no detectable emissions using the applicable procedure specified in paragraph (a)(8)(i) or (a)(8)(ii) of this section.

(i) If an owner or operator chooses not to adjust the detection instrument readings for the background organic concentration level, then the maximum organic concentration value measured by the detection instrument is compared directly to the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(ii) If an owner or operator chooses to adjust the detection instrument readings for the background organic concentration level, the value of the arithmetic difference between the maximum organic concentration value measured by the instrument and the background organic concentration value as determined in paragraph (a)(6) of this section is compared with the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(9) A potential leak interface is determined to operate with no detectable emissions using the applicable criteria specified in paragraphs (a)(9)(i) and (a)(9)(ii) of this section.

(i) For a potential leak interface other than a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 500 ppmv.

(ii) For a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 10,000 ppmv.

(b) [Reserved]

22. Section 63.906 is amended by revising paragraphs (a)(2) and (b)(2), and adding paragraph (d) to read as follows:

**§ 63.906 Inspection and monitoring requirements.**

(a) * * *

(2) The owner or operator must perform an initial inspection following installation of the fixed roof. Thereafter, the owner or operator must perform the inspections at least once every calendar year except as provided for in paragraph (d) of this section.

* * * * *

(b) * * *

(2) Repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the tank and no alternative tank capacity is available at the site to accept the regulated material normally managed in the tank. In this case, the owner or operator shall repair the defect the next time alternative tank capacity becomes available and the tank can be emptied or temporarily removed from service, as necessary to complete the repair.

* * * * *

(d) *Alternative inspection and monitoring interval.* Following the initial inspection and monitoring of a fixed roof in accordance with this section, subsequent inspection and monitoring of the equipment may be performed at intervals longer than 1 year when an owner or operator determines that performing the required inspection or monitoring procedures would expose a worker to dangerous,

hazardous, or otherwise unsafe conditions and the owner or operator complies with the requirements specified in paragraphs (d)(1) and (d)(2) of this section.

(1) The owner or operator must prepare and maintain at the plant site written documentation identifying the specific air pollution control equipment designated as ''unsafe to inspect and monitor.'' The documentation must include for each piece of air pollution control equipment designated as such a written explanation of the reasons why the equipment is unsafe to inspect or monitor using the applicable procedures under this section.

(2) The owner or operator must develop and implement a written plan and schedule to inspect and monitor the air pollution control equipment using the applicable procedures specified in this section during times when a worker can safely access the air pollution control equipment. The required inspections and monitoring must be performed as frequently as practicable but do not need to be performed more frequently than the periodic schedule that would be otherwise applicable to the air pollution control equipment under the provisions of this section. A copy of the written plan and schedule must be maintained at the plant site.

## Subpart PP—National Emission Standards for Containers

23. Section 63.921 is amended by revising the definitions of ''Empty container'' and ''Safety device'' to read as follows:

### § 63.921 Definitions.

* * * * *

*Empty container* means a container for which either of the following conditions exists: the container meets the conditions for an empty container specified in 40 CFR 261.7(b); or all regulated-material has been removed from the container except for any regulated-material that remains on the interior surfaces of the container as clingage or in pools on the container bottom due to irregularities in the container.

* * * * *

*Safety device* means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose 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 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.

24. Section 63.925 is amended by revising paragraph (a) to read as follows:

### § 63.925 Test methods and procedures.

(a) Procedures for determining no detectable organic emissions for the purpose of complying with this subpart.

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

(2) The test shall be performed when the unit contains a material having a total organic concentration representative of the range of concentrations for the materials expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the material placed in the unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air (less than 10 ppmv hydrocarbon in air); and

(ii) A mixture of methane or n-hexane in air at a concentration of approximately, but less than 10,000 ppmv.

(6) An owner or operator may choose to adjust or not adjust the detection instrument readings to account for the background organic concentration level. If an owner or operator chooses to adjust the instrument readings for the background level, the background level value must be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

(8) An owner or operator must determine if a potential leak interface operates with no detectable emissions using the applicable procedure specified in paragraph (a)(8)(i) or (a)(8)(ii) of this section.

(i) If an owner or operator chooses not to adjust the detection instrument readings for the background organic concentration level, then the maximum organic concentration value measured by the detection instrument is compared directly to the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(ii) If an owner or operator chooses to adjust the detection instrument readings for the background organic concentration level, the value of the arithmetic difference between the maximum organic concentration value measured by the instrument and the background organic concentration value as determined in paragraph (a)(6) of this section is compared with the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(9) A potential leak interface is determined to operate with no detectable emissions using the applicable criteria specified in paragraphs (a)(9)(i) and (a)(9)(ii) of this section.

(i) For a potential leak interface other than a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 500 ppmv.

(ii) For a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 10,000 ppmv.

* * * * *

25. Section 63.926 is amended by revising paragraph (a) to read as follows:

**§ 63.926 Inspection and monitoring requirements.**

(a) Owners and operators of containers using either Container Level 1 or Container Level 2 controls in accordance with the provisions of § 63.922 and § 63.923 of this subpart, respectively, shall inspect the container and its cover and closure devices as follows:

(1) In the case when a regulated-material already is in the container at the time the owner or operator first accepts possession of the container at the facility site and the container is not emptied (i.e., does not meet the conditions for an empty container as defined in § 63.921 of this subpart) within 24 hours after the container has been accepted at the facility site, the container and its cover and closure devices shall be visually inspected by the owner or operator to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. This inspection of the container must be conducted on or before the date that the container is accepted at the facility (i.e., the date that the container becomes subject to the standards under this subpart). For the purpose of this requirement, the date of acceptance is the date of signature of the facility owner or operator on the manifest or shipping papers accompanying the container. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (a)(3) of this section.

(2) In the case when a container filled or partially filled with regulated-material remains unopened at the facility site for a period of 1 year or more, the container and its cover and closure devices shall be visually inspected by the owner or operator initially and thereafter, at least once every calendar year, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (a)(3) of this section.

(3) When a defect is detected for the container, cover, or closure devices, the owner or operator must either empty the regulated-material from the defective container in accordance with paragraph (a)(3)(i) of this section or repair the defective container in accordance with paragraph (a)(3)(ii) of this section.

(i) If the owner or operator elects to empty the regulated-material from the defective container, the owner or operator must remove the regulated-material from the defective container to meet the conditions for an empty container (as defined in § 63.921 of this subpart) and transfer the removed regulated-material to either a container that meets the applicable standards under this subpart or to a tank, process, or treatment unit that meets the applicable standards under the subpart referencing this subpart. Transfer of the regulated-material must be completed no later than 5 calendar days after detection of the defect. The emptied defective container must be either repaired, destroyed, or used for purposes other than management of regulated-material.

(ii) If the owner or operator elects not to empty the regulated-material from the defective container, the owner or operator must repair the defective container. First efforts at repair of the defect must be made no later than 24 hours after detection and repair must be completed as soon as possible but no later than 5 calendar days after detection. If repair of a defect cannot be completed within 5 calendar days, then the regulated-material must be emptied from the container and the container must not be used to manage regulated-material until the defect is repaired.

* * * * *

## Subpart QQ—National Emission Standards for Surface Impoundments

26. Section 63.941 is amended by revising the definitions of ''Cover'' and ''Safety device'' to read as follows:

**§ 63.941 Definitions.**

* * * * *

*Cover* means a device or system that provides a continuous barrier over the material managed in a surface impoundment to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings needed for operation, inspection, sampling, maintenance, and repair of the surface impoundment provided that each opening is closed when not in use (e.g., access hatches, sampling ports). Examples of a cover for a surface impoundment include, but are not limited to, a floating membrane cover placed on the surface of the material in the surface impoundment or an air-supported structure installed over the surface impoundment.

* * * * *

*Safety device* means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose 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 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.

* * * * *

27. Section 63.945 is revised to read as follows:

**§ 63.945 Test methods and procedures.**

(a) Procedure for determining no detectable organic emissions for the purpose of complying with this subpart.

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the

sealing seat interface on a spring-loaded pressure-relief valve.

(2) The test shall be performed when the unit contains a material having a total organic concentration representative of the range of concentrations for the materials expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the material placed in the unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air (less than 10 ppmv hydrocarbon in air); and

(ii) A mixture of methane or n-hexane in air at a concentration of approximately, but less than 10,000 ppmv.

(6) An owner or operator may choose to adjust or not adjust the detection instrument readings to account for the background organic concentration level. If an owner or operator chooses to adjust the instrument readings for the background level, the background level value must be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

(8) An owner or operator must determine if a potential leak interface operates with no detectable emissions using the applicable procedure specified in paragraph (a)(8)(i) or (a)(8)(ii) of this section.

(i) If an owner or operator chooses not to adjust the detection instrument readings for the background organic concentration level, then the maximum organic concentration value measured by the detection instrument is compared directly to the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(ii) If an owner or operator chooses to adjust the detection instrument readings for the background organic concentration level, the value of the arithmetic difference between the maximum organic concentration value measured by the instrument and the background organic concentration value as determined in paragraph (a)(6) of this section is compared with the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(9) A potential leak interface is determined to operate with no detectable emissions using the applicable criteria specified in paragraphs (a)(9)(i) and (a)(9)(ii) of this section.

(i) For a potential leak interface other than a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 500 ppmv.

(ii) For a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 10,000 ppmv.

(b) [Reserved]

28. Section 63.946 is amended by adding paragraph (d) and by revising paragraphs (a)(2) and (b)(1)(ii) to read as follows:

**§ 63.946 Inspection and monitoring requirements.**

(a) * * *

(2) The owner or operator must perform an initial inspection following installation of the floating membrane cover. Thereafter, the owner or operator must perform the inspections at least once per calendar year except as provided for in paragraph (d) of this section.

* * * * *

(b) * * *

(1) * * *

(ii) The owner or operator must perform an initial inspection following installation of the cover. Thereafter, the owner or operator must perform the inspections at least once per calendar year except as provide for in paragraph (d) of this section.

* * * * *

(d) *Alternative inspection and monitoring interval.* Following the initial inspection and monitoring of a piece of air pollution control equipment in accordance with the applicable provisions of this section, subsequent inspection and monitoring of the equipment may be performed at intervals longer than 1 year when an owner or operator determines that performing the required inspection or monitoring procedures would expose a worker to dangerous, hazardous, or otherwise unsafe conditions and the owner or operator complies with the requirements specified in paragraphs (d)(1) and (d)(2) of this section.

(1) The owner or operator must prepare and maintain at the plant site written documentation identifying the specific air pollution control equipment designated as ''unsafe to inspect and monitor.'' The documentation must include for each piece of air pollution control equipment designated as such a written explanation of the reasons why the equipment is unsafe to inspect or monitor using the applicable procedures under this section.

(2) The owner or operator must develop and implement a written plan and schedule to inspect and monitor the air pollution control equipment using the applicable procedures specified in this section during times when a worker can safely access the air pollution control equipment. The required inspections and monitoring must be performed as frequently as practicable but do not need to be performed more frequently than the periodic schedule that would be otherwise applicable to the air pollution control equipment under the provisions of this section. A copy of the written plan and schedule must be maintained at the plant site.

## Subpart RR—National Emission Standards for Individual Drain Systems

29. Section 63.961 is amended by adding in alphabetical order the definition of ''Regulated-material'' and by revising the definitions of ''Individual drain system,'' ''Sewer line'' and ''Waste management unit'' to read as follows:

**§ 63.961 Definitions.**

* * * * *

*Individual drain system* means a stationary system used to convey regulated-material to a waste management unit or to discharge or disposal. The term includes hard-piping, all drains and junction boxes, together with their associated sewer lines and other junction boxes (e.g., manholes, sumps, and lift stations)

conveying regulated-material. For the purpose of this subpart, an individual drain system is not a drain and collection system that is designed and operated for the sole purpose of collecting rainfall runoff (e.g., stormwater sewer system) and is segregated from all other individual drain systems.

* * * * *

*Regulated-material* means the wastewater streams, residuals, and any other materials specified by the referencing subpart to be managed in accordance with the standards under this subpart.

*Sewer line* means a lateral, trunk line, branch line, or other conduit used to convey regulated-material to a downstream waste management unit. Sewer lines include pipes, grates, and trenches.

*Waste management unit* means the equipment, structure, or device used to convey, store, treat, or dispose of regulated-material. 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.

* * * * *

30. Section 63.962 is amended by revising paragraph (b) to read as follows:

**§ 63.962 Standards.**

* * * * *

(b) Owners and operators controlling air emissions from an individual drain system in accordance with paragraph (a)(1) of this section shall meet the following requirements:

(1) The individual drain system shall be designed to segregate the organic vapors from regulated material managed in the controlled individual drain system from entering any other individual drain system that is not controlled for air emissions in accordance with the standards specified in this subpart.

(2) *Drain control requirements.* Each drain shall be equipped with either a water seal or a closure device in accordance with the following requirements:

(i) When a water seal is used, the water seal shall be designed such that either:

(A) The outlet to the pipe discharging the regulated-material extends below the liquid surface in the water seal of the drain; or

(B) A flexible shield or other device is installed which restricts wind motion across the open space between the outlet of the pipe discharging the regulated material and the drain.

(ii) When a closure device is used (e.g., securing a cap or plug on a drain that is not receiving regulated-material), the closure device shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the drain opening and the closure device.

(3) *Junction box control requirements.* Each junction box shall be equipped with controls as follows:

(i) The junction box shall be equipped with a closure device (e.g., manhole cover, access hatch) that is designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the junction box opening and the closure device.

(ii) If the junction box is vented, the junction box shall be vented in accordance with the following requirements:

(A) The junction box shall be vented through a closed vent system to a control device except as provided for in paragraph (b)(3)(ii)(B) of this section. The closed vent system and control device shall be designed and operated in accordance in accordance with the standards specified in § 63.693 in subpart DD—National Emission Standards for Hazardous Air Pollutant Standards from Off-Site Waste and Recovery Operations.

(B) As an alternative to paragraph (b)(3)(ii)(A) of this section, the owner or operator may vent the junction box directly to the atmosphere when all of the following conditions are met:

(*1*) The junction box is filled and emptied by gravity flow (i.e., there is no pump) or is operated with no more than slight fluctuations in the liquid level. Large changes in the size of the junction box vapor headspace created by using a pump to repeatedly empty and then refill the junction box do not meet this condition.

(*2*) The vent pipe installed on the junction box shall be at least 90 centimeters in length and no greater than 10 centimeters in nominal inside diameter.

(*3*) Water seals are installed at the liquid entrance(s) to or exit from the junction box to restrict ventilation in the individual drain system and between components in the individual drain system. The owner or operator shall demonstrate (e.g., by visual inspection or smoke test) upon request by the Administrator that the junction box water seal is properly designed and restricts ventilation.

(4) *Sewer line control requirements.* Each sewer line shall not be open to the atmosphere and shall be covered or closed in a manner such that there are no visible cracks, holes, gaps, or other open spaces in the sewer line joints, seals, or other emission interfaces.

(5) *Operating requirements.* The owner or operator shall operate the air emission controls required by paragraphs (b)(2) through (b)(4) of this section in accordance with the following requirements:

(i) Each closure device shall be maintained in a closed position whenever regulated-material is in the individual drain system except when it is necessary to remove or open the closure device for sampling or removing material in the individual drain system, or for equipment inspection, maintenance, or repair.

(ii) Each drain equipped with a water seal and open to the atmosphere shall be operated to ensure that the liquid in the water seal is maintained at the appropriate level. Examples of acceptable means for complying with this provision include but are not limited to using a flow-monitoring device indicating positive flow from a main to a branch water line supplying a trap; continuously dripping water into the trap using a hose; or regular visual observations.

(iii) Each closed-vent system and the control device used to comply with paragraph (b)(3)(ii)(A) of this section shall be operated in accordance with the standards specified in 40 CFR 63.693.

31. Section 63.964 is amended by revising paragraph (b)(2) to read as follows:

**§ 63.964 Inspection and monitoring requirements.**

* * * * *

(b) * * *

(2) Repair of a defect may be delayed beyond 15 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the individual drain system and no alternative capacity is available at the facility site to accept the regulated-material normally managed in the individual drain system. In this case, the owner or operator shall repair the defect the next time the process or unit that is generating the regulated-material managed in the individual drain system stops operation. Repair of the defect shall be completed

before the process or unit resumes operation.

* * * * *

32. Section 63.965 is amended by revising paragraph (b) to read as follows:

**§ 63.965 Recordkeeping requirements.**

* * * * *

(b) Owners and operators that use a closed-vent system and a control device in accordance with the provisions of § 63.962 of this subpart shall prepare and maintain the records required for the closed-vent system and control device in accordance with the requirements of § 63.693 in subpart DD—National Emission Standards for Hazardous Air Pollutant Standards from Off-Site Waste and Recovery Operations.

33. Section 63.966 is revised to read as follows:

**§ 63.966 Reporting requirements.**

Owners and operators that use a closed-vent system and a control device in accordance with the provisions of § 63.962 of this subpart shall prepare and submit to the Administrator the reports required for closed-vent systems and control devices in accordance with the requirements of § 63.693 in subpart DD—National Emission Standards for Hazardous Air Pollutant Standards from Off-Site Waste and Recovery Operations.

## Subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators

34. Section 63.1041 is amended by revising the definition of ''Safety device'' to read as follows:

**§ 63.1041 Definitions.**

* * * * *

*Safety device* means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions to prevent physical damage or permanent deformation to equipment by venting gases or vapors during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose 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 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.

* * * * *

35. Section 63.1045 is added to read as follows:

**§ 63.1045 Standards—Pressurized separator.**

(a) This section applies to owners and operators controlling air emissions from an oil-water or organic-water separator that is pressurized and is operated as a closed-system.

(b) The pressurized separator must meet the following requirements.

(1) The separator must be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the separator during operation of the separator at its design capacity.

(2) All separator openings must be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in § 63.1046(a) of this subpart.

(3) Whenever a regulated-material is in the separator, the separator must be operated as a closed system that does not vent to the atmosphere except under either of the following conditions as specified in paragraph (b)(3)(i) or (b)(3)(ii) of this section.

(i) At those times when opening of a safety device, as defined in § 63.1041 of this subpart, is required to avoid an unsafe condition.

(ii) At those times when purging of inerts from the separator is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the applicable requirements of § 63.693 in subpart DD—National Emission Standards for Hazardous Air Pollutant Standards from Off-Site Waste and Recovery Operations.

36. Section 63.1046 is amended by revising paragraphs (a) and (b)(3) to read as follows:

**§ 63.1046 Test methods and procedures.**

(a) Procedure for determining no detectable organic emissions for the purpose of complying with this subpart.

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to: the interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

(2) The test shall be performed when the unit contains a material having a total organic concentration representative of the range of concentrations for the materials expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the material placed in the unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air (less than 10 ppmv hydrocarbon in air); and

(ii) A mixture of methane or n-hexane in air at a concentration of approximately, but less than 10,000 ppmv.

(6) An owner or operator may choose to adjust or not adjust the detection instrument readings to account for the background organic concentration level. If an owner or operator chooses to adjust the instrument readings for the background level, the background level value must be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface shall be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet shall be placed at approximately the center of the exhaust area to the atmosphere.

(8) An owner or operator must determine if a potential leak interface operates with no detectable emissions using the applicable procedure specified in paragraph (a)(8)(i) or (a)(8)(ii) of this section.

(i) If an owner or operator chooses not to adjust the detection instrument readings for the background organic concentration level, then the maximum organic concentration value measured by the detection instrument is compared directly to the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(ii) If an owner or operator chooses to adjust the detection instrument readings for the background organic concentration level, the value of the arithmetic difference between the maximum organic concentration value measured by the instrument and the background organic concentration value as determined in paragraph (a)(6) of this section is compared with the applicable value for the potential leak interface as specified in paragraph (a)(9) of this section.

(9) A potential leak interface is determined to operate with no detectable emissions using the applicable criteria specified in paragraphs (a)(9)(i) and (a)(9)(ii) of this section.

(i) For a potential leak interface other than a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 500 ppmv.

(ii) For a seal around a shaft that passes through a cover opening, the potential leak interface is determined to operate with no detectable organic emissions if the organic concentration value determined in paragraph (a)(8) is less than 10,000 ppmv.

(b) * * *

(3) Seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where 0.32-centimeter (cm) (⅛ inch) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the separator and measure the circumferential distance of each such location.

* * * * *

37. Section 63.1047 is amended by adding paragraph (e) and by revising paragraphs (a)(2) and (c)(1)(ii) to read as follows:

**§ 63.1047 Inspection and monitoring requirements.**

(a) * * *

(2) The owner or operator must perform an initial inspection following installation of the fixed roof. Thereafter, the owner or operator must perform the inspections at least once every calendar year except as provided for in paragraph (e) of this section.

* * * * *

(c) * * *

(1) * * *

(ii) The owner or operator must perform an initial inspection following installation of the fixed roof. Thereafter, the owner or operator must perform the inspections at least once every calendar year except as provided for in paragraph (e) of this section.

* * * * *

(e) *Alternative inspection interval.* Following the initial inspection of a fixed roof in accordance with the applicable provisions of this section, subsequent inspection of the fixed roof may be performed at intervals longer than 1 year when an owner or operator determines that performing the required inspection would expose a worker to dangerous, hazardous, or otherwise unsafe conditions and the owner or operator complies with the requirements specified in paragraphs (e)(1) and (e)(2) of this section.

(1) The owner or operator must prepare and maintain at the plant site written documentation identifying the specific fixed roof designated as ''unsafe to inspect.'' The documentation must include for each fixed roof designated as such a written explanation of the reasons why the fixed roof is unsafe to inspect using the applicable procedures under this section.

(2) The owner or operator must develop and implement a written plan and schedule to inspect and monitor the fixed roof using the applicable procedures specified in this section during times when a worker can safely access the fixed roof. The required inspections and monitoring must be performed as frequently as practicable but do not need to be performed more frequently than the periodic schedule that would be otherwise applicable to the fixed roof under the provisions of this section. A copy of the written plan and schedule must be maintained at the plant site.

[FR Doc. 99–17943 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[FRL–6377–4]**

**RIN 2060–AH96**

## National Emission Standards for Hazardous Air Pollutants for Source Categories: National Emission Standards for Off-Site Waste and Recovery Operations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is taking direct final action to amend the national emission standards for hazardous air pollutants (NESHAP) for off-site waste and recovery operations (OSWRO) that the EPA promulgated on July 1, 1996, under authority of section 112 of the Clean Air Act (CAA). The rule applies to owners and operators of facilities that are major sources of hazardous air pollutants (HAP) and manage certain wastes, used oil, or used solvents received from off-site locations. We are proposing to amend specific provisions in the rule to resolve issues and questions raised after promulgation of the final rule; correct technical omissions; update specific requirements to be consistent with recent decisions made by the Agency for other related air rules; and correct typographical, printing, and grammatical errors.

In the ''Rules and Regulations'' section of this **Federal Register** publication, we are amending the OSWRO NESHAP as a direct final rule without prior proposal because we view the amendments as noncontroversial and anticipate no adverse comment. We have explained our reasons for the amendments in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address the comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** *Comments.* Written comments must be received by August 19, 1999. Additionally, a public hearing regarding the proposed amendments will be held if anyone requesting to speak contacts the EPA by August 10, 1999. If a hearing is requested, the hearing will be held on August 19, 1999 beginning at 10:00 a.m., and the record on the hearing will remain open for 30 days after the hearing date to provide an opportunity for submittal of rebuttal and additional information.

**ADDRESSES:** *Comments:* Written comments (in duplicate, if possible) should be submitted to Docket No. A–92–16 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW, Washington, DC 20460. We request that a separate copy of the comments also be sent to the contact person listed below.

Comments on this action also may be submitted electronically to the EPA's Air and Radiation Docket and Information Center at: ''A-and-R-Docket@epamail.epa.gov.'' Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A–92–16). No CBI should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

*Public Hearing.* If a public hearing is requested by the required date (see **DATES** section in this notice), the public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, NC. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. JoLynn Collins, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–5671.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elaine Manning, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–5499, facsimile number (919) 541–0246, electronic mail address ''manning.elaine@epamail.epa.gov''.

**SUPPLEMENTARY INFORMATION:** This document concerns proposed amendments to the National Emission Standards for Hazardous Air Pollutants for Off-site Waste and Recovery Operations. For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: July 7, 1999.

**Carol M. Browner,**

*Administrator.*

[FR Doc. 99–17944 Filed 7–19–99; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
July 20, 1999

# Part III

# Environmental Protection Agency

## Methyl Parathion, Revised Organophosphate Pesticide Risk Assessments; Public Meeting; Notice

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–34161A; FRL–6091–5]**

## Methyl Parathion, Revised Organophosphate Pesticide Risk Assessments; Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA will hold a public meeting to present the revised risk assessments for one organophosphate pesticide, methyl parathion, to interested stakeholders. This public meeting, called a ''Technical Briefing,'' will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for methyl parathion. In addition, representatives of the U.S. Department of Agriculture (USDA) will provide ideas on possible risk management for methyl parathion.

**DATES:** The technical briefing will be held on Monday, August 2, 1999, from 9 a.m. to noon.

**ADDRESSES:** The technical briefing will be held at the Holiday Inn-Old Town, 625 First St., Alexandria, VA, (703) 548–6300.

**FOR FURTHER INFORMATION CONTACT:** Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does This Action Apply To Me?*

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphates, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

*B. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document and certain other available documents 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 the '' **Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

A brief summary of the methyl parathion revised risk assessments is now available at: http://www.epa.gov/pesticides/op/status.htm/, as well as in paper as part of the public version of the official record as described in Unit I.B.2. of this document. To access information about the revised risk assessments, which are scheduled for release on the day of the technical briefing, for the organophosphate pesticide methyl parathion, go directly to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/op/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34161A. The official record consists of the documents specifically referenced in this action, any public comments received during the applicable comment period, and other information related to this action, including information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during the applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

### II. What Action has EPA Taken?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticide, methyl parathion. The Agency is presenting the revised risk assessments for methyl parathion to interested stakeholders. Technical briefings are designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments, including: The major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessments affected the revised risk assessments; and the pesticide use information/data that was used in developing the revised risk assessments. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management for methyl parathion.

Technical briefings are part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

On the day of the technical briefing, in addition to making copies available at the meeting site, the Agency will also release for public viewing the methyl parathion revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1. of this document. In addition, the Agency will issue a **Federal Register** notice to provide an opportunity for a 60-day public participation period during which the public may submit recommendations and proposals for transition.

### List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: July 16, 1999.

**Jack E. Housenger,**

*Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 99–18649 Filed 7–16–99; 4:17 pm]

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## REMINDERS

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.

## RULES GOING INTO EFFECT JULY 20, 1999

**FEDERAL COMMUNICATIONS COMMISSION**

Organization, functions, and authority delegations:

Wireless Telecommunications Bureau; Gettysburg, PA reference facility elimination and license application information availability; published 5-28-99

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Color additives:

D&C Violet No. 2 for coloring meniscal tacks; published 6-18-99

**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:

North Dakota; published 7-20-99

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Animal welfare:

Confiscation of animals; comments due by 7-27-99; published 5-28-99

Plant-related quarantine, domestic:

Asian longhorned beetle; comments due by 7-26-99; published 5-27-99

Veterinary services; import or entry services at ports, user fees; comments due by 7-27-99; published 5-28-99

**AGRICULTURE DEPARTMENT**

**Food and Nutrition Service**

Food stamp program:

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation—

Coupons replacement by electronic benefit transfer systems; comments due by 7-26-99; published 5-27-99

**AGRICULTURE DEPARTMENT**

**Farm Service Agency**

Warehouses:

Cotton warehouses; ≥without unnecessary delay≥ defined; comments due by 7-27-99; published 5-28-99

**AGRICULTURE DEPARTMENT**

**Food Safety and Inspection Service**

Meat and poultry inspection:

Listeria monocytogenes contamination of ready-to-eat products; compliance with HACCP system regulations and comment request; comments due by 7-26-99; published 5-26-99

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Northeastern United States fisheries—

Atlantic mackerel, squid, and butterfish; comments due by 7-26-99; published 6-25-99

Ocean and coastal resource management:

Channel Islands National Marine Sanctuary, CA; review of management plan/regulations, intent to prepare environmental impact statement, and scoping meetings; comments due by 7-27-99; published 6-11-99

**DEFENSE DEPARTMENT**

Acquisition regulations:

Overseas use of purchase card; comments due by 7-26-99; published 5-25-99

Federal Acquisition Regulation (FAR):

Relocation costs; comments due by 7-26-99; published 5-25-99

Freedom of Information Act; implementation:

Defense Information Systems Agency and Office of Manager, National Communications System; comments due by 7-26-99; published 5-27-99

**EDUCATION DEPARTMENT**

Postsecondary education:

William D. Ford Federal Direct Loan Program; comments due by 7-30-99; published 6-16-99

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollutants, hazardous; national emission standards:

Generic maximum achievable control technology; process wastewater provisions; comments due by 7-29-99; published 6-29-99

Polymers and resins (Groups I and IV); comments due by 7-30-99; published 6-30-99

Air programs:

Accidental release prevention—

Flammable hydrocarbon fuel exemption; comments due by 7-28-99; published 6-25-99

Air programs; State authority delegations:

Arizona; comments due by 7-28-99; published 6-28-99

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 7-28-99; published 6-28-99

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Hazardous waste:

Land disposal restrictions—

Mercury-bearing wastes; treatment standards; comments due by 7-27-99; published 5-28-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Fenhexamid; comments due by 7-27-99; published 5-28-99

Spinosad; comments due by 7-26-99; published 5-26-99

Tebuconazole; comments due by 7-26-99; published 5-26-99

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National oil and hazardous substances contingency plan—

National priorities list update; comments due by 7-26-99; published 6-24-99

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**FEDERAL COMMUNICATIONS COMMISSION**

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Radio stations; table of assignments:

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**GENERAL SERVICES ADMINISTRATION**

Federal Acquisition Regulation (FAR):

Relocation costs; comments due by 7-26-99; published 5-25-99

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Biological products:

Albumin (human), plasma protein fraction (human), and immune globulin (human); comments due by 7-28-99; published 5-14-99

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Health Care Financing Administration**

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Ambulatory surgical centers; ratesetting methodology, payment rates and policies, and covered surgical procedures list; comments due by 7-30-99; published 7-6-99

Hospital outpatient services; prospective payment system; comments due by 7-30-99; published 7-6-99

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Public Health Service**

Indian Child Protection and Family Violence Prevention Act; implementation:

Individuals employed in positions involving regular contact with or control over Indian children; minimum standards of character and employment suitability; comments due by 7-26-99; published 5-27-99

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:

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Ventura marsh milk-vetch; comments due by 7-26-99; published 5-25-99

Migratory bird hunting:

Seasons, limits, and shooting hours; establishment, etc.; comments due by 7-27-99; published 5-3-99

**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

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**JUSTICE DEPARTMENT**

**Immigration and Naturalization Service**

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**JUSTICE DEPARTMENT**

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Designation of agencies to receive and investigate reports of child pornography; comments due by 7-26-99; published 5-26-99

**LABOR DEPARTMENT**

**Mine Safety and Health Administration**

Coal mine and metal and nonmetal mine safety and health:

Underground mines—

Diesel particulate matter exposure of miners; correction; comments due by 7-26-99; published 7-8-99

Coal mine safety and health:

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Diesel particulate matter exposure of miners; comments due by 7-26-99; published 4-27-99

**NATIONAL CREDIT UNION ADMINISTRATION**

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**SMALL BUSINESS ADMINISTRATION**

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Economic regulations:

Airline code-sharing arrangements, long-term wet leases, and change-of-gauge services; disclosure; comments due by 7-30-99; published 7-15-99

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**Federal Aviation Administration**

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**TRANSPORTATION DEPARTMENT**

**Research and Special Programs Administration**

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**TRANSPORTATION DEPARTMENT**

**Surface Transportation Board**

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**Customs Service**

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**TREASURY DEPARTMENT**

**Internal Revenue Service**

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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**H.R. 435/P.L. 106–36**

Miscellaneous Trade and Technical Corrections Act of 1999 (June 25, 1999; 113 Stat. 127)

**Last List June 17, 1999**

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