Federal Register

7–11–02
Vol. 67 No. 133
Pages 45895–46092

Thursday
July 11, 2002

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512–1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

How To Cite This Publication: Use the volume number and the page number. Example: 67 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**202–523–5243**
Assistance with Federal agency subscriptions	**202–523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the **Federal Register** and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the **Federal Register** and Code of Federal Regulations.
3. The important elements of typical **Federal Register** documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: July 23, 2002—9:00 a.m. to noon

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

RESERVATIONS: 202–523–4538; or
info@fedreg.nara.gov

Contents

Federal Register

Vol. 67, No. 133

Thursday, July 11, 2002

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.
To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register

Vol. 67, No. 133

Thursday, July 11, 2002

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

RIN 0551–AA61

Administrative Regulations for the Freedom of Information Act

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Foreign Agricultural Service is issuing administrative guidelines to govern the availability of records under the Freedom of Information Act (FOIA).

EFFECTIVE DATE: July 11, 2002.

FOR FURTHER INFORMATION CONTACT: Donald Washington, FOIA Officer, Foreign Agricultural Service, at (202) 720–3101.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is issued in conformance with Executive Order 12866. It has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has not retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Regulatory Flexibility Act

The FAS Administrator certifies that this rule will not have a significant economic impact on substantial number of small entities. This rule implements the Freedom of Information Act, as statute concerning the release of Federal Government records, and does not economically impact the private sector.

Paperwork Reduction Act

USDA certifies that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

Effective Date

Because this regulation involves agency management, FAS is not required to publish a notice of proposed rulemaking and the regulation may be effective upon publication.

Background

This regulation constitutes the Foreign Agricultural Service's compliance with the directive in 7 CFR 1.3 that each agency of the Department of Agriculture publish specified information regarding the availability of records under the Freedom of Information Act (FOIA).

List of Subjects in 7 CFR Part 1520

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, part 1520 of 7 CFR is revised to read as follows:

PART 1520—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.

Authority: 5 U.S.C. 552

§ 1520.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture 7 CFR, part 1—Administrative Regulations, Subpart A—Official Records, § 1.3, Agency Implementing Regulations, for the Freedom of Information Act (5 U.S.C. 552). The Secretary's Regulations, as implemented by the regulations in this part govern the availability of records of the Foreign Agricultural Service (FAS) to the public.

§ 1520.2 Location and hours.

Members of the public should contact the FAS FOIA Officer to arrange a place and time to review documents. Contact the U.S. Department of Agriculture, Foreign Agriculture Service, Public Affairs Division, 1400 Independence Avenue SW., Washington, DC 20250–1004. The office will be open from 8:30 a.m. to 5 p.m. Monday through Friday, except national holidays, Tel.: 202–720–3448, Fax: 202–720–1727.

§ 1520.3 Indexes/Record systems.

5 U.S.C. 552(a)(2) required that each agency publish or otherwise make available a current index of all materials for public inspection and copying. The Foreign Agricultural Service maintains the following record systems. FAS regulations, manuals, and notices; attache reports; general publications; and statements of policy and procedures for various FAS programs. Copies of the FAS index may be obtained free of charge by contacting the office specified in § 1520.2.

§ 1520.4 Agency FOIA Officer.

Requests for records shall be made to the Freedom of Information Officer, Public Affairs Division, Foreign Agricultural Service, Ag Box 1004, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1004. Tel.: 202–720–3448, Fax: 202–720–1727.

§ 1520.5 Agency Appeal Official.

Any person whose request under § 1520.4 is denied shall have the right to appeal such a denial. For appeals, write to the following official and mark your letters "FOIA Appeal": Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–1004, Attn: FOIA Appeal.

§ 1520.6 Other information.

Many documents are available to the public without having to file an FOIA request. These include press releases, speeches, congressional testimony, program regulations, and some letters and memoranda. Some of this information can be found on the FAS web site, www.fas.uda.gov. Also, the FAS annual FOIA report is available on the agency's web site at www.fas.usda.gov. Click on FOIA at the bottom of the page. To request a paper copy of the FAS FOAI annual report, write to: Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Ag Box 1004, Washington, DC 20250–1004, Attn: Freedom on Information Officer.

Dated: July 3, 2002.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 02–17452 Filed 7–10–02; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–131–2]

Change in Disease Status of Finland Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding Finland to the list of regions where bovine spongiform encephalopathy exists because the disease had been detected in a native-born animal in that region. Finland had already been listed among the regions that presents an undue risk of introducing bovine spongiform encephalopathy into the United States, so the effect of the interim rule was a continued restriction on the importation of ruminants, meat, meat products, and certain other products of ruminants that have been in Finland. The interim rule was necessary in order to update the disease status of Finland regarding bovine spongiform encephalopathy.

EFFECTIVE DATE: The interim rule became effective on December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, Sanitary Issues Management Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective December 7, 2001, and published in the **Federal Register** on March 20, 2002 (67 FR 12831–12832, Docket No. 01–131–1), we amended the regulations in 9 CFR part 94 by adding Finland to the list of regions where bovine spongiform encephalopathy (BSE) exists. Finland had previously been listed in § 94.18(a)(2) as a region that presents an undue risk of introducing BSE into the United States. However, due to the detection of BSE in a native-born animal in that region, the interim rule was necessary to update the disease status of Finland regarding BSE.

Comments on the interim rule were required to be received on or before May 20, 2002. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 67 FR 12831–12832 on March 20, 2002.

Authority: 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 5th day of July 2002.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–17433 Filed 7–10–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02–004–2]

Change in Disease Status of Austria Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding Austria to the list of regions where bovine spongiform encephalopathy exists because the disease had been detected in a native-born animal in that region. Austria had already been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States, so the effect of the interim rule was a continued restriction on the importation of ruminants, meat, meat products, and certain other products of ruminants that have been in Austria. The interim rule was necessary in order to update the disease status of Austria regarding bovine spongiform encephalopathy.

EFFECTIVE DATE: The interim rule became effective on December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, Sanitary Issues Management Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective December 13, 2001, and published in the **Federal Register** on March 20, 2002 (67 FR 12833–12834, Docket No. 02–004–1), we amended the regulations in 9 CFR part 94 by adding Austria to the list of regions where bovine spongiform encephalopathy (BSE) exists. Austria had previously been listed in § 94.18(a)(2) as a region that presents an undue risk of introducing BSE into the United States. However, due to the detection of BSE in a native-born animal in that region, the interim rule was necessary to update the disease status of Austria regarding BSE.

Comments on the interim rule were required to be received on or before May 20, 2002. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 67 FR 12833–12834 on March 20, 2002.

Authority: 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 5th day of July, 2002.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–17434 Filed 7–10–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–15–AD; Amendment 39–12817; AD 2002–14–17]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model EC135 helicopters, that currently requires initial and repetitive visual inspections and a one-time dye-penetrant inspection of a certain main rotor hub shaft (shaft) for cracks, and replacement of any cracked shafts. This amendment requires the same actions as the existing AD, but corrects the shaft part number (P/N) in the current AD, includes additional P/N's, increases the area of inspection from a 40mm area to a 50mm area of the shaft, and provides an option for using either a visual or dye-penetrant inspection to satisfy the repetitive inspection requirement. This amendment is prompted by the need to correct the shaft part number and increase the area of inspection, as well as add additional affected shaft P/N's. The actions specified by this AD are intended to detect fatigue cracks in the shaft that could lead to shaft failure and subsequent loss of control of the helicopter.

DATES: Effective July 26, 2002.

Comments for inclusion in the Rules Docket must be received on or before September 9, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–15–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On July 1, 1999, the FAA published emergency AD 99–12–01, issued on May 27, 1999, as Amendment 39–11217 (64 FR 35559), to require initial and repetitive visual inspections and a one-time dye-penetrant inspection of the shaft for cracks, and replacing the shaft if a crack is found. That action was prompted by the discovery of fatigue cracks on the shaft of this model helicopter. That condition, if not corrected, could result in shaft failure and subsequent loss of control of the helicopter.

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, notified the FAA that an unsafe condition may exist on Eurocopter Model EC135 helicopters. The LBA advises that, following a recent test run, cracks have been found on a shaft.

Since the issuance of AD 99–12–01, the manufacturer has released Eurocopter Alert Service Bulletin EC135–62A–004, Revision 3, dated November 10, 2000, that increases the area of the shaft to be inspected from 40mm to 50mm. The LBA classified this alert service bulletin as mandatory and issued AD 1999–185/4, dated October 18, 2001, to ensure the continued airworthiness of these helicopters in the Federal Republic of Germany. That AD requires initial and repetitive visual inspections or dye-penetrant inspections, and replacing the shaft before the next flight if any crack is found.

The FAA has determined that AD 99–12–01 contained an error in the applicable shaft P/N–P/N L623M100S 101 should have been stated as P/N L623M1003 101. Also, the FAA has determined that additional shaft P/N's should have been included in the AD and that operators should have an option with regard to the repetitive inspections of either conducting a visual inspection at intervals not to exceed 15 hours time-in-service (TIS) or a dye-penetrant inspection at intervals not to exceed 100 hours TIS.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model EC135 helicopters of the same type design, this AD supersedes AD 99–12–01 to require an initial visual inspection, and either repetitive visual inspections or repetitive dye-penetrant inspections of the shaft for a crack, and replacement of any cracked shafts. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, an initial visual inspection of the shaft for cracks and replacement of any cracked shaft is required before further flight, and this AD must be issued immediately.

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

The FAA estimates that 40 helicopters will be affected by this AD, that it will take approximately 0.5 work hours to accomplish the visual inspections, 1 work hour per helicopter to accomplish the dye-penetrant inspection, and 16 work hours to replace a shaft, if necessary; and that the average labor rate is $60 per work hour. Required parts will cost approximately $39,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $561,120, assuming one visual inspection and 200 dye-penetrant inspections per helicopter and that only 2 shafts need replacing.

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 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. 2002–SW–15–AD.'' The postcard will be date stamped and returned to the commenter.

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

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 removing Amendment 39–11217 (64 FR 35559, July 1, 1999), and by adding a new airworthiness directive (AD), Amendment 39–12817, to read as follows:

AD 2002–14–17 Eurocopter Deutschland GMBH: Amendment 39–12817. Docket No. 2002–SW–15–AD. Supersedes AD 99–12–01, Amendment 39–11217, Docket No. 99–SW–38–AD.

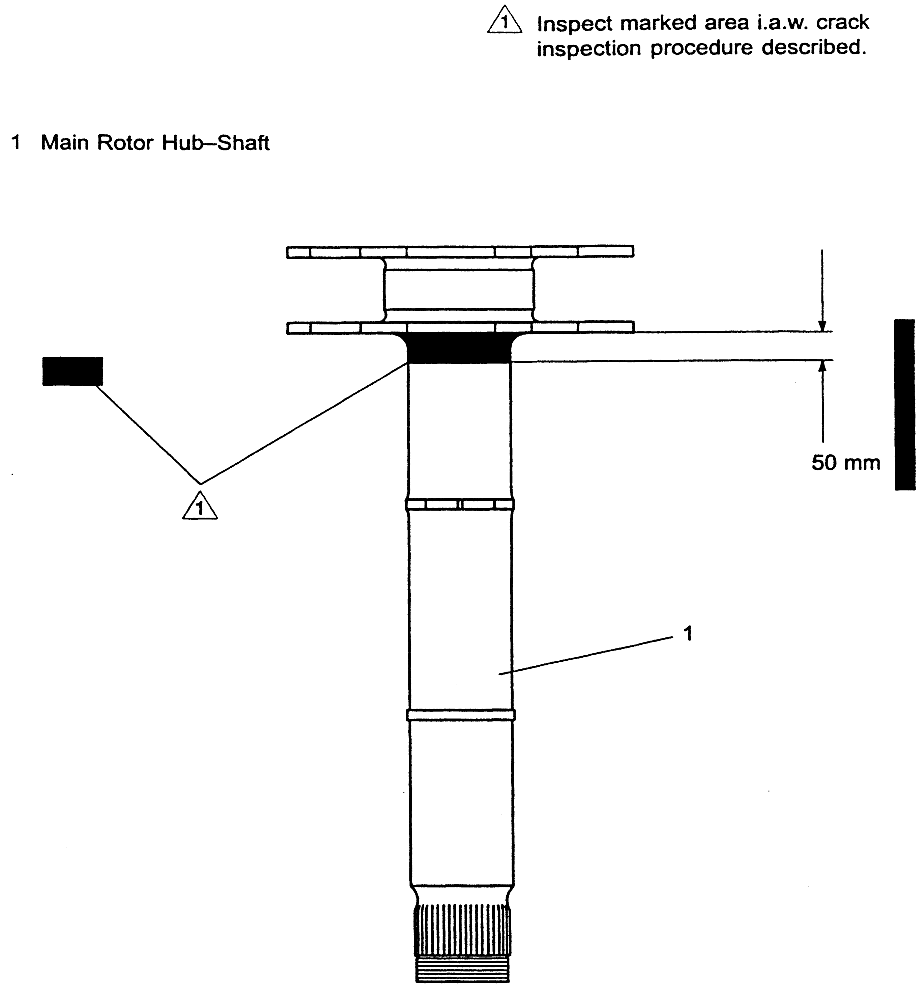
Applicability: Model EC135 helicopters, with main rotor hub shaft (shaft) assemblies, part numbers L623M1003 101, L623M1003 102, L623M1003 103, L623M1003 104, L623M1003 105, L623M1003 106, or L623F1003 107, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect fatigue cracks in the shaft that could lead to shaft failure and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, clean and visually inspect the shaft for cracks in the area as shown in the following Figure 1:



Crack inspection on main rotor hub–shaft
Figure 1

BILLING CODE 4910–13–C

(b) Within 10 hours time-in-service (TIS) after accomplishing the visual inspection required by paragraph (a) of this AD, clean and dye-penetrant inspect the shaft for cracks in the area as shown in Figure 1 of this AD.

(c) Thereafter, visually inspect the shaft for cracks in accordance with paragraph (a) of this AD at intervals not to exceed 15 hours TIS, or dye-penetrant inspect the shaft for cracks in accordance with paragraph (b) of this AD at intervals not to exceed 100 hours TIS.

Note 2: Eurocopter Alert Service Bulletin EC135–62A–004, Revision 3, dated November 10, 2000, pertains to the subject of this AD.

(d) If a crack is discovered during any shaft inspections, remove the shaft and replace it with an airworthy shaft.

(e) Report any cracked shaft within 5 calendar days to the Rotorcraft Standards Staff, Rotorcraft Directorate, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

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

(h) This amendment becomes effective on July 26, 2002.

Note 4: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 1999–185/4, dated October 18, 2001.

Issued in Fort Worth, Texas, on July 3, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–17300 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committee: Change of Name and Function; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the standing advisory committees' regulations to change the name and function of the Drug Abuse Advisory Committee. This action is being taken to reflect changes made to the charter for this advisory committee.

DATES: This rule is effective July 11, 2002.

FOR FURTHER INFORMATION CONTACT: Theresa Green, Committee Management Officer (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220.

SUPPLEMENTARY INFORMATION: FDA is announcing that the name of the Drug Abuse Advisory Committee, which was established on May 31, 1978, has been changed. The agency decided that the name ''Drug Safety and Risk Management Advisory Committee'' would more accurately describe the subject areas for which the committee is responsible. The mandate of the committee is being expanded to include drug specific risk management and medication errors, educational campaigns and risk communication messages, and advice on potential drug name changes to reduce potential medication errors. The committee reviews and evaluates data on risk management plans, provides active surveillance methodologies, trademark studies, methodologies for risk management communication, and related issues.

The Drug Abuse Advisory Committee name was changed and its functions expanded in the charter renewal dated May 31, 2002. FDA is revising 21 CFR 14.100(c)(7) to reflect these changes.

Publication of this final rule constitutes a final action on this change under the Administrative Procedure Act. Under 5 U.S.C. 553(b)(B) and (d) and 21 CFR 10.40(d) and (e), the agency finds good cause to dispense with notice and public procedure and to proceed to an immediately effective regulation. Such notice and procedures are unnecessary and are not in the public interest, because the final rule is merely codifying the new name and expanded function of the advisory committee reflect the current committee charter.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264.

2. Section 14.100 is amended by revising the heading of paragraph (c)(7) and paragraph (c)(7)(ii) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(7) *Drug Safety and Risk Management Advisory Committee.*

* * * * *

(ii) Function: Reviews and evaluates data on risk management plans, provides active surveillance methodologies, trademark studies, methodologies for risk management communication, and related issues.

* * * * *

Dated: July 5, 2002.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 02–17401 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's address for BioScience Division of Milk Specialties Co.

DATES: This rule is effective July 11, 2002.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–101), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: BioScience Division of Milk Specialties Co., Illinois and Water Sts., P.O. Box 278, Dundee, IL 60118, has informed FDA of a change of sponsor's address to 1902 Tennyson Lane, Madison, WI 53704. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for ''BioScience Division of Milk Specialties Co.'' and in the table in paragraph (c)(2) by revising the entry for ''032761'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
BioScience Division of Milk Specialties Co., 1902 Tennyson Lane, Madison, WI 53704	032761
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
032761	BioScience Division of Milk Specialties Co., 1902 Tennyson Lane, Madison, WI 53704
* * * * * * *	

Dated: May 28, 2002.

Andrew J. Beaulieu,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 02–17405 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Ceftiofur Hydrochloride

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pharmacia and Upjohn Co. The supplemental NADA provides for injection of ceftiofur hydrochloride suspension in cattle for the treatment of acute metritis.

DATES: This rule is effective July 11, 2002.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7572, e-mail: cburnste@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Pharmacia and Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed a supplemental application to NADA 140–890 that provides for use of EXCENEL (ceftiofur hydrochloride) RTU Sterile Suspension by intramuscular or subcutaneous injection in cattle for the treatment of acute metritis (0 to 14 days post partum) associated with bacterial organisms susceptible to ceftiofur. The supplemental NADA is approved as of February 8, 2002, and the regulations are amended in § 522.314 (21 CFR 522.314) to reflect the approval. The basis of approval is discussed in the freedom of information summary. Section 522.314 is also being revised to reflect a current format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental application approval qualifies for 3 years of marketing exclusivity beginning February 8, 2002, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplemental application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(d)(5) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.314 is amended by revising the section heading, and paragraphs (a), (d)(1)(i), (d)(1)(iii), and (d)(2) to read as follows:

§ 522.314 Ceftiofur hydrochloride.

(a) *Specifications*. Each milliliter of suspension contains ceftiofur hydrochloride equivalent to 50 milligrams (mg) of ceftiofur.

* * * * *

(d) * * *

(1) * * *

(i) *Amount*. 3 to 5 mg per kilogram (/kg) of body weight by intramuscular injection. Treatment should be repeated at 24-hour intervals for a total of 3 consecutive days.

* * * * *

(iii) *Limitations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cattle*—(i) *Dosage*. 1.1 to 2.2 mg/kg of body weight by intramuscular or subcutaneous injection, at 24-hour intervals for 3 to 5 consecutive days. For bovine respiratory disease, 2.2 mg/kg of body weight may be administered twice at a 48-hour interval. For acute metritis, administer 2.2 mg/kg of body weight daily for 5 consecutive days.

(ii) *Indications for use*. For treatment of bovine respiratory disease (BRD, shipping fever, pneumonia) associated with *Mannheimia* spp. (*Pasteurella haemolytica*), *P. multocida*, and *Haemophilus somnus*; acute bovine interdigital necrobacillosis (foot rot, pododermatitis) associated with

Fusobacterium necrophorum and *Bacteroides melaninogenicus*; and acute metritis (0 to 14 days post partum) associated with bacteria susceptible to ceftiofur.

(iii) *Limitations*. Do not slaughter treated cattle for 48 hours (2 days) after last treatment. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: June 26, 2002.

Andrew J. Beaulieu,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 02–17404 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–038]

RIN 2115–AA97

Safety Zone; Lake Huron, Harbor Beach, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Harbor Beach Fireworks on July 20, 21, 2002. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of Lake Huron.

DATES: This temporary final rule is effective from 10 p.m. on July 20, 2002 until 11 p.m. on July 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–02–038] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Brandon Sullivan, U. S. Coast Guard Marine Safety Office Detroit, at (313) 568–9558.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Detroit has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

The safety zone will encompass all waters of Lake Huron surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°51′00″ N, 082°38′15″ W. The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The designated on-scene representative will be the Patrol Commander. The Patrol Commander may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the minimal time that vessels will be restricted from the safety zone.

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit or anchor in the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this safety zone is only in effect from 10 p.m. until 11 p.m. on the days of the event and vessel traffic is allowed to pass outside of the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of Lake Huron by the Ninth Coast Guard District Local Notice to Mariners and Marine Information Broadcasts. Facsimile broadcasts may also be made.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (*see* **ADDRESSES**).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this 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.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order, because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T09–037 is added to read as follows:

§ 165.T09–037 Safety Zone; Lake Huron, Harbor Beach, MI.

(a) *Location.* The safety zone will encompass all waters of Lake Huron surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°51′00″ N, 082°38′15″ W (NAD 83).

(b) *Enforcement periods.* This temporary final rule will be enforced from 10 p.m. until 11 p.m. on July 20, 2002 and July 21, 2002.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16. Section 165.23 also contains other general requirements.

Dated: June 30, 2002.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 02–17381 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Huntington–02–009]

RIN 2115–AA97

Safety Zone; Ohio River Miles 355.5 to 356.5, Portsmouth, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the Ohio River beginning at mile 355.5 and ending at mile 356.5, extending the entire width of the river. This safety zone is needed to provide for the safety of participating vessels and mariners during the Portsmouth Powerboat Races. With the exception of participating vessels and mariners, all other vessels and persons are prohibited from transiting within this safety zone

unless authorized by the Captain of the Port, Huntington or his designated representative.

DATES: This rule is effective from 9 a.m. on July 20, 2002 until 7 p.m. on July 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Huntington–02–009] and are available for inspection or copying at Marine Safety Office Huntington, 1415 6th Avenue, Huntington, West Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer, Rick Leffler, Marine Safety Office Huntington, Marine Event Coordinator at (304) 529–5524.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Information was made available to the Coast Guard in insufficient time to publish an NPRM or for publication in the **Federal Register** 30 days prior to the event. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to provide for the safety of participating vessels and mariners.

Background and Purpose

The Captain of the Port Huntington, is establishing a safety zone from miles 355.5 to 356.5 on the Ohio River, extending the entire width of the river. This safety zone is necessary to ensure the safety of participating vessels and mariners during the Portsmouth Powerboat Races. Participating vessels are vessels registered with race officials to participate in the Portsmouth Powerboat Races. They include race boats, rescue boats, tow boats and picket boats associated with the race. With the exception of participating vessels and mariners of the Portsmouth Powerboat Races, all other vessels and persons are prohibited from transiting within this safety zone unless authorized by the Captain of the Port, Huntington or his designated representative.

Regulatory Evaluation

This rule is not a ‘‘significant regulatory action’’ under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ‘‘significant’’ under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rule will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit portions of the Ohio River from miles 355.5 to 356.5, from 9 a.m. to 7 p.m. on July 20 and 21, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. There will be breaks provided every three hours during the races. During these breaks the waterway will be cleared and traffic will be allowed to pass through the zone as directed by the Coast Guard Patrol Commander. Notification of the safety zone and break periods will be made to the marine community by broadcast notice to mariners and event sponsors.

If you are a small business entity and are significantly affected by this regulation please contact Chief Petty Officer Rick Leffler, Marine Safety Office Huntington at (304) 529–5524.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we so discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 9 a.m. on July 20, 2002 until 7 p.m. on July 21, 2002 a new temporary § 165.T08–065 is added to read as follows:

§ 165.T08–065 Safety Zone; Ohio River Miles 355.5 to 356.5, Portsmouth, Ohio.

(a) *Location.* The following area is a safety zone: the waters of the Ohio River from miles 355.5 to 356.5, extending the entire width of the river.

(b) *Enforcement period.* This section will be enforced from 9 a.m. to 7 p.m. on July 20, 2002 and from 9 a.m. to 7 p.m. on July 21, 2002.

(c) *Definitions. Participating Vessels* are vessels registered with race officials to participate in the Portsmouth Powerboat Races. They include race boats, rescue boats, tow boats and picket boats associated with the race.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of persons and vessels into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Huntington or his designated representative.

(2) Participating vessels are authorized entry within the zone.

(3) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington, or his designated representative. They may be contacted via VHF–FM Channel 13 or 16 or via telephone at (304) 529–5524.

(4) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: June 28, 2002.

L.D. Stroh,

Commander, U.S. Coast Guard, Captain of the Port Huntington.

[FR Doc. 02–17379 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–02–008]

RIN 2115–AA97

Safety Zone; Seafair Blue Angels Performance, Lake Washington, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Lake Washington, Seattle, Washington. The Coast Guard is taking this action to safeguard the participants and spectators from the safety hazards associated with the Seafair Blue Angels Performance. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

DATES: This rule is effective from 8:30 a.m. on August 1, 2002 until 3 p.m. on August 4, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD13–02–008 and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Alisa Praskovich, c/o Captain of the Port Puget Sound, at (206) 217–6231.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) has not been published for this rule and good cause exists for making it effective without publication of an NPRM in the **Federal Register**. The air show poses several dangers to the public including excessive noise and objects falling from any accidents. Accordingly, prompt regulatory action is needed in order to provide for the safety of spectators and participants during the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. Temporary rules of similar size and duration have been in place for the past several years and have not generated significant controversy.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone on the waters of Lake Washington, Seattle, Washington, for the Seafair Blue Angels Performance. The Coast Guard has determined it is necessary to close the area in the vicinity of the air show in order to minimize the dangers that low-flying aircraft present to persons and vessels. These dangers include, but are not limited to excessive noise and the risk of falling objects from any accidents associated with low flying aircraft. In the event that aircraft require emergency assistance, rescuers must have immediate and unencumbered access to the craft. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Entry into this zone will be prohibited unless authorized by the Captain of the Port or his representative. This safety zone will be enforced by Coast Guard personnel. The Captain of the Port may be assisted by other federal, state, or local agencies.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the regulated area established by the regulation would encompass an area near the middle of Lake Washington, not frequented by commercial navigation. The rule is established for the benefit and safety of the recreational boating public, and any negative recreational boating impact is offset by the benefits of allowing the Blue Angels to fly. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of Lake Washington during the time this rule is in effect. The zone will not have a significant economic impact due to its short duration and small area. The only vessels likely to be impacted will be recreational boaters and small passenger vessel operators. The event is held for the benefit and entertainment of those above categories. Because the impacts of this rule are expected to be so minimal, the Coast Guard certifies under 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.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the (**FOR FURTHER INFORMATION CONTACT**) section.

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph(34)(g) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion'' is provided for temporary safety zones of less than one week in duration. This rule establishes a temporary safety zone of limited duration that will be within the one-week timeframe.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 8:30 a.m. on August 1 until 3 p.m. on August 4, 2002, a temporary § 165.T13–005 is added to read as follows:

§ 165.T13–005 Safety Zone; Seafair Blue Angels Performance, Seattle, WA.

(a) *Location.* The following is a safety zone: All waters of Lake Washington, Washington State, enclosed by the following points: The northwest corner of Faben Point at 47°35′34.5″ N, 122°15′13″ W; thence to 47°35′48″ N, 122°15′45″ W; thence to 47°36′02.1″ N, 122°15′50.2″ W; thence to 47°35′56.6″ N, 122°16′29.2″ W; thence to 47°35′42″ N, 122°16′24″ W; thence to the east side of the entrance to the west highrise of the Interstate 90 bridge; thence easterly along the south side of the bridge to a point 1130 yards east of the western terminus of the bridge; thence southerly to a point in Andrews Bay at 47°33′06″ N, 122°15′32″ W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33′44″ N, 122°15′04″ W; thence easterly along the east-west line drawn tangent to Bailey Peninsula; thence northerly along the shore of Mercer Island to the point of origin.[Datum: NAD 1983]

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in the zone except for participants in the event, supporting personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or his designated representatives.

(c) *Enforcement period.* This section will be enforced from 8:30 a.m. until 3 p.m. (PDT) on August 1, 2, 3 and 4, 2002.

Dated: June 12, 2002.

M.R. Moore,

Captain, Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 02–17473 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–016]

RIN 2115–AA97

Safety and Security Zone; Boston and Salem Harbors, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent safety and security zones around PG & E Power Plant Terminal Wharf, Salem, MA, Black Falcon Terminal, Boston, MA and Coast Guard Integrated Support Command (ISC), Boston, MA. The safety and security zones will close certain waters around these facilities in Boston and Salem Harbors. The safety and security zones prohibit entry into or movement within portions of Boston and Salem Harbors and are needed to ensure public safety and prevent sabotage or terrorist acts.

DATES: Effective July 1, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Dave Sherry, Marine Safety Office Boston, Maritime Security Operations Division, at (617) 223–3067.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 27, 2002 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (67 FR 8915), proposing to establish three permanent safety and security zones, and to make previously established safety and security zones around the Distrigas Liquefied Natural Gas Facility in Everett, MA effective for an additional period. That NPRM provided for a short comment period, which would have allowed the zones to become effective on March 16, 2002. This short comment period was intended to prevent any lapse in protective measures provided by the temporary rule, which originally established the zones around Black Falcon Terminal, PG & E Power Plant Terminal Wharf, Salem, MA, and Coast Guard Integrated Support Command (ISC) Boston, MA. The comment period for that proposed rule did not allow adequate time for public comment. In order to provide adequate time for notice and comment the temporary rule was therefore extended on March 15, 2002, making it effective until June 30, 2002.

Subsequently, a supplemental notice of proposed rulemaking (SNPRM), which addressed comments received on the previous NPRM and proposed safety and security zones in the same three areas but amended in size, was published in the **Federal Register** (67 FR 20937) on April 29, 2002. The comment period for that SNPRM expired on May 29, 2002. The Coast Guard is now proceeding to implement a final rule taking into account all comments received.

Good cause exists for making this rule effective less than 30 days after **Federal Register** publication. Delay in the effective date of this regulation would be contrary to public interest. The Black Falcon Terminal, the PG & E Power Plant Terminal Wharf Salem, MA, and Coast Guard ISC Boston, MA present possible targets of terrorist attack, due to their stature as strategic and critical infrastructure, as well as their potential for large personnel casualties if struck by a terrorist incident. A July 1, 2002 effective date for this regulation is necessary to prevent the lapse in the effective date of the temporary regulations above, which would leave persons at these facilities, and the public and surrounding communities vulnerable to sabotage or other subversive acts, accidents, or other events of a similar nature.

Background and Purpose

In light of terrorist attacks on New York City and Washington DC on September 11, 2001 three pairs of safety and security zones, each pair of safety and security zones having identical parameters, are being established to safeguard the Black Falcon Terminal, the PG & E Power Plant Terminal Wharf Salem, MA, and Coast Guard ISC Boston, MA, persons at these facilities, and the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. These facilities present possible targets of terrorist attack, due to their stature as strategic and critical infrastructure, as well as their potential for large personnel casualties if subject to a terrorist attack. These permanent safety and security zones prohibit entry into or movement within three specified areas.

The first area encompasses all waters within 150 yards off the bow and stern and 100 yards abeam of any vessel moored at the Massachusetts Port Authority Black Falcon Terminal. The second area encompasses all waters of

Boston Harbor within 100 feet of the Coast Guard Integrated Support Command (ISC) Boston piers. The third area encompasses all waters of Salem Harbor within a 250-yard radius of the center point of the PG & E Power Plant Terminal Wharf located at 42° 31.33′ N, 070° 52.67′ W when a vessel is moored there.

No person or vessel may enter or remain in the prescribed safety and security zones at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port or designated Coast Guard representative on-scene. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than $100,000), in rem liability against the offending vessel, and license sanctions.

Discussion of Comments and Changes to the Proposed Rule

The Coast Guard received 4 comments from the public regarding this proposal. All comments received were considered in the development of this final rule. Comments were received from maritime industry stakeholders. In light of the comments received and evaluations conducted, we feel changes to the zones' parameters as outlined in the SNPRM were unnecessary. The comments and reasoning for not making changes to the SNPRM are addressed below.

Comment: These zones will cause economic impacts upon local fishermen and close fishing grounds in Boston and Salem Harbors.

Response: All 4 comments received were from commercial lobstermen, stating they had concerns this proposal would close traditional fishing grounds in Boston and Salem Harbors and cause negative impacts on their business. As defined in the SNPRM and here, the Coast Guard feels these safety and security zones will not significantly impact commercial fishing in Boston and Salem Harbor. The zone around the U.S. Coast Guard ISC in Boston, MA extends only 100 feet from the pier. The zones around the Salem Terminal Wharf and Black Falcon Terminal are only in effect when vessels are located at the facilities. Vessel visits to Salem Terminal Wharf are infrequent, an average of three vessel visits per month. Vessel visits to Black Falcon typically last 12 to 24 hours, occur once or twice a week, and are seasonal between April and November. These zones were greatly reduced in size when proposed in the SNPRM from their original sizes as listed in 66 FR 49280, under which they were originally published after the events of September 11, 2002. Considering the minimal times that the Salem Terminal Wharf and Black Falcon Terminal zones will be in effect, and the minimal areas they encompass, the impacts of this regulation will be minimal on local fishermen and the rest of the maritime community. The necessity of protecting these entities outweighs the temporary negligible impacts they impose on fishermen.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be minimal enough that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule will impose zero mandatory costs. The effect of this rule will not be significant for several reasons: there is ample room for vessels to navigate around the zones in Boston and Salem Harbors, the Salem Terminal Wharf and Black Falcon Terminal zones will only be in effect when vessels are moored at the respective piers, and notifications of the enactment of the Salem Terminal Wharf and Black Falcon Terminal zones will be made to the local maritime community through Local Notice to Mariners and have already been made through a public outreach campaign.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, anchor, or conduct commercial fishing operations in portions of Boston and Salem Harbor. These sections of Boston and Salem Harbor do not restrict passenger and commuter vessel routes, do not unduly restrict recreational boat traffic, and are so small they would have a negligible impact on the commercial fishing industry. For these and the reasons enumerated in the **Regulatory Evaluation** section above, these safety and security zones will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call Lieutenant Dave Sherry, Marine Safety Office Boston, at (617) 223–3030. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

The Coast Guard analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.116 to read as follows:

§ 165.116 Safety and Security Zones; Salem and Boston Harbors, Massachusetts.

(a) *Location.* The following areas are permanent safety and security zones:

(1) *Reserved Channel, Boston Harbor.* All waters of Boston Harbor within one hundred fifty (150) yards off the bow and stern and one hundred (100) yards abeam of any vessel moored at the Massachusetts Port Authority Black Falcon Terminal;

(2) *Boston Inner Harbor.* All waters of Boston Harbor within one hundred (100) feet of the Coast Guard Integrated Support Command (ISC) Boston piers and;

(3) *Salem Harbor.* All waters of Salem Harbor within a two-hundred and fifty (250) yard radius of the center point of the PG & E Power Plant Terminal Wharf, Salem, MA, located at 42°31.33′ N, 070°52.67′ W when a vessel is moored at this pier. All coordinates are North American Datum 1983.

(b) *Effective date.* This section becomes effective July 1, 2002.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 and § 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the Captain of the Port or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters or land area within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Boston or his authorized patrol representative.

Dated: June 27, 2002.

B.M. Salerno,

Captain, Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–17380 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–50; GA–53; GA–56; GA–58; GA–59–200230(a); FRL–7244–5]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD) on December 6, 1999, March 21, 2000, January 4, 2001, August 21, 2001, and December 28, 2001. These revisions pertain to Rules for Air Quality Control and Rules for Enhanced Inspection and Maintenance.

DATES: This direct final rule is effective September 9, 2002, without further notice, unless EPA receives adverse comment by August 12, 2002. If adverse comment is received, EPA 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: All comments should be addressed to: Scott Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott Martin 404–562–9036. E-mail: *martin.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 1999, March 21, 2000, January 4, 2001, August 21, 2001, and December 28, 2001, the GAEPD submitted revisions to the Georgia SIP. These revisions pertain to Chapter 391–3–1 Rules for Air Quality Control and Chapter 391–3–20 Enhanced Inspection and Maintenance. The revisions are described below.

II. Analysis of State's Submittal

Description of Revisions Submitted on December 6, 1999

Chapter 391–3–20: Rules for Enhanced Inspection and Maintenance (I/M)

On December 6, 1999, the Georgia Environmental Protection Division (EPD) submitted a request to revise the enhanced I/M program in the Atlanta, Georgia ozone nonattainment area as described in the State Implementation Plan (SIP). The revisions were to the Georgia ''Rules for Enhanced Inspection and Maintenance'', Chapter 391–3–20. The primary changes to the rules were the following: (1) The minimum expenditure required to obtain a repair waiver was raised to the Federally mandated level of $450 plus an adjustment based upon the change in the Consumer Price Index since 1989; (2) County tax and tag personnel were authorized to process I/M exemptions, extensions, and waivers; and (3) the need for windshield stickers was repealed. There were other minor changes made to the program, including administrative and procedural amendments that will have no impact upon the emission reduction of the program.

The primary change, the increase in the minimum waiver expenditure, is in accordance with the specifications EPA established for enhanced I/M programs in the November 5, 1992 **Federal Register**. This increased limit will result in vehicles failing the I/M test receiving more effective repairs, especially those with excessive nitrogen oxide emissions. The minimum waiver expenditure will be adjusted yearly in accordance with EPA requirements.

Description of Revisions Submitted on March 21, 2000

Chapter 391–3–1: Rules For Air Quality Control

Rule 391–3–1.01(pp) ''*Modification*'' is being revised to clarify that routine maintenance, repair, and replacement; an increase of production; an increase in the hours of operation; and the use of alternative fuel or raw material may not be a modification.

Rule 391–3–1.01(llll) ''*Volatile Organic Compound (VOC)*'' is being revised to add volatile methyl siloxanes and parachlorobenzotriflouride to the list of exempt VOC's in accordance with EPA's definition of VOC.

Chapter 391–3–1.03: Permits

Rule 391–3–1–.03(2)(i) is being amended to allow the public and EPA notification and review of a permit application to begin upon receipt of a permit application rather than upon completion of a draft permit.

Description of Revisions Submitted on January 4, 2001

Chapter 391–3–1: Rules For Air Quality Control

Rule 391–3–1.01(nnnn) ''*Procedures for Testing and Monitoring Sources of Air Pollutants*'' is being revised to reflect a new revision date of September 20, 2000.

Rule 391–3–1–.02(2)(zz) ''*Gasoline Dispensing Facilities—Stage II*'' is being revised to provide an exemption for Stage II requirements for all dispensers used exclusively for the fueling or refueling of vehicles equipped with onroad vapor recovery (ORVR) equipment, as ORVR fully displaces the need for Stage II vapor recovery.

Chapter 391–3–20: Rules for Enhanced Inspection and Maintenance (I/M)

Rule 391–3–20–.01, relating to ''Definitions'' is being amended to add, delete, and modify definitions related to enhanced emission testing, and to renumber the definitions.

Rule 391–3–20–.03 paragraphs (8) and (9), relating to ''Covered Vehicles; Exemptions'' are being amended to clarify the grandfather status of gray market, kit cars, hot rods, senior citizens, and antique or collector car or truck exemptions.

Rule 391–3–20–.04 paragraphs (1) and (2), relating to ''Emission Inspection Procedures'' are being amended and paragraph (7) is being added to clarify and add to the requirements for inspectors to perform emissions inspections.

Rule 391–3–20–.05 paragraph (1) and subparagraphs (2)(a), (2)(b)3. and (2)(c), relating to ''Emission Standards'' are being amended to correct terms, synchronize the gray market test standards with other gray market requirements, and to clarify the fuel cap test requirements.

Rule 391–3–20–.07 paragraph (4), relating to ''Inspection System Specifications'' is being amended to clarify the fuel cap testing requirements.

Rule 391–3–20–.08 subparagraphs (2)(b) and (2)(c), relating to ''Quality Control and Equipment Calibration Procedures'' are being amended to change a reference concerning data transmission line requirements and to change the data file refresh requirement for mobile test systems.

Rule 391–3–20–.09 subparagraphs (2)(a), (2)(i), (2)(j) and (2)(l), relating to ''Inspection Station Requirements'' are being amended to add to the information requirements for a station application, clarify data transmission line requirements, amend how administrative fees are paid, and to clarify the requirement for posting business hours.

Rule 391–3–20–.11 paragraphs (4), (6) and (9), relating to ''Inspector Qualifications and Certification'' are being amended to clarify the requirements for inspector identification and to clarify the responsibility for inspections.

Rule 391–3–20–.12 paragraphs (1) through (5), relating to ''Schedule for Emission Tests'' are being amended to correct the term of an emission inspection and clarify the valid life of a certificate of emissions inspection.

Rule 391–3–20–.13 subparagraphs (1)(i), (2)(a) and (2)(b) and paragraph (3), relating to ''Certification of Emissions Inspection'' are being amended to clarify authority for issuing information and forms.

Rule 391–3–20–.15 paragraph (4), relating to ''Repairs and Retests'' is being amended and paragraph (7) is being added to clarify reinspection requirements and to provide for verification of a re-inspected vehicle.

Rule 391–3–20–.17 subparagraph (2)(a)1. and paragraph (3), relating to ''Waivers'' are being amended to update the repair waiver cost for test year 2001 and clarify the valid life of a waiver.

Rule 391–3–20–.18 paragraphs (1) and (2), relating to ''Sale of Vehicles'' are being amended to clarify vehicle sale requirements.

Rule 391–3–20–.19 paragraph (2), relating to ''Management Contractor'' is being amended to clarify access to inspection data.

Rule 391–3–20–.21 subparagraphs (2) and (3), relating to ''Inspection Fees'' are being amended to clarify the emission inspection fee and the program administration fee.

Rule 391–3–20–.22 paragraph (2), relating to ''Enforcement'' is being amended to clarify the terms of revocation for certificates of authorization and inspector licenses.

Description of Revisions Submitted On August 21, 2001

Chapter 391–3–1: Rules For Air Quality Control

Rule 391–3–1–.01, Definitions, is being amended. The definition of the *Procedures For Testing And Monitoring Sources of Air Pollutants* (PTM) is being changed to reflect a new revision date of May 1, 2001.

Rule 391–3–1–.02, subparagraph (2)(bbb)2., relating to ''Reid Vapor Pressure'' is being amended. To codify the Reid Vapor Pressure (RVP) testing tolerance resultant from reproducibility errors associated with the test methodology.

Rule 391–3–1–.02, subparagraph (2)(bbb)3., relating to ''Sulfur Content'' is being amended to provide for a maximum, seasonal per-gallon-cap on sulfur content in 2004 and beyond, and to codify the sulfur testing tolerances resultant from reproducibility errors associated with the test methodology.

Rule 391–3–1–.03, subparagraph (6)(i) thereof relating to ''Exemptions'' is being amended. The emissions level at which facilities are exempt from permitting and at which facilities may defer permit amendments for modifications is being increased.

Rule 391–3–1–.03, subparagraph (8)(c)12. thereof relating to ''Offsets'' is being amended. This addition will serve to clarify some current EPD policy regarding the generation of offsets by putting the policy directly into the applicable rule.

Rule 391–3–1–.03, subparagraphs (13)(d) and (13)(f) thereof relating to ''Emission Reduction Credits'' are being amended. These revisions will provide the Director with the authority to revoke Emission Reduction Credits or otherwise reduce their value in circumstances where a source that has proposed to generate and bank a certain emission reduction fails to achieve the reduction in practice.

Chapter 391–3–20: Rules for Enhanced Inspection and Maintenance (I/M)

Rule 391–3–20–.01, paragraphs (y), (ii), and (jj) thereof, relating to ''Definitions'' are being amended to modify definitions related to enhanced emission testing.

Rule 391–3–20–.03, paragraphs (1), (4), and (9) thereof, relating to ''Covered Vehicles; Exemptions'' are being amended to exempt ''antique vehicles'' in the covered vehicles category and to remove an outdated reference.

Rule 391–3–20–.04, subparagraph (2)(b) thereof, relating to ''Emission Inspection Procedures'' is being amended to establish criteria for using the 2-speed idle test on newer vehicles when OBD testing begins.

Rule 391–3–20–.05, paragraph (4) thereof, relating to ''Emission Standards'' is being amended to establish the ''pass'' criteria for the OBD system check on newer vehicles.

Rule 391–3–20–.06, paragraphs (3), (4), and (7) thereof, relating to ''On-Road Testing'' are being amended to clarify terms and to provide EPD the opportunity to witness reinspection of vehicles identified as high polluters.

Rule 391–3–20–.07, subparagraphs (1)(c) and (d) thereof, relating to ''Inspection Equipment System Specifications'' are being amended to include the requirement for station owners to procure OBD hardware and software.

Rule 391–3–20–.09, subparagraph (2)(h)4. thereof, relating to ''Inspection Station Requirements'' is being amended to update the reference to ''information'' on repair facilities.

Rule 391–3–20–.12, paragraph (2) thereof, relating to ''Schedules for Emissions Tests'' is being amended to remove an outdated reference.

Rule 391–3–20–.13, subparagraph (2)(c) thereof, relating to ''Certificate of Emissions Inspection'' is being amended to update the reference to ''information'' on repair facilities.

Rule 391–3–20–.15, paragraphs (4) and (7) thereof, relating to ''Repairs and Retests'' are being amended to clarify when a partial reinspection is allowed and to establish reinspection criteria for the OBD test.

Rule 391–3–20–.16, paragraphs (1) and (2) thereof, relating to ''Extensions, Reciprocal Tests'' are being amended to clarify eligibility for an extension and clarify requirements for reciprocal tests.

Rule 391–3–20–.20, paragraph (1) thereof, relating to ''Referee Program'' is being amended to clarify EPD's authority to request a referee test and clarify and extend the time period in which a referee test can be requested.

Rule 391–3–20–.21, paragraph (3) thereof, relating to ''Program Administration Fees'' is being amended to update the current administrative fee structure and to remove reference to the expired effective date.

Description of Revisions Submitted On December 28, 2001

Chapter 391–3–1: Rules For Air Quality Control

Rule 391–3–1–.01, relating to ''Definitions'' is being amended. The definition of the *Procedures For Testing And Monitoring Sources of Air Pollutants* (PTM) is being changed to reflect a new revision date of September 20, 2001.

Rule 391–3–1–.02, subparagraph (2)(rr) thereof, relating to ''Gasoline Dispensing Facilities—Stage I'' is being amended to provide for appropriate testing in accordance with changes in the California Air Resources Board (CARB) Stage I vapor recovery program which the present rule references; to revise the definition of a ''Gasoline dispensing facility''; to revise the definition of ''Division approved'' in accordance with the CARB changes; to clarify the exemptions afforded to certain gasoline facilities; to specifically require documentation and reporting of testing required for Stage I vapor recovery systems; to correct typographical errors.

Rule 391–3–1–.02, subparagraph (2)(ss) thereof, relating to ''Gasoline Transport Vehicles and Vapor Collection Systems'' is being amended to provide for more consistent and reproducible documentation of all tests and repairs effected on transport vehicles regulated under this rule.

Rule 391–3–1–.02, subparagraph (2)(zz) thereof, relating to ''Gasoline Dispensing Facilities—Stage II'' is being amended to provide for appropriate testing in accordance with changes in the California Air Resources Board (CARB) Stage II vapor recovery program which the present rule references; to correct a reference to federal onboard refueling vapor recovery (ORVR); to revise the definition of ''Approved Stage II vapor recovery system'' in accordance with the CARB changes; to clarify the exemptions afforded to certain gasoline facilities; to correct typographical errors.

Rule 391–3–1–.02, subparagraph (2)(ooo) thereof, relating to ''Heavy-Duty Diesel Engine Requirements'' is being added to enable EPD to opt into the California Air Resources Board (CARB) rules for new Heavy Duty Diesel Engines (HDDE's) pursuant to section 177 of the Federal Clean Air Act (Act). The proposed rule would bar the sale/

lease or the import of any new HDDE's in Georgia that are not certified by CARB to meet the emission standards of its HDDE rules.

Rule 391–3–1–.03, subparagraph (8)(c)6. thereof, relating to ''Permit Requirements'' is being amended to clarify the existing EPD policy regarding offsets. This revision compliments the revision described below to Rule 391–3–1–.03(8)(c)12.

Rule 391–3–1–.03, subparagraph (8)(c)12. thereof, relating to ''Offsets'' is being amended to eliminate a potential disagreement between the offset requirements in Rule 391–3–1–.03(8)(c) and the emissions reduction credits requirements in Rule 391–3–1–.03(13)(c).

Chapter 391–3–20: Rules for Enhanced Inspection and Maintenance (I/M)

Rule 391–3–20–.01, paragraphs (b), (p), (s) and (y) thereof, relating to ''Definitions'' are being amended to modify definitions related to enhanced emission testing.

Rule 391–3–20–.04, paragraphs (2) and (8) thereof, relating to ''Emission Inspection Procedures'' are being amended to establish criteria for inspections of newer vehicles when On-Board Diagnostics (OBD) testing begins; to address new fuel cap testing procedures; and to address electronic transmission of emission tests to the Management Contractor's database.

Rule 391–3–20–.05, paragraphs (2) and (4) thereof, relating to ''Emission Standards'' are being amended to address new fuel cap testing procedures and to clarify the ''pass'' criteria for the OBD system test on newer vehicles.

Rule 391–3–20–.07, paragraphs (1) and (4) thereof, relating to ''Inspection Equipment System Specifications'' are being amended to include the requirement for station owners to procure OBD hardware and software and to require current fuel cap adapter application guide.

Rule 391–3–20–.09, subparagraphs (2)(e) and (i) thereof, relating to ''Inspection Station Requirements'' are being amended to clarify requirements for inspection station owners.

Rule 391–3–20–.10, paragraph (7) thereof, relating to ''Certificate of Authorization'' is being added to provide the Director authority to deny an inspection station's Certificate of Authorization.

Rule 391–3–20–.11, paragraphs (1), (4) and (6) thereof, relating to ''Inspector Qualifications and Certification'' are being amended, and paragraph (11) added to clarify the required training for the different emission test; to update the requirements for Inspector ID cards; and to provide the Director authority for denying an inspector's Certificate.

Rule 391–3–20–.13, subparagraphs (1)(b), (n), (o) and (p) thereof, relating to ''Certificate of Emissions Inspection'' are being amended and/or added to clarify requirements.

Rule 391–3–20–.15, paragraph (2) thereof, relating to ''Repairs and Retests'' is being amended to clarify procedures and requirements for motorist emission repair forms.

Rule 391–3–20–.17, paragraph (2) thereof, relating to ''Waivers'' is being amended to update the repair waiver cost for test year 2002.

Rule 391–3–20–.22, subparagraph (2)(b) thereof, relating to ''Enforcement'' is being amended to establish a requirement for relinquishing the Inspector ID cards.

III. Final Action

EPA is approving the aforementioned changes to the Georgia SIP because they are consistent with the Clean Air Act and Agency requirements.

The EPA is publishing 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 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 9, 2002, without further notice unless the Agency receives adverse comments by August 12, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 9, 2002, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies 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.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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 9, 2002. 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 26, 2002.

Michael V. Peyton,

Acting Regional Administrator, Region 4.

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. a. In the table in § 52.570(c), the following entries are revised: 391–3–1–.01; 391–3–1–.02(2)(rr); 391–3–1–.02(2)(ss); 391–3–1–.02(2)(zz); 391–3–1–.02(2)(bbb); 391–3–1–.03; 391–3–20.

b. In the table in § 52.570(c), the following entries are added: 391–3–1–.02(2)(ooo)

The additions and revisions read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Comments
391–3–1–.01	Definitions	12/26/01	7/11/02	
* * *	* *	*		*
391–3–1–.02(2)(rr)	Gasoline Dispensing Facility—Stage 1	12/26/01	7/11/02	
391–3–1–.02(2)(ss)	Gasoline Transport Vehicles and Vapor Collection Systems.	12/26/01	7/11/02	
* * *	* *	*		*
391–3–1–.02(2)(zz)	Gasoline Dispensing Facilities—Stage II	12/26/01	7/11/02	
* * *	* *	*		*
391–3–1–.02(2)(bbb)	Gasoline Marketing	7/18/01	7/11/02	
* * *	* *	*		*
391–3–1–.02(2)(ooo)	Heavy-Duty Diesel Engine Requirements	12/26/01	7/11/02	
* * *	* *	*		*
391–3–1–.03	Permits	12/26/01	7/11/02	
* * *	* *	*		*
391–3–20	Enhanced Inspection and Maintenance	12/26/01	7/11/02	
* * *	* *	*		*

* * * * *

[FR Doc. 02–17318 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–49–200232(a); FRL–7244–7]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD) on November 17, 1999. The revision pertains to William L. Bonnell's Air Quality Permit. This permit revision went through a thirty day comment period and was the subject of a public hearing on September 8, 1999. No comments were received on the permit revisions. The revised permit became State effective on October 7, 1999.

DATES: This direct final rule is effective September 9, 2002, without further notice, unless EPA receives adverse comment by August 12, 2002. If adverse comment is received, EPA 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: All comments should be addressed to: Scott Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott Martin 404–562–9036. E-mail: *martin.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 17, 1999, the GAEPD submitted revisions to the Georgia SIP pertaining to William L. Bonnell's Air Quality Permit No. 3354–038–6686–O. This permit is a nitrogen oxide reasonably available control technology (NO_X RACT) permit. Conditions 17–30 were approved by the EPA on March 18, 1999 (*see* 64 FR 13348). In today's action EPA is approving revisions to conditions 17 and 22, and the addition of new conditions 31 and 32.

II. Analysis of State's Submittal

The revised conditions read as follows:

#17. The Permittee shall burn natural gas exclusively for all fuel burning equipment covered by this Permit during the months of May through September of each year, except during times of interruption of the natural gas supply or during emergency conditions. During such times, the Permittee may burn liquid propane gas (LPG) as an alternative fuel.

#22. The Permittee shall conduct, or cause to be conducted, on an annual basis, on the No. 5 furnace, burner tunings to optimize the burner fuel/air ratio and to establish the optimum operating point which generates the greatest decrease in NO_X concentration (corrected to 3 percent oxygen) while maintaining a safe level of carbon monoxide (CO) in the exhaust gases.

The new conditions read as follows:

#31. The Permittee shall not operate the No. 6 furnace at an excess air of greater than 10 percent.

#32. The Permittee shall retain records of all LPG burned during the months of May through September. Said records shall include the date, gallons burned, and the reason for LPG as opposed to natural gas. The records shall be kept in a log suitable for inspection and/or submittal to the Division, and shall be maintained for 5 years from the date of creation.

III. Final Action

EPA is approving the aforementioned changes to the Georgia SIP because they are consistent with the Clean Air Act and Agency requirements.

The EPA is publishing 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 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 9, 2002, without further notice unless the Agency receives adverse comments by August 12, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 9, 2002, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies 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.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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 9, 2002. 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 28, 2002.

Winston A. Smith,

Acting Regional Administrator, Region 4.

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. a. In the table in § 52.570(d), the following entries are revised: William L. Bonnell Co.

The revision reads as follows:

§ 52.570 Identification of plan.

* * * * *

(d) * * *

EPA APPROVED GEORGIA SOURCE—SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Comments
* *	* *	*	*	*
William L. Bonnell	3354–038–O conditions 17 through 32	10/7/99	07/11/02 [and FR Cite].	
* *	* *	*	*	*

[FR Doc. 02–17455 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[F–2002–AIRF–FFFF; FRL–7227–9]

RIN 2050–AE91

Municipal Solid Waste Landfill Location Restrictions for Airport Safety

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the location restriction requirements in the criteria for municipal solid waste landfills (MSWLFs). EPA is amending this provision in order to incorporate new landfill siting requirements enacted in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act). The Ford Act siting restrictions apply to specified smaller public airports to address the potential hazard that birds attracted to MSWLFs may pose to aircraft operations. Today's amendment does not affect existing MSWLFs.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to this rule in the event the public chooses to file adverse comments. In that event, we will address all public comments in a subsequent final rule based on the proposed rule; and, we will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: This direct final rule is effective on October 9, 2002, without further notice, unless EPA receives adverse comment by August 12, 2002. If adverse comment is received, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: This section provides addresses regarding: (1) Where and in what form you should submit responses to today's direct final rule and (2) where you can view public comments responding to this rule. Please reference RCRA Docket No. F–2002–AIRF–FFFF in your comments. You may submit your comments (1) in hard copy (paper) either by mail or by hand or (2) using electronic mail, as follows:

• Mail: Submit an original and two hard copies to the RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

• Hand Deliveries: Submit an original and two hard copies to the RCRA Information Center (RIC), Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia 22202.

• Electronic Submissions: Via the Internet to: *rcra-docket@epa.gov.* Comments in electronic format should also be identified by RCRA Docket No. F–2002–AIRF–FFFF. You must provide your electronic submissions as ASCII files; and, you must avoid the use of special characters and any form of encryption.

See the **SUPPLEMENTARY INFORMATION** section for information about where and how you can view the docket for this rule, including electronic access to some of the information such as the docket index and supporting documents.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call 703–412–9810 or TDD 703–412–3323 (hearing impaired).

For information on specific aspects of this rule, contact Mary T. Moorcones, Municipal and Industrial Solid Waste Division of the Office of Solid Waste (mail code 5306W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone: 540–338–1348; e-mail: <*moorcones.mary@epamail.epa.gov*>.

Some information about this rule can also be accessed via the Internet at: <*http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/airport.htm*>.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are public or private individuals or groups seeking to construct or establish new municipal solid waste landfills (MSWLFs) near specified airports after April 5, 2000. Affected categories and entities include the following:

Category	Examples of regulated entities
Federal Government	Agencies constructing or establishing new MSWLFs within six miles of a public airport.
State, Local and Tribal Government	Governments constructing or establishing new MSWLFs within six miles of a public airport.

The table above is not intended to be exhaustive but rather to provide examples of entities likely to be regulated by this action. To determine whether your facility would be impacted by this action, you should carefully examine the applicability criteria in the rule. If you have questions regarding the applicability of this action to a particular facility, please contact Mary T. Moorcones, U.S. Environmental Protection Agency, Office of Solid Waste (5305W), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone: 540–338–1348; e-mail: <*moorcones.mary@epamail.epa.gov*>. Entities considering construction or establishment of a new MSWLF also should contact the Federal Aviation Administration (FAA) to determine if an airport within six statute miles of the new MSWLF meets the criteria established by FAA to comply with the statute. The FAA can be contacted at the FAA's Office of Airport Safety and Standards, Airport Safety and Certification Branch, at 800–842–8736, Ext. 73085 or via e-mail at <*WebmasterARP@faa.gov*>.

Acronyms

The full names for the acronyms used in this document are:

Acronym	Definition
AC	Federal Aviation Administration Advisory Circular 150/5200–34, together with its Appendix 1, dated August 26, 2000.
CFR	The United States Code of Federal Regulations.
EPA	The United States Environmental Protection Agency.
FAA	The United States Federal Aviation Administration.
Ford Act	Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.
MSWLF	Municipal Solid Waste Landfill.
NTTA	National Technology and Transfer Act of 1995.
OMB	The United States Office of Management and Budget.
RCRA	The Resource Conservation and Recovery Act.
RIC	Resource Conservation and Recovery Act Information Center.
UMRA	Unfunded Mandates Reform Act of 1995.
U.S.	United States.
U.S.C.	United States Code.

Where To Find and View Information About This Rule

All documents in the docket for this rulemaking, including public comments, are available for review in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review the docket materials in person, we recommend that the public make an appointment by calling 703–603–9230. The public can hard copy a maximum of 100 pages from the docket at no charge. Additional copies cost $0.15/page.

You can access the Index to the docket and the supporting documents electronically on the Internet at: <*http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/airport.htm*>. If you access the information electronically, you can download or print copies free of charge.

Preamble

Outline

I. Legal Authority for Today's Direct Final Rule

The EPA is promulgating this rule under Sections 1008(a), 2002 (general rule making authority), and 4004 of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6907(a), 6912, 6944.

II. Why We Are Amending the MSWLF Location Restrictions for Airport Safety

On April 5, 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act), Public Law 106–181. Section 503 of the Ford Act includes a provision limiting the ''construction or establishment'' of municipal solid waste landfills (MSWLFs) within six miles of certain smaller public airports. The FAA issued guidance regarding the requirements of the Ford Act in FAA Advisory Circular (AC) 150/5200–34 (August 26, 2000). Today's rule incorporates the statutory requirement into EPA's Criteria for Municipal Solid Waste Landfills, 40 CFR part 258. Specifically, we are amending the location restriction requirements pertaining to airport safety found in § 258.10 of the criteria by adding this new location restriction to the existing location restrictions.

Section 503 of the Ford Act was enacted to address the potential hazard posed to aircraft by birds attracted to landfills. According to the Federal Aviation Administration (FAA), an estimated 87 percent of the collisions between wildlife and civil aircraft occurred on or near airports when aircraft were less than 2,000 feet above ground level. Collisions with wildlife at these altitudes are especially dangerous because aircraft pilots have minimal time to recover. Databases managed by the FAA and the United States Air Force show that more than 54,000 civil and military aircraft reported strikes with wildlife from 1990 to 1999 (FAA AC No. 150/5200–34).

III. Description of Current Regulations Before Today's Action

40 CFR 258.10 sets forth location restrictions for MSWLFs to address airport safety. Section 258.10(a) and (c) contain requirements for new MSWLFs, existing MSWLFs and lateral expansions of landfills that are located within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 of any airport runway used only by piston-type aircraft. Owners or operators of such landfills are required to (1) demonstrate that the MSWLFs are designed and operated so as not to ''pose a bird hazard to aircraft,'' (2) place a copy of the demonstration in the MSWLF operating record, and (3) notify the State Director that it has been placed in the operating file. ''State Director'' is defined as ''the chief administrative officer of the lead state agency responsible for implementing the state permit program for 40 CFR part 257, subpart B and 40 CFR part 258 regulated facilities.''

Section 258.10(b) applies to new MSWLFs and lateral expansions proposed to be constructed within a five-mile radius of the end of any airport runway used by turbojet or piston-type aircraft. For such proposed new MSWLFs and lateral expansions, the owner or operator must notify the affected airport and the FAA.

Section 258.10(d) defines ''airport'' to mean a ''public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.'' This subsection also defines ''bird hazard.''

IV. Description of Today's Amendment to MSWLF Location Restrictions for Airport Safety

Today's direct final rule adds a new paragraph (e) to § 258.10 that incorporates the location restrictions enacted in Section 503 of the Ford Act prohibiting construction or establishment of a new MSWLF within six miles of a ''public airport.'' A ''public airport'' is one that: (1) Has received grants under the Airport and Airway Improvement Act of 1982, as amended (chapter 471, 49 U.S.C. 47101, et seq.) and (2) is primarily served by general aviation aircraft and regularly scheduled air carrier operations that use aircraft designed for 60 passengers or less. Today's direct final rule applies to MSWLFs (as defined in 40 CFR 257.3 through 257.8) that receive putrescible waste (as defined in 40 CFR 257.3 through 257.8).

A. Landfills to Which the New Restrictions Apply

The new six (6) mile restriction only applies to new MSWLFs constructed or established after April 5, 2000. ''Construct a MSWLF'' is defined as in Appendix 1 of the FAA AC No. 150/5200–34 as ''excavate or grade land, or raise structures, to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting authority.'' ''Establish a MSWLF'' is defined in Appendix 1 of the AC as a MSWLF that ''receives[s] the first load of putrescible waste on site for placement in a prepared municipal solid waste landfill.''

To determine whether an airport in the vicinity of a proposed MSWLF is an airport that is subject to the Ford Act, the landfill owner or operator should contact the FAA. As the FAA guidance indicates, those airports covered by the Ford Act do not fall into a classification or category that has been established by the FAA or other legislation. See FAA AC No. 150/5200–34, section 8. If the airport in question does not meet the definition in the Ford Act, then today's rule does not apply to the proposed landfill. If the airport in question meets the Ford Act definition, then the proposed landfill must be located at least six miles from the airport. The AC also provides guidance for determining whether a new MSWLF falls within the six mile range. The six mile distance is to be measured from ''the closest point of the airport property boundary to the closest point of the MSWLF property boundary. (FAA AC No. 150/5200–34, section 9.)

B. Exemptions to the Limitations

The six mile siting limitation does not apply to: (1) A MSWLF where construction or establishment began on or before April 5, 2000; (2) an existing MSWLF that received putrescible waste on or before April 5, 2000; (3) an existing MSWLF (constructed or established before April 5, 2000) that is expanded or modified after April 5, 2000; or (4) MSWLFs in the State of Alaska. In addition, the aviation agency of the state in which the airport is located can request an exemption from the six mile limitation from the FAA for a new MSWLF. Section 10 of FAA AC No. 150/5200–34 sets out the procedure for applying for an exemption.

New MSWLFs that are not subject to the six mile siting limitation, including those in the State of Alaska, continue to be subject to the landfill siting criteria at 40 CFR 258(a)–(d).

V. How the States and Tribes Implement This Rule

EPA recognizes that today's rule and the language in the Ford Act are more stringent than the existing § 258.10 location restrictions, because the boundary for newly constructed or established MSWLFs is moved from five to six miles from certain airports. However, EPA does not deem this change to be significant. This provision concerns only new MSWLFs constructed or established after April 5, 2001; and, EPA does not expect many new landfills to be constructed, and expects fewer still to be located in the vicinity of an airport defined in section 503 of the Ford Act. In addition, EPA notes that the statutory restriction in section 503 of the Ford Act applies to such new MSWLFs regardless of whether EPA incorporates its terms into the MSWLF criteria. Therefore states are not required to amend permit programs which have been determined to be adequate under 40 CFR part 239. States however have the option to amend statutory or regulatory definitions pursuant to today's direct final rule. If a state chooses to amend its permit program pursuant to today's action, the state must notify the Regional Administration of the modification as provided by 40 CFR 239.12. Today's amendments are directly applicable to landfills in states without an approved permit program under part 239 and in Indian Country. We also encourage tribes to adopt today's amendments into their programs.

VI. Why Today's Rule Is Direct Final Promulgation Without Prior Proposal

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment because it simply incorporates the legislative directive of the Ford Act. EPA is making this change in order to eliminate potential confusion between the new requirements under the Ford Act and the MSWLF criteria, promulgated in 1991 pursuant to the Resource Conservation and Recovery Act (RCRA).

However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to amend the location restrictions' provision of the MSWLF criteria in the event adverse comments are received. This final rule will be effective on October 9, 2002, without further notice unless we receive adverse comment on the direct final rule by August 12, 2002. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. We will address all public 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. A comment will be considered adverse if it: (1) Is negative and addresses the basis or purpose of the direct final rule; (2) suggests that the rule should not be adopted or offers facts or data contrary to the basis upon which EPA relied in issuing the direct final rule; (3) recommends changes that suggest that the rule without these changes would be inappropriate; and (4) is germane. A comment is not adverse if it: (1) Is not clearly related to the subject of the rule and/or (2) supports the rule or is irrelevant to the rule (e.g., a comment addressing an aspect of the program not considered in the rule).

VII. Applicability of Relevant Statutes and Executive Orders to Today's Rule

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, EPA must determine whether a regulatory action is significant and therefore subject to Office of Management and Budget (OMB) review and the other provisions of the Executive Order. Executive Order 12866 defines a significant regulatory action as one that is likely to result in actions that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Today's rule, deals only with siting of future individual MSWLFs after the statute's passage, does not have an adverse impact on the economy, the environment, the public, or governments. Similarly, it neither interferes with other agencies nor impacts other programs, the President's priorities, or legal mandates. Indeed, today's direct final rule codifies a legal mandate that enhances public safety and is more protective of wildlife than doing nothing.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare, and make available for public comment, a regulatory flexibility analysis that describes the impact of a proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The regulatory flexibility analysis is not required if the head of an agency certifies that the rule will not have a significant adverse impact on a substantial number of small entities. If the agency certifies that there is no such impact, the agency must provide a statement of the factual basis for the certification.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule will not impose any requirements on small entities.

The following discussion explains EPA's factual basis for our certification that the rule will not have a significant adverse impact on a substantial number of small entities. This direct final rule does not impact any existing MSWLFs, only future construction and establishment of MSWLFs begun after the date of the enactment of the statute (April 5, 2000). There will be no added costs to those entities involved in establishing or constructing new MSWLFs because this direct final rule will not increase the requirements for landfills begun on or before the enactment of the statute; it will only affect their location. Similarly, it will not increase requirements for existing landfills, regardless of size. As a result, today's direct final rule will not impose significant new burdens on small entities. Therefore, for the reasons stated above, the EPA certifies that the rule will not have a significant impact on a substantial number of small entities.

C. 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 regulatory actions on state, local, and tribal governments, and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments—either in the aggregate or to the private sector—of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objective of the rule. The above requirements of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed (under Section 203 of the UMRA) a small government agency plan. The plan must provide for: (1) Notifying potentially affected small governments; (2) 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 (3) informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's direct final rule does not contain any federal mandates that are covered under the regulatory provision of Title II of the UMRA that apply to state, local, or tribal governments or the private sector. The rule does not impose any additional enforceable duty on any state, local, or tribal governments or on the private sector. Thus, today's direct final rule is not subject to the requirements of Sections 202 and 205 of UMRA.

D. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, requires the federal government (and thus EPA) to minimize the paperwork burden resulting from any collection of information by or for the federal government. Under 44 U.S.C. 3501 *et seq.*, EPA must submit a request to collect the information, together with a copy of the rule, to the Office of Management and Budget (OMB) in those cases where EPA is collecting information in a notice of proposed or final rule making. EPA does not plan to submit an ICR to OMB for review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* because there are no information collection requirements associated with today's direct final rule.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' The phrase, ''policies that have federalism implications,'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

Today's direct final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The direct final rule does not impose any requirements, implementation duties, enforcement duties, monitoring requirements, or reporting requirements on states. Thus, Executive Order 13132 does not apply to this direct final rule.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development or regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation.

This direct final rule does not have tribal implications, as specified in Executive Order 13175. Today's action incorporates requirements that are already in effect pursuant to the Ford Act. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and must explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

This direct final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action, i.e., hazards to aircraft from birds attracted to municipal solid waste landfills, present a disproportionate risk to children.

H. National Technology Transfer and Advancement Act of 1995

Section 2(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTA''), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or would be otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTA directs EPA to provide Congress, through OMB, explanations when the EPA decides not to use available and applicable voluntary consensus standards.

Today's direct final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Executive Order 12898: Environmental Justice

EPA has undertaken to incorporate environmental justice into its policies and programs through: (1) Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations''; (2) EPA's April 1995, ''Environmental Justice Strategy, Office of Solid Waste and Emergency Response Environmental Justice Task Force Action Agenda Report''; and (3) the National Environmental Justice Advisory Council. EPA is committed to addressing environmental justice concerns, and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure: (1) That no segment of the population—regardless of race, color, national origin, or income—bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities; and (2) that all people live in clean and sustainable communities. The EPA believes that today's direct final rule, which conforms the language in 40 CFR 258.10 to the Ford Act, has no adverse environmental or economic impact on any minority or low-income group, or on any other type of affected community. These standards would not affect the location of any MSWLF other than to prohibit the location of MSWLFs within six miles of a public airport as defined in the direct final rule.

J. Executive Order 13211: Energy Effects

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' because it is not a significant regulatory action under Executive Order 12866.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to the U.S. Senate, the U.S. House of Representatives, and to the Comptroller General of the United States. Additionally, under Section 804, a major rule cannot take effect until 60 days after it is published in the **Federal Register**.

Accordingly, EPA submitted a report containing today's direct final 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 today's **Federal Register**. Although this rule is not a ''major rule'' as defined by 5 U.S.C. 804(2), this rule will be effective October 9, 2002, unless EPA publishes a withdrawal in the **Federal Register**.

List of Subjects in 40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: May 31, 2002.

Christine Todd Whitman,

Administrator.

For the reasons discussed in the preamble, title 40 Chapter 1 of the Code of Federal Regulations, is amended as follows:

PART 258—[AMENDED]

1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c);

2. Section 258.10 is amended by adding paragraph (e) to read as follows:

§ 258.10 Airport safety.

* * * * *

(e) A new MSWLF unit that receives putrescible waste shall not be constructed or established after April 5, 2000 within six (6) miles of a public airport that has received federal grant funds under 49 U.S.C. 47101 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for sixty (60) passengers or less. The Federal Aviation Administration has issued guidance which includes criteria for determining when an airport is covered and has identified those airports meeting the criteria. Anyone considering construction or establishment of a new MSWLF within six (6) miles of a public airport should contact the Federal Aviation Administration. This paragraph (e) does not apply to a new MSWLF unit if:

(1) The state aviation agency of the state in which the airport is located requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this paragraph (e), and the Federal Aviation Administration Administrator determines that such exemption would have no adverse impact on aviation safety;

(2) The new MSWLF unit is to be constructed or established in the State of Alaska; or

(3) The new MSWLF unit is a lateral expansion of an existing MSWLF unit constructed or established as of April 5, 2000.

[FR Doc. 02–16994 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 070802A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 8, 2002, through 2400 hrs, A.l.t., December 31, 2002.

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

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

The 2002 TAC of Pacific ocean perch for the West Yakutat District was established as 780 metric tons (mt) by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR

956, January 8, 2002, and 67 FR 34860, May 16, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 TAC for Pacific ocean perch in the West Yakutat District will be reached before the end of the fishing season or year. Therefore, the Regional Administrator is establishing a directed fishing allowance of 750 mt, and is setting aside the remaining 30 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA, also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 8, 2002.

Virginia M. Fay,

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

[FR Doc. 02–17460 Filed 7–8–02; 3:48 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 070802B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 8, 2002, through 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–2778.

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

The 2002 TAC of Pacific ocean perch for the Central Regulatory Area was established as 8,220 metric tons (mt) by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002, and 67 FR 34860, May 16, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 TAC for Pacific ocean perch in the Central Regulatory Area will be reached before the end of the fishing season or year. Therefore, the Regional Administrator is establishing a directed fishing allowance of 7,220 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA, also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by section 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 8, 2002.

Virginia M. Fay,

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

[FR Doc. 02–17461 Filed 7–8–02; 3:48 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 67, No. 133

Thursday, July 11, 2002

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

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 02–023–3]

RIN 0579–AB40

Importation of Clementines From Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule and notice of public hearings.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of clementines from Spain to resume if the clementines are cold treated en route to the United States, and provided that other pre-treatment and post-treatment requirements are met. These requirements would include provisions that the clementines be grown in accordance with a Mediterranean fruit fly management program established by the Government of Spain, that the clementines be subject to an inspection regimen that includes fruit cutting prior to, and after, cold treatment, and that the clementines meet other conditions designed to protect against the introduction of the Mediterranean fruit fly into the United States. We are proposing this action based on our finding that the restrictions described in this proposed rule will reduce the risk of introduction of Mediterranean fruit fly and other plant pests associated with the importation of clementines from Spain.

DATES: We will consider all comments that we receive on or before September 9, 2002. We will also consider comments made at public hearings to be held in Oxnard, CA, on August 20, 2002; and in Lake Alfred, FL, on August 22, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–023–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–023–3. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–023–3'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

Public hearings regarding this rule will be held at the following locations:

1. Oxnard, CA: Radisson Hotel, 600 Esplanade Drive, Oxnard, CA.
2. Lake Alfred, FL: University of Florida Experiment Station, Ben Hill Griffin Hall, 700 Experiment Station Road, Lake Alfred, FL.

FOR FURTHER INFORMATION CONTACT: Mr. I. Paul Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Public Hearings

We are advising the public that we are hosting two public hearings on this proposed rule and on the documents that support it. The first public hearing will be held in Oxnard, CA, on Tuesday, August 20, 2002. The second public hearing will be held in Lake Alfred, FL, on Thursday, August 22, 2002.

A representative of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA or the Department), will preside at the public hearings. Any interested person may appear and be heard in person, by attorney, or by other representative. Written statements may be submitted and will be made part of the hearing record. A transcript of the public hearings will be placed in the rulemaking record and will be available for public inspection.

The purpose of the hearings is to give interested persons an opportunity for presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to comments at the hearings, except to clarify or explain provisions of the proposed rule.

The public hearings will begin at 9 a.m. and are scheduled to end at 4:30 p.m., local time. The presiding officer may limit the time for each presentation so that all interested persons appearing at each hearing have an opportunity to participate. Each hearing may be terminated at any time if all persons desiring to speak have been heard.

Registration for the hearings may be accomplished by registering with the presiding officer between 8:30 a.m. and 9 a.m. on the day of the hearing. Persons who wish to speak at a hearing will be asked to sign in with their name and organization to establish a record for the hearing. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing. Those who wish to form a panel to present their views will be asked to provide the name of each member of the panel and the organizations the panel members represent.

Persons or panels wishing to speak at one or both of the public hearings may register in advance by phone or e-mail. Persons wishing to register by phone should call the Regulatory Analysis and Development voice mail at (301) 734–8138. Callers must leave a message clearly stating (1) the location of the hearing the registrant wishes to speak at, (2) the registrant's name and organization, and, if registering for a panel, (3) the name of each member of the panel and the organization each panel member represents. Persons wishing to register by e-mail must send an e-mail with the same information described above to matthew.a.rhoads@aphis.usda.gov. Please write ''Public Hearing Registration'' in the subject line of your e-mail. Advance registration for either hearing must be received by 3 p.m. on Friday, August 16, 2002.

If you require special accommodations, such as a sign language interpreter, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

The regulations in ''Subpart Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies, that are new to or not widely distributed within the United States.

The regulations do not contain any specific administrative instructions regarding the importation of clementines (*Citrus reticulata*) from Spain. However, until recently, the Animal and Plant Health Inspection Service (APHIS) authorized the importation of clementines from Spain under the regulations in § 319.56–2(e)(2). The regulations in § 319.56–2(e) provide that any fruit or vegetable, except those restricted to certain countries and districts by special quarantine and other regulations or orders now in force and by any restrictive order as may hereafter be promulgated, may be imported from any country under a permit issued in accordance with this subpart and upon compliance with the regulations in this subpart, if the U.S. Department of Agriculture, after reviewing evidence presented to it, is satisfied that the fruit or vegetable either:

(1) Is not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae);

(2) Has been treated or is to be treated for all injurious insects that attack it in the country of origin, in accordance with conditions and procedures that may be prescribed by the Administrator;

(3) Is imported from a definite area or district in the country of origin that is free from all injurious insects that attack the fruit or vegetable, its importation can be authorized without risk, and its importation is in compliance with the criteria of paragraph (f) of this section; or

(4) Is imported from a definite area or district of the country of origin that is free from certain injurious insects that attack the fruit or vegetable, its importation can be authorized without risk, and the criteria of paragraph (f) of this section are met with regard to those certain insects, provided that all other injurious insects that attack the fruit or vegetable in the area or district of the country of origin have been eliminated from the fruit or vegetable by treatment or any other procedures that may be prescribed by the Administrator.

Until recently, clementines from Spain have been imported under permit, provided that they were cold treated for the Mediterranean fruit fly (*Ceratitis capitata*) (Medfly) in accordance with the treatment listed in the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference into the regulations at 7 CFR 300.1. The treatment listed in the PPQ Treatment Manual for clementines from Spain requires fruit to be held at temperatures from 32 °F to 36 °F according to the following schedule:

Temperature	Exposure period (days)
32 °F or below	10
33 °F or below	11
34 °F or below	12
35 °F or below	14
36 °F or below	16

Clementines imported from Spain were not required to meet any additional treatment requirements in order to be imported into the United States, but were subject to inspection at the port of entry.

On November 20 and 27, 2001, live Medfly larvae were intercepted in clementines from Spain that were purchased by consumers from food stores in North Carolina and Maryland. On November 30, 2001, APHIS notified the Government of Spain that it was suspending the importation of clementines pending an investigation into the cause of the infestations. In the course of its investigation, APHIS traced the infested fruit from both locations to a single sea vessel importing clementines from Spain into Philadelphia, PA.

Based on the findings of the investigation, on December 4, 2001, APHIS notified the Government of Spain that imports of clementines could resume on December 5, 2001, as we believed that the infested fruit likely were the product of improper application of cold treatment on the vessel in which they were imported. However, later that same day, APHIS inspectors intercepted live Medfly larvae in Spanish clementines during a market inspection in Louisiana. The clementines were traced back to a shipment of clementines that were imported from Spain into Newark, NJ, on a different sea vessel than the shipment that produced the North Carolina and Maryland interceptions.

After the third Medfly interception, on December 5, 2001, APHIS notified the Government of Spain that it was suspending the importation of clementines based on interceptions of live Medfly larvae in Spanish clementines that were transported to the United States in two separate sea vessels. Beginning December 5, 2001, all shipments of clementines from Spain were refused entry into the United States. APHIS also announced restrictions on the marketing of Spanish clementines that had already been released into domestic commerce. Under those new restrictions, Spanish clementines could only be sold in northeastern U.S. States where Medfly host material was not prevalent at that time of year. Clementines distributed in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, Nevada, New Mexico, Oklahoma, Oregon, Puerto Rico, South Carolina, Tennessee, Texas, and Washington were required to be removed from retail shelves, and had to be destroyed or shipped to northeastern States.

After we adopted those restrictions on clementines from Spain, APHIS was notified by the California Department of Food and Agriculture (CDFA) that CDFA inspectors had intercepted live Medfly larvae in imported Spanish clementines on five occasions in three California cities between December 3 and December 7. On December 11, 2001, after the restrictions on Spanish clementines had been put in place, APHIS inspectors intercepted additional live Medfly larvae in imported Spanish clementines that were being held at Port Elizabeth, NJ.

The number of Medfly interceptions in Spanish clementines in such a short period of time in November and December 2001 was very uncharacteristic given the history of clementine imports from Spain. The U.S. Department of Agriculture (USDA) has allowed the importation of clementines from Spain since 1985. Prior to November and December 2001, there had never been multiple confirmed finds of Medflies in fruit of any kind that had been legally imported into the mainland United States from any source. Additional problems pertaining to the importation of clementines have been reported in the past (*i.e.*, consumer submissions to APHIS of (1) clementines with dead

Medfly larvae that were reported to be alive when they were found and (2) fruits that may not have been subject to treatment), but even those unconfirmed events consisted of only one or two fruits per year.

In order to get a better sense of what factors contributed to the survival of Medfly larvae in clementines that were imported from Spain, APHIS initiated a review of the Spanish clementine import program and the cold treatment protocol in general. As part of this review, an APHIS team visited Spain in mid-December 2001. The review team noted that there may have been an overwhelming presence of Medfly larvae in Spanish clementines during the early part of the 2001–2002 production season. The review team concluded that the following conditions in clementine production areas may have contributed to the overwhelming larval presence:

- Unseasonably warm weather conditions;
- Above average fruit fly populations;
- High host susceptibility of the early season clementine varieties;
- Low trap densities and inadequate bait spray applications; and
- Lack of fruit cutting activities to adequately monitor larval populations.

APHIS believes, based on the available evidence, that there are two possible explanations for the survival of Medfly larvae in imported Spanish clementines during the 2001–2002 shipping season. One is that despite the assumed mortality rate of the cold treatment (99.9968 percent), any small or partial failure in the application of the cold treatment could have allowed Medflies to survive in clementines imported from Spain due to the above average levels of Medflies in the growing areas in Spain. Alternately, it is possible that the level of Medfly infestation in imported clementines simply overwhelmed the capabilities of the cold treatment process, even if the treatment was properly applied.

In order to address this problem, since December 5, 2001, APHIS has prohibited the importation of clementines from Spain while it considers alternate approaches to mitigating the Medfly risk posed by clementines from Spain.

Determination by the Secretary

In this document, APHIS is proposing to allow the importation of clementines from Spain to resume, but only under additional conditions that we believe will prevent the introduction of Medfly into the United States in clementines imported from Spain.

Under section 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the ddissemination of a plant pest or noxious weed within the United States.

The Secretary has determined that it is not necessary to prohibit the importation of clementines from Spain in order to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed. This determination is based on the finding that the application of the remedial measures contained in this proposed rule will provide the protection necessary to prevent the introduction and dissemination of plant pests into the United States. The factors considered in arriving at this determination include: (1) The conclusions of a risk management analysis, ''Risk mitigation for Mediterranean fruit flies with special emphasis on risk reduction for commercial imports of clementines (several varieties of Citrus reticulata) from Spain'' (Revised July 5, 2002) (referred to elsewhere in this document as ''risk management analysis''), (2) the findings of a review of the existing cold treatment for clementines from Spain, ''Evaluation of cold storage treatment against Mediterranean Fruit Fly, *Ceratitis capitata* (Wiedemann) (Diptera:Tephritidae)'' (May 2, 2002) (referred to elsewhere in this document as ''cold treatment evaluation''), and (3) the findings of USDA technical experts.

Risk Management Analysis

On April 16, 2002, we published a notice in the **Federal Register** (67 FR 18578–18579, Docket No. 02–023–1) in which we announced the availability of the risk management analysis and appendices. On May 24, 2002, we published another notice in the **Federal Register** (67 FR 36560–36561, Docket No. 02–023–2) in which we extended the comment period on the risk management analysis and appendices until June 14, 2002. Based on comments we received in response to those notices, we have made changes to the risk management analysis. Those changes are described in section X of the risk management analysis. APHIS will continue to accept comments on the risk management analysis and the other documents supporting this proposed rule throughout the comment period for the proposed rule. The revised risk management analysis and appendices can be viewed on the APHIS Internet site at: http://www.aphis.usda.gov/oa/clementine/index.html. Copies are also available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

APHIS's risk management analysis evaluates the potential of remedial measures employed in this proposed rule to reduce the risk that Medflies could be imported into the United States from Spain. As part of our analysis of the risks posed by the importation of clementines from Spain, we identify critical control points in the safeguarding system which assure that risks are minimized and are subject to verification and monitoring by regulatory personnel. Identification of these critical control points permits the risk assessor to focus on those components of a system that are key to the overall effectiveness of the system.

This approach is similar to a type of risk management approach used by the Food and Drug Administration (FDA) and USDA's Food Safety and Inspection Service, called a Hazard Analysis and Critical Control Point (HACCP) analysis. HACCP analyses have been found to provide an effective and rational means of assuring food safety from harvest to consumption. Preventing problems from occurring is the paramount goal underlying any HACCP system, and seven basic principles are employed in the development of HACCP plans that meet the stated goal. These principles include hazard analysis, critical control point identification, establishing critical limits, monitoring procedures, corrective actions, verification procedures, and record keeping and documentation. Using a HACCP approach, if a deviation occurs indicating that control has been lost, the deviation is detected and appropriate steps are taken to reestablish control in a timely manner to assure that potentially hazardous products do not reach the consumer.

For the purposes of our risk management analysis, APHIS has applied the HACCP approach to the analysis of phytosanitary measures; i.e., we consider the critical control points employed by HACCP approaches as being equivalent to critical control points employed in the area of phytosanitary safety. We emphasize that our application of the HACCP approach does not represent a departure from existing guidelines for the phytosanitary risk analysis, but rather, is a refinement that reflects more emphasis on certain risk mitigating elements of a set of phytosanitary measures (e.g., the critical control points). A more detailed description of how HACCP principles can be applied to phytosanitary risk management is shown in appendix 1 of the risk management analysis.

As stated above, the risk management analysis considers the risk that Medflies could be introduced into the United States via Spanish clementines. We only consider Medflies in this analysis because we have conducted a review of the pests known to infest clementines in Spain, and have found that all other pests except Medflies are readily detectable by visual inspection, and therefore do not require additional risk mitigation. This pest list review is documented in appendix 4 of the risk management analysis. The information provided in the risk management analysis and its appendices meets applicable risk analysis standards adopted by the International Plant Protection Convention.

The risk management analysis, among other things, notes that two elements (critical control points) are fundamental to the successful reduction of risks associated with the importation of clementines from Spain:

1. The limitation of the population of Medflies in clementine production areas in Spain such that the proportion of infested fruit is no greater than 1.5 percent.

2. The application of cold treatment such that a Probit 9 level of quarantine security is approximated.[1]

The risk management analysis concludes that the risk of Medfly introduction via Spanish clementines would be significantly reduced if cold treatment is applied to fruit that have been subject to the proposed Medfly population reduction measures, rather than if fruit is simply subject to cold treatment alone. With this in mind, we have drafted a revised regulatory approach for the importation of clementines from Spain that would allow the underlying goals of both elements to be met if imports of clementines from Spain resume. The phytosanitary measures employed in the regulatory approach described in this document would also provide additional safeguards resulting in risk reductions that further diminish the potential effects of uncertainties and variability inherent in the commodity import system.

[1] A system that ensures at least 99.9968 percent mortality of target pests provides Probit 9 quarantine security. Probit 9 quarantine security allows for a survival rate of no more than 0.0032 percent of target pests. The risk management analysis does not assume that cold treatment alone provides a defined level of quarantine security (i.e., probit 9 quarantine security). Rather, the analysis considers other risk-mitigating measures as necessary to ensure that cold treatment has the potential to provide approximately a probit 9 level of quarantine security.

Proposed Requirements

As discussed in detail below, the remedial measures contained in this proposed rule are intended: (1) To prevent high Medfly infestation levels of the sort that occurred in 2001 through the use of fruit fly trapping, bait treatment procedures, and record keeping requirements, (2) to permit the detection of high levels of Medfly infestation through pre-shipment inspection procedures, and (3) to prevent the introduction of Medflies into the United States through modified cold treatment and post-shipment inspection procedures.

We are proposing to add a new § 319.56–2jj, ''Administrative instructions; conditions governing the importation of clementines from Spain,'' to the regulations. Section 319.56–2jj would list the conditions under which the importation of clementines from Spain into the United States could resume. Those conditions are described in detail below.

Trust Fund Agreement

Paragraph (a) of proposed § 319.56–2jj specifies that clementines will only be allowed to be imported into the United States from Spain if the Government of Spain or its designated representative (*e.g.,* an association of exporters of Spanish clementines) enters into a trust fund agreement with APHIS before each clementine shipping season. The agreement would require the Government of Spain or its designated representative to pay in advance all costs that APHIS expects to incur through its involvement in those elements of the proposed Spanish clementine regulations that must take place in Spain. The requirements regarding activities in Spain can be found in paragraphs (b) through (g) of proposed § 319.56–2jj.

Costs that would have to be paid in advance include administrative expenses incurred in conducting the required services in Spain and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The regulations and trust fund agreement would require that the Government of Spain or its designated representative deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement would further require the Government of Spain or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services could be continued. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Government of Spain or its designated representative or held on account until needed.

These requirements regarding the trust fund agreement would be necessary to ensure that APHIS is able to cover all costs resulting from its participation in the approval of clementines for export to the United States.

Mediterranean Fruit Fly Management Program

Paragraph (b) of proposed § 319.56–2jj specifies that persons who produce clementines in Spain for export to the United States must be registered with the Government of Spain and that they enter into the Government of Spain's Mediterranean fruit fly management program.

The Government of Spain's Mediterranean fruit fly management program is a new program that was designed to reduce the presence of Medflies in areas that produce clementines for export to the United States to levels that are conducive to successful treatment of the fruit (i.e., a target infestation rate of 1.5 percent or less). Under paragraph (c) of proposed § 319.56–2jj, the Government of Spain's Mediterranean fruit fly management program would be required to contain certain fruit fly trapping and recordkeeping requirements, and program operations in general would have to be approved by APHIS as adequate to ensure that the areas where clementines are produced for export to the United States indeed do have low infestation rates. The proposed regulations would also require that clementine producers allow APHIS inspectors access to clementine production areas in order to monitor compliance with the Mediterranean fruit fly management program.

Specifically, the regulations and the Mediterranean fruit fly management program would require that, in areas where clementines are produced for export to the United States, fruit fly traps be placed in preferred Medfly host plants at least 6 weeks prior to the harvest of the clementines. This requirement would ensure that growers in Spain are able to determine the extent of the presence of Medflies in clementine production areas, so that appropriate control methods could be applied prior to harvest of fruit.

In addition, bait treatments using malathion, spinosad, or another pesticide approved by APHIS would have to be applied in the production areas at a rate appropriate to maintain the level of infestation of clementines by Medflies at 1.5 percent or less. This proposed requirement would help ensure that the majority (98.5 percent) of fruit intended for exportation to the United States is not infested with Medfly larvae prior to cold treatment and that the Spanish Medfly management program reduces populations of Medflies to levels that allow for effective cold treatment of fruits exported to the United States.

In addition, the proposed regulations would require that the Government of Spain or its designated representative keep records that document all fruit fly trapping and control activities that are conducted under the Government of Spain's Medfly management program. All trapping and control records kept by the Government of Spain or its designated representative would have to be made available to APHIS upon request. APHIS would require access to these records in order to verify that clementine production areas in Spain meet the requirements of the Government of Spain's Medfly management program and APHIS regulations.

Phytosanitary Certificates

Under paragraph (d) of proposed § 319.56–2jj, clementines from Spain would have to be accompanied by a phytosanitary certificate that states that the clementines meet the conditions of the Government of Spain's Mediterranean fruit fly management program and applicable APHIS regulations. This requirement would provide APHIS with the Government of Spain's assurance that imported clementines have been grown under conditions designed to reduce the level of infestation of the fruit by Medflies.

Labeling

Paragraph (e) of proposed § 319.56–2jj specifies that cartons in which clementines are packed would be required to be labeled with a lot number that provides information to identify the orchard where the fruit was grown and the packinghouse where the fruit was packed. The lot number would have to end with the letters ''US,'' and the labeling would have to be large enough to clearly display the required information and be located on the side of cartons to facilitate inspection by APHIS.

Pre-Treatment Sampling

Clementines that are produced under the Government of Spain's Medfly management program should have low levels (i.e., 1.5 percent or less) of infestation with Medflies prior to cold treatment. In order to ensure that the efficacy of the cold treatment is not undermined by high levels of infestation, paragraph (f) of proposed § 319.56–2jj would require that, prior to beginning cold treatment of a shipment of clementines, APHIS inspectors will cut and inspect a designated number of fruit that are randomly selected from throughout the shipment. A shipment could include as little as one shipping container of clementines (approximately 166,000 fruit) or could be a bulk shipment of approximately 972,000 clementines (a maximum of 120 pallets, with each pallet containing approximately 8,100 fruit). A shipment is basically a group of fruit from one packinghouse that is presented for inspection by APHIS. A shipment from a single packinghouse could include fruit from many different orchards.

If inspectors find a single live Medfly in any stage of development during an inspection, the entire shipment of clementines would be rejected. While a single Medfly interception in a shipment of Spanish clementines may not be proof that the shipment is highly infested, such a detection provides a statistical basis by which to infer that fruit could be 1.5 percent infested or more. Conversely, if no Medflies are intercepted during an inspection of a shipment of fruit, there is a statistical basis upon which to assume that the fruit sampled is less than 1.5 percent infested.

Further, if a live Medfly in any stage of development is found in any two shipments of fruit from the same orchard during the same shipping season, that orchard would be removed from the export program for the remainder of that shipping season.

Rates of Pre-Treatment Sampling

For the first clementine shipping season that occurs under the regulations described in this proposed rule, inspectors would cut 200 randomly selected fruit per shipment. We chose 200 as a sample size because, according to hypergeometric sampling rates, this sample size provides a 95 percent chance of finding one or more infested fruit when the infestation rate (percent of fruit infested) in the shipment sampled is 1.5 percent, provided that the size of the shipment sampled falls within the range described earlier in this document (between one container and 120 pallets). Since the regulations would require shipments in which Medflies are detected to be rejected, we are confident that only clementines with very low levels of infestation with Medflies would proceed to the next step in the import process.

The proposed regulations also contain provisions that would allow the sample size for pre-treatment fruit cutting to be adjusted for subsequent shipping seasons based on the number of rejections of shipments that occur during the previous shipping season. For the purposes of this proposed rule, a shipping season would include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year. This is to say that if our experience with fruit cutting suggests that the majority of Spanish clementines presented for exportation to the United States are not infested with Medflies, we would decrease the number of fruit that need to be cut and inspected. Conversely, the sample size could be returned to higher levels if the number of rejections of shipments rose above a specified percentage of the shipments. The sample size adjustments and their triggers are shown in the following table:

If the sample size for a given season is—	. . . and the rejection rate during that season is—	. . . then the sample size for the next season is—
200	≤5 percent	[1] 100
	>5 percent	200
100	≤2 percent	[2] 76
	>2 percent but ≤5 percent	100
	>5 percent	200
76	≤2 percent	76
	>2 percent but ≤5 percent	100

If the sample size for a given season is—	. . . and the rejection rate during that season is—	. . . then the sample size for the next season is—
	>5 percent	200

[1] According to hypergeometric sampling rates, this sample size provides a 95 percent chance of finding one or more infested fruit when the infestation rate (percent of fruit infested) in the shipment sampled is 3 percent.
[2] According to hypergeometric sampling rates, this sample size provides a 90 percent chance of finding one or or infested fruit when the infestation rate (percent of fruit infested) in the shipment sampled is 3 percent.

These potential changes in the sample size for shipments of clementines that have not yet been cold treated would provide for responsive changes in inspection protocols based on the success Spanish growers and exporters have in maintaining low Medfly infestation levels in clementines, as indicated by Medfly interceptions during fruit cutting. However, if APHIS determines that fruit presented for inspection and treatment appear to be highly infested during a shipping season in which 100 or 76 fruit are cut per shipment, APHIS would reserve the right to increase the required sample size during the shipping season. At no time would more than 200 fruit be required to be cut, but the sample size could be raised to that level at APHIS's discretion, depending on the number of Medfly interceptions.

The sample rates described above are each designed to ensure that, prior to cold treatment, APHIS can ensure that the level of Medfly infestation in clementines is sufficiently low to provide for effective treatment of the fruits.

Cold Treatment

Cold treatment of imported fruit is often conducted while the vessel carrying the fruit is en route to the United States, as cold treatment requires several days to cause mortality of target pests. Clementines from Spain are typically held in a refrigerated hold of cargo ship or in a refrigerated shipping container, and records are kept during transit to verify that the treatment for Medfly is successfully completed.

As stated earlier in this document, after the interceptions of Medflies in clementines from Spain in December 2001, APHIS undertook a review of activities associated with the production and treatment of Spanish clementines. As part of this review, APHIS is sponsoring additional research on the application of cold treatments for imported fruits and vegetables. In addition, APHIS asked a panel composed of APHIS regulatory personnel and USDA technical experts on fruit flies to conduct a review of available scientific literature related to the efficacy of the cold treatment for Medfly described earlier in this document, with the intention of using the panel's findings as guidelines on the future application of cold treatment. The panel found that the existing cold treatment schedule, while providing a very high level of Medfly mortality, does not provide Probit 9 level quarantine security in all cases. The panel also found that the high numbers of larvae present during the early part of the 2001–2002 growing season overwhelmed the ability of the cold treatment to provide quarantine security, and concluded that the present cold treatment schedule is insufficient for controlling high larval populations of Medflies and may result in Medfly survivors. The panel's findings are corroborated by an additional quantitative USDA analysis, ''*Quantitative Analysis of Available Data on the Efficacy of Cold Treatment Against Mediterranean Fruit Fly Larvae*'' (July 5, 2002).

Based on its review of the available scientific literature and of all factors involved in quarantine cold treatments against Medfly eggs and larvae, the panel recommended increasing the length of the required cold treatment at each temperature by 2 days. The cold treatment evaluation and the quantitative analysis referred to above can be viewed on the APHIS Internet site at: *http://www.aphis.usda.gov/oa/clementine/index.html.* Copies are also available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Based on the panel's recommendation, we are proposing to amend the PPQ Treatment Manual by revising the Medfly treatment listed for clementines from Spain.[2]

The revised treatment schedule would require clementines from Spain to be held at temperatures from 32 °F to 36 °F according to the following schedule:

Temperature	Exposure period (days)
32 °F or below	12
33 °F or below	13
34 °F or below	14
35 °F or below	16
36 °F or below	18

There should be no effect on fruit quality due to the increased holding times, based on anecdotal information from New Zealand's Ministry of Agriculture and Forestry.

In conjunction with this revised treatment protocol, the proposed rule would require that, upon arrival of clementines at a port of entry into the United States, APHIS inspectors will examine the cold treatment data for each shipment[3] to ensure that the cold treatment was successfully completed. If the cold treatment has not been successfully completed, the shipment would be held until appropriate remedial actions have been implemented.

Appropriate remedial actions would depend on the circumstances of the treatment failure, but could include retreatment, extension of treatment, destruction, disposal, or reexportation of fruit. For instance, if the treatment records for a vessel reveal that a single cargo hold did not maintain the appropriate cold treatment temperature during the first 2 days of a 13-day treatment, inspectors could require that the fruit in that hold be held at the appropriate temperature for an additional 2 days prior to allowing the fruit to be removed from the vessel and inspected. In the event that temperature is not maintained during the middle of the treatment period, an inspector could allow the fruit to be containerized and retreated according to the appropriate treatment schedule prior to release into domestic commerce. Alternately, the inspector could allow the shipment to be reexported to a country that does not require treatment of fruits for Medflies, or the fruit could be destroyed or disposed of according to certain conditions.

[2] The current cold treatment used for clementines from Spain is also applicable to a number of other commodities imported from several different countries. We are only proposing to amend the cold treatment for clementines from Spain in this document, and we intend to make changes to the treatments for the other commodities in a separate rulemaking.

[3] Cold treatment records and data must be made available to APHIS under § 319.56–2d(b)(3)(i).

Port of Entry Sampling

Under paragraph (h) of proposed § 319.56–2jj, clementines imported from Spain would be subject to inspection by an inspector at the port of entry into the United States. This includes inspection for hitchhiking pests that could be present in shipments of clementines, in addition to fruit cutting inspections for Medflies.

In order to ensure that the proposed cold treatment, in combination with other proposed requirements, is working correctly, APHIS inspectors would cut and inspect randomly selected fruit at a sampling rate determined by the Administrator. The number of fruit to be cut could be adjusted based on the historical success of the treatment.

For the first clementine shipping season that occurs under the regulations described in this proposed rule, APHIS would cut 1,500 randomly selected fruit per shipload or 150 randomly selected fruit per shipping container.[4] We chose these particular sample sizes because, according to hypergeometric sampling rates, they provide a 95 percent chance of finding one or more infested fruit when (1) the infestation rate (percent of fruit infested) in the shipload sampled is 0.2 percent, or (2) the infestation rate (percent of fruit infested) in the shipping container sampled is 2.0 percent.

For future shipping seasons, APHIS may reduce the amount of fruit to be cut at the port of entry as our confidence in the effectiveness of the cold treatment increases. However, if inspectors detect a single live Medfly in any stage of development in a shipment of Spanish clementines, the shipment of clementines would be held until an investigation is completed and appropriate remedial actions have been implemented. Further, regardless of the level of inspection applied at that time, any further inspections would be subject to increased rates of inspection not to exceed 1,500 randomly selected fruit per shipload or 150 randomly selected fruit per shipping container, and inspections would remain at that level until APHIS is able to determine the cause of infestation and apply appropriate remedial measures.

Appropriate remedial actions would depend on the circumstances of the infestation, but could include retreatment, destruction, disposal, or reexportation of fruit. For instance, if fruit cutting reveals infestation of clementines with Medflies, and APHIS determines that the infestation is limited to fruit imported in a specific cold treatment hold or container in the vessel, APHIS could require that the infested fruit be reexported or destroyed. If APHIS is unable to link the infestation to a particular treatment hold or container, an inspector could refuse entry of the clementines and require them to be reexported or destroyed. Furthermore, if APHIS determines at any time that the required cold treatment or other safeguards contained in the proposed regulations are not protecting against the introduction of Medflies into the United States, APHIS may suspend the importation of clementines from Spain and conduct an investigation into the cause of the deficiency.

[4] A shipload could contain approximately 2,509 metric tons of clementines—equivalent to approximately 22.6 million fruit at a rate of 9,000 fruit per metric ton. As stated earlier in this document, a shipping container could contain approximately 166,000 fruit.

Definitions

Paragraph (i) of proposed § 319.56–2jj would clarify that, as stated earlier in this document, for the purposes of the proposed regulations, a shipping season would be considered to include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year.

Limited Distribution

We are considering instituting a limited distribution plan that would delay the entry of Spanish clementines into citrus-producing areas in the United States for up to 1 full shipping season. This would mean that clementines could not be distributed in or imported into California, Arizona, Texas, Florida, Louisiana, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, Guam, and American Samoa as an additional precaution against the introduction of Medflies into those areas, whose citrus industry could be severely harmed if Medflies were introduced into commercial production areas. This delay would provide an opportunity for the efficacy of the proposed regulations to be demonstrated under actual production and distribution conditions for 1 full shipping season before Spanish clementine imports would be allowed to enter citrus-producing areas of the United States. We invite the public to submit information demonstrating whether or not this confidence-building measure is warranted.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

For this proposed rule, we have prepared an economic analysis. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866, as well as an analysis of the potential economic effects of this proposed rule on small entities, as required under 5 U.S.C. 603. The economic analysis is summarized below. See the full analysis for the complete list of references used in this document. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, or on the Internet at *http://www.aphis.usda.gov/oa/clementine/index.html.*

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests.

Summary of Economic Analysis

Our analysis estimates expected benefits and costs associated with lifting the ban on the importation of Spanish clementines by the beginning of the next shipping season (mid-September 2002). Expected benefits and costs are estimated relative to the current ban and relative to the previous import program. Benefits and costs are estimated relative to the ban, because the ban is currently in effect. Benefits and costs are estimated relative to the previous import program, because this provides a useful benchmark for measuring relative benefits and costs. Potential benefits associated with lifting the ban include increased profits for importers and wholesalers and increased clementine supplies for retail consumers in the United States. Potential costs include eradication and other expenses that might be borne by taxpayers and fruit and vegetable producers in the United States in the event live Medflies are introduced.

Under the most likely scenario examined in the analysis, expected welfare gains relative to the current ban are approximately $210 million for marketing season 2002, which includes $120, $60, and $30 million in estimated welfare gains for importers, wholesalers, and retail consumers, respectively, with practically no increase in expected costs to U.S. taxpayers and fruit and vegetable producers. In addition, under the most likely scenario, expected welfare gains relative to the previous import program are over $26 million for marketing season 2002. This includes $15, $8, and $4 million in relative gains for importers, wholesalers, and retail consumers, respectively, and approximately $50,000 in gains to U.S. taxpayers and fruit and vegetable producers in the United States arising from improved Medfly management.

Clementine Market

Clementines are not grown domestically in significant quantities; therefore, U.S. consumption during the last 15 years (Snell 2002) has depended on imports from Spain, which contributed 90 percent of total U.S. imports during 1996–2000 (FAS 2002). Between 1991 and 2000, Spain's annual production of clementines averaged slightly over 1.1 million metric tons. During 1991–2000, Spain exported most of its clementines to Germany, France, the United Kingdom, and the Netherlands; however, exports to the United States grew 45 percent per year during this period, even though clementine production in Spain grew only 2 percent per year (FAS 1996–2001, MAPA 1999). The phenomenal growth in exports to the United States has been due to increased demand, leading to high import prices in the United States relative to import prices in the rest of the world. During 1989–2000, prices offered by U.S. importers averaged 20 percent higher than prices offered by all other importing countries, providing incentives sufficient for exporters to ship an average annual 6 percent of total exports to the United States in 1999 and 2000.

Spain exports clementines to the United States during mid-September to late February. Morocco, Italy, and Israel also export clementines to the United States during this marketing period; however, during 1996–2000, only 2 and 0.1 percent of U.S. clementine imports were from Morocco and Italy, respectively, and during 1998–2000, only 0.4 percent of U.S. clementine imports were from Israel. This suggests that exporters in these countries have not established export market infrastructures sufficient to allow for massive increases in shipments to the United States in the short run. In addition, clementines from these countries are typically of lower quality as reflected in lower average prices paid by U.S. importers. As a result, it is assumed that exports from Morocco, Italy, and Israel will not be able to fill the void left by the ban on Spanish clementines in the short run.

It is unclear whether clementine imports and domestically produced tangerines (*Citrus reticulata*) may be substitutes. Pollack and Perez (2001) have suggested that the two types of citrus may be substitutes; however, they did not estimate a substitution rate. We estimated the rate of substitution using a linear relationship between tangerine prices received by U.S. producers, a constant, wholesale tangerine consumption, and U.S. clementine imports. Although the coefficient estimate on clementine imports from Spain was negative, indicating clementines and tangerines may be substitutes, the coefficient estimate was not statistically different from zero. As a result, it is not clear whether clementines and tangerines are substitutes. Because only 12 annual observations were available, we request information and data from the public relevant to the estimation of the rate of substitution between domestically produced tangerines and Spanish clementine imports. In addition, we request information and data from the public relevant to the estimation of the rate of substitution between other domestically produced citrus fruit and Spanish clementine imports. In particular, we are interested in weekly or monthly price and quantity data for the relevant markets (Spanish clementine and domestically produced tangerines and other citrus fruits) during the clementine marketing season, mid-September to late February.

In addition, there are differences between Spanish clementines and domestically produced tangerines, which may be important to U.S. consumers. In particular, clementine imports are seedless and are packaged in small wooden boxes; whereas domestically produced tangerines are generally not seedless and are marketed in bulk quantities. Tangerine wholesalers are apparently considering alternative marketing strategies based on the clementine model; however, it is not clear if or when wholesalers will adopt this marketing strategy (Pollack 2002). Moreover, consumption of domestically produced tangerines (233,147 metric tons) was almost three times higher than consumption of clementines (83,631 metric tons) in the United States in 2000. Finally, the proposed rule would permit the re-entry of Spanish clementines which, until the ban in the fall of 2001, have been imported into the United States for 15 years.

Because it is not clear if tangerines substitute for clementines in the aggregate, more domestically produced tangerines are consumed in the United States relative to clementines, and clementines from Spain have been imported historically the proposed rule would likely not have a significant impact on U.S. tangerine producers. As a result, we do not estimate impacts associated with the proposed rule on U.S. tangerine producers in the current analysis. However, if U.S. demand for clementines continues to grow under the proposed rule and clementines substitute for domestically produced tangerines, then the proposed rule would lead to downward pressure on tangerine prices and profit losses for U.S. tangerine producers.

Costs Associated With the Proposed Rule

Additional costs include direct cost increases for local and federal governments in Spain, exporters in Spain, and Spanish clementine producers associated with producing and exporting clementines to the United States. We assume that Spanish clementine export supply is perfectly inelastic with respect to U.S. import prices and, as a result, that marginal production and export costs associated with the proposed rule borne directly by Spanish parties are not passed on to U.S. importers, wholesalers, and retail consumers. The assumption of perfectly inelastic supply is appropriate for a short-run analysis such as this and does not substantially affect the results of the analysis. Cost increases also include potential reductions in clementine import levels due to rejections of clementine shipments in Spain and in the United States in the event APHIS inspectors detect live Medflies in fruit inspections. Because rejected shipments must be diverted to other markets, clementine import quantities may be reduced leading to reductions in the economic benefits received by U.S. importers, wholesalers, and consumers. Finally, cost increases also include potential costs associated with the introduction of live Medflies into the United States.

Note that initial export quantities are referred to as ''designated'' in the analysis. This is because not all of the clementines initially designated for export to the United States will be exported to the United States. Some fruit will be cut and discarded in Spain and in the United States, and some of the quantities inspected (inspectional units) might be rejected and therefore not allowed to be exported to the United States. Increases in clementine production costs associated with the mandatory Medfly management program in Spain include purchases of additional traps for producers, purchases of baits for the traps, monitoring and recordkeeping costs, additional bait spray costs, additional cold treatment costs, and trust fund expenses. These additional costs will likely be borne by the Government of Spain, local governments, and exporters. It is assumed that production decisions and designated export quantities will not be affected by these additional costs.

Total trap and bait expenses for Spanish growers are estimated to be very small (less than $1,000) for the first year, or 0.0013 percent of the average value of Spanish clementine exports to the United States for 1999 and 2000 ($78.69 million, FAS 2002), the majority of which will be spent on traps that can typically be used for several years. As a result, additional trap and bait expenses will represent very minor increases in fixed and variable costs, respectively, which will likely not affect production decisions regardless of who pays for them. Annual trust fund expenses for the Government of Spain or its agent are estimated to be at least $90,000, including 16.15 percent administrative overhead (West 2002). These costs represent a more substantial increase in fixed costs, 0.1144 percent of average export value for 1999 and 2000. However, because the increase in fixed costs is small relative to the value of exports, we assume that production decisions and designated export quantities will not be affected.

The additional 2 days of cold treatment may add anywhere between $92,000 and $128,000 in annual expenses for all exporters (0.1627 percent of average export value for 1999 and 2000); however, because this also represents a minor fraction of the total value of exports, we assume that designated export quantities are not affected by these cost increases. We were unable to estimate additional costs associated with monitoring and recordkeeping in Spanish groves, which producers will be required to pay; however, these costs may be low as well, because the auditing agencies responsible for monitoring and recordkeeping are already in place for the U.S. Food and Drug Administration's pesticide residue program. It is not clear if or by how much annual bait sprays and spray costs may increase; however, these costs may be borne entirely by federal and local governments in Spain and therefore not affect production decisions or initial designated export quantities.

Fruit cutting and rejection of inspectional units in Spain and in the United States will reduce U.S. clementine imports by approximately 0.0069 percent, because it is assumed in the analysis that exporters do not adjust initial designated export quantities to the United States in the event inspectional units are rejected. Therefore, these costs are measured in terms of lost revenues for importers and wholesalers and lost consumer benefits in the United States. Fruit will be cut in Spain at a rate of 200 clementines per inspectional unit, which might range in size from one 40-foot container (166,050 clementines) to 5.85 forty-foot container equivalents (972,000 clementines). Losses will include fruit that is cut and discarded, a relatively small cost that declines with inspectional unit size. Losses may also include rejections of inspectional units, where the rejection rate will depend on the proportion of fruit that is infested with Medflies (the infestation rate), the sample rate, and inspectional unit size.

Expected costs associated with potential Medfly introductions are based on estimated import levels and the infestation rate. For a given infestation rate, the expected number of introductions per year is given by the number of forty-foot container equivalents imported multiplied by the probability a typical container will lead to an introduction. The introduction probability is given by the probability that mating pairs (adult male and female Medflies) survive the export process and are delivered to an area suitable for the development of their offspring. We use the methods discussed in APHIS (2002) to estimate the introduction probability.

Expected costs associated with potential Medfly introductions are given by the product of the expected number of introductions and an estimate of the cost of one introduction. The mean cost of eradicating the last six Medfly introductions is $10.93 million in 2000 dollars (APHIS 1999). We use this as the estimate of U.S. taxpayer costs associated with a Medfly introduction. Additional costs borne by U.S. producers during an introduction (e.g. additional field sprays, post-harvest treatments, fruit losses, post-harvest fruit losses, and loss of export markets) are estimated at approximately $3 million per introduction. Expected Medfly introduction cost estimates under the proposed rule are calculated for the range of designated export quantities examined in the analysis. Under the most likely infestation rate examined in the analysis, expected costs associated with Medfly introductions are almost non-existent for each designated export quantity (1.12e–07 percent of average export value for 1999 and 2000). This is because the probability of a Medfly introduction per forty-foot container equivalent is extremely low (1.31e–12). For purposes of comparison with the previous import program, a calculation was also made of the expected Medfly introduction cost estimate under the previous import program. The expected cost under the previous import program amounted to nearly $50,000 (0.06 percent of average export value for 1999 and 2000).

Calculation of Benefits and Costs

Expected benefits and costs associated with the proposed rule vary with the amount of clementines imported into the United States and the proportion of clementines infested with Medflies in Spain (infestation rate). Because prices offered by U.S. importers are typically 20 percent higher than prices offered in the rest of the world, because the proposed rule provides significant incentives for Spanish growers to manage Medfly populations effectively, and because exporters will be able to choose clementines from regions in Spain with relatively low Medfly population levels the infestation rate will likely be low for marketing season 2002. In the risk mitigation analysis for the proposed rule, APHIS (2002) simulated infestation rates under the proposed rule and under the previous import program. We base the most likely infestation rates examined in the analysis on their simulation results.

Benefits and costs are estimated for a range of likely designated export quantities for marketing season 2002, under the assumption that export supply is perfectly inelastic with respect to U.S. prices. We examine a minimum quantity based on the import quantity for marketing season 2000 (83,631 metric tons), a most likely quantity based on the rate of growth in imports between marketing seasons 1999 and 2000 (90,032 metric tons), and a maximum quantity based on the average annual rate of import growth from 1989–2000 (116,406 metric tons). The minimum level is examined because costs associated with the proposed rule may reduce the designated export quantity. It is assumed, however, that the impact will not be so large as to diminish designated exports below the 2000 import quantity, because exporters will likely attempt to maintain established export market infrastructures.

There was a significant increase in U.S. clementine imports from Spain between 1998 and 1999 that may have been due, in part, to the establishment of market infrastructures in 1999. It is not clear what effect the proposed rule may have on the future development of this infrastructure; however, for the short run we assume that the most likely scenario involves no change from 2000 levels. As a result, our most likely quantity for designated exports in 2002 is based on the rate of growth in U.S. imports between 1999 and 2000, approximately 7.65 percent. Finally, we examine a maximum quantity for designated exports based on the average annual rate of growth of imports during 1989–2001, at approximately 39 percent.

Benefits to importers, wholesalers, and retail consumers associated with the proposed rule are estimated using areas under demand curves bounded by prices paid, assuming wholesalers purchase all clementines purchased by importers and retail consumers purchase all clementines purchased by wholesalers. Demand curves for each sector have not been estimated in the literature, and available data were not sufficient to estimate precisely demand curves for any of the sectors. Therefore, an iterative procedure is used to specify linear demand curves for each sector to obtain approximate measures of economic welfare. A detailed discussion of the methodology for estimating demand curves can be found in the economic analysis accompanying the proposed rule.

For marketing season 2000, estimates of gross revenues minus payments on clementines for importers and wholesalers in the United States are approximately $105 million and $53 million, respectively. The estimate for retail consumer benefits in 2000 is an additional $26 million. Benefits associated with lifting the ban under the proposed rule for marketing season 2002 are estimated in a similar manner, except the provisions of the proposed rule are used to estimate final import quantities and prices. Expected imports are given by designated exports minus expected fruit loss due to fruit cuttings and rejected shipments in Spain and in the United States. Given expected import levels, we estimate import prices and benefits, wholesale prices and benefits, and retail prices and consumer benefits. For the most likely designated export quantity (90,032 metric tons), estimates of gross revenues less payments on clementines for importers and wholesalers are $120 million and $60 million, respectively. The estimate for retail consumer benefits is an additional $30 million.

Net Impact of the Proposed Rule

Relative to the current ban, net welfare impacts associated with the proposed rule are positive for each designated export quantity. Under the most likely designated export quantity, expected welfare gains associated with the proposed rule are approximately $210 million for marketing season 2002, which includes approximately $120, $60, and $30 million in estimated welfare gains for importers, wholesalers, and retail consumers, with practically no increase in expected costs to U.S. taxpayers and fruit and vegetable producers.

Estimated net welfare effects relative to the previous import program are approximately $26 million under the most likely designated export quantity scenario. In this case, importers, wholesalers, and retail consumers are expected to be better off under the proposed rule, because the expected amount of clementines ultimately imported into the United States during marketing season 2002 exceeds the amount imported in 2000. These results indicate that net welfare effects associated with the proposed rule will likely be positive relative to either baseline. If clementine imports increase and clementines substitute for domestically produced tangerines; however, benefits would be reduced due to profit losses experienced by U.S. tangerine producers.

Analysis of the Economic Effects on Small Entities

There are approximately 15 Spanish clementine importers in the United States, three of which import the majority of clementines (Sibley 2002). In addition, individuals in foreign countries own at least two of the import companies in this list. The U.S. Small Business Administration defines a small clementine importer (NAICS 42248 Fresh Fruit and Vegetable Wholesalers) as one with annual sales receipts of $100 million or less. As a result, approximately 13 small importers may be affected by the proposed rule. The number of small wholesalers potentially affected by the proposed rule is not known. These entities include supermarkets and other grocery stores (NAICS 445110) with annual sales receipts of $23 million or less, warehouse clubs and superstores (NAICS 452910) with annual sales receipts of $23 million or less, and fruit and vegetable markets (NAICS 445230) with annual sales receipts of $6 million or less.

Because the percentage of income derived from the sale of clementines by wholesalers is likely to be low, the proposed rule will not likely have a significant negative impact on a substantial number of small wholesalers relative to either baseline. In addition, small importers and wholesalers will likely be better off under the proposed rule relative to the current ban and, when designated exports are at or above the most likely value, better off under the proposed rule relative to the previous import program as well. As a result, the proposed rule will not have a significant impact on any small importers and wholesalers in the United States relative to the current ban, and the proposed rule will likely not have a significant negative impact on a substantial number of small importers relative to the previous import program.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow clementines to be imported into the United States from Spain. If this proposed rule is adopted, State and local laws and regulations regarding clementines imported under this rule would be preempted while the fruit is in foreign commerce. Fresh clementines are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 02–023–3. Please send a copy of your comments to: (1) Docket No. 02–023–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for

the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.014 hours per response.

Respondents: Full-time, salaried plant health officials of Spain's plant protection service, and growers and shippers of clementines.

Estimated annual number of respondents: 37.

Estimated annual number of responses per respondent: 216,303.

Estimated annual number of responses: 8,003,200.

Estimated total annual burden on respondents: 113,200 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 300 and 319 as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

2. In § 300.1, a new paragraph (a)(5) would be added as follows:

§ 300.1 Materials incorporated by reference.

(a) * * *

(5) Treatment T107–a, dated ________.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

4. A new § 319.56–2jj would be added to read as follows:

§ 319.56–2jj Administrative instructions; conditions governing the importation of clementines from Spain.

Clementines (*Citrus reticulata*) from Spain may only be imported into the United States in accordance with the regulations in this section.

(a) *Trust fund agreement.* Clementines from Spain may be imported only if the Government of Spain or its designated representative enters into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) before each shipping season. The Government of Spain or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraphs (b) through (g) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraphs (b) through (g) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The Government of Spain or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the Government of Spain or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Government of Spain or its designated representative or held on account until needed.

(b) *Grower registration and agreement.* Persons who produce clementines in Spain for export to the United States must:

(1) Be registered with the Government of Spain; and

(2) Enter into an agreement with the Government of Spain whereby the producer agrees to participate in and follow the Mediterranean fruit fly management program established by the Government of Spain.

(c) *Management program for Mediterranean fruit fly; monitoring.* The Government of Spain's Mediterranean fruit fly management program must be approved by APHIS, and must contain the fruit fly trapping and recordkeeping requirements specified in this paragraph. The program must also provide that clementine producers must allow APHIS inspectors access to clementine production areas in order to monitor compliance with the Mediterranean fruit fly management program.

(1) *Trapping and control.* In areas where clementines are produced for export to the United States, traps must be placed in Mediterranean fruit fly preferred host plants at least 6 weeks prior to harvest. Bait treatments using malathion, spinosad, or another pesticide approved by APHIS must be applied in the production areas at a rate appropriate to maintain the level of infestation of clementines by Mediterranean fruit flies at 1.5 percent or less.

(2) *Records.* The Government of Spain or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce clementines for export to the United States. All trapping and control records kept by the Government of Spain or its designated representative must be made available to APHIS upon request.

(d) *Phytosanitary certificate.* Clementines from Spain must be accompanied by a phytosanitary certificate stating that the fruit meets the conditions of the Government of Spain's Mediterranean fruit fly management program and applicable APHIS regulations.

(e) *Labeling.* Cartons in which clementines are packed must be labeled with a lot number that provides information to identify the orchard where the fruit was grown and the packinghouse where the fruit was packed. The lot number must end with the letters ''US.'' Such labeling must be large enough to clearly display the required information and must be located on the side of the cartons to facilitate inspection.

(f) *Pre-treatment sampling; rates of inspection.* For each shipment of clementines intended for export to the United States, prior to cold treatment, APHIS inspectors will cut and inspect fruit that are randomly selected from throughout the shipment at a rate designated in this paragraph. If inspectors find a single live Mediterranean fruit fly in any stage of development during an inspection, the entire shipment of clementines will be rejected. If a live Mediterranean fruit fly in any stage of development is found in any two shipments of fruit from the same orchard during the same shipping season, that orchard will be removed from the export program for the remainder of that shipping season.

(1) For the first clementine shipping season that occurs after the effective date of this rule, inspectors will cut 200 randomly selected fruit per shipment.

(2) For all further shipping seasons, inspectors will cut fruit according to the following table, except as noted in paragraph (f)(3) of this section:

If the sample size for a given season is—	. . . and the rejection rate during that season is—	. . . then the sample size for the next season is—
200	≤5 percent	100
	>5 percent	200
100	≤2 percent	76
	>2 percent but ≤5 percent	100
	>5 percent	200
76	≤2 percent	76
	>2 percent but ≤5 percent	100
	>5 percent	200

(3) If APHIS determines that fruit presented for inspection and treatment appear to be highly infested during a shipping season in which 100 or 76 fruit are cut per shipment, APHIS reserves the right to increase the required sample size during the shipping season. At no time will more than 200 fruit be required to be cut, but the sample size could be raised to that level at APHIS's discretion.

(g) *Cold treatment.* Clementines must be cold treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. Upon arrival of clementines at a port of entry into the United States, APHIS inspectors will examine the cold treatment data for each shipment to ensure that the cold treatment was successfully completed. If the cold treatment has not been successfully completed, the shipment will be held until appropriate remedial actions have been implemented.

(h) *Port of entry sampling.* Clementines imported from Spain are subject to inspection by an inspector at the port of entry into the United States. At the port of first arrival, an inspector will sample and cut clementines from each shipment to detect pest infestation according to sampling rates determined by the Administrator. If a single live Mediterranean fruit fly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented. If APHIS determines at any time that the safeguards contained in this section are not protecting against the introduction of Medflies into the United States, APHIS may suspend the importation of clementines and conduct an investigation into the cause of the deficiency.

(i) *Shipping season.* For the purposes of this section, a shipping season is considered to include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year.

Done in Washington, DC, this 8th day of July 2002.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs, USDA.

[FR Doc. 02–17431 Filed 7–8–02; 3:26 pm]

BILLING CODE 3410–34–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–165868–01]

RIN 1545–BA47

10 or More Employer Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance regarding whether a welfare benefit fund is part of a 10 or more employer plan. The regulations reflect changes to the law made by the Deficit Reduction Act of 1984. The regulations will affect certain employers that provide welfare benefits to employees through a plan to which more than one employer contributes. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by October 9, 2002. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for Tuesday, November 5, 2002, must be received by Tuesday, October 15, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–165868–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (REG–165868–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments to the IRS Internet site at www.irs.gov/regs. The public hearing will be held in Room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Betty J. Clary, (202) 622–6080; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Regulations Unit Paralegal (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of

Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S Washington, DC 20224. Comments on the collections of information should be received by September 9, 2002. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collections of information in this proposed regulation are in § 1.419A(f)(6)–1(a)(2) and § 1.419A(f)(6)–1(e). These collections of information are authorized by section 419A(i) of the Internal Revenue Code. This information will be required by the Commissioner and by employers participating in a plan that is intended to be a 10 or more employer plan described in section 419A(f)(6) to verify the plan's compliance with section 419A(f)(6). This information will be used by the Commissioner and by the employers to determine whether the provisions of sections 419 and 419A, concerning the deductibility of employer contributions to a welfare benefit fund, are applicable to the employers participating in the plan. The respondents are administrators of plans that include certain taxable or tax-exempt welfare benefit funds.

Estimated total annual reporting and/or recordkeeping burden: 2500 hours.

Estimated average annual burden hours per respondent and/or recordkeeper: 25 hours.

Estimated number of respondents and/or recordkeepers: 100.

Estimated annual frequency of responses: On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

This document contains proposed amendments to the Income Tax Regulations under section 419A of the Internal Revenue Code. Sections 419 and 419A, which were added to the Code by section 511 of the Deficit Reduction Act of 1984, Public Law 98–369 (98 Stat. 494), set forth special rules for the deduction of contributions to a welfare benefit fund that would otherwise be deductible, including limitations on the amount of the deduction. Pursuant to section 419A(f)(6), the rules of sections 419 and 419A do not apply in the case of a welfare benefit fund that is part of a plan to which more than one employer contributes and to which no employer normally contributes more than 10 percent of the contributions of all employers under the plan. However, this exception for 10 or more employer plans does not apply to any plan that maintains experience-rating arrangements with respect to individual employers.

Section 419A(i) of the Code provides that the Secretary shall prescribe regulations as may be appropriate to carry out the purposes of sections 419 and 419A. Section 419A(i) further provides that the regulations may provide that the plan administrator of any welfare benefit fund to which more than one employer contributes shall submit such information to the employers contributing to the fund as may be necessary to enable the employers to comply with the provisions of section 419A.

The legislative history of sections 419 and 419A of the Code explains that the principal purpose of the deduction limits for contributions to welfare benefit funds ''is to prevent employers from taking premature deductions, for expenses which have not yet been incurred, by interposing an intermediary organization which holds assets which are used to provide benefits to the employees of the employer.'' H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1155 (1984), 1984–3 C.B. (Vol. 2) 1, 409. The section 419(e)(3) definition of fund includes taxable trusts and organizations described in section 501(c)(9) and includes regulatory authority to encompass ''any account held for an employer by any person.'' The legislative history indicates that the regulatory definition of fund should be broad and should encompass situations ''in which an employer may, in some cases, pay an insurance company more in a year than the benefit costs incurred in that year and the employer has an unconditional right in a later year to a refund or credit of the excess of payments over benefit costs.'' H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1155 (1984), 1984–3 C.B. (Vol. 2) 1, 409.[1]

The legislative history of section 419A(f)(6) of the Code explains that the reason the deduction limits of sections 419 and 419A do not generally apply to a fund that is part of a 10 or more employer plan is that ''the relationship of a participating employer to [such a] plan often is similar to the relationship of an insured to an insurer.'' H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1159 (1984), 1984–3 C.B. (Vol. 2) 1, 413. Thus, the premise underlying the exception is that no special limitation on deductions is necessary in situations where a payment by an employer in excess of the minimum necessary to currently provide for the benefits under the plan is effectively lost to that employer, because the economics of the plan will discourage excessive contributions.

The exception to the deduction limitation does not apply, however, where the plan maintains experience-rating arrangements with respect to individual employers. The reason for excluding these plans from the exception is that an experience-rating arrangement with respect to an individual employer changes the economics of the plan and allows an employer to contribute an amount in excess of the minimum amount necessary to provide for the current benefits with the confidence that the excess will inure to the benefit of that employer or its employees. The legislative history notes that making the exception to the deduction limits unavailable to plans that determine contributions on the basis of experience rating is consistent with the general

[1] Section 1851 of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2085), modified the definition of ''fund'' in section 419(e) to exclude amounts held pursuant to a specific type of insurance contract. While section 419(e)(4), as amended, clarifies that assets held by an insurance company under certain experience-rated contracts do not constitute a fund (so that premiums under those contracts are not subject to the deduction limitations of section 419), this amendment has no relevance in determining whether a plan intended to be described in section 419A(f)(6) has an experience-rating arrangement with respect to individual employers. Any insurance contracts purchased under a 10 or more employer plan are investments of the fund and are not the fund itself.

rules relating to the definition of fund because ''the employer's interest with respect to such a plan is more similar to the relationship of an employer to a fund than an insured to an insurer.'' H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1159 (1984), 1984–3 C.B. (Vol. 2) 1, 413.

In Notice 95–34, 1995–1 C.B. 309, the IRS identified certain types of arrangements that do not satisfy the requirements of section 419A(f)(6). Those arrangements typically require large employer contributions relative to the cost of the coverage for the benefits to be provided under the plan. The plans identified in the Notice often maintain separate accounting of the assets attributable to the contributions made by each participating employer.[2] In some cases an employer's contributions are related to the claims experience of its employees, while in other cases benefits are reduced if assets derived from an employer's contributions are insufficient to fund the benefits to that employer's employees. Thus, a particular employer's contributions or its employees' benefits may be determined in a way that insulates the employer to a significant extent from the experience of other participating employers.

The arrangements described in Notice 95–34 and similar arrangements do not satisfy the requirements of section 419A(f)(6) of the Code and do not provide the tax deductions claimed by their promoters for any of several reasons. For example, such an arrangement may be providing deferred compensation; the arrangement may be separate plans maintained for each employer; or the plan may be maintaining, in form or in operation, experience-rating arrangements with respect to individual employers (e.g., where the employers have reason to expect that, at least for the most part, their contributions will benefit only their own employees). The Notice also states that even if an arrangement satisfies the requirements of section 419A(f)(6), so that the deduction limits of sections 419 and 419A do not apply to the arrangement, the employer contributions may represent expenses that are not deductible under other sections of the Code.

In Notice 2000–15, 2000–1 C.B. 826 (supplemented and superseded by Notice 2001–51, 2001–34 I.R.B. 190), the Service identified transactions that are the same as or substantially similar to the transactions described in Notice 95–34 as *listed transactions* for purposes of § 1.6011–4T(b)(2) of the Temporary Income Tax Regulations and § 301.6111–2T(b)(2) of the Temporary Procedure and Administration Regulations. Independent of their classification as ''listed transactions'' for purposes of §§ 1.6011–4T(b)(2) and 301.6111–2T(b)(2), such transactions may also be subject to the disclosure requirements of section 6011, the tax shelter registration requirements of section 6111, or the list maintenance requirements of section 6112 under the regulations issued in February 2000 (§§ 1.6011–4T, 301.6111–2T and 301.6112–1T, A–4), as well as the regulations issued in 1984 and amended in 1986 (§§ 301.6111–1T and 301.6112–1T, A–3). Persons required to register these tax shelters who have failed to register the shelters may be subject to the penalty under section 6707(a), and to the penalty under section 6708(a) if the requirements of section 6112 are not satisfied.

Explanation of Provisions

These proposed regulations provide guidance under section 419A(f)(6) of the Code regarding the requirements that a welfare benefit fund must satisfy in order for an employer's contribution to the fund to be excepted from the rules of sections 419 and 419A. These regulations are consistent with the IRS's analysis of the arrangements described in Notice 95–34, discussed above and reproduced below.

Section 419A(f)(6) of the Code provides that sections 419 and 419A do not apply in the case of a welfare benefit fund that is part of a 10 or more employer plan that does not maintain experience-rating arrangements with respect to individual employers. A *10 or more employer plan* is a plan to which more than one employer contributes and to which no employer normally contributes more than 10 percent of the total contributions contributed under the plan by all employers.

Pursuant to the authority set forth in section 419A(i), the proposed regulations provide a special rule to assist participating employers and the Commissioner in verifying that the arrangement satisfies the section 419A(f)(6) requirements. Under that rule, an arrangement satisfies the requirements of section 419A(f)(6) and the regulations only if the plan is maintained pursuant to a written document that (1) requires the plan administrator to maintain records sufficient for the Commissioner or any participating employer to readily verify the plan's compliance with section 419A(f)(6) and (2) provides the Commissioner and each participating employer with the right to inspect and copy all such records.

In addition, the proposed regulations make clear that in order to be eligible for the exception from the deduction limits of sections 419 and 419A, a plan must satisfy the requirements of section 419A(f)(6) and these regulations both in form and operation. For purposes of these regulations, the term *plan* means the totality of the arrangement and all related facts and circumstances, including any related insurance contracts. Thus, all agreements and understandings (including promotional materials and policy illustrations) will be taken into account in determining whether the requirements of section 419A(f)(6) are satisfied in form and in operation. For example, if promotional materials indicate that an employer or its employees will receive a future benefit based on the employer's accumulated contributions, the plan will be treated as maintaining experience-rating arrangements with respect to individual employers, even if the formal plan does not specifically provide for experience rating.

The proposed regulations clarify the situations in which a plan maintains experience-rating arrangements with respect to individual employers for purposes of section 419A(f)(6). A plan maintains an experience-rating arrangement with respect to an employer if the employer's cost of coverage for any period is based, in whole or in part, either on the benefits experience or on the overall experience (or on any proxy for the benefits experience or overall experience) of that employer or one or more employees of that employer. The prohibition against experience rating with respect to individual employers applies under all circumstances, including employer withdrawals and plan terminations.

For purposes of the proposed regulations, an employer's *cost of coverage* is the relationship between that employer's contributions (including those of its employees) under the plan and the benefits or other amounts payable under the plan with respect to that employer. The term *benefits or other amounts payable* includes all amounts payable or distributable (or that will be otherwise provided), regardless of the form of the payment or distribution. *Benefits experience* refers, generally, to the benefits and other amounts incurred, paid, or distributed (or otherwise provided) in the past. The *overall experience* of an employer is the balance that would have accumulated in a welfare benefit fund if that employer

[2] *See Booth* v. *Commissioner,* 108 T.C. 524 (1997), for an arrangement using a separate accounting system that does not qualify under the 10 or more employer plan exception.

were the only employer providing benefits under the plan. The *overall experience* of an employee is the balance that would have accumulated in a welfare benefit fund if that employee were the only employee being provided benefits under the plan. *Overall experience* is defined similarly for a group of employers or a group of employees.

The proposed regulations illustrate various ways a plan can violate the prohibition against maintaining experience-rating arrangements with respect to individual employers: By adjusting an employer's contributions, by adjusting the benefits for its employees, or by adjusting both, based on the benefits experience or overall experience of the employees of that employer.

Thus, a plan maintains an experience-rating arrangement with respect to an individual employer if the current (or future) cost of coverage of the employer is (or will be) based on either the past benefits or other amounts paid with respect to one or more of that employer's employees (or any proxy therefor) or on the balance accumulated in the fund as a result of the employer's or its employees' past contributions (or any proxy therefor). Accordingly, the process for determining whether a plan maintains an experience-rating arrangement is to inquire whether the past experience of an individual employer or its employees is used, in whole or in part, to determine the employer's cost of coverage. This determination is not intended to be purely a computational one (although actual numbers often can be used to demonstrate the existence of an experience-rating arrangement).

The proposed regulations also include special rules that apply in certain situations. One rule applies where a plan specifies a minimum contribution required to maintain a benefit level, but permits an employer to contribute more, and the amount of benefits and duration of coverage are fixed. These plans commonly involve universal life insurance contracts with flexible premiums. When analyzing these arrangements, for purposes of determining whether an employer's cost of coverage is based on past experience, the Commissioner may treat the employer as contributing the minimum contribution amount needed to maintain that coverage. The relevant question would then be whether the relationship between the minimum amount the employer must contribute and the benefits or other amounts payable under the arrangement depends on the past experience of that employer or its employees.

Another special rule is provided in the case of a plan maintaining an experience-rating arrangement with respect to a group of participating employers or a group of employees covered under the plan (a rating group). Under that rule, a plan will not be treated as maintaining an experience-rating arrangement with respect to an individual employer merely because the cost of coverage under a plan with respect to the employer is based, in whole or in part, on the benefits experience or the overall experience (or a proxy for either type of experience) of a rating group that includes the employer or one or more of its employees, provided that the employer does not normally contribute more than 10 percent of all contributions with respect to that rating group.

Other special rules relate to the treatment of insurance contracts. Under those rules, insurance contracts under an arrangement are treated as assets of the fund. Thus, any payments under an arrangement from an employer or its employees directly to an insurance company will be treated as contributions to the fund, and any amounts paid by the insurance company under the arrangement will be treated as paid by the fund. Further, as of any date, the fund will be treated as having either a gain or loss with respect to an insurance contract, depending upon the benefits paid under the contract, the value of the contract, and the premiums paid on the contract.

These special rules relating to insurance contracts recognize that if whole life insurance policies, or similar policies that generate a savings element, are purchased under an arrangement, the retained values of those policies (including cash values, reserves, and any other economic values, such as conversion credits or high dividend rates) reflect the past experience of the employees who participate under the plan. As a result, if the retained values associated with policies insuring an employer's employees under an arrangement are used to determine the current cost of coverage for that employer (as opposed to being shared among all of the employers participating in the plan), the employer can anticipate that its past contributions in excess of incurred losses for claims for its employees will inure to the benefit of the employer (as opposed to the other employers participating in the plan). This assurance that the employer will benefit from favorable past experience is the hallmark of an experience-rating arrangement. It is also the hallmark of the type of welfare benefit fund that Congress intended to be subject to the deduction limitations of sections 419 and 419A.

Furthermore, Congress' expectation that employers participating in 10 or more employer plans would not have a financial incentive to over-contribute was the basis for providing the section 419A(f)(6) exception from the deduction limits of sections 419 and 419A. Allowing a 10 or more employer plan to use insurance contracts for an employer's employees with retained values would provide a financial incentive for the employer to over-contribute to the plan, contrary to the premise underlying the intent of Congress in providing the exception for 10 or more employer plans. If the retained values of life insurance contracts relating to an employer's employees are used to determine that employer's cost of coverage, the arrangement results in a prohibited experience-rating arrangement under these proposed regulations.

These proposed regulations also identify five characteristics that are indications that an employer's interest with respect to the plan is more similar to the relationship of an individual employer to a fund than an insured to an insurer. (*See,* H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1155 (1984), 1984–3 C.B. (Vol. 2) 1, 413.) The presence of some of these characteristics in a plan suggests that there are multiple plans present instead of a single plan. The presence of others tends to indicate that an employer's cost of coverage is (or will be) based on that employer's benefits experience. Others tend to indicate that the plan is expected to accumulate a surplus that ultimately will be used for the benefit of the individual employers (or their employees). One way this surplus might be used would be to reduce future contributions for the individual employers based on past contributions or claims of the employers. Another way would be to pay benefits to an employer's employees based on the employer's share of the surplus on the occasion of the withdrawal of the employer or at plan termination, thereby violating the rule that an employer's cost of coverage cannot be based on its overall experience. Accordingly, these regulations provide that a plan exhibiting any of these characteristics is not a 10 or more employer plan described in section 419A(f)(6) unless it is established to the satisfaction of the Commissioner that the plan satisfies the requirements of section 419A(f)(6) and these proposed regulations. It should be noted that the fact that a plan has none of these characteristics does not create an inference that it is a 10 or more employer plan described in section 419A(f)(6).

The first characteristic indicating that a plan is not a 10 or more employer plan described in section 419A(f)(6) is that the assets of the plan are allocated among the participating employers through a separate accounting of contributions and expenditures for individual employers or otherwise. The second characteristic is that amounts charged under the plan differ among the employers in a manner that is not reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers (such as age, gender, dependents covered, geographic locale, or the benefit package). The third characteristic is that the plan does not provide for fixed welfare benefits for a fixed coverage period for a fixed price. The fourth characteristic is that the plan charges the participating employers an unreasonably high amount for the covered risk. The fifth characteristic is that the plan provides for payment of benefits upon triggering events other than the illness, personal injury, or death of an employee or family member, or the employee's involuntary termination of employment.

A number of examples are provided in the proposed regulations illustrating the application of the rules regarding experience-rating arrangements to specific fact situations. Many of these arrangements exhibit the characteristics of a fund that Congress intended to be subject to the deduction limitations of sections 419 and 419A. Each example illustrates only the application of the definition of experience-rating arrangements under section 419A(f)(6) and these regulations, and no inference should be drawn from the scope of the examples about whether these plans are otherwise described in section 419A(f)(6) or about any other provision of the Code. For example, no inference should be drawn about whether any plan described in the examples is a single plan. In addition, no inference should be drawn about the applicability or nonapplicability of any other Code provision, such as section 404, that might limit or preclude the deduction for contributions to the arrangement. For example, in *Neonatology Associates, P.A.,* v. *Commissioner,* 115 T.C. 43 (2000), *appeal docketed,* No. 01–2862 (3d Cir.), the Tax Court held that the contributions were in large part constructive dividends to the employee/owners (and thus did not reach the government's alternative contention that the plan was maintaining experience-rating arrangements with respect to individual employers). In *Booth* v. *Commissioner,* 108 T.C. 524 (1997), the Tax Court held that the arrangement was an aggregation of separate plans (and thus was not a single plan) and that there were experience-rating arrangements with respect to the individual employers.

Finally, these proposed regulations provide that the plan administrator of a plan that is intended to be a 10 or more employer plan shall maintain records sufficient to substantiate that the plan is described in section 419A(f)(6). An opinion letter stating the plan is described in section 419A(f)(6) does not constitute substantiation.

Proposed Effective Date

Except as explained below, these regulations—which generally clarify existing law—are proposed to be effective for contributions paid or incurred in taxable years of an employer beginning on or after the date of publication of this Notice of Proposed Rulemaking in the **Federal Register**. For contributions made before this proposed effective date, the IRS will continue applying existing law, including the analysis set forth in Notice 95–34 and relevant case law. Thus, taxpayers should not infer that a contribution that would be nondeductible under the regulations would be deductible if made before that date. In this regard, taxpayers are reminded that, as noted above, the IRS has already identified transactions that are the same as or substantially similar to the transactions described in Notice 95–34 as *listed transactions* for purposes of § 1.6011–4T(b)(2) of the Temporary Income Tax Regulations and § 301.6111–2T(b)(2) of the Temporary Procedure and Administration Regulations.

The requirement that written plan documents contain specified provisions relating to compliance information and the record maintenance requirement for plan administrators are proposed to be effective for taxable years of a welfare benefit fund beginning after the publication of final regulations. Existing record retention requirements and record production requirements under section 6001 continue to apply to employers and promoters.

For the convenience of taxpayers, Notice 95–34 is reproduced below.

Appendix—Notice 95–34

Taxpayers and their representatives have inquired as to whether certain trust arrangements qualify as multiple employer welfare benefit funds exempt from the limits of section 419 and section 419A of the Internal Revenue Code. The Service is issuing this Notice to alert taxpayers and their representatives to some of the significant tax problems that may be raised by these arrangements.

In general, contributions to a welfare benefit fund are deductible when paid, but only if they qualify as ordinary and necessary business expenses of the taxpayer and only to the extent allowable under section 419 and section 419A of the Code. Those sections impose strict limits on the amount of tax-deductible prefunding permitted for contributions to a welfare benefit fund.

Section 419A(f)(6) provides an exemption from section 419 and section 419A for certain welfare benefit funds. In general, for this exemption to apply, an employer normally cannot contribute more than 10 percent of the total contributions, and the plan must not be experience rated with respect to individual employers. The legislative history states that the exemption under section 419A(f)(6) is provided because "the relationship of a participating employer to [such a] plan often is similar to the relationship of an insured to an insurer." Even if the 10 percent contribution limit is satisfied, the exemption does not apply to a plan that is experience rated with respect to individual employers, because the "employer's interest with respect to such a plan is more similar to the relationship of an employer to a fund than an insured to an insurer." H.R. Rep. No. 98–861, 98th Cong., 2d Sess., 1159 (1984–3 C.B. (Vol. 2) 1, 413).

In recent years a number of promoters have offered trust arrangements that they claim satisfy the requirements for the 10-or-more-employer plan exemption and that are used to provide benefits such as life insurance, disability, and severance pay benefits. Promoters of these arrangements claim that all employer contributions are tax-deductible when paid, relying on the 10-or-more-employer exemption from the section 419 limits and on the fact that they have enrolled at least 10 employers in their multiple employer trusts.

These arrangements typically are invested in variable life or universal life insurance contracts on the lives of the covered employees, but require large employer contributions relative to the cost of the amount of term insurance that would be required to provide the death benefits under the arrangement. The trust owns the insurance contracts. The trust administrator may obtain the cash to pay benefits, other than death benefits, by such means as cashing in or withdrawing the cash value of the insurance policies. Although, in some plans, benefits may appear to be contingent on the occurrence of unanticipated future events, in reality, most participants and their beneficiaries will receive their benefits.

The trusts often maintain separate accounting of the assets attributable to the contributions made by each subscribing employer. Benefits are sometimes related to the amounts allocated to the employees of the participant's employer. For example, severance and disability benefits may be subject to reduction if the assets derived from an employer's contributions are insufficient to fund all benefits promised to that employer's employees. In other cases, an employer's contributions are related to the claims experience of its employees. Thus, pursuant to formal or informal arrangements or practices, a particular employer's contributions or its employees' benefits may be determined in a way that insulates the employer to a significant extent from the experience of other subscribing employers.

In general, these arrangements and other similar arrangements do not satisfy the requirements of the section 419A(f)(6) exemption and do not provide the tax deductions claimed by their promoters for any one of several reasons, including the following:

(1) The arrangements may actually be providing deferred compensation. This is an especially important consideration in arrangements similar to that in *Wellons* v. *Commissioner,* 31 F.3d 569 (7th Cir. 1994), aff'g, 64 T.C.M. (CCH) 1498 (1992), where the courts held that an arrangement purporting to be a severance pay plan was actually deferred compensation. If the plan is a nonqualified plan of deferred compensation, deductions for contributions will be governed by section 404(a)(5), and contributions to the trust may, in some cases, be includible in employees' income under section 402(b). Section 404(a)(5) provides that contributions to a nonqualified plan of deferred compensation are deductible when amounts attributable to the contributions are includible in the employees' income, and that deductions are allowed only if separate accounts are maintained for each employee.

(2) The arrangements may be, in fact, separate plans maintained for each employer. As separate plans, they do not qualify for the 10-or-more employer plan exemption in section 419A(f)(6).

(3) The arrangements may be experience rated with respect to individual employers in form or operation. This is because, among other things, the trust maintains, formally or informally, separate accounting for each employer and the employers have reason to expect that, at least for the most part, their contributions will benefit only their own employees. Arrangements that are experience rated with respect to individual employers do not qualify for the exemption in section 419A(f)(6).

(4) Even if the arrangements qualify for the exemption in section 419A(f)(6), employer contributions to the arrangements may represent prepaid expenses that are nondeductible under other sections of the Internal Revenue Code.

Taxpayers and their representatives should be aware that the Service has disallowed deductions for contributions to these arrangements and is asserting the positions discussed above in litigation.

Finally, in response to questions raised by taxpayers and their representatives, we note that the Service has never issued a letter ruling approving the deductibility of contributions to a welfare benefit fund under section 419A(f)(6). Although a trust used to provide benefits under an arrangement of the type discussed in this Notice may have received a determination letter stating that the trust is exempt under section 501(c)(9), a letter of this type does not address the tax deductibility of contributions to such a trust.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collections of information in these regulations will not have a significant economic impact on a substantial number of small entities. The collections of information in the regulation are in § 1.419A(f)(6)–1(a)(2) and § 1.419A(f)(6)–1(e) and consist of the requirements that a plan administrator maintain certain information and that it provide that information upon request to the Commissioner and to employers participating in the plan. This certification is based on the fact that requests for such information are likely to be made, on average, less than once per year per employer and that the costs of maintaining and providing this information are small. In addition, relatively few small entities are plan administrators. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

A public hearing has been scheduled for November 5, 2002 at 10 a.m., in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors must enter at the main entrance, located at 1111 Constitution Ave, NW. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of topics to be discussed and time to be devoted to each topic (preferably a signed original and eight (8) copies) by October 15, 2002. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Betty J. Clary, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

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 * * *.

Section 1.419A(f)(6)–1 is also issued under 26 U.S.C. 419A(i). * * *

Par. 2. Section 1.419A(f)(6)–1 is added to read as follows:

§ 1.419A(f)(6)–1 Exception for 10 or more employer plan.

(a) *Requirements*—(1) *In general.* Sections 419 and 419A do not apply in the case of a welfare benefit fund that is part of a 10 or more employer plan described in section 419A(f)(6). A plan is a 10 or more employer plan described in section 419A(f)(6) only if it is a single plan—

(i) To which more than one employer contributes;

(ii) To which no employer normally contributes more than 10 percent of the total contributions contributed under the plan by all employers;

(iii) That does not maintain an experience-rating arrangement with respect to any individual employer; and

(iv) That satisfies the requirements of paragraph (a)(2) of this section.

(2) *Compliance information.* A plan satisfies the requirements of this paragraph (a)(2) if the plan is maintained pursuant to a written document that requires the plan administrator to maintain records sufficient for the Commissioner or any participating employer to readily verify that the plan satisfies the requirements of section 419A(f)(6) and this section

and that provides the Commissioner and each participating employer (or a person acting on the participating employer's behalf) with the right, upon written request to the plan administrator, to inspect and copy all such records. *See* § 1.414(g)–1 for the definition of plan administrator.

(3) *Application of rules*—(i) *In general.* The requirements described in paragraph (a)(1) and (a)(2) of this section must be satisfied both in form and in operation.

(ii) *Plan includes totality of arrangement.* For purposes of this section, the term plan includes the totality of the arrangement and all related facts and circumstances, including any related insurance contracts. Accordingly, all agreements and understandings (including promotional materials and policy illustrations) and the terms of any insurance contract will be taken into account in determining whether the requirements are satisfied in form and in operation.

(b) *Experience-rating arrangements*—(1) *General rule.* A plan maintains an experience-rating arrangement with respect to an individual employer and thus does not satisfy the requirement of paragraph (a)(1)(iii) of this section if, with respect to that employer, there is any period for which the relationship of contributions under the plan to the benefits or other amounts payable under the plan (the *cost of coverage*) is or can be expected to be based, in whole or in part, on the benefits experience or overall experience (or a proxy for either type of experience) of that employer or one or more employees of that employer. For purposes of this paragraph (b)(1), an employer's contributions include all contributions made by or on behalf of the employer or the employer's employees. See paragraph (d) of this section for the definitions of *benefits experience, overall experience,* and *benefits or other amounts payable.* The rules of this paragraph (b) apply under all circumstances, including employer withdrawals and plan terminations.

(2) *Adjustment of contributions.* An example of a plan that maintains an experience-rating arrangement with respect to an individual employer is a plan that entitles an employer to (or for which the employer can expect) a reduction in future contributions if that employer's overall experience is positive. Similarly, a plan maintains an experience-rating arrangement with respect to an individual employer where an employer can expect its future contributions to be increased if the employer's overall experience is negative. A plan also maintains an experience-rating arrangement with respect to an individual employer where an employer is entitled to receive (or can expect to receive) a rebate of all or a portion of its contributions if that employer's overall experience is positive or, conversely, where an employer is liable to make additional contributions if its overall experience is negative.

(3) *Adjustment of benefits.* An example of a plan that maintains an experience-rating arrangement with respect to an individual employer is a plan under which benefits for an employer's employees are (or can be expected to be) increased if that employer's overall experience is positive or, conversely, under which benefits are (or can be expected to be) decreased if that employer's overall experience is negative. A plan also maintains an experience-rating arrangement with respect to an individual employer if benefits for an employer's employees are limited by reference, directly or indirectly, to the overall experience of the employer (rather than having all the plan assets available to provide the benefits).

(4) *Special rules*—(i) *Treatment of insurance contracts*—(A) *In general.* For purposes of this section, insurance contracts under the arrangement will be treated as assets of the fund. Accordingly, the value of the insurance contracts (including non-guaranteed elements) is included in the value of the fund, and amounts paid between the fund and the insurance company are disregarded, except to the extent they generate gains or losses as described in paragraph (b)(4)(i)(c) of this section.

(B) *Payments to and from an insurance company.* Payments from a participating employer or its employees to an insurance company pursuant to insurance contracts under the arrangement will be treated as contributions made to the fund, and amounts paid under the arrangement from an insurance company will be treated as payments from the fund.

(C) *Gains and losses from insurance contracts.* As of any date, if the sum of the benefits paid by the insurer and the value of the insurance contract (including non-guaranteed elements) is greater than the cumulative premiums paid to the insurer, the excess is treated as a gain to the fund. As of any date, if the cumulative premiums paid to the insurer are greater than the sum of the benefits paid by the insurer and the value of the insurance contract (including non-guaranteed elements), the excess is treated as a loss to the fund.

(ii) *Treatment of flexible contribution arrangements.* Solely for purposes of determining the cost of coverage under a plan, if contributions for any period can vary with respect to a benefit package, the Commissioner may treat the employer as contributing the minimum amount that would maintain the coverage for that period.

(iii) *Experience rating by group of employers or group of employees.* A plan will not be treated as maintaining an experience-rating arrangement with respect to an individual employer merely because the cost of coverage under the plan with respect to the employer is based, in whole or in part, on the benefits experience or the overall experience (or a proxy for either type of experience) of a rating group, provided that no employer normally contributes more than 10 percent of all contributions with respect to that rating group. For this purpose, a *rating group* means a group of participating employers that includes the employer or a group of employees covered under the plan that includes one or more employees of the employer.

(iv) *Family members, etc.* For purposes of this section, contributions with respect to an employee include contributions with respect to any other person (*e.g.,* a family member) who may be covered by reason of the employee's coverage under the plan and amounts provided with respect to an employee include amounts provided with respect to such a person.

(c) *Characteristics indicating a plan is not a 10 or more employer plan*—(1) *In general.* The presence of any of the characteristics described in paragraphs (c)(2) through (c)(6) of this section generally indicates that the plan is not a 10 or more employer plan described in section 419A(f)(6). Accordingly, unless established to the satisfaction of the Commissioner that the plan satisfies the requirements of section 419A(f)(6) and this section, a plan having any of the following characteristics is not a 10 or more employer plan described in section 419A(f)(6). A plan's lack of all the following characteristics does not create any inference that the plan is a 10 or more employer plan described in section 419A(f)(6).

(2) *Allocation of plan assets.* Assets of the plan or fund are allocated to a specific employer or employers through separate accounting of contributions and expenditures for individual employers, or otherwise.

(3) *Differential pricing.* The amount charged under the plan is not the same for all the participating employers, and those differences are not reflective of differences in risk or rating factors that

are commonly taken into account in manual rates used by insurers (such as age, gender, geographic locale, number of covered dependents, and benefit terms) for the particular benefit or benefits being provided.

(4) *No fixed welfare benefit package.* The plan does not provide for fixed welfare benefits for a fixed coverage period for a fixed cost, within the meaning of paragraph (d)(5) of this section.

(5) *Unreasonably high cost.* The plan provides for fixed welfare benefits for a fixed coverage period for a fixed cost, but that cost is unreasonably high for the covered risk for the plan as a whole.

(6) *Nonstandard benefit triggers.* Benefits or other amounts payable can be paid, distributed, transferred, or otherwise provided from a fund that is part of the plan by reason of any event other than the illness, personal injury, or death of an employee or family member, or the employee's involuntary separation from employment. Thus, for example, a plan exhibits this characteristic if the plan provides for the payment of benefits to an employer's employees on the occasion of the employer's withdrawal from the plan.

(d) *Definitions.* For purposes of this section:

(1) *Benefits or other amounts payable.* The term *benefits or other amounts payable* includes all amounts that are payable or distributable (or that will be otherwise provided) directly or indirectly to employers, to employees or their beneficiaries, or to another fund as a result of a spinoff or transfer, and without regard to whether payable or distributable as welfare benefits, cash, dividends, rebates of contributions, property, promises to pay, or otherwise.

(2) *Benefits experience.* The *benefits experience* of an employer (or of an employee or a group of employers or employees) means the benefits and other amounts incurred, paid, or distributed (or otherwise provided) directly or indirectly, including to another fund as a result of a spinoff or transfer, with respect to the employer (or employee or group of employers or employees), and without regard to whether provided as welfare benefits, cash, dividends, credits, rebates of contributions, property, promises to pay, or otherwise.

(3) *Overall experience*—(i) *Employers.* The term *overall experience* means, with respect to an employer (or group of employers), the balance that would have accumulated in a welfare benefit fund if that employer (or those employers) were the only employer (or employers) providing welfare benefits under the plan. Thus, the overall experience is credited with the sum of the contributions under the plan with respect to that employer (or group of employers), less the benefits and other amounts paid or distributed (or otherwise provided) with respect to that employer (or group of employers) or the employees of that employer (or group of employers), and adjusted for gain or loss from insurance contracts (as described in paragraph (b)(4)(i) of this section), investment return, and expenses. Overall experience as of any date may be either a positive or a negative number.

(ii) *Employees.* The term *overall experience* means, with respect to an employee (or group of employees, whether or not employed by the same employer), the balance that would have accumulated in a welfare benefit fund if the employee (or group of employees) were the only employee (or employees) being provided welfare benefits under the plan. Thus, the overall experience is credited with the sum of the contributions under the plan with respect to that employee (or group of employees), less the benefits and other amounts paid or distributed (or otherwise provided) with respect to that employee (or group of employees), and adjusted for gain or loss from insurance contracts (as described in paragraph (b)(4)(i) of this section), investment return, and expenses. Overall experience as of any date may be either a positive or a negative number.

(4) *Employer.* The term *employer* means the employer whose employees are participating in the plan and those employers required to be aggregated with the employer under section 414(b), (c), or (m). In the case of an employer that is the recipient of services performed by a leased employee described in section 414(n) who participates in the plan, the leased employee is treated as an employee of the recipient and contributions made by the leasing organization attributable to service performed with the recipient are treated as made by the recipient.

(5) *Fixed welfare benefit package*—(i) *In general.* A plan provides for fixed welfare benefits for a fixed coverage period for a fixed cost, if it—

(A) Defines one or more welfare benefits, each of which has a fixed amount that does not depend on the amount or type of assets held by the fund,

(B) Specifies fixed contributions to provide for those welfare benefits, and

(C) Specifies a coverage period during which the plan agrees to provide specified welfare benefits, subject to the payment of the specified contributions by the employer.

(ii) *Treatment of actuarial gains or losses.* A plan will not be treated as failing to provide for fixed welfare benefits for a fixed coverage period for a fixed cost merely because the plan does not pay the promised benefits (or requires all participating employers to make proportionate additional contributions based on the fund's shortfall) when there are insufficient assets under the plan to pay the promised benefits. Similarly, a plan will not be treated as failing to provide for fixed welfare benefits for a fixed coverage period for a fixed cost merely because the plan provides a period of extended coverage after the end of the coverage period to all participating employers at no cost to the employers (or provides a proportionate refund of contributions to all participating employers) because of the plan-wide favorable actuarial experience during the coverage period.

(e) *Maintenance of records.* The plan administrator of a plan that is intended to be a 10 or more employer plan described in section 419A(f)(6) shall maintain permanent records and other documentary evidence sufficient to substantiate that the plan satisfies the requirements of section 419A(f)(6) and this section. (*See* § 1.414(g)–1 for the definition of plan administrator.)

(f) *Examples.* The provisions of paragraph (c) of this section and the provisions of section 419A(f)(6) and this section relating to experience-rating arrangements may be illustrated by the following examples. Unless stated otherwise, it should be assumed that any life insurance contract described in an example is non-participating and has no value other than the value of the policy's current life insurance protection plus its cash value. Paragraph (ii) of each example applies the characteristics listed in paragraph (c) of this section to the facts described in that example. Paragraphs (iii) and (iv) of each example analyze the facts described in the example to determine whether the plan maintains experience-rating arrangements with respect to individual employers. Paragraphs (iii) and (iv) of each example illustrate only the meaning of *experience-rating arrangements.* No inference should be drawn from these examples about whether these plans are otherwise described in section 419A(f)(6) or about the applicability or nonapplicability of any other Internal Revenue Code provision that may limit or deny the deduction of contributions to the arrangements. Further, no inference should be drawn from the examples concerning the tax treatment of employees as a result of the employer contributions or the provision of the benefits.

Example 1. (i) An arrangement provides welfare benefits to employees of participating employers. Each year a participating employer is required to contribute an amount equal to the claims and other expenses expected with respect to that employer for the year (based on age, gender, geographic locale, number of participating employees, benefit terms, and other risk or rating factors commonly taken into account in manual rates used by insurers for the benefits being provided), multiplied by the ratio of actual claims with respect to that employer for the previous year over the expected claims with respect to that employer for the previous year. No employer participating in the arrangement contributes more than 10 percent of the total contributions made under the arrangement by all the employers.

(ii) This arrangement exhibits at least one of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). Differential pricing exists under this arrangement because the amount charged under the plan is not the same for all the participating employers, and those differences are not reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers for the particular benefit or benefits being provided.

(iii) This arrangement does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Under the arrangement, an employer's cost of coverage for each year is based, in part, on that employer's benefits experience (i.e., the benefits and other amounts provided in the past with respect to one or more employees of that employer). Accordingly, pursuant to paragraph (b)(1) of this section, the arrangement maintains experience-rating arrangements with respect to individual employers.

Example 2. (i) The facts are the same as in Example 1, except that the amount charged to an employer each year is equal to claims and other expenses expected with respect to that employer for the year (determined the same as in Example 1), multiplied by the ratio of actual claims for the previous year (determined on a plan-wide basis) over the expected claims for the previous year (determined on a plan-wide basis).

(ii) Based on the limited facts described above, this arrangement exhibits none of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). Unlike the arrangement discussed in Example 1, there is no differential pricing under the arrangement because the only differences in the amounts charged to the employers are solely reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers for the particular benefit or benefits being provided.

(iii) Nothing in the facts described in this Example 2 indicates that the arrangement maintains experience-rating arrangements prohibited under section 419A(f)(6) and this section. An employer's cost of coverage under the arrangement is based, in part, on the benefits experience of that employer (as well as of all the other participating employers). However, pursuant to paragraph (b)(4)(iii) of this section, the arrangement will not be treated as maintaining experience-rating arrangements with respect to the individual employers merely because the employers' cost of coverage is based on the benefits experience of a group of employees eligible under the plan, provided no employer normally contributes more than 10 percent of all contributions with respect to the rating group that includes the employees of an individual employer. Under the arrangement described in this Example 2, the rating group includes all the participating employers (or all of their employees), and no employer normally contributes more than 10 percent of the contributions made under the arrangement by all the employers. Accordingly, absent other facts, the arrangement will not be treated as maintaining experience-rating arrangements with respect to individual employers.

Example 3. (i) Arrangement A provides welfare benefits to employees of participating employers. Each year an employer is required to contribute an amount equal to the claims and other expenses expected with respect to that employer for the year (based on risk or rating factors commonly taken into account in manual rates used by insurers for the benefits being provided), adjusted based on the employer's notional account. An employer's notional account is determined as follows. The account is credited with the sum of the employer's contributions previously paid under the plan less the benefit claims for that employer's employees. The notional account is further increased by a fixed five percent investment return (regardless of the actual investment return earned on the funds). If an employer's notional account is positive, the employer's contributions are reduced by a specified percentage of the notional account. If an employer's notional account is negative, the employer's contributions are increased by a specified percentage of the notional account.

(ii) Arrangement A exhibits at least two of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). First, assets under the plan are allocated to specific employers. Second, differential pricing exists because the amount charged under the plan is not the same for all the participating employers, and those differences are not reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers for the particular benefit or benefits being provided.

(iii) Arrangement A does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Under the arrangement, a participating employer's cost of coverage for each year is based on a proxy for that employer's *overall experience.* An employer's *overall experience,* as that term is defined in paragraph (d)(3) of this section, includes the balance that would have accumulated in the fund if that employer's employees were the only employees being provided benefits under the plan. Under that definition, the overall experience is credited with the sum of the contributions paid under the plan by or on behalf of that employer less the benefits or other amounts provided to with respect to that employer's employees, and adjusted for gain or loss from insurance contracts, expenses, and investment return. Under the formula used by the arrangement in this example to determine employer contributions, expenses are disregarded and a fixed investment return of five percent is used instead of actual investment return. The disregard of expenses and substitution of the fixed investment return for the actual investment return merely results in an employer's notional account that is a proxy for the overall experience of that employer. Accordingly, the arrangement maintains experience-rating arrangements with respect to individual employers.

Example 4. (i) Under Arrangement B, death benefits are provided for eligible employees of each participating employer. Individual level premium life insurance policies are purchased to provide the death benefits. Each policy has a face amount equal to the death benefit payable with respect to the individual employee. Each year, a participating employer is charged an amount equal to the level premiums payable with respect to the employees of that employer. One participating employer, F, has an employee, P, whose coverage under the arrangement commenced at the beginning of 2000, when P was age 50. P is covered under the arrangement for $1 million of death benefits, and a life insurance policy with a face amount of $1 million has been purchased on P's life. The level annual premium on the policy is $23,000. At the beginning of 2005, when P is age 55, the $23,000 premium amount has been paid for five years and the policy, which continues to have a face amount of $1 million, has a cash value of $92,000. Another employer, G, has an employee, R, who is also 55 years old at the beginning of 2005 and is covered under Arrangement B for $1 million, for which a level premium life insurance policy with a face amount of $1 million has been purchased. However, R did not become covered under Arrangement B until the beginning of 2005. Because R's coverage began at age 55, the level annual premium charged for the policy on R's life is $30,000, or $7,000 more than the premiums payable on the policy in effect on P's life. Employer F is charged $23,000 and employer G is charged $30,000 for the death benefit for employees P and R, respectively. Assume that employees P and R are the only covered employees of their respective employers and that they are identical with respect to any risk and rating factors used by the insurer (other than age at policy issuance).

(ii) Arrangement B exhibits at least three of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). First, assets of the plan are effectively allocated to specific employers. Second, there is differential pricing under the arrangement. That is, the amount charged under the plan during the year for a specific amount of death benefit coverage is not the same for all the employers (employer F is charged $23,000 each year for $1 million of death benefit coverage while employer G is charged $30,000 each year for the same coverage), and the difference is not reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers for the death benefit being provided (employees P and R are the same age). Third, there is unreasonably high cost, at least during the early years of coverage under the arrangement when the amounts charged to an employer for that employee's death benefit coverage are unreasonably high for the covered risk for the plan as a whole.

(iii) Arrangement B does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Arrangement B maintains experience-rating arrangements with respect to individual employers because the cost of coverage for each year for any employer participating in the arrangement is based on a proxy for the overall experience of that employer. Under Arrangement B, employer F's cost of coverage for 2005 is $23,000 for $1 million of coverage. The $92,000 cash value at the beginning of 2005 in the policy insuring P's life is a proxy for employer F's overall experience. (The $92,000 is essentially the balance that would have accumulated in the fund if employer F were the only employer providing welfare benefits under Arrangement B.) Further, the $23,000 charged to F for the $1 million of coverage in 2005 is based on the $92,000 since, in the absence of the $92,000, employer F would have been charged $30,000 for P's $1 million death benefit coverage. (Note that the conclusion that the $92,000 balance is the basis for the lower premium charged to employer F is consistent with the fact that a $92,000 balance, if converted to a life annuity using the same actuarial assumptions as were used to calculate the cash value amount, would be sufficient to provide for annual annuity payments of $7,000 for the life of P—an amount equal to the $7,000 difference from the premium charged in 2005 to employer G for the $1 million of coverage on employee R's life.) Thus, F's cost of coverage for 2005 is based on a proxy for F's overall experience. Accordingly, Arrangement B maintains an experience-rating arrangement with respect to employer F.

(iv) Arrangement B also maintains an experience-rating arrangement with respect to employer G because it can be expected that each year G will be charged $30,000 for the $1 million of coverage on R's life. Each year, G's cost of coverage will reflect G's prior contributions and allocable earnings, so that G's cost of coverage will be based on a proxy for G's overall experience. Accordingly, Arrangement B maintains an experience-rating arrangement with respect to employer G. Similarly, Arrangement B maintains an experience-rating arrangement with respect to each other participating employer. Accordingly, Arrangement B maintains experience-rating arrangements with respect to individual employers. This would also be the result if Arrangement B maintained an experience-rating arrangement with respect to only one individual employer.

Example 5. (i) Under Arrangement C, death benefits are provided for eligible employees of each participating employer. Flexible premium universal life insurance policies are purchased to provide the death benefits. Each policy has a face amount equal to the death benefit payable with respect to the individual employee. Each participating employer can make any contributions to the arrangement provided that the amount paid for each employee is at least the amount needed to prevent the lapse of the policy. The amount needed to prevent the lapse of the universal life insurance policy is the excess, if any, of the mortality and expense charges for the year over the policy balance. All contributions made by an employer are paid as premiums to the universal life insurance policies purchased on the lives of the covered employees of that employer. Participating employers H and J each have a 50-year-old employee covered under Arrangement C for death benefits of $1 million, which is the face amount of the respective universal life insurance policies on the lives of the employees. In the first year of coverage employer H makes a contribution of $23,000 (the amount of a level premium) while employer J contributes only $6,000, which is the amount of the mortality and expense charges for the first year. At the beginning of year two, the balance in employer H's policy (including earnings) is $18,000, but the balance in J's policy is zero. Although H is not required to contribute anything in the second year of coverage, H contributes an additional $15,000 in the second year. Employer J contributes $7,000 in the second year.

(ii) Arrangement C exhibits at least two of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). First, assets of the plan are effectively allocated to specific employers. Second, the arrangement does not provide for fixed welfare benefits for a fixed coverage period for a fixed cost.

(iii) Arrangement C does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Arrangement C maintains experience-rating arrangements with respect to individual employers because the cost of coverage of an employer participating in the arrangement is based on a proxy for the overall experience of that employer. Pursuant to paragraph (b)(4)(ii) of this section (concerning treatment of flexible contribution arrangements), solely for purposes of determining an employer's cost of coverage, the Commissioner may treat an employer as contributing the minimum amount needed to maintain the coverage. Applying this treatment, H's cost of coverage for the first year of coverage under Arrangement C is $6,000 for $1 million of death benefit coverage, but for the second year it is zero for the same amount of coverage because that is the minimum amount needed to keep the insurance policy from lapsing. Employer H's overall experience at the beginning of the second year of coverage is $18,000, because that is the balance that would have accumulated in the fund if H were the only employer providing benefits under Arrangement C. (The special rule of paragraph (b)(4)(ii) of this section only applies to determine cost of coverage; it does not apply in determining overall experience.) The $18,000 balance in the policy insuring the life of employer H's employee is a proxy for H's overall experience. Employer H can choose not to make any contributions in the second year of coverage due to the $18,000 policy balance. Thus, H's cost of coverage for the second year is based on a proxy for H's overall experience. Accordingly, Arrangement C maintains an experience-rating arrangement with respect to employer H.

(iv) Arrangement C also maintains an experience-rating arrangement with respect to employer J because in each year J can contribute more than the amount needed to prevent a lapse of the policy on the life of its employee and can expect that its cost of coverage for subsequent years will reflect its prior contributions and allocable earnings. Accordingly, Arrangement C maintains an experience-rating arrangement with respect to employer J.

Example 6. (i) Arrangement D provides death benefits for eligible employees of each participating employer. Each employer can choose to provide a death benefit of either one, two, or three times the annual compensation of the covered employees, provided that no employer contributes more than 10 percent of the total contributions under the plan by all employers. Under Arrangement D, the death benefit is payable only if the employee dies while employed by the employer. If an employee terminates employment with the employer or if the employer withdraws from the arrangement, the death benefit is no longer payable, no refund or other credit is payable to the employer or to the employees, and no policy or other property is transferrable to the employer or the employees. Furthermore, other than any conversion rights the employees may have under state law, the employees have no right under Arrangement D to coverage under any other arrangement and no right to purchase or to convert to an individual insurance policy. Arrangement D determines the amount required to be contributed by each employer for each month of coverage by aggregating the amount required to be contributed for each covered employee of the employer. The amount required to be contributed for each covered employee is determined by multiplying the amount of the death benefit coverage (in thousands) for the employee by five-year age bracket rates in a table specified by the plan. The rates in the specified table do not exceed the rates set forth in Table I of § 1.79–3(d)(2). The table is used uniformly for all covered employees of all employers participating in Arrangement D. Arrangement D uses the amount contributed by each employer to purchase one-year term insurance coverage on the lives of the covered employees with a face amount equal to the death benefit provided by the plan. No employer is entitled to any rebates or refunds provided under the insurance contract.

(ii) Arrangement D does not exhibit any of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). Under Arrangement D, assets are not allocated to a specific employer or employers. Differences in the amounts charged to the employers are solely reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers for the particular benefit or benefits being provided. The arrangement provides for fixed welfare benefits for a fixed coverage period for a fixed cost, within the meaning of paragraph (d)(5) of this section. The cost charged under the arrangement is not unreasonably high for the covered risk of the plan as a whole. Finally, benefits and other amounts payable can be paid, distributed, transferred, or otherwise made available only by reason of the death of the employee, so that there is no nonstandard benefit trigger under the arrangement.

(iii) Nothing in the facts of this Example 6 indicates that Arrangement D fails to satisfy the requirements of section 419A(f)(6) or this section by reason of maintaining experience-rating arrangements with respect to individual employers. Based solely on the facts described above, Arrangement D does not maintain an experience rating-arrangement with respect to any individual employer because for each participating employer there is no period for which the employer's cost of coverage under the arrangement is based, in whole or in part, on either the benefits experience or the overall experience (or a proxy for either type of experience) of that employer or its employees.

Example 7. (i) The facts are the same as in Example 6, except that under the arrangement, any refund or rebate provided under that year's insurance contract is allocated among all the employers participating in the arrangement in proportion to their contributions, and is used to reduce the employers' contributions for the next year.

(ii) This arrangement exhibits at least one of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). The arrangement includes nonstandard benefit triggers because amounts are made available to an employer by reason of the insurer providing a refund or rebate to the plan, an event that is other than the illness, personal injury, or death of an employee or family member, or an employee's involuntary separation from employment.

(iii) Based on the limited and specific facts described in this Example 7, an employer participating in this arrangement should be able to establish to the satisfaction of the Commissioner that the plan does not maintain experience-rating arrangements with respect to individual employers. A participating employer's cost of coverage is the relationship of its contributions to the death benefit coverage or other amounts payable with respect to that employer, including the employer's portion of the insurance company rebate and refund amounts. The rebate and refund amounts are allocated to an employer based on that employer's contribution for the prior year. However, even though an employer's overall experience includes its past contributions, contributions alone are not a proxy for an employer's overall experience under the particular facts described in this Example 7. As a result, a participating employer's cost of coverage under the arrangement for each year (or any other period) is not based on that employer's benefits experience or its overall experience (or a proxy for either type of experience), except as follows: If the total of the insurance company refund or rebate amounts is a proxy for the overall experience of all participating employers, a participating employer's cost of coverage will be based in part on that employer's overall experience (or a proxy therefor) by reason of that employer's overall experience being a portion of the overall experience of all participating employers. Under the special rule of paragraph (b)(2)(iii) of this section, however, that fact alone will not cause the arrangement to be treated as maintaining an experience-rating arrangement with respect to an individual employer because no employer normally contributes more than 10 percent of the total contributions under the plan by all employers (the rating group). Accordingly, the arrangement will not be treated as maintaining experience-rating arrangements with respect to individual employers.

Example 8. (i) Arrangement E provides medical benefits for covered employees of 90 participating employers. The level of medical benefits is determined by a schedule set forth in the trust document and does not vary by employer. Other than any rights an employee may have to COBRA continuation coverage, the medical benefits cease when an employee terminates employment with the employer. If an employer withdraws from the arrangement, there is no refund of any contributions and there is no transfer of anything of value to employees of the withdrawing employer. Arrangement E determines the amount required to be contributed by each employer for each year of coverage. To determine the amount to be contributed for each employer, Arrangement E classifies an employer based on the employer's location. These geographic areas are not changed once established under the arrangement. The amount charged for the coverage under the arrangement to the employers in a geographic area is initially determined from a rate-setting manual based on the benefit package, but adjusted to reflect the claims experience of the employers in that classification as a whole. Arrangement E does not have any geographic area classification for which one of the employers in the classification contributes more than 10 percent of the contributions made by all the employers in that classification.

(ii) Arrangement E exhibits at least one of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). The amount charged under the arrangement to an employer in one geographic area can be expected to differ from that charged to an employer in another geographic area (and the differences are not merely reflective of risk or rating factors for those geographic areas), resulting in differential pricing.

(iii) Based on the facts described in this Example 8, an employer participating in Arrangement E should be able to establish to the satisfaction of the Commissioner that the plan does not maintain experience-rating arrangements with respect to individual employers even though there is differential pricing. Although an employer's cost of coverage for each year is based, in part, on its benefits experience (as well as the benefits experience of the other employers in its geographic area), that does not result in experience-rating arrangements with respect to any individual employer because the employers in each geographic area are a rating group and no employer normally contributes more than 10 percent of the contributions made by all the employers in its rating group. (See paragraph (b)(4)(iii) of this section.)

Example 9. (i) The facts of Arrangement F are the same as those described in Example 8 for Arrangement E, except that K, an employer in one of Arrangement F's geographic areas, contributes more than 10 percent of the contributions made by the employers in that geographic area.

(ii) For the same reasons as described in Example 8, Arrangement F results in differential pricing.

(iii) Arrangement F does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. An employer's cost of coverage for each year is based, in part, on its benefits experience (as well as the benefits experience of the other employers in its geographic area) and the special rule for experience-rating by a rating group does not apply to Arrangement F because employer K contributes more than 10 percent of the contributions made by the employers in its rating group. Accordingly, Arrangement F maintains experience-rating arrangements with respect to individual employers.

Example 10. (i) The facts of Arrangement G are the same as those described in Example 8 for Arrangement E, except for the way that the arrangement classifies the employers. Under Arrangement G, the experience of each employer for the prior year is reviewed and then the employer is assigned to one of three classifications (low cost, intermediate cost, or high cost) based on the ratio of actual claims with respect to that employer to expected claims with respect to that employer. No employer in any classification contributes more than 10 percent of the contributions of all employers in that classification.

(ii) For the same reasons as described in Example 8, Arrangement G results in differential pricing.

(iii) Arrangement G does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. The special rule in paragraph (b)(4)(iii) of this section for rating groups can prevent a plan from being treated as maintaining experience-rating arrangements with respect to individual employers if the mere use of a rating group is the only reason a plan would be so treated. Under Arrangement G, however, an employer's cost of coverage for each year is based on the employer's benefits experience in two ways: the employer's benefits experience is part of the benefits experience of a rating group that is otherwise permitted under the special rule of paragraph (b)(4)(iii) of this section, and the employer's benefits experience is considered annually in redetermining the rating group to which the employer is assigned. Accordingly, Arrangement G maintains experience-rating arrangements with respect to individual employers.

Example 11. (i) Arrangement H provides a death benefit equal to a multiple of one, two, or three times compensation as elected by the participating employer for all of its covered employees. Universal life insurance contracts are purchased on the lives of the covered employees. The face amount of each contract is the amount of the death benefit payable upon the death of the covered employee. Under the arrangement, each employer is charged annually an amount equal to 200 percent of the mortality and expense charges under the contracts for that year covering the lives of the covered employees of that employer. Arrangement H pays the amount charged each employer to the insurance company. Thus, the insurance company receives an amount equal to 200 percent of the mortality and expense charges under the policies. The excess amounts charged and paid to the insurance company increase the policy value of the universal life insurance contracts. When an employer ceases to participate in Arrangement H, the insurance policies are distributed to each of the covered employees of the withdrawing employer.

(ii) Arrangement H exhibits at least three of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). First, assets are effectively allocated to specific employers. Second, because the amount of the withdrawal benefit (*i.e.,* the value of the life insurance policies to be distributed) is unknown, the arrangement does not provide for fixed welfare benefits for a fixed coverage period for a fixed cost. Finally, Arrangement H includes nonstandard benefit triggers because amounts can be distributed under the arrangement for a reason other than the illness, personal injury, or death of an employee or family member, or an employee's involuntary separation from employment.

(iii) Arrangement H does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Pursuant to paragraph (b)(1) of this section, the prohibition against maintaining experience-rating arrangements applies under all circumstances, including employer withdrawals. Arrangement H maintains experience-rating arrangements with respect to individual employers because the cost of coverage for a participating employer is based on a proxy for the overall experience of that employer. Under Arrangement H, the contributions of a participating employer are fixed. The benefits or other amounts payable with respect to an employer include the value of the life insurance policies that are distributable to the employees of that employer upon the withdrawal of that employer from the plan. Thus, the cost of coverage for any period of an employer's participation in Arrangement H is the relationship between the fixed contributions for that period and the variable benefits payable under the arrangement. The value of those variable benefits depends on the value of the policies that would be distributed if the employer were to withdraw at the end of the period. (Each year the insurance policies to be distributed to the employees in the event of the employer's withdrawal will increase in value due to the premium amounts paid on the policy in excess of current mortality and expense charges.) For reasons similar to those discussed above in Example 5, the aggregate value of the life insurance policies on the lives of an employer's employees is a proxy for that employer's overall experience. Thus, a participating's employer's cost of coverage for any period is based on a proxy for the overall experience of that employer. Accordingly, Arrangement H maintains experience-rating arrangements with respect to individual employers.

(iv) The result would be the same if, rather than distributing the policies, Arrangement H distributed cash amounts equal to the cash values of the policies. The result would also be the same if the distribution of policies or cash values is triggered by employees terminating their employment rather than by employers ceasing to participate in the arrangement.

Example 12. (i) The facts of Arrangement J are the same as those described in Example 11 for Arrangement H, except that (1) Arrangement J purchases a special term insurance policy on the life of each covered employee with a face amount equal to the death benefit payable upon the death of the covered employee, and (2) there is no benefit distributable upon an employer's withdrawal. The special term policy includes a rider that extends the term protection for a period of time beyond the term provided on the policy's face. The length of the extended term is not guaranteed, but is based on the excess of premiums over mortality and expense charges during the period of original term protection, increased by any investment return credited to the policies.

(ii) Arrangement J exhibits two of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). First, assets of the plan are effectively allocated to specific employers. Second, the plan does not provide for fixed welfare benefits for a fixed coverage period for a fixed cost because the coverage period is not fixed.

(iii) Arrangement J does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Arrangement J maintains experience-rating arrangements with respect to individual employers because the cost of coverage for a participating employer is based on a proxy for the overall experience of that employer. Under Arrangement J, the contributions of a participating employer are fixed. The benefits or other amounts payable with respect to an employer are the one-, two-, or three-times-compensation death benefit for each employee of the employer for the current year, plus the extended term protection coverage for future years. Thus, for any period extending to or beyond the end of the original term of one or more of the policies on the lives of an employer's employees, the employer's cost of coverage is the relationship between the fixed contributions for that period and the variable benefits payable under the arrangement. The value of those variable benefits depends on the aggregate value of the policies insuring the employer's employees (*i.e.,* the total of the premiums paid on the policies by Arrangement J to the insurance company, reduced by the mortality and expense charges that were needed to provide the original term protection, and increased by any investment return credited to the policies). The aggregate value of the policies insuring an employer's employees is, at any time, a proxy for the employer's overall experience. Thus, a participating employer's cost of coverage for any period described above is based on a proxy for the overall experience of that employer. Accordingly, Arrangement J maintains experience-rating arrangements with respect to individual employers.

Example 13. (i) Arrangement K provides a death benefit to employees of participating employers equal to a specified multiple of compensation. Under the arrangement, a flexible-premium universal life insurance policy is purchased on the life of each covered employee in the amount of that employee's death benefit. Each policy has a face amount equal to the employee's death benefit under the arrangement. Each participating employer is charged annually with the aggregate amount (if any) needed to maintain the policies covering the lives of its employees. However, each employer is permitted to make additional contributions to the arrangement and, upon doing so, the additional contributions are paid to the insurance company and allocated to one or more contracts covering the lives of the employer's employees. In the event that any policy covering the life of an employee would lapse in the absence of new contributions from that employee's employer, and if at the same time there are policies covering the lives of other employees of the employer that have cash values in excess of the amounts needed to prevent their lapse, the employer has the option of reducing its otherwise-required contribution by amounts withdrawn from those other policies.

(ii) Arrangement K exhibits at least two of the characteristics listed in paragraph (c) of this section generally indicating that the arrangement is not a 10 or more employer plan described in section 419A(f)(6). First, assets of the plan are allocated to specific employers. Second, because the plan allows an employer to choose to contribute an amount that is different than that contributed by another employer for the same benefit, the amount charged under the plan is not the same for all participating employers (and the differences in the amounts are not reflective of differences in risk or rating factors that are commonly taken into account in manual rates used by insurers for the particular benefit or benefits being provided), resulting in differential pricing.

(iii) Arrangement K does not satisfy the requirements of section 419A(f)(6) and this section because, at a minimum, the requirement of paragraph (a)(1)(iii) of this section is not satisfied. Arrangement K maintains experience-rating arrangements with respect to individual employers because the cost of coverage for any employer participating in the arrangement is based on a proxy for the overall experience of that employer. Under Arrangement K the benefits with respect to an employer for any year are a fixed amount. For purposes of determining the employer's cost of coverage for that year, the Commissioner may treat the employer's contribution under the special rule of paragraph (b)(4)(ii) of this section (concerning treatment of flexible contribution\arrangements) as being the minimum contribution amount needed to maintain the universal life policies with respect to that employer for the death benefit coverage for that year. Because the employer has the option to prevent the lapse of one policy by having amounts withdrawn from other policies, that minimum contribution amount will be based in part on the aggregate value of the policies on the lives of that employer's employees. That aggregate value is a proxy for the employer's overall experience. Accordingly, Arrangement K maintains experience-rating arrangements with respect to individual employers.

(g) *Effective date*—(1) *In general.* Except as set forth in paragraph (g)(2) of this section, this section applies to contributions paid or incurred in taxable years of an employer beginning on or after July 11, 2002.

(2) *Compliance information and recordkeeping.* Paragraphs (a)(1)(iv), (a)(2), and (e) of this section apply for taxable years of a welfare benefit fund beginning after the date of publication of final regulations in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–17469 Filed 7–10–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–063]

RIN 2115–AA97

Safety and Security Zones: USCGC EAGLE Port Visit—Salem Harbor, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary safety and security zones for the United States Coast Guard Cutter (USCGC) EAGLE's port visit to the PG & E Power Plant in Salem, MA, from August 9, 2002, to August 12, 2002. The safety and security zones would temporarily close all waters within a 100 yard radius of the USCGC EAGLE while underway off the coast of Massachusetts in United States territorial seas, and while moored at the PG & E Pier in Salem Harbor, Salem, MA. The safety and security zones would prohibit entry into or movement within this portion of Salem Harbor during the effective periods.

DATES: Comments and related material must reach the Coast Guard on or before 29 July 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office Boston, 455 Commercial Street, Boston, MA. Marine Safety Office Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of the docket and will be available for inspection or copying at Marine Safety Office Boston between 8 A.M. and 3 P.M., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dave Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Request for Information

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–063), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your comments reached us, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid in this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

In light of terrorist attacks on New York City and Washington D.C. on September 11, 2001, temporary safety and security zones are proposed to safeguard the United States Coast Guard Cutter (USCGC) EAGLE (a training vessel for the U. S. Coast Guard Academy), persons on the vessel, the public, and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The USCGC EAGLE presents a possible target of terrorist attack, because it is a prominent and highly visible public vessel. These proposed safety and security zones, having identical boundaries, prohibit entry into or movement within the specified areas.

This regulation proposes to establish safety and security zones within a 100 yard radius of the USCGC EAGLE while it is moored at the PG & E Pier in Salem Harbor, Salem, MA and while the vessel is transiting within navigable waters of the United States in the Captain of the Port (COTP) Boston zone, as defined in 33 CFR 3.05–10. Under the Ports and Waterways Safety Act, (33 U.S.C.S. 1221 et. seq.) navigable waters of the United States include all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988 (103 Stat. 2981; 54 FR 777, January 9, 1989). This Presidential Proclamation declared that the territorial sea of the United States extends to 12 nautical miles from the baseline of the United States determined in accordance with international law.

The safety and security zones would be in effect while the USCGC EAGLE is transiting within the navigable waters of the United States and while moored at the PG & E Pier from August 9, 2002, to August 12, 2002.

These zones are needed to safeguard the USCGC EAGLE, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. Marine traffic may transit safely outside of the safety and security zones during the effective periods. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Due to the short timeframe before this event takes place, a normal period for notice and comment was not possible. However, we wanted to provide the public the opportunity to comment. The shortened comment period provided will permit the public to participate in this rulemaking, while still providing sufficient time to develop and publish a final rule, thereby accounting for the interest in safety and security of the maritime community and of the USCGC EAGLE during the specified periods. Accordingly, this rule will become effective less than thirty days after publication.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Captain of The Port does anticipate some impact to vessel traffic due to the proposed safety and security zones. Some impact on recreational vessel and small passenger vessel traffic is expected in the vicinity of Salem Harbor, however it is expected to be minimal due to the ability of these vessels to transit safely outside of the safety and security zones. Thus, although this proposed regulation would prevent traffic from transiting a portion of Salem Harbor during the effective periods, the effects of this proposed regulation will not be significant for the reasons outlined above. Advance notifications will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have significant economic impact on a substantial number of small entities. This rule would have a minimal impact on small entities because vessel traffic can safely pass outside of the safety and security zones during the effective periods, the safety and security zones are limited in duration, and advance notifications will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Dave Sherry at the address listed under **ADDRESSES**.

Collection of Information

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

Federalism

The Coast Guard analyzed this proposed rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the federal government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

The Coast Guard analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A

''Categorical Exclusion Determination'' is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T02–063 to read as follows:

§ 165.T02–063 Safety and Security Zones: USCGC EAGLE Port visit-Salem Harbor, Massachusetts.

(a) *Location:* The following areas are safety and security zones:

(1) All waters of Salem Harbor within a 100 yard radius of the United States Coast Guard Cutter (USCGC) EAGLE while moored at the PG & E Pier;

(2) All navigable waters of the United States within the Captain of the Port (COTP) Boston zone, as defined in 33 CFR 3.05–10, within a 100 yard radius of the USCGC EAGLE while underway.

(b) *Effective Period.* This section is effective from 6 a.m. August 9, 2002 through 6 p.m. August 12, 2002.

(c) *Definitions.* For purposes of this section, *navigable waters of the United States* includes all waters of the territorial sea as described in Presidential Proclamation No. 5928 of December 27, 1988. Presidential Proclamation No. 5928 of December 27, 1988 declared that the territorial sea of the United States extends to 12 nautical miles from the baseline of the United States.

(d) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: July 2, 2002.

B.M. Salerno,

Captain, Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–17474 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–50; GA–53; GA–56; GA–58; GA–59–200230(b); FRL–7244–6]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of Georgia on December 6, 1999, March 21, 2000, January 4, 2001, August 21, 2001, and December 28, 2001. These submittals contain revisions to Georgia's Rules for Air Quality Control and Rules for Enhanced Inspection and Maintenance. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as a noncontroversial submittals 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. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before August 12, 2002.

ADDRESSES: All comments should be addressed to: Scott M. Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036. E-mail: *martin.scott@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: June 26, 2002.

Michael V. Peyton,

Acting Regional Administrator, Region 4.

[FR Doc. 02–17317 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–49–200232(b); FRL–7244–8]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD) on November 17, 1999. The revision pertains to William L. Bonnell's Air Quality Permit. This permit revision went through a thirty day comment period and was the subject of a public hearing on September 8, 1999. No comments were received on the permit revisions. The revised permit became State effective on October 7, 1999. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as a noncontroversial submittals 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. The EPA will not institute a second comment period on this document. Any parties interested in

commenting on this document should do so at this time.

DATES: Written comments must be received on or before August 12, 2002.

ADDRESSES: All comments should be addressed to: Scott M. Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036. E-mail: *martin.scott@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: June 28, 2002.

Winston A. Smith,

Acting Regional Administrator, Region 4.

[FR Doc. 02–17456 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[F–2002–AIRP–FFFP; FRL–7227–8]

RIN 2050–AE91

Municipal Solid Waste Landfill Location Restrictions for Airport Safety

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing action to amend the location restriction requirements in the criteria for municipal solid waste landfills (MSWLFs). EPA is amending this provision in order to incorporate new landfill siting requirements enacted in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act). The Ford Act siting restrictions apply to specified smaller public airports to address the potential hazard that birds attracted to MSWLFs may pose to aircraft operations. Today's proposed amendment does not affect existing MSWLFs.

In the ''Rules and Regulations'' section of today's **Federal Register**, EPA is promulgating this amendment as a direct final rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. In the event that EPA receives adverse comments on the direct final rule, we will address all public comments in a subsequent final rule based on this proposed rule; and, we will not institute a second comment period on this action. If we receive no adverse comment, we will not take any further action on this proposed rule. Any parties interested in commenting must do so at this time.

DATES: Comments must be received on or before August 12, 2002.

ADDRESSES: This section provides addresses regarding: (1) Where and in what form you should submit responses to today's action; (2) where you can view public comments responding to this action; and (3) where you can view the docket index and supporting documents to the proposed rule. Please reference RCRA Docket No. F–2002–AIRF–FFFF in your comments. You may submit your comments (1) in hard copy (paper) either by mail or by hand or (2) using electronic mail, as follows:

- Mail: Submit an original and two hard copies to the RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- Hand Deliveries: Submit an original and two hard copies to the RCRA Information Center (RIC), Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia 22202.
- Electronic Submissions: Via the Internet to: *rcra-docket@epa.gov.* You must provide your electronic submissions as ASCII files; and, you must avoid the use of special characters and any form of encryption. Comments in electronic format should also be identified by referencing RCRA Docket No. F–2002–AIRF–FFFF.

See the **SUPPLEMENTARY INFORMATION** section for information about where and how you can view the docket for this rule, including electronic access to some of the information such as the docket index and supporting documents.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323 (hearing impaired).

For information on specific aspects of this rule, contact Mary T. Moorcones, Municipal and Industrial Solid Waste Division of the Office of Solid Waste (mail code 5306W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone: 540–338–1348; e-mail: <*moorcones.mary@epamail.epa.gov*>.

You can also access some information about this rule electronically via the Internet at: <*http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/airport.htm*>.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are public or private individuals or groups seeking to construct or establish new municipal solid waste landfills (MSWLFs) near specified airports after April 5, 2000. Affected categories and entities are included in the following table:

Category	Examples of regulated entities
Federal Government.	Agencies constructing or establishing new MSWLFs within six miles of a public airport.
State, Local and Tribal Government.	Governments constructing or establishing new MSWLFs within six miles of a public airport.

The table above is not intended to be exhaustive but rather to provide examples of entities likely to be regulated by this action. To determine whether your facility would be impacted by this action, you should carefully examine the applicability criteria in the rule. If you have questions regarding the applicability of this action to a particular facility, please contact Mary T. Moorcones, U.S. Environmental Protection Agency, Office of Solid Waste (5305W), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 540–338–1348; e-mail: <*moorcones.mary@epamail.epa.gov*>. Entities considering construction or establishment of a new MSWLF also should contact the Federal Aviation Administration (FAA) to determine if an airport within six statute miles of the new MSWLF meets the criteria established by FAA to comply with the statute. The FAA can be contacted at the FAA's Office of Airport Safety and Standards, Airport Safety and Certification Branch, at 800–842–8736, Ext. 73085 or via e-mail at <*WebmasterARP@faa.gov*>.

Acronyms

The full names for the acronyms used in this document are listed in the following table:

Acronym	Definition
AC	Federal Aviation Administration Advisory Circular 150/5200–34, together with its Appendix 1, dated August 26, 2000.
CFR	The United States Code of Federal Regulations.
EPA	The United States Environmental Protection Agency.
FAA	The United States Federal Aviation Administration.
Ford Act	Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.
MSWLF	Municipal Solid Waste Landfill.
NTTA	National Technology and Transfer Act of 1995.
OMB	The United States Office of Management and Budget.
RCRA	The Resource Conservation and Recovery Act.
RIC	Resource Conservation and Recovery Act Information Center.
UMRA	Unfunded Mandates Reform Act of 1995.
U.S.	United States.
U.S.C.	United States Code.

Where To Find and View Information About This Rule

All documents in the docket for this rulemaking, including public comments, are available for review in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review the docket materials in person, we recommend that the public make an appointment by calling 703–603–9230. The public can hard copy a maximum of 100 pages from the docket at no charge. Additional copies cost $0.15/page.

You can access the Index to the docket and the supporting documents electronically on the Internet at: <*http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/airport.htm*>. If you access the information electronically, you can download or print copies free of charge.

Preamble

Outline

I. Legal Authority for Today's Proposed Rule

The EPA is proposing this rule under Sections 1008(a), 2002 (general rule making authority), and 4004 of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6907(a), 6912, 6944.

II. Why We Are Proposing an Amendment to the MSWLF Location Restrictions for Airport Safety

On April 5, 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act), Public Law 106–181. Section 503 of the Ford Act includes a provision limiting the ''construction or establishment'' of municipal solid waste landfills (MSWLFs) within six miles of certain smaller public airports. The FAA issued guidance regarding the requirements of the Ford Act in FAA Advisory Circular (AC) 150/5200–34 (August 26, 2000). Today's proposed rule incorporates the statutory requirement into EPA's Criteria for Municipal Solid Waste Landfills, 40 CFR part 258. Specifically, we are proposing to amend the location restriction requirements pertaining to airport safety found in § 258.10 of the criteria by adding this new location restriction to the existing location restrictions.

Section 503 of the Ford Act was enacted to address the potential hazard posed to aircraft by birds attracted to landfills. According to the Federal Aviation Administration (FAA), an estimated 87 percent of the collisions between wildlife and civil aircraft occurred on or near airports when aircraft were less than 2,000 feet above ground level. Collisions with wildlife at these altitudes are especially dangerous because aircraft pilots have minimal time to recover. Databases managed by the FAA and the United States Air Force show that more than 54,000 civil and military aircraft reported strikes with wildlife from 1990 to 1999 (FAA AC No. 150/5200–34).

III. Description of How Today's Proposed Action Would Change the Current Regulations

40 CFR 258.10 sets forth location restrictions for MSWLFs to address airport safety. The § 258.10(a) and (c) contain requirements for new MSWLFs, existing MSWLFs and lateral expansions of landfills that are located within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 of any airport runway used only by piston-type aircraft. Owners or operators of such landfills are required to (1) demonstrate that the MSWLFs are designed and operated so as not to ''pose a bird hazard to aircraft,'' (2) place a copy of the demonstration in the MSWLF operating record, and (3) notify the State Director that it has been placed in the operating file. ''State Director'' is defined as ''the chief administrative officer of the lead state agency responsible for implementing the state permit program for 40 CFR part 257, subpart B and 40 CFR part 258 regulated facilities.''

Section 258.10(b) applies to new MSWLFs and lateral expansions proposed to be constructed within a five-mile radius of the end of any airport runway used by turbojet or piston-type aircraft. For such proposed new MSWLFs and lateral expansions, the owner or operator must notify the affected airport and the FAA.

Section 258.10(d) defines ''airport'' to mean a ''public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.'' This subsection also defines ''bird hazard.''

IV. Description of Today's Proposed Amendment to MSWLF Location Restrictions for Airport Safety

Today's proposed rule adds a new paragraph (e) to § 258.10 that incorporates the location restrictions enacted in § 503 of the Ford Act prohibiting construction or establishment of a new MSWLF within six miles of a ''public airport.'' A ''public airport'' is one that: (1) Has received grants under the Airport and Airway Improvement Act of 1982, as amended (chapter 471, 49 U.S.C. 47101, et. seq.) and (2) is primarily served by general aviation aircraft and regularly scheduled air carrier operations that use aircraft designed for 60 passengers or less. Today's proposed rule applies to MSWLFs (as defined in 40 CFR 257.3 through 257.8) that receive putrescible waste (as defined in 40 CFR 257.3 through 257.8).

A. Landfills to Which the Proposed New Restrictions Apply

The new six (6) mile restriction only applies to new MSWLFs constructed or established after April 5, 2000. ''Construct a MSWLF'' is defined as in Appendix 1 of the FAA AC 150/5200–34 as ''excavate or grade land, or raise structures, to prepare a municipal solid waste landfill as permitted by the appropriate regulatory or permitting authority.'' ''Establish a MSWLF'' is defined in Appendix 1 of the FAA AC 150/5200–34 as a MSWLF that ''receives[s] the first load of putrescible waste on site for placement in a prepared municipal solid waste landfill.''

To determine whether an airport in the vicinity of a proposed MSWLF is an airport that is subject to the Ford Act, the landfill owner or operator should contact the FAA. As the FAA guidance indicates, those airports covered by the Ford Act do not fall into a classification or category that has been established by the FAA or other legislation. See FAA AC No. 150/5200–34, section 8. If the airport in question does not meet the definition in the Ford Act, then today's rule does not apply to the proposed landfill. If the airport in question meets the Ford Act definition, then the proposed landfill must be located at least six miles from the airport. The FAA AC 150/5200–34 also provides guidance for determining whether a new MSWLF falls within the six mile range. The six mile distance is to be measured from ''the closest point of the airport property boundary to the closest point of the MSWLF property boundary (FAA AC No. 150/5200–34, section 9).

B. Exemptions to the Limitations

The six mile siting limitation does not apply to: (1) A MSWLF where construction or establishment began on or before April 5, 2000; (2) an existing MSWLF that received putrescible waste on or before April 5, 2000; (3) an existing MSWLF (constructed or established before April 5, 2000) that is expanded or modified after April 5, 2000; or (4) MSWLFs in the State of Alaska. In addition, the aviation agency of the state in which the airport is located can request an exemption from the six mile limitation from the FAA for a new MSWLF. Section 10 of the FAA AC No. 150/5200–34 sets out the procedure for applying for an exemption.

New MSWLFs that are not subject to the six mile siting limitation, including those in the State of Alaska, continue to be subject to the landfill siting criteria at 40 CFR 258(a)–(d).

V. How the States and Tribes Implement This Rule

EPA recognizes that today's rule and the language in the Ford Act are more stringent than the existing 258.10 location restrictions because the boundary for newly constructed or established MSWLFs is moved from five miles to six miles from certain airports. However, EPA does not deem this change to be significant. This provision concerns only new MSWLFs constructed or established after April 5, 2001. EPA does not expect many new landfills to be constructed, and expects fewer still to be located in the vicinity of an airport defined in section 503 of the Ford Act. In addition, EPA notes that the statutory restriction in section 503 of the Ford Act applies to such new MSWLFs regardless of whether EPA incorporates its terms into the MSWLF criteria. Therefore states are not required to amend permit programs which have been determined to be adequate under 40 CFR part 239. States however have the option to amend statutory or regulatory definitions pursuant to today's rule. If a state chooses to amend its permit program pursuant to today's action, the state must notify the Regional Administration of the modification as provided by 40 CFR 239.12. Today's amendments are directly applicable to landfills in states without an approved permit program under Part 239, and in Indian Country. We also encourage tribes to adopt today's amendments into their programs.

VI. Why We Are Also Promulgating This Proposed Amendment As a Direct Final Promulgation Without Prior Proposal

In the ''Rules and Regulations'' section of today's **Federal Register**, EPA is also promulgating this amendment as a direct final rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment because it simply incorporates the legislative directive of the Ford Act. We explained our reasons in the Preamble to the direct final rule. EPA is making this change in order to eliminate potential confusion between the new requirements under the Ford Act and the MSWLF criteria, promulgated in 1991 pursuant to the Resource Conservation and Recovery Act (RCRA). The final rule will be effective on October 9, 2002, without further notice unless we receive adverse comment by August 12, 2002. If we receive no adverse comment, we will not take further action on this proposed rule. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the direct final rule will not take effect. We will address all public 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. A comment will be considered adverse if it: (1) Is negative and addresses the basis or purpose of the rule; (2) suggests that the rule should not be adopted or offers facts or data contrary to the basis upon which EPA relied in issuing the rule; (3) recommends changes that suggest that the rule without these changes would be inappropriate; and (4) is germane. A comment is not adverse if it: (1) Is not clearly related to the subject of the rule and/or (2) supports the rule or is irrelevant to the rule (e.g., a comment addressing an aspect of the program not considered in the rule).

VII. Applicability of Relevant Statutes and Executive Orders to Today's Rule

A. Executive Order 12866: Regulatory Planning & Review

Under Executive Order 12866, EPA must determine whether a regulatory action is significant and therefore subject to Office of Management and Budget (OMB) review and the other provisions of the Executive Order. Executive Order 12866 defines a significant regulatory action as one that is likely to result in actions that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Today's rule, deals only with siting of future individual MSWLFs after the statute's passage, does not have an adverse impact on the economy, the environment, the public, or governments. Similarly, it neither interferes with other agencies nor impacts other programs, the President's priorities, or legal mandates. Indeed, today's direct final rule codifies a legal mandate that enhances public safety and is more protective of wildlife than doing nothing.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq., generally requires an agency to prepare, and make available for public comment, a regulatory flexibility analysis that describes the impact of a proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The regulatory flexibility analysis is not required if the head of an agency certifies that the rule will not have a significant adverse impact on a substantial number of small entities. If the agency certifies that there is no such impact, the agency must provide a statement of the factual basis for the certification.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities.

The following discussion explains EPA's factual basis for our certification that this proposed rule will not have a significant adverse impact on a substantial number of small entities. This proposed rule does not impact any existing MSWLFs, only future construction and establishment of MSWLFs begun after the date of the enactment of the statute (April 5, 2000). There will be no added costs to those entities involved in establishing or constructing new MSWLFs because this proposed rule will not increase the requirements for landfills begun on or before the enactment of the statute; it will only affect their location. Similarly, it will not increase requirements for existing landfills, regardless of size. As a result, today's proposed rule will not impose significant new burdens on small entities. Therefore, for the reasons stated above, the EPA certifies that the proposed rule will not have a significant impact on a substantial number of small entities.

C. 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 regulatory actions on state, local, and tribal governments, and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments—either in the aggregate or to the private sector—of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objective of the rule. The above requirements of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed (under Section 203 of the UMRA) a small government agency plan. The plan must provide for: (1) Notifying potentially affected small governments; (2) 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 (3) informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule does not contain any federal mandates that are covered under the regulatory provision of Title II of the UMRA that apply to state, local, or tribal governments or the private sector. The rule does not impose any additional enforceable duty on any state, local, or tribal governments or on the private sector. Thus, today's proposed rule is not subject to the requirements of Sections 202 and 205 of UMRA.

D. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 et seq., requires the federal government (and thus EPA) to minimize the paperwork burden resulting from any collection of information by or for the federal government. Under 44 U.S.C. 3501 et seq., EPA must submit a request to collect the information, together with a copy of the rule, to the Office of Management and Budget (OMB) in those cases where EPA is collecting information in a notice of proposed or final rule making. EPA does not plan to submit an ICR to OMB for review under the Paperwork Reduction Act, 44 U.S.C., 3501 et seq. because there are no information collection requirements associated with today's proposed rule.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' The phrase, ''policies that have federalism implications,'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

Today's proposed rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule does not impose any requirements, implementation duties, enforcement duties, monitoring requirements, or reporting requirements on states. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development or regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation.

This proposed rule does not have tribal implications, as specified in Executive Order 13175. Today's action incorporates requirements that are already in effect pursuant to the Ford Act. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and must explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action, i.e., hazards to aircraft from birds attracted to municipal solid waste landfills, present a disproportionate risk to children.

H. National Technology Transfer and Advancement Act of 1995

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

Today's proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus.

I. Executive Order 12898: Environmental Justice

EPA has undertaken to incorporate environmental justice into its policies and programs through: (1) Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations''; (2) EPA's April 1995, ''Environmental Justice Strategy, Office of Solid Waste and Emergency Response Environmental Justice Task Force Action Agenda Report''; and (3) the National Environmental Justice Advisory Council. EPA is committed to addressing environmental justice concerns, and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure: (1) That no segment of the population—regardless of race, color, national origin, or income—bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities; and (2) that all people live in clean and sustainable communities. The EPA believes that today's proposed rule, which conforms the language in 40 CFR 258.10 to the Ford Act, has no adverse environmental or economic impact on any minority or low-income group, or on any other type of affected community. These standards would not affect the location of any MSWLF other than to prohibit the location of MSWLFs within six miles of a public airport as defined in the proposed rule.

J. Executive Order 13211: Energy Effects

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: May 31, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–16995 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020628163–2163–01; I.D. 061302B]

RIN 0648–AP43

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes a regulation to implement the annual harvest guideline for Pacific mackerel in the exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on the formula in the FMP. The intended effect of this action is to propose allowable harvest levels for Pacific mackerel off the Pacific coast.

DATES: Comments must be received by July 26, 2002.

ADDRESSES: Send comments on the proposed rule to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The report Stock Assessment of Pacific Mackerel with Recommendations for the 2002–2003 Management Season may be obtained at this same address.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, (562) 980–4036.

SUPPLEMENTARY INFORMATION: The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into the categories of actively managed and monitored. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, and then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure is published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific mackerel season begins on July 1 of each year and ends on June 30 the following year.

The FMP relies on a framework procedure that includes public comment to announce the harvest guideline each year without publication of a proposed rule. However, to ensure compliance with the Administrative Procedure Act, a proposed rule is being published. Team, Subpanel, and SSC meetings as described above were held as in the past. The Team meeting took place at the Southwest Fisheries Science Center in La Jolla, California, on May 29, 2002 (67 FR 34434, May 14, 2002). The SSC and Subpanel meetings took place in conjunction with the June 17–21, 2002, Council meeting in Foster City, California.

A modified virtual population analysis stock assessment model is used to estimate the biomass of Pacific mackerel. The model employs both fishery dependent and fishery independent indices to estimate abundance. The biomass was calculated through the end of 2001, and then estimated for the fishing season that begins July 1, 2002, based on (1) the number of Pacific mackerel estimated to comprise each year class at the beginning of 2002, (2) modeled estimates of fishing mortality during 2001, (3) assumptions for natural and fishing mortality through the first half of 2002, and (4) estimates of age-specific growth. Based on this approach, the biomass for July 1, 2002, would be 77,516 metric tons (mt). Applying the formula in the FMP would result in a harvest guideline of 12,456 mt, which is lower than last year but similar to low harvest guidelines of recent years.

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of Pacific mackerel.* For 2002, this estimate is 77,516 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established the cutoff level at 18,200 mt. The cutoff is subtracted from the biomass, leaving 59,316 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* This estimate is 70 percent, based on the historical average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters. Therefore, the harvestable biomass in U.S. waters is 70 percent of 59,316 mt, that is, 41,521 mt.

4. *The harvest fraction.* This is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent. The harvest fraction is multiplied by the harvestable biomass in U.S. waters (41,521 mt), which is 12,456 mt.

Information on the fishery and the stock assessment are found in the report Stock Assessment of Pacific Mackerel with Recommendations for the 2002–2003 Management Season, which may be obtained at the address above (see **ADDRESSES**).

Following recommendations of the fishing industry and Subpanel for the 2001/2002 fishing season, a directed fishery for Pacific mackerel of 6,000 mt was set beginning July 1, 2001, followed by an incidental allowance of 45 percent of Pacific mackerel in landings of any CPS. A 1–mt landing of mackerel per trip was also allowed if no other species were landed during a trip. A significant amount of the harvest guideline remained unused toward the end of the fishing season; therefore, the directed fishery was reopened on April 1, 2002 (67 FR 16322, April 5, 2002). NMFS implemented this approach last season in response to concerns about how a low harvest guideline for mackerel might interfere with the sardine fishery. Pacific mackerel is often caught with sardine; therefore, mackerel might have to be discarded, which would increase bycatch. Public comments are requested on how the fishery might be conducted for the 2002/2003 fishing season to achieve but not exceed the harvest guideline while minimizing impacts on the harvest of other CPS.

In view of the above, the following determinations have been made for the July 1, 2002, through June 30, 2003, fishing season. Public comment is sought on these determinations.

Based on the estimated biomass of 77,516 mt and the formula in the FMP, a harvest guideline of 12,456 would be calculated and would be in effect for the fishery beginning on July 1, 2002. This harvest guideline would be available for harvest for the fishing season beginning at 12:01 a.m. on July 1, 2002, and continue through June 30, 2003, unless the harvest guideline is attained and the fishery closed before June 30.

Classification

These proposed specifications are issued under the authority of, and NMFS has preliminarily determined that they are in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and the regulations implementing the FMP at 50 CFR part 660, subpart I.

This proposed rule has been determined to be not significant for purpose of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The low harvest guideline for Pacific mackerel is not expected to have significant effect on the fleet because mackerel has not been a significant source of revenue for the fleet. The CPS fleet targets a variety of species depending on environmental and market conditions and can easily compensate for a low mackerel harvest.

Northern anchovy, Pacific sardine, Pacific mackerel, jack mackerel (finfish), and market squid are the target species of the fleet. Jack mackerel, northern anchovy, and market squid are monitored species under the FMP. However, the market squid fishery is actively managed by the State of California. Squid contributes a substantial portion of the total revenue to the CPS fleet in most years.

An average of 273 vessels landed CPS off the Pacific coast from 1996 through 2000. Only 65 of these vessels are authorized to fish in the limited entry fishery for finfish south of 39° N. lat. In the limited entry area, vessels without limited entry permits may land up to 5 metric tons per trip of finfish until the directed fishery is closed. An open access fishery exists north of 39° N. lat., which includes Oregon, Washington, and a portion of California north of San Francisco. All vessels are considered small businesses. The species harvested can exhibit wide variability in abundance from year to year; therefore, when one species is unavailable, revenue is typically derived from other CPS.

From 1996 through 2000, 25.2 percent of total ex-vessel revenue was derived from finfish, and 6.8 percent of that revenue resulted from landings of Pacific mackerel. On average, approximately 15 percent of the 273 vessels (41 vessels) depend on CPS finfish, that is, finfish accounts for the greatest share of a vessel's total ex-vessel revenue. There also are an average of 19 processors and buyers in California, Oregon, and Washington whose annual purchases of CPS finfish represent the largest share of their total annual expenditures.

Average revenue of the fleet for 1996 through 2000 was $31.4 million. Squid comprised almost 75 percent of that revenue, but during an El Nino event squid availability drops precipitously. In 1998, total revenue totaled only $8.3 million because of a low squid harvest. In that year, mackerel made up 30.8 percent of revenue.

There are indications of an approaching El Nino. If an El Nino occurs, there will be a significant drop in ex-vessel revenue in 2003 due to the unavailability of squid. Nevertheless, the FMP requires setting the Pacific mackerel harvest guideline based on the current biomass estimate to ensure protection of the resource and to ensure a fishery in subsequent years. There are ameliorating factors that currently exist that would reduce the impact that occurred in the 1998 fishery. Sardine landings increased from 32,553 mt in 1996 to 67,888 mt in 2000, the result of an increasing biomass and the development of new markets. Domestic harvest of sardine in 2001 was 78,583 mt with an ex-vessel revenue of more than $9 million. Similar levels are expected in 2002. Revenue from northern anchovy was only $245,000 in 1998, while revenue in 2001 was $1.4 million. In 2001, due to increased sardine and anchovy harvest, Pacific mackerel comprised less than 4 percent of ex-vessel revenue. If a low squid harvest occurs in 2003 resulting from an El Nino event, the most likely result is that Pacific mackerel will make up approximately 9 percent of ex-vessel revenue.

Hence, implementation of these specifications would not have a significant economic impact on a substantial number of small entities. As a result, no regulatory flexibility analysis for this rule has been prepared.

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

Dated: July 5, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs,National Marine Fisheries Service.

[FR Doc. 02–17463 Filed 7–10–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 133

Thursday, July 11, 2002

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Request for Direct Loan Assistance

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency is seeking comments from all interested individuals and organizations on the extension of currently approved information collection for a form used in support of the FSA, Farm Loan Programs (FLP). This extension of information collection does not involve any revisions to the program regulations.

DATES: Comments on this notice must be received on or before September 9, 2002 to be assured consideration.

ADDRESSES: Comments concerning this notice should be addressed to Bashir Duale, USDA, FSA, Farm Loan Programs, Loan Making Division, 1400 Independence Avenue, SW, STOP 0522, Washington DC 20250–0522. Copies of the information collection and comments received may be obtained from Bashir Duale at the above address.

FOR FURTHER INFORMATION CONTACT: Bashir Duale, Senior Loan Officer, USDA, Farm Service Agency, at (202) 720–1632 or by email to: *bashir_duale@wdc.usda.gov.* Individuals who use telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Request for Direct Loan Assistance.

OMB Control Number: 0560–0167.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: Form FSA–410–1 is used for collecting information for making eligibility and financial feasibility determinations on respondents' requests for direct operating, farm ownership, and emergency loans and for currently indebted borrowers requesting loan servicing assistance as authorized under the Consolidated Farm and Rural Development Act. Travel time has been included in the Estimated Annual Burden on Respondents.

Estimate of Annual Burden: Average 1 hour.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 46,812.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 93,624.

Invitation of Public Comment

Comment is invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility, (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Public Comments

All comments received in response to this notice, including name and addresses when provided, will be a matter of public record. Comments will be summarized and included in the information collection submission for OMB approval.

Signed in Washington, DC, on June 28, 2002.

James Little,

Administrator, Farm Service Agency.

[FR Doc. 02–17451 Filed 7–10–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of Meetings.

SUMMARY: The Plumas County Resource Advisory Committee (RAC) will hold meetings on July 22, 2002, in Greenville, California and another on August 9, 2002, in Quincy, CA. The purpose of both meetings will be to provide for a finalized cycle 2 project funding process and related timeline under the Title 2 provisions of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES & ADDRESSES: The July 22 meeting will take place from 9–2 p.m., at the Catholic Church Social Hall, 209 Jesse Street, Greenville, California. The August 9 meeting location will be announced at the July 22 meeting.

FOR FURTHER INFORMATION CONTACT: Lee Anne Schramel Taylor, Forest Coordinator, USDA, Plumas National Forest, PO Box 11500/159 Lawrence Street, Quincy, CA, 95971; (530) 283–7850; or by E–Mail *eataylor@fs.fed.us.* Final agendas are posted one week prior to the meeting on the Internet at: *http://www.fs.r5.fs.fed.us/pay2states/plumas.* Prior meeting minutes and agendas are available on the same site.

SUPPLEMENTARY INFORMATION: Agenda items for the July 22 meeting include: (1) Review and discuss cycle 1 project implementation efforts to date; (2) Continue review & discussion of cycle 1 process, (3) Continue to refine timeline for cycle 2 process; (4) Review process documents including outreach, concept paper requests and project proposals formats and amend as needed; and, (5) Future meeting schedule/logistics/ agenda. Agenda for the August 9 meeting will be determined at the July 22, 2002 meeting. The meeting is open to the public and individuals may address the Committee after being recognized by the Chair.

Dated: July 2, 2002.

Robert G. MacWhorter,

Acting Forest Supervisor.

[FR Doc. 02–17468 Filed 7–10–02; 8:45 am]

BILLING CODE 0511–02–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of a Public Meeting on the Agriculture Innovation Center Demonstration Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This Notice is to notify entities concerned with agricultural value-added marketing issues and other interested persons that the Rural Business-Cooperative Service (RBS) is holding a public meeting for interested persons to express their views on implementing the Agriculture Innovation Center Demonstration Program to assist U.S. agricultural producers.

DATES: The meeting will be held on July 31, 2002, starting at 9 a.m. eastern time, with registration at 8 a.m. The public meeting will end at 4:30 p.m. unless concluded earlier.

ADDRESSES: The meeting will be held in Room 107–A, Jamie Whitten Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC. Those interested in making a presentation at the meeting should send a written request to Wendy Dotson, Office of the Deputy Administrator for Cooperative Services, Room 4016, Stop 3250, 1400 Independence Avenue SW., Washington, DC 20250–3250.

FOR FURTHER INFORMATION CONTACT: John Dunn, Director, Cooperative Management Resource Division, RBS, Room 4206–S, Stop 3256, 1400 Independence Avenue, SW., Washington, DC 20250–3256, Telephone: 202–690–1374.

SUPPLEMENTARY INFORMATION: The meeting will be conducted by representatives of the Department of Agriculture. The information from the meeting will be considered in implementing provisions of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) concerning the Agriculture Innovation Center Demonstration Program (section 6402). The purpose of the meeting is to provide background information for consideration in the implementation and administration of this program.

RBS is particularly interested in receiving comments on the following specific issues as they relate to agriculture innovation centers:

1. *Focus of work by the proposed innovation centers*—The relative importance of (a) technical assistance, engineering services, applied research, scale production, etc., (b) assistance in marketing, market development, and business planning, and (c) organization, outreach, and development assistance. What is the appropriate mix of each?

2. *Viable methods of raising the equity capital necessary for many producer-owned value-added ventures.* How can assistance to agricultural producers best be structured for this purpose?

3. How the innovation centers might best coordinate with existing technical assistance, business advisory, and organizational assistance providers.

4. How to meet the demand for value-added assistance in traditional crop and livestock value-added enterprises as well as newer, unique niche opportunities.

5. The desirability of the entity having the required assistance expertise in-house versus contracting out for that expertise.

6. Suggestions for criteria for scoring and selecting proposals that accomplish innovation center objectives.

To schedule oral testimony for the public meeting, notify Ms. Dotson, in writing, at the above address. Requests may be sent by facsimile to (202) 720–4641 or e-mail to *wendy.dotson@usda.gov.* Those who wish to make oral presentations must restrict presentations to 15 minutes and are also encouraged to have written copies of their complete comments, including exhibits, for inclusion the Agency's record. Written copies should also be sent to Ms. Dotson in advance of the meeting. Those who register their attendance at the public meeting, but have not been scheduled in advance to present oral testimony, will be given an opportunity to do so if time permits. Otherwise, the opportunity will be given to submit their views in writing by August 6, 2002. Participants who require a sign language interpreter or other special accommodations should contact Ms. Wendy Dotson as directed above.

Copies of the presentations will not be available for distribution from the Department. However, they will be available for public inspection in Room 4206 South Building, 1400 Independence Avenue, SW., Washington, DC, during regular business hours, 8:00–4:30 EDT.

Dated: July 5, 2002.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 02–17408 Filed 7–10–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 7, 2002, the Department of Commerce published the preliminary results and partial rescission of the administrative review of the antidumping duty order on stainless steel bar from India. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. We find that the reviewed company did not sell stainless steel bar from India in the United States below normal value during the period of review (''POR'') of February 1, 2000, to January 31, 2001.

EFFECTIVE DATE : July 11, 2002.

FOR FURTHER INFORMATION CONTACT: Ryan Langan or Cole Kyle, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–2613 or (202) 482–1503, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended effective January 1, 1995, (''The Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR Part 351 (April 2000).

Background

On March 7, 2002, the Department published in the **Federal Register**, *Stainless Steel Bar from India; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review* (67 FR 10377) (''*Preliminary Results*''). The only manufacturer/exporter subject to this review is Viraj Group, Ltd. (''Viraj'' or ''respondent''). After inviting parties to comment on the *Preliminary Results* of this review, we received petitioners' case brief and Viraj's rebuttal brief. At the request of the petitioners, we held a hearing on May 8, 2002. We did not conduct a verification in this proceeding.

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which, if less than 4.75 mm in thickness, have a width measuring at least 10 times the thickness, or, if 4.75 mm or more in thickness, have a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review areaddressed in the ''Issues and Decision Memorandum'' from Richard Moreland, Deputy Assistant Secretary, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated July 5, 2002, (''*Decision Memorandum*''), which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Fair Value Comparisons

To determine whether sales of stainless steel bar from India to the United States were made at less than fair value, we compared export price (''EP'') or constructed export price (''CEP'') to normal value (''NV''). Our calculations followed the methodologies described in the *Preliminary Results*, except as noted below and in the *Viraj Group, Ltd. Final Results Calculation Memorandum* (''*Calculation Memorandum*''), dated July 5, 2002, which is on file in the Import Administration's Central Records Unit (''CRU''), Room B–099 of the main Department of Commerce building.

Export Price and Constructed Export Price

For certain sales to the United States, we used EP as defined in section 772(a) of the Act. For the remaining sales to the United States, we used CEP as defined in section 772(b) of the Act. We calculated EP and CEP based on the same methodologies described in the *Preliminary Results*, except that we corrected certain ministerial errors and did not make a duty drawback adjustment (*see Calculation Memorandum and Issues* and *Decision Memorandum* at Comments 2 and 5).

Normal Value

We used the same methodology as that described in the *Preliminary Results* to determine the cost of production (''COP''), whether home market sales were at prices below the COP, and the NV, except that, in calculating COP, we recalculated Viraj's interest and SG&A expense ratios (*see Calculation Memorandum* and *Issues and Decision Memorandum* at Comments 3 and 4).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of the cost of materials, fabrication, selling, general and administrative expenses, and packing costs.

2. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices below the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent ''substantial quantities'' within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales are made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. We found that Viraj did not make more than 20 percent of its sales of any product at prices less than the COP. Therefore, all of Viraj's home market sales have been included in the calculation of NV, in accordance with section 773(b)(1).

Final Results of Review

We determine that the following percentage margin exists for the period February 1, 2000, through January 31, 2001:

Producer/Manufacturer/Exporter	Weighted-Average Margin
The Viraj Group, Limited	0.47% (*de minimis*)

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de* *minimis* (*i.e.*, 0.50 percent or greater). Accordingly, we have calculated importer-specific duty assessment rates for the merchandise in question. The assessment rate will be assessed uniformly on all entries of that particular importer made during the POR.

Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption, effective on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) for Viraj, no antidumping duty deposit will be required; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 12.45 percent, the ''all others'' rate established in the less-than-fair-value investigation (*see Stainless Steel Bar from India; Final Determination of Sales at Less Than Fair Value*, 59 FR 66915 (December 28, 1994)).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i)(1) of the Act.

Dated: July 5, 2002.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix 1

Issues in Decision Memorandum

Comment 1. Collapsing the Viraj Group
Comment 2. Duty Drawback
Comment 3. Calculation of Interest Expense for VIL
Comment 4. Calculation of Interest Expense
Comment 5. Ministerial Errors

[FR Doc. 02–17475 Filed 7–10–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070302A]

Marine Mammals; File No. 42–1642

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Mystic Aquarium, 55 Coogan Blvd., Mystic, CT 06355 (Dr. Lisa Mazarro, Principal Investigator) has requested an amendment to scientific research Permit No. 42–1642.

DATES: Written or telefaxed comments must be received on or before August 12, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA01930–2298; phone (978)281–9200; fax (978)281–9371.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 42-1642, issued on October 15, 2001 (66 FR 53403) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 42-1642 authorizes the permit holder to: study metabolic clearance rates of vitamins A and E using isotope tracers and vitamin analogs in captive Steller sea lions (*Eumetopias jubatus*) in relation to various life history stages; establish the vitamin A and E status of free-ranging Steller sea lions; determine the metabolic requirements for these vitamins by relating intake to blood levels in captive specimens; and receive or import serum and milk samples from captive marine mammals held in facilities within the United States and abroad to study the disease hemochromatosis (an excessive accumulation of iron in tissues often associated with hepatic lesions) as well as others associated with general marine mammal health. The permit holder requests authorization to import one male Steller sea lion from the Vancouver Aquarium, Vancouver, Canada for breeding with female Steller sea lions currently held by Mystic Aquarium in support of their study of changes in vitamin A and E status in relation to various life history stages in captive Steller sea lions.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 3, 2002.

Trevor R. Spradlin,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–17462 Filed 7–10–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062402A]

Endangered Species; File No. 1356

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Inwater Research Group, Inc., 4160 NE Hyline Drive, Jensen Beach, Florida 34957, has been issued a permit to take green, loggerhead, Kemp's ridley and hawksbill turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376 and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Lillian Becker or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On January 3, 2002, notice was published in the **Federal Register** (67 FR 308) that a request for a scientific research permit to take green, loggerhead, Kemp's ridley and hawksbill turtles had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*).

The permit allows the take of green, loggerhead, Kemp's ridley and hawksbill turtles to study the demographic composition and genetic origin of sea turtles within the Key West National Wildlife Refuge, Florida.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 5, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–17464 Filed 7–10–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Browser for an Accident and Incident Registry

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 10/082,132 entitled ''Browser for an Accident and Incident Registry,'' filed February 26, 2002. Foreign rights are also available (PCT/US02/05649). The United States Government, as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates to a system and method for accessing information and data relating to medical information, and more particularly to a laser accident registry. The system includes a data structure that allows for easy access of the information while maintaining a smaller overall sized database.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–17472 Filed 7–10–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Hold An Environmental Scoping Meeting To Solicit Citizen Input Into a Study of an Environmental Dredging Project on the Mahoning River in Ohio

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Pittsburgh District (District), U.S. Army Corps of Engineers will conduct a public environmental scoping meeting to solicit input for alternatives for a proposed environmental dredging project on the Mahoning River in Ohio currently under study. Representatives of the Pittsburgh District will provide an overview presentation on the proposed environmental dredging project and the National Environmental Policy Act (NEPA) process. The public is invited to provide comments or ask questions relevant to the project.

Date of Meeting: July 31, 2002 from 7 to 9 p.m.

Place: Holiday Inn, Youngstown Metroplex, 1620 Motor Inn Drive, Girard, OH 44420–2422.

ADDRESSES: Submit questions or comments regarding the environmental dredging project to Mr. Carmen Rozzi, Project Manager, U.S. Army Corps of Engineers, Mahoning Environmental Dredging Project, 1000 Liberty Ave., Pittsburgh, PA 15222–4186, telephone (412) 395–7227 or e-mail: *Irp.mahdredge@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Questions or comments regarding this notice can be directed to Ms. Deborah Duda, U.S. Army Corps of Engineers, 1000 Liberty Avenue, Pittsburgh, PA, 15222–4186, Telephone (412) 395–7213, e-mail: *Irp.mahdredge@usace,army.mil.*

SUPPLEMENTARY INFORMATION: The District is evaluating alternative strategies for the environmental restoration of 31 miles of the Mahoning River through environmental dredging. The project is being undertaken pursuant to the authority of section 312 of the Water Resources Development Act of 1990 (Pub. L. 101–640), as amended by Section 205 of the Water Resources Development Act of 1996 (Pub. L. 104–303). Section 312 provides for the removal of contaminated sediments (dredging) within navigable waters for the purpose of ecosystem restoration and identifies the Mahoning River, Ohio and Pennsylvania, dure to the severity of contamination, as one of five rivers in the nation given top priority for removal and remediation of contaminated sediments. The District will receive input from local, State and Federal agencies during an agency scoping meeting scheduled for earlier the day of the public environmental scoping meeting, and will use that input to evaluate alternatives and select a recommended alternative for implementation. The District will assess the environmental impacts of the recommended alternative and prepare an Environmental Assessment (EA). If, in the course of preparing the EA, significant impacts to the environment are identified, the District will prepare an Environmental Impact Statement (EIS). If no significant impacts are identified, the EA will be finalized and a Finding of No Significant Impact (FONSI) will be prepared.

1. *Proposed Action:* The Mahoning Environmental Dredging Project is designed to restore the ecosystem of the Mahoning River by removing contaminated sediment throughout a 31-mile stretch of the river (form Warren, Ohio to the Ohio-Pennsylvania border). The scoping process will solicit alternative methods of removing and disposing of contaminated sediment from the riverbed and riverbank in the most effective method.

2. *Reasonable Alternatives:* The District will evaluate a Future Without Project (No Action) Alternative and Future With Project Alternatives. The exact nature and extent of the projects in the Future With Project Alternatives will be determined as part of scoping during the NEPA process. To facilitate scoping of the environmental effects of the project, the public may initially base comments upon a combination of possible actions that result in the removal of contaminated sediments from the riverbed and riverbank. As the NEPA process continues, the District will refine the analysis and evaluation of possible plans for implementation.

The primary issues to be analyzed in depth during the NEPA process will be the environmental impacts of proposed actions on the Mahoning River and cumulative impacts of these proposed Federal actions in conjunction with reasonably foreseeable future actions by others. The impacts analysis will include biological resources, cultural resources and socioeconomic effects, air quality, noise impacts, and recreation resources.

These agency and public meetings will serve as the initial scoping effort for this action. In addition to the public notice, a notice will be mailed to all addresses on the Mahoning Environmental Dredging mailing list. Coordination throughout the project will be maintained with the appropriate local, State, and Federal agencies. The need for additional public meetings will be determined as the study progresses. Interested parties are encouraged to provide oral comments relevant to issues to be addressed in the NEPA process at the public forums. Otherwise, the District requests written comments or requests for information be directed to the following study contact: Mr. Carmen Rozzi (*see* **ADDRESSES** above).

John N. Goga,

Chief, Planning Branch.

[FR Doc. 02–17470 Filed 7–10–02; 8:45 am]

BILLING CODE 3710–85–M

DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Intent To Prepare a Joint Supplemental Environmental Impact Statement and Environmental Impact Report for Sacramento River East Levee and Natomas Cross Canal Levee Modifications as a Feature of the American River (Common Features), CA Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is preparation of a Supplemental Environmental Impact Statement and Environmental Impact Report (SEIS/EIR) to address potential improvements to the existing flood control systems. The American River (Common Features) project is located in Sacramento and Sutter Counties. The U.S. Army Corps of Engineers (Corps) is currently completing slurry wall work on approximately 20 miles of levee along the lower American River. In 1996 and 1999, Congress authorized modification of 12 miles of Sacramento River east levees and 5 miles of Natomas Cross Canal north and south levees in the Natomas basin area. Since that time engineering studies have shown that an additional 6 miles of levee improvements along the Sacramento River east levee are required for a total of about 18 miles from the mouth of the Natomas Cross Canal to Natomas Main Drain.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and SEIS/EIR should be addressed to Liz Holland at (916) 557–6763 or by mail to U.S. Army Corps of Engineers, ATTN CESPK–PD–R, 1325 J Street, Sacramento, CA 95814–2922.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps, in partnership with the State of California, Reclamation Board and the Sacramento Area Flood Control Agency are conducting a study on modifying the levees in the Natomas Basin area, which will be documented in the SEIS/EIR. The study focuses on ways to improve flood protection to portions of the City and County of Sacramento and Sutter County lying within the Natomas Basin.

2. Alternatives

The SEIS/EIR will address an array of flood control improvement alternatives. Alternatives analyzed during the investigation will include a combination of one or more flood protection measures. These measures include levee raising, seepage berms, seepage wells, and slurry walls.

3. Scoping Process

a. The project study plan provides for a series of public scoping meetings to present information to the public and to receive comments from the public. The Corps has initiated a process to involve concerned individuals, and local, State, and Federal agencies.

b. Significant issues to be analyzed in depth in the SEIS/EIR include: Adverse effects on vegetation and wildlife resources; special-status species; esthetics; cultural resources; recreation; land use; fisheries; water quality; air quality; transportation and socioeconomics; and cumulative effects of related projects in the study area.

c. The Corps will consult with the State Historic Preservation Officer to comply with the National Historic Preservation Act, and the U.S. Fish and Wildlife Service to provide a Fish and Wildlife Coordination Act Report as an appendix to the SEIS/EIR.

d. A 30-day public review period will be provided for individuals and agencies to review and comment on the draft SEIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the SEIS/EIR circulation.

4. Public Scoping Meeting

A series of public scoping meetings will be held from 6–8 p.m. on the following dates: July 25, 2002, South Natomas Community Center, July 30, 2002, Teal Bend Golf Course; and July 31, 2002, Holt of California Conference Room.

5. Availability

The draft SEIS/EIR is scheduled to be available for public review and comment in the summer of 2003.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–17471 Filed 7–10–02; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF EDUCATION

The Secretary of Education's Commission on Opportunity in Athletics; Notice of Establishment

AGENCY: Office for Civil Rights, Education.

ACTION: Notice of establishment of The Secretary of Education's Commission on Opportunity in Athletics.

SUMMARY: The Secretary of Education announces his intention to establish the Secretary of Education's Commission on Opportunity in Athletics. The Commission will be governed by the Federal Advisory Committee Act (Pub. L. 92–463 as amended; 5 U.S.C.A. Appendix 2).

Purpose: The Secretary has determined that the 30th anniversary of the passage of Title IX of the Education Amendments of 1972 (''Title IX'') is an appropriate time to review the application of current Federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX. This landmark legislation prohibits recipients of Federal funds from discriminating on the basis of sex. Prior to the enactment of Title IX, schools and universities receiving federal funds were free to discriminate against women (and girls).

Over the last 30 years, there has been a dramatic increase in the number of women's (and girls') athletic teams at both the high school and college levels. From 1981 to 1999, the total number of college women's teams increased by 66%. Despite these gains, many college administrators claim that the Department has failed to provide clear guidance on how colleges can comply with Title IX. The Secretary believes that it would be in the public interest to establish this Commission for the purpose of collecting information, analyzing issues, and obtaining broad public input directed at improving the application of current Federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX.

The Commission will produce a report, not later than January 31, 2003, to the Secretary outlining its findings and any recommendations as to whether the Title IX standards should be revised, and if so, how the standards should be revised to improve the effectiveness of Title IX and to maintain and build upon the extraordinary progress that has resulted from its passage 30 years ago.

The Commission will consist of not more than 15 members appointed by the Secretary from the public and private sectors, as well as up to three ex officio members from the Department of Education. The members shall include representatives of college, university, and school district officials, such as athletic directors, coaches, and other faculty, and representatives of intercollegiate and secondary school athletics; and may include researchers, state and local officials, and other persons with special expertise in intercollegiate and secondary school athletics or issues of equal educational opportunity. The membership of the Commission will be fairly balanced to reflect representation of a wide range of interests and perspectives relating to men's and women's (and boys' and girls') athletics. Members shall be appointed for the life of the Commission and the Secretary shall select one or more chairpersons from among the members of the Commission.

For Additional Information: Contact Deborah Price, U.S. Department of Education, Washington, DC 20202. Telephone: (202) 708–9132.

Dated: July 5, 2002.

Rod Paige,

Secretary of Education.

[FR Doc. 02–17467 Filed 7–10–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Availability of Solicitation

AGENCY: Albuquerque Operations Office, Department of Energy.

ACTION: Notice of availability of solicitation—Research and Development for Truck Essential Power Systems for Increased Powertrain Fuel Efficiency and Overall Systems Efficiency Improvements.

SUMMARY: The U.S. Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy, Office of Heavy Vehicle Technologies (OHVT), is seeking applications for cost-shared research and development for truck Essential Power Systems (EPS). Trucks include Class 2b through Class 8. The Essential Power System is a cross-cutting technology area (technologies and systems) that seeks to provide more efficient, practical, and cost effective management of electrical, mechanical, and thermal power on trucks. The EPS provides a possible technology pathway for future truck electrification.

DATES: Applications are to be received no later than 3 p.m. local prevailing time on August 26, 2002. Any application received after the due date will not be evaluated.

FOR FURTHER INFORMATION CONTACT: Evan M. Dunne, Contract Specialist, DOE/AL, at (505) 845–4798 or by e-mail at *edunne@doeal.gov.*

SUPPLEMENTARY INFORMATION: The solicitation will be available on the internet on or about July 12, 2002 at the following web site: *http://doe-iips.pr.doe.gov/.* Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. Teaming arrangements are strongly encouraged, especially among truck original equipment manufacturers (OEM's) and manufacturers of powertrain/engine and truck systems, to take advantage of the best complementary technologies available from the different companies/organizations. Participation of universities, small businesses, state and local governments, Indian tribes, and DOE Laboratories is also encouraged. It is desired by DOE that the primary applicant be an industrial partner. This promotes timely technology transfer to the private sector and enhances U.S. industrial competitiveness.

Issued in Albuquerque, New Mexico.

William L. McCullough,

Contracting Officer, Complex Support Branch, Contracts and Procurement Division.

[FR Doc. 02–17419 Filed 7–10–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

BP Cherry Point Cogeneration Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces BPA's intention to prepare a joint National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) EIS in cooperation with the State of Washington Energy Facility Site Evaluation Council (EFSEC) for a proposed new cogeneration plant and its electrical interconnection with the Federal Columbia River Transmission System. The scope of the EIS will include construction and operation of the proposed power plant, a new 1-mile, 230-kilovolt (kV) transmission line, and ancillary facilities. BPA is the lead Federal agency under NEPA and EFSEC is the lead Washington State agency under SEPA.

DATES: All interested parties are invited to comment on the scope of the proposed EIS. An open house and public scoping meeting was held on July 9, 2002, at the Blaine High School Performing Arts Center, 965 H Street, Blaine, Washington. All comments subsequent to the open house should be received by August 9, 2002.

ADDRESSES: To be placed on the project mailing list, including notification of meetings, call toll-free 1–800–622–4520, name this project, BP Cherry Point Cogeneration Project, and leave your complete name and address.

To comment, call toll-free 1–800–622–4519; send an e-mail to the BPA Internet address *comment@bpa.gov*; or send a letter to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon, 97212.

FOR FURTHER INFORMATION CONTACT: Thomas C. McKinney, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–4749; or e-mail *tcmckinney@bpa.gov.* Additional information can be found at BPA's web site: *http://www.efw.bpa.gov.*

SUPPLEMENTARY INFORMATION: The BP Cherry Point Cogeneration Project is a 720-megawatt (MW) generating station proposed by BP West Coast Products, LLC (BP). The project site is in Whatcom County, Washington, near the community of Birch Bay. BP has requested an interconnection and other transmission services that would allow firm power delivery to the wholesale power market. BPA proposes to execute agreements with BP to provide the interconnection and firm power transmission.

The EIS will evaluate the environmental consequences of the proposed project, including:

• Construction and operation of the powerplant;

• Approximate 1400 ft-long extension of an existing natural gas pipeline on BP property;

• Existing water supply for the BP refinery that would be utilized for the cogeneration facility;

• Wastewater disposal through the existing refinery waste water treatment system;

• Construction and operation by BP of an electrical interconnection consisting of a new 1-mile 230-kilovolt double-circuit, wood pole transmission line from the powerplant switchyard looping into Bonneville's existing 230-kV Custer-Intalco No.1 transmission line, and minor modifications to Bonneville's existing Custer and Intalco Substations.

• Interconnection agreement that BPA proposes with BP; and

• Firm transmission agreement that BPA proposes with BP.

Proposed Action. The BP Cherry Point Cogeneration Project is an approximate 720 MW natural gas-fired combined-cycle combustion turbine cogeneration facility on approximately 33 acres of land adjacent to and northeast of the BP refinery. The plant would be configured with three combustion turbines each driving an electric generator. Each of the gas turbine trains would be equipped with a heat recovery steam generator and duct firing capability to augment steam production. Steam would be produced at high pressure in the heat recovery steam generators and sent to one steam turbine driven electric generator with extraction and condensing capability. The refinery would also serve as a "steam host" for a portion of the steam produced by the combustion turbine. Natural gas would be supplied through an existing company owned proprietary natural gas pipeline running from Canada to the refinery. If additional gas is needed it would be obtained from a third party.

The electrical interconnection would occur approximately one mile east of the refinery on BPA's existing 230-kV transmission line connecting BPA's Custer and Intalco Substations. The entire project, including the new transmission line would be on refinery owned property, and would be entirely contained in a Major Industrial Urban Growth Area/Port Industrial as defined in the Whatcom County Comprehensive Plan, issued May 20, 1997. The area is zoned Heavy Impact Industrial.

Process to Date. BPA is the lead Federal agency for the joint NEPA/SEPA EIS, and EFSEC is the lead Washington State agency. In February 2001, BP requested BPA transmission services. On March 12, 2001, BP requested EFSEC to initiate a Potential Site Study for the BP Cherry Point Cogeneration Project. On May 2, 2001, EFSEC held an open house meeting to introduce the BP Cherry Point Cogeneration Project to interested parties in Whatcom County and the surrounding area. On September 28, 2001, EFSEC published the Potential Site Study. On June 10, 2002, BP submitted to EFSEC an Application for Site Certification.

Alternatives Proposed for Consideration. Alternatives thus far identified for evaluation in the EIS are (1) the proposed action, and (2) no action. Other alternatives may be identified through the scoping process.

Identification of Environmental Issues. The lead agencies have determined that this proposal may have a significant adverse impact on the environment. EFSEC will prepare an EIS consistent with its responsibilities under Chapter 80.50 and 43.21C (2)(c) of the Revised Code of Washington and Chapter 463–47 and 197–11 of the Washington Administrative Code. BPA will prepare an EIS pursuant to NEPA and the Council of Environmental Quality and DOE NEPA regulations. Therefore, BPA and EFSEC intend to prepare a joint NEPA/SEPA EIS addressing both the powerplant and the associated electric power interconnection and transmission facilities. The principal issues identified thus far for consideration in the Draft EIS are (1) air quality impacts, (2) socio-economic impacts including transportation impacts, and (3) wetlands and wildlife habitat impacts.

These issues, together with any additional significant issues identified through the scoping process, will be addressed in the Draft EIS. BPA will also use the EIS and NEPA process to address historic preservation and cultural resource issues under Section 106 of the National Historic Preservation Act.

Receiving comments from interested parties will assure that EFSEC and BPA address in the EIS the full range of issues and potentially significant impacts related to the proposed project. When completed, the Draft EIS will be circulated for review and comment. EFSEC and BPA will hold at least one public comment meeting on the Draft EIS. EFSEC and BPA will consider comments received on the Draft EIS and respond to comments in the Final EIS.

Issued in Portland, Oregon, on June 18, 2002

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 02–17420 Filed 7–10–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Policy for Revisions to the Weekly Natural Gas Storage Report; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: Policy for revisions to the Weekly Natural Gas Storage Report; comment request.

SUMMARY: The EIA is soliciting comments on the proposed revision policy for the *Weekly Natural Gas Storage Report* (WNGSR). The WNGSR provides weekly estimates of working gas volumes held in underground storage facilities at the national and regional levels. The WNGSR became a new EIA information product in 2002 replacing an American Gas Association report begun in 1994 and discontinued in 2002. The WNGSR is based on information collected by EIA on Form EIA–912, ''Weekly Underground Gas Storage Report.''

DATES: Comments must be filed by August 12, 2002. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to William Trapmann. To ensure receipt of the comments by the due date, submission by FAX (202–586–4220) or e-mail *(William.Trapmann@eia.doe.gov)* is recommended. The mailing address is Energy Information Administration, EI–44, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Alternatively, Mr. Trapmann may be contacted by telephone at 202–586–6408.

FOR FURTHER INFORMATION CONTACT: The WNGSR is available on EIA's Internet site at *http://tonto.eia.doe.gov/oog/info/ngs/ngs.html.* The survey Form EIA–912 and instructions used to collect information for the WNGSR are available at *http://www.eia.doe.gov/oil__gas/natural—gas/survey__forms/nat__survey__forms.html.* Requests for additional information should be directed to Mr. Trapmann at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA provides the public and other Federal agencies with opportunities to comment on collections of energy information conducted by EIA. As appropriate, EIA also requests comments on important issues relevant to EIA dissemination of energy information. Comments received help the EIA when preparing information collections and information products necessary to EIA's mission.

The *Weekly Natural Gas Storage Report* (WNGSR) provides weekly estimates of working gas volumes held in underground storage facilities at the national and regional levels. WNGSR users include policymakers, commodity market analysts, and industry experts. EIA uses the data to prepare analytical products assessing storage operations and the impact on supplies available, and to analyze relationships between demand, heating-degree-days, and inventory levels.

II. Current Actions

EIA is developing a policy for revisions to data disseminated in the WNGSR. EIA is soliciting public involvement and comments on the revision policy.

The WNGSR is based on information collected on Form EIA–912. Form EIA–912 respondents provide estimates for working gas in storage as of 9 a.m. Friday each week. The deadline for submitting reports to the EIA is 5 p.m. Eastern Time the following Monday, except when Monday is a Federal holiday. In that case, forms should be submitted by 5 p.m. on Tuesday. The WNGSR is released on Thursday between 10:30 and 10:40 a.m. Eastern Time on EIA's Web site, except when Thursday is a Federal holiday. Notification of changes in this general schedule is maintained on the EIA Web site at *http://tonto.eia.doe.gov/oog/info/ngs/schedule.html.*

A Form EIA–912 respondent is instructed to submit revisions to previously reported data if the revisions are greater than one billion cubic feet (BCF). As with any EIA information product based on survey data, the WNGSR data may undergo revision(s) based on a number of factors including:

(1) As more accurate information becomes available to a respondent after the Form EIA–912 is filed, a respondent may need to file new data.

(2) After submitting Form EIA–912 and prior to the next weekly submission, a respondent may determine that information submitted was incorrect (*e.g.,* numbers were transposed, numbers were entered in the wrong item on the form, other reporting errors).

(3) A respondent may submit Form EIA–912 too late for inclusion in the current week estimates for the WNGSR.

(4) A respondent may report a reclassification of base and working gas.

(5) A respondent may report a change in field operating status.

(6) EIA may incorporate a new reference month in the estimation process.

With respect to the dissemination of revisions to WNGSR data, EIA is proposing a policy for two revision types; *i.e.,* (1) scheduled revisions, and (2) unscheduled major revisions.

Scheduled revisions are made in the next scheduled WNGSR and occur when the cumulative effect of all reported changes is at least seven billion cubic feet (BCF) at either a regional or national level but less than the quantity determined as the threshold for an unscheduled revision. If a revision is made, changes to all regions will be recorded. Consequently, although all respondents' changes will be entered into EIA's database for editing, imputation, and other analytic purposes, the changes will only lead to a published revision when it exceeds the seven BCF threshold.

Unscheduled major revisions are of significant magnitude and interest and as a result the revised WNGSR data will be disseminated prior to the next scheduled WNGSR. An unscheduled major release will occur when the following two conditions are met: (1) EIA has received and confirmed the need for a revision in either the most recent current week or prior week estimates of an amount which is at least 35 BCF or one standard error of the national estimate, and (2) the revised estimates will be available for dissemination at least 24 hours before the next scheduled WNGSR. The threshold of 35 billion cubic feet was selected because that would have been the approximate standard error of the national estimate if the EIA–912 survey had been operating in March 2001 when national inventories were at 742 BCF. EIA's intention to release an unscheduled major revision will be announced to the public through the EIA Web site and the e-mail list-serves maintained for the WNGSR and the National Energy Information Center. Interested parties may sign up for the WNGSR list serve without charge through the EIA Web site at *http://www.eia.doe.gov/listserv_signup.html.* EIA proposes that an unscheduled major revision will be released at 10:30 a.m. Eastern Time on the next day that the Federal government is open for business following the announcement.

III. Request for Comments

The public should comment on the actions discussed in item II as well as the questions below.

General Issues

A. Is the proposed WNGSR revision policy appropriate for both scheduled and unscheduled revisions?

B. What additional actions could EIA take to help ensure and maximize the quality, objectivity, utility, and integrity of the WNGSR?

Scheduled Revisions

A. Is the threshold criteria for scheduled revisions of a change of at least seven BCF appropriate but less than the quantity determined as the threshold for an unscheduled revision appropriate?

B. What information should be made available to WNGSR users with respect to scheduled revisions?

Unscheduled Major Revisions

A. Is the threshold criteria of a change of at least 35 BCF or one standard error of the national estimate appropriate for a major unscheduled revision?

B. Is the timing criteria that a major unscheduled revision must be available for dissemination at least 24 hours before the next scheduled WNGSR appropriate?

C. Are there any other criteria that should be considered regarding the threshold size and timing of the release of major unscheduled revisions?

D. How should the public be notified of the upcoming release of an unscheduled major revision?

E. How soon after the notification should the unscheduled major revision be released?

Comments submitted in response to this notice will be considered during development of EIA's policy for revisions of the WNGSR. The comments will also become a matter of public record.

After EIA has completed development of the WNGSR revision policy, a **Federal Register** notice will be issued announcing the policy.

Statutory Authority: Section 52 of the Federal Energy Administration Act (Pub. L. No. 93–275, 15 U.S.C. 790a).

Issued in Washington, DC, July 5, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–17421 Filed 7–10–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2068–000]

Ameren Energy, Inc., on behalf of Union Electric Company d/b/a/ AmerenUE and Ameren Energy Generating Company; Notice of Filing

July 3, 2002.

Take notice that on June 11, 2002, Ameren Energy, Inc. (Ameren Energy), on behalf of Union Electric Company d/b/a AmerenUE and Ameren Energy Generating Company (collectively, the Ameren Parties) pursuant to section 205 of the Federal Power Act and the market rate authority granted to the Ameren Parties, submitted for filing umbrella power sales service agreements under the Ameren Parties' market rate authorizations entered into with The Cincinnati Gas & Electric Company. Ameren Energy seeks Commission acceptance of these service agreements effective May 1, 2002.

Copies of this filing were served on the public utilities commissions of Illinois and Missouri and the counterparty.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 8, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17387 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket Nos. EC02–90–000 and ER02–2233–000]

Ameren Services Company et al.; Notice of Filing and Request for Expedited Schedule

July 5, 2002.

In the matter of: Ameren Services Company, FirstEnergy Corp., Northern Indiana Public Service Company, National Grid USA, Midwest Independent System Operator, Inc.

Take notice that on July 3, 2002, pursuant to Section 203 of the Federal Power Act (FPA), Ameren Services Company (Ameren), acting as agent for its electric utility affiliates Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a/ AmerenCIPS; FirstEnergy Corp. (FirstEnergy), on behalf of its subsidiary American Transmission Systems, Inc.; Northern Indiana Public Service Company (NIPSCO); National Grid USA (National Grid); and the Midwest Independent System Operator, Inc. (Midwest ISO), tendered for filing a Participation Agreement and a pro forma Appendix I Agreement concerning the operation of GridAmerica LLC (GridAmerica) within the Midwest ISO.

The Participation Agreement obligates the parties, upon receipt of Commission approval and satisfaction of other conditions precedent, to form GridAmerica and to sign the Appendix I Agreement with no material modifications. The Appendix I Agreement will govern the relationship between GridAmerica and the Midwest

ISO. Pursuant to the Appendix I Agreement, Ameren, FirstEnergy, and NIPSCO are seeking authorization, under Section 203 of the FPA, to transfer functional control of their transmission facilities to GridAmerica. In turn, GridAmerica will cede certain functions, set forth in Schedule 5 (Delineation Functions) to the Appendix I Agreement. The Delineation of Functions is fully consistent with the Commission's policy concerning functions that may be performed by an independent transmission company and those which must be performed by a non-profit regional transmission organization. The Appendix I Agreement also addresses rates and revenue allocation in accordance with recent Commission pronouncements. Specifically, in the Appendix I Agreement, the Midwest ISO agrees to support the recovery of lost revenues by Ameren, FirstEnergy, and NIPSCO due to the elimination of rate pancaking. The parties also expect that integration of GridAmerica into the Midwest ISO will not increase the Midwest ISO's Schedule 10 rate adder. In order to permit the parties to complete the development of the GridAmerica systems, and to integrate those systems into the Midwest ISO systems in time to permit the commencement of operations during the fourth quarter of 2002, the parties seek an expedited time schedule.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 15, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17435 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–465–001 and RP00–616–001]

CMS Trunkline LNG Company, LLC; Notice of Compliance Filing

July 3, 2002.

Take notice that on June 26, 2002, CMS Trunkline LNG Company, LLC (TLNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, revised tariff sheets as listed on Appendix A attached to the filing.

TLNG states that this filing is being made to comply with the Commission's Order on Compliance With Order Nos. 637, 587-G, and 587-L issued on June 5, 2002.

TLNG states that copies of this filing are being served on all affected shippers, interested state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before July 10, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17392 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–390–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

July 3, 2002.

Take notice that on June 24, 2002, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP02–390–000, a request pursuant to 157.205 and 157.216 (18 CFR Sections 157.205 and 157.216) of the Commission's Regulations under the Natural Gas Act, for authorization to abandon its point of delivery to Columbia Gas of Pennsylvania (CPA) located in Washington County, Pennsylvania, under Columbia's blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection. Copies of this request are on file with the Commission and are available for public inspection. This request may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

Columbia states that it was advised by CPA that Columbia's point of delivery in Washington County, Pennsylvania, known as Meadows Grandstand (MS#601143), is now being served from a CPA distribution line and that the service from Columbia is no longer needed. Columbia states that it is proposing to abandon by removal in its entirety the Meadowlands Grandstand point of delivery to CPA. Columbia states that it was authorized to own and operate the facilities proposed for abandonment in Docket No. CP71–132–000. Columbia's abandonment activities will consist of removing the station in its entirety and capping the tap.

Any questions concerning this request may be directed to Fredric J. George, Attorney, Columbia Gas Transmission Corporation, P. O. Box 1273, Charleston, West Virginia 25325–1273 at (304) 357–2359 or fax (304) 357–3206.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17384 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–055]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

July 5, 2002.

Take notice that on June 28, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a negotiated rate transaction under its Rate Schedule FTS–1: Service Agreement No. 73072 between Columbia Gulf Transmission Company and Virginia Power Energy Marketing, dated June 26, 2002.

Transportation service is to commence November 1, 2002 and end March 31, 2003 under the agreement.

Columbia Gulf states that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17442 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–163–000]

Conectiv Bethlehem, Inc.; Notice of Reapplication for Commission Determination of Exempt Wholesale Generator Status

July 3, 2002.

Take notice that on June 24, 2002, Conectiv Bethlehem, Inc. (CBI) tendered for filing with the Federal Energy Regulatory Commission (Commission), a reapplication for exempt wholesale generator (EWG) status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The reapplication supplements and reaffirms CBI's original application submitted on August 3, 2001 in Docket No. EG01–278–000.

Copies of the filing were served upon the affected state regulatory commissions and the service list in Docket No. EG01–278–000.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Comment Date: July 15, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17386 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–415–003]

East Tennessee Natural Gas Company; Notice of Amendment

July 5, 2002.

Take notice that on June 26, 2002, East Tennessee Natural Gas Company (East Tennessee), 5400 Westheimer Court, Houston, Texas 77056–5310, filed with the Commission in Docket No. CP01–415–003 a petition to amend its application filed on July 26, 2001, in Docket No. CP01–415–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), to modify the proposed construction and operation of facilities in the Patriot Project. Specifically, East Tennessee seeks authorization to incorporate into the Patriot Project certain facilities previously proposed and authorized, but not yet constructed, in Docket No. CP01–375–000 to serve the Tennessee Valley Authority (TVA),[1] all as more fully set forth in the amendment which is open to the public for inspection. This petition may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call (202)208–2222 for assistance).

East Tennessee proposes to amend its Patriot Project to undertake the following activities:

a. Eliminate 13.76 miles of 20-inch diameter pipeline loop on Line 3200 in Franklin, Grundy, Hamilton, Marion, and Sequatchie Counties, Tennessee, originally proposed in the July 26, 2001, application filed in Docket No. CP01–415–000;

[1] 97 FERC ¶ 61,361 (2001). East Tennessee made a separate filing with the Commission on June 26, 2002, in Docket No. CP01–375–000, to partially vacate the authorization previously granted in Docket No. CP01–375–000.

b. Eliminate uprate of the Maximum Allowable Operating Pressure (MAOP) on 6.14 miles of 16-inch diameter pipeline (Uprate K) on Line 3300 in Sevier County, Tennessee, originally proposed in the July 26, 2001, application filed in Docket No. CP01–415–000;

c. Install a 1,590 H.P. Saturn compression unit in lieu of the 6,270 H.P. compression unit authorized for Compressor Station 3206 in Marshall County, Tennessee, in Docket No. CP01–375–000, and install a 6,270 H.P. Centaur compression unit in lieu of the 10,310 H.P. Taurus compression unit originally proposed for Compressor Station 3306 in Greene County, Tennessee, in the July 26, 2001, application filed in Docket No. CP01–415–000;

d. Replace aerodynamic assemblies at Compressor Stations 3206 and 3209 in Marshall and Franklin Counties, Tennessee, respectively, as authorized in Docket No. CP01–375–000;

e. Incorporate 8.74 miles of 20-inch diameter pipeline on Line 3200 in Moore and Franklin Counties, Tennessee, authorized in Docket No. CP01–375–000 as the TVA Loop 3;

f. Uprate the MAOP on 5.44 miles of 12-inch diameter pipeline on Line 3200 in Franklin County, Tennessee, authorized in Docket No. CP01–375–000; and,

g. Eliminate reverse compression at Compressor Station 3219 in Blount County, Tennessee, because the amended precedent agreement with Henry County Power, LLC, shifted the natural gas volumes to be received at various receipt points (however, no change in the total natural gas volumes is proposed).

Any questions regarding the application should be directed to Steven E. Tillman, Director, Regulatory Affairs, East Tennessee Natural Gas Company, P.O. Box 1642, Houston, Texas 77251–1642, phone number (713) 627–5113.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 26, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17437 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–63–004]

Great Lakes Gas Transmission Limited Partnership; Notice of Rate Schedule LFT Activity Report

July 5, 2002.

Take notice that on June 27, 2002, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing a report to provide its first year of operating experience under Rate Schedule LFT.

Great Lakes states that the filing is submitted in compliance with the Commission's order in Docket No. RP00–63–002 dated April 27, 2001. 95 FERC ¶ 61,142 (2001). Great Lakes reports that it did not enter into any contracts for Rate Schedule LFT service nor did it provide any LFT service during the period April 30, 2001 through April 29, 2002.

Great Lakes indicates that the filing was served on all parties to the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 12, 2002. 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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17444 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–374–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes to FERC Gas Tariff

July 3, 2002.

Take notice that on June 28, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective May 2, 2002:

Fourth Revised Sheet No. 20

Gulf South states that the purpose of this filing is to combine Second Revised Sheet No. 20 and Third Revised Sheet No. 20 previously approve by the Commission in Dockets RP00–340 and RP02–223, respectively.

Gulf South states copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17399 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–49–000]

ISO New England Inc.; Notice of Application

July 5, 2002.

Take notice that on July 1, 2002, ISO New England Inc. (ISO-NE) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to make additional long-term borrowings in an amount not to exceed $24.5 million either under its existing credit facility or a new credit facility.

ISO-NE also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

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 the comment date. 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 web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 17, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17436 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–337–003 and RP01–93–003]

Kern River Gas Transmission Company; Notice of Compliance Filing

July 3, 2002.

Take notice that on June 28, 2002, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A of the filing.

Kern River states that the purpose of this filing is to comply with the directives of the Commission's ''Order on Compliance with Order No. 637 and Second Order on Compliance with Order Nos. 587–G and 587–L,'' (1) by filing actual tariff sheets consistent with the directives in the Order pertaining to scheduling equality, segmentation, discounting, netting and trading, and penalties; and (2) by explaining why it is not operationally feasible for Kern River to offer a park and loan service at this time.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 10, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17391 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–80–001]

Lake Road Trust Ltd., Lake Road Generating Company, L.P.; Notice of Filing

July 3, 2002.

Take notice that on June 27, 2002, Lake Road Trust Ltd. and Lake Road Generating Company, L.P. (Applicants) tendered for filing with the Federal Energy Regulatory Commission (Commission), a correction to its Application for Order Under Section 203 of the Federal Power Act and Request for Expedited Action filed on June 21, 2002.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 12, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17385 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–010]

Midwestern Gas Transmission Company; Notice of Negotiated Rates and Tariff

July 3, 2002.

Take notice that on June 28, 2002, Midwestern Gas Transmission Company (Midwestern) tendered for filing and acceptance, an interruptible gas transportation service agreement pursuant to Midwestern's Rate Schedule IT–1, First Revised Sheet No. 7 and First Revised Sheet No. 273 of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1. The filing contains attachments of Contract No. IT0027 and a letter agreement that reflects a non-conforming contract between Midwestern and Mirant Americas Energy Marketing, LP (Mirant), which contains a discounted transportation rate and a negotiated fuel rate.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a proest 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 Sections 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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17389 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–373–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

July 3, 2002.

Take notice that on June 28, 2002, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become effective July 1, 2002.

Forty Sixth Revised Sheet No. 9

National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (''IG'') rate semi-annually and monthly. Further, National is required to charge the recalculated monthly rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The six-month redetermination as shown at Page 4 of Appendix E produced an IG rate of $0.14 per dth. In addition, Article III, Section 1 states that any overruns of the Firm Gathering service provided by National shall be priced at the maximum IG rate.

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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17398 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–238–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

July 3, 2002.

Take notice that on June 28, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing certain tariff sheets to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective June 1, 2002.

Natural states that the purpose of this filing is to comply with the Commission's letter order issued on May 31, 2002, in Docket No. RP02–238.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list at Docket No. RP02–238.

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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17394 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–065]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

July 5, 2002.

Take notice that on June 28, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing an amendment to a negotiated rate agreement currently on file with the Commission. Natural states that the amendment is attached as Appendix A to the filing, with an effective date of July 1, 2002.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17443 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–011]

Northern Natural Gas Company; Notice of Compliance Filing

July 5, 2002.

Take notice that on June 28, 2002, pursuant to its FERC Gas Tariff and the Carlton Settlement approved in Docket No. RP01–382–008, Northern Natural Gas Company (Northern) has filed various schedules detailing the Carlton buyout and surcharge dollars reimbursed to the appropriate parties.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 12, 2002. 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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17445 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–57–000]

SCG Pipeline, Inc.; Notice of Availability of the Environmental Assessment for the Proposed SCG Pipeline Project

July 5, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by SCG Pipeline, Inc. (SCG) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed facilities in Chatham and Effingham Counties, Georgia and Jasper County, South Carolina. These facilities would consist of SCG's proposed 18.2-mile-long, 20-inch-diameter pipeline extending from an interconnect with Southern Natural Gas Company's (Southern) pipeline system in Chatham County, Georgia to a terminus in Jasper County, South Carolina. The EA also addresses the construction of proposed meter stations at the interconnection with Southern's pipeline system and at the proposed pipeline terminus.

The capacity of the SCG Pipeline Project would be 190 million cubic feet per day (MMcfd), and the primary source of natural gas would be imported liquefied natural gas (LNG) from the Elba Island LNG terminal in Savannah, Georgia. SCG seeks to acquire capacity in Southern's existing 13.25-mile-long, 30-inch-diameter twin pipelines which extend between Elba Island, Georgia and SCG's proposed interconnection at Port Wentworth, Georgia in Chatham County. SCG's interconnection at Port Wentworth also provides the capability to receive up to 93 MMcfd from Southern's Savannah Lateral in the event that Elba Island LNG supply is unavailable.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, State and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Branch 1, PJ11.1.
- Reference Docket No. CP02–57–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 5, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). [1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet Web site www.ferc.gov using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17438 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–375–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

July 3, 2002.

Take notice that on June 28, 2002, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, revised tariff sheets listed on Appendix A to the filing, to become effective August 1, 2002.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each August 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers.

Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Zone	Reservation	Usage	100% LF
Market 1	$(0.024)/dth	$(0.0003)/dth	$(0.0011)/dth
Market 2	$(0.074)/dth	$(0.0009)/dth	$(0.0033)/dth
Market 3	$(0.108)/dth	$(0.0013)/dth	$(0.0049)/dth

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17400 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–371–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 3, 2002.

Take notice that on June 28, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets listed in Appendix A to the filing, with a proposed effective date of August 1, 2002.

Transco states that the instant filing is submitted pursuant to Section 39 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to adjust its Great Plains Volumetric Surcharge (GPS) 30 days prior to each GPS Annual Period beginning August 1. The GPS Surcharge is designed to recover (i) the cost of gas purchased from Great Plains Gasification Associates (or its successor) which exceeds the Spot Index (as defined in Section 39 of the General Terms) and (ii) the related cost of transporting such gas.

The revised GPS Surcharge included therein consists of two components—the Current GPS Surcharge calculated for the period August 1, 2002 through July 31, 2003 plus the Great Plains Deferred Account Surcharge (Deferred Surcharge). The determination of the Deferred Surcharge is based on the balance in the current GPS subaccount plus accumulated interest at April 30, 2002.

Transco states that included in Appendix B attached to the filing are workpapers supporting the calculation of the revised GPS Surcharge of $0.0137 per dt reflected on the tariff sheets included therein.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17396 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–372–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 3, 2002.

Take notice that on June 28, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, which tariff sheets are enumerated in Appendix A attached to the filing. The proposed effective date of such tariff sheets is August 1, 2002.

Transco states that the purpose of the instant filing is to terminate Section 7(c) firm transportation service under Rate Schedule X–321 and to convert such services to service provided under Rate Schedule FT pursuant to Transco's blanket transportation certificate and Part 284 of the Commission's regulations effective August 1, 2002.

The rates applicable to the converted service are the generally applicable charges under Rate Schedule FT (including fuel), plus reservation and commodity rate surcharges as set forth on First Revised Sheet No. 40N to Transco's Third Revised Volume No. 1 Tariff. First Revised Sheet No. 40N sets forth the charges applicable to TEMCO-Leidy firm transportation service which has been converted from individually certificated Section 7(c) firm transportation service to annual firm transportation service under Transco's blanket certificate and Part 284 of the Commission's regulations.

Transco states that copies of the filing are being mailed to TEMCO 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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17397 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-288-022]

Transwestern Pipeline Company; Notice of Negotiated Rates and Tariff Filing

July 3, 2002.

Take notice that on June 28, 2002, Transwestern Pipeline Company (Transwestern) tendered on filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective July 1, 2002:

Seventeenth Revised Sheet No. 5B.05
Eighth Revised Sheet No. 5B.06
Ninth Revised Sheet No. 5B.07
Sixth Revised Sheet No. 5B.08
Third Revised Sheet No. 5B.09
Third Revised Sheet No. 5B.10
First Revised Sheet No. 5B.11
First Revised Sheet No. 5B.12

Transwestern states that the above sheets are being filed to implement specific negotiated rate agreements with Sempra Energy Trading Corp. and Calpine Energy Services, L.P. in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines. Transwestern states that the above referenced tariff sheets have been revised to reflect the new negotiated rate contract information. Transwestern also has removed the contract information and footnotes attributable to negotiated rates that have expired. Transwestern has also consolidated information into footnote 1 to avoid repetitive language on alternate receipt and delivery points. Finally, Transwestern has added has added the term of each negotiated rate as suggested by the Indicated Shippers in their protest in Docket No. RP97–288–020.

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. This filing may also be viewed on the web at *http://www.ferc* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17390 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–001]

Viking Gas Transmission Company; Notice of Motion To Place Suspended Rates and Sheets Into Effect

July 3, 2002.

Take notice that on June 28, 2002, Viking Gas Transmission Company (Viking) filed a motion pursuant to Section 4 of the Natural Gas Act (NGA) and Section 154.206 of the Commission's Regulations, 18 CFR 154.206 (2001), to move into effect, subject to refund, on July 1, 2002, as part of its FERC Gas Tariff, First Revised Volume No. 1, the rates and tariff sheets that were previously accepted and suspended, subject to refund, by the Commission in its January 30, 2002 ''Order Accepting and Suspending Tariff Sheets Subject To Refund and Conditions and Establishing Hearing Procedures'' issued in Docket No. RP02–132–000, 98 FERC ¶ 61,066 (''January 30, 2002 Suspension Order''). These sheets are listed on Appendix A to this filing.

In addition and to the extent necessary to effectuate the rates accepted and suspended, subject to refund, to be effective July 1, 2002 pursuant to the January 30, 2002 Suspension Order, Viking filed a motion to move into effect, subject to refund, the substitute tariff sheets listed on Appendix B which incorporate the rates accepted and suspended by the Commission in its January 30, 2002 Suspension Order along with the annual adjustment that Viking filed and the Commission accepted to Viking's Fuel and Loss Retention Percentages (FLRPs) and Load Management Cost Reconciliation Adjustment (LMCRA).

Viking states that copies of this motion filing are being served on all jurisdictional customers, interested state commissions and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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 on or before July 10, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17393 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–370–000]

West Texas Gas, Inc.; Notice of Gas Cost Reconciliation Report

July 3, 2002.

Take notice that on June 28, 2002, West Texas Gas, Inc. (WTG) submitted for filing, pursuant to Section 19 of the General Terms and Conditions of its FERC Gas Tariff its annual purchased gas cost reconciliation for the period ending April 30, 2002. Under Section 19, any difference between WTG's actual purchased gas costs and its spot market-based pricing mechanism is refunded or surcharged to its two jurisdictional customers annually, with interest. The report indicates that WTG overcollected its actual costs by $11,240 during the reporting period.

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 on or before July 10, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17395 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1420–003, et al.]

Midwest Independent Transmission System Operator, Inc., et al.; Electric Rate and Corporate Regulation Filings

July 5, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1420–003]

Take notice that on June 28, 2002, Westar Energy, Inc. and its wholly owned subsidiary, Kansas Gas and Electric Company (collectively referred to as Westar Energy), submitted their compliance filing in response to the Commission's May 31, 2002 order in *Midwest Independent Transmission System Operator, Inc.,* 99 FERC ¶ 61,250.

A copy of this filing was served on all parties in Docket No. ER02–1420.

Comment Date: July 19, 2002.

2. Virginia Electric and Power Company

[Docket No. ER02–2185–000]

Take notice that on June 28, 2002, Virginia Electric and Power Company (the Company) respectfully tendered for filing the following Service Agreement by Virginia Electric and Power Company to Southeastern Power Administration, designated as Service Agreement No. 3 under the Company's Wholesale Cost-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 7, effective on January 16, 2002.

The Company requests an effective date of June 6, 2002, as requested by the customer. Copies of the filing were served upon Southeastern Power Administration, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: July 19, 2002.

3. ARE Generation Company, L.L.C.

[Docket No. ER02–2187–000]

Take notice that on June 28, 2002, ARE Generation Company, L.L.C. (AGC) submitted for filing a notice of cancellation pursuant to 18 CFR 35.15 to reflect the cancellation of its FERC Electric Tariff, Original Volume No. 1, and Service Agreement No. 1 under that tariff, with a proposed effective date of June 28, 2002. Notice of the filing was served on BP Energy Company, the customer under the service agreement.

Comment Date: July 19, 2002.

4. Southern California Edison Company

[Docket No. ER02–2188–000]

Take notice that on June 28, 2002, Southern California Edison Company (SCE) tendered for filing a Notice of Cancellation (Notice) of the Interconnection Facilities Agreement and a Service Agreement for Wholesale Distribution Service between SCE and Sierra Power Corporation. The Notice cancels FERC Electric Tariff, Original Volume No. 5, Service Agreements No. 30 and No. 34.

Notice of the proposed cancellation has been served upon the Public Utilities Commission of the State of California and Sierra Power Corporation.

Comment Date: July 19, 2002.

5. Southern California Edison Company

[Docket No. ER02–2189–000]

Take notice that on June 28, 2002, Southern California Edison Company (SCE) tendered for filing a Service Agreement For Wholesale Distribution Service under SCE's Wholesale Distribution Access Tariff and an Interconnection Facilities Agreement (Agreements) between SCE and Whitewater Hill Wind Partners, LLC (Whitewater). SCE respectfully requests the Agreements become effective on June 29, 2002.

These Agreements specify the terms and conditions under which SCE will interconnect Whitewater's generating facility to its electrical system and provide Distribution System capacity for up to 66 MW of power produced by the generating facility.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Whitewater.

Comment Date: July 19, 2002.

6. New England Power Company

[Docket No. ER02–2190–000]

Take notice that on June 28, 2002, New England Power Company (NEP) submitted for filing Original Service Agreement No. 213 for Short-Term Firm HVDC Transmission Service between NEP and H.Q. Energy Services, (U.S.) Inc., under NEP's open access transmission tariff—FERC Electric Tariff, Second Revised Volume No. 9.

Comment Date: July 19, 2002.

7. Progress Energy Inc. on behalf of Effingham County Power, LLC

[Docket No. ER02–2191–000]

Take notice that on June 28, 2002, Effingham County Power, LLC (Effingham County) tendered for filing an executed Service Agreement between

Effingham County and the following eligible buyer, Progress Ventures, Inc. Service to this eligible buyer will be in accordance with the terms and conditions of Effingham County's Market-Based Rates Tariff, FERC Electric Tariff No. 1.

Effingham County requests an effective date of June 1, 2002 for this Service Agreement. Copies of the filing were served upon the North Carolina Utilities Commission, the Georgia Public Service Commission and the South Carolina Public Service Commission.

Comment Date: July 19, 2002.

8. California Independent System Operator Corporation

[Docket No. ER02–2192–000]

Take notice that on June 28, 2002, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 45. The purpose of the amendment is to allow the ISO to update its transmission Access Charge and Wheeling Access Charge, after the Commission makes a revised transmission revenue requirement effective for a Participating Transmission Owner. The amendment also clarifies certain other aspects of the ISO's transmission Access Charge and Wheeling Access Charge. The ISO requests the amendment be made effective on July 1, 2002.

In addition, the filing provides, for informational purposes, notice of the revised transmission Access Charge and Wheeling Access Charge rates that will go into effect on July 1, 2002 in accordance with the approved formula.The ISO states that this filing has been served on the California Public Utilities Commission, all California ISO Scheduling Coordinators.

Comment Date: July 19, 2002.

9. PJM Interconnection, L.L.C.

[Docket No. ER02–2193–000]

Take notice that on June 28, 2002, PJM Interconnection, L.L.C. (PJM), tendered for filing six executed agreements for network integration transmission service with Allegheny Energy Supply Co. (Allegheny).

PJM requested a waiver of the Commission's notice regulations to permit the effective date of June 1, 2002 for the agreements, the date that the agreements were executed and that service commences under the agreements. Copies of this filing were served upon Allegheny, as well as the state utility regulatory commissions within the PJM region.

Comment Date: July 19, 2002.

10. PJM Interconnection, L.L.C.

[Docket No. ER02–2194–000]

Take notice that on June 28, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing with the Federal Energy Regulatory Commission (Commission) one executed interim interconnection service agreement between PJM and Motiva Enterprises, L.L.C. (Motiva).

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective date of June 1, 2002, the date the interim period specified in the agreement commences. Copies of this filing were served upon each of the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: July 19, 2002.

11. New York State Electric & Gas Corporation

[Docket No. ER02–2195–000]

Take notice that on June 28, 2002, New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, an amendment to Rate Schedule 200 filed with FERC corresponding to a Facilities Agreement with the New York Power Authority (NYPA). The proposed amendment would increase revenues by $4,718.95 for the period from September 1, 2002 through August 31, 2003.

This rate filing is made pursuant to Paragraph 5.1 of the October 19, 1999 Facilities Agreement between NYSEG and NYPA, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as property taxes, are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ending December 31, 2001. The revised facilities charge is levied on the cost of the 135 MVAR capacitor and associated equipment interconnected with NYSEG's Oakdale Substation, constructed by NYSEG for the sole use of NYPA.

NYSEG requests an effective date of September 1, 2002. Copies of the filing were served upon the New York Power Authority and the Public Service Commission of the State of New York.

Comment Date: July 19, 2002.

12. Cleco Power LLC

[Docket No. ER02–2196–000]

Take notice that on June 28, 2002, Cleco Power LLC (Cleco) filed two long-term firm Transmission Service Agreements with Aquila Merchant Services, Inc. under Cleco's Open Access Transmission Tariff (OATT). The Service Agreements are designated as Cleco Power LLC Service Agreement Nos. 59 & 60 to its OATT, FERC Electric Tariff, Original Volume No. 1

Comment Date: July 19, 2002.

13. Bridger Valley Electric Association, Inc.

[Docket No. ER02–2198–000]

Take notice that on June 28, 2002, Bridger Valley Electric Association, Inc. (Bridger Valley) tendered for filing an Open Access Transmission Tariff, designated as FERC Electric Tariff, Original Volume No. 1, and accompanying initial rates for service under the OATT. Bridger Valley requests an effective date of August 27, 2002.

Comment Date: July 19, 2002.

14. WPS Empire State, Inc.

[Docket No. ER02–2199–000]

Take notice that on June 28, 2002, WPS Empire State, Inc. (Empire) submitted its revised market-based rate tariff and Notice of Succession. Empire requests that its revised tariff become effective on June 29, 2002, one day after this filing is made.

This filing has been served on Empire's market-based rate customers.

Comment Date: July 19, 2002.

15. Upper Peninsula Power Company

[Docket No. ER02–2200–000]

Take notice that on June 28, 2002, Upper Peninsula Power Company (UPPCo) tendered for filing First Revised Rate Schedule FERC No. 26 between UPPCo and the City of Escanaba, Michigan for wholesale electric power service (Revised Rate Schedule). The Revised Rate Schedule has been modified to reduce the maximum contract demand capacity obligation of UPPCo to supply firm power to the City and to reduce the contract demand component of the minimum demand billing charge associated with this obligation.

UPPCo respectfully requests that the Revised Rate Schedule become effective as of June 1, 2002. Copies of the filing were served upon the City of Escanaba and the Michigan Public Service Commission.

Comment Date: July 19, 2002.

16. Exelon Generation Company, LLC

[Docket No. ER02–2201–000]

Take notice that on June 27, 2002, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Rainy

River Energy Corporation, under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2

Comment Date: July 19, 2002.

17. Sithe Energy Marketing, L.P.

[Docket No. ER02–2202–000]

Take notice that on June 28, 2002, Sithe Energy Marketing, L.P. tendered for filing an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

Comment Date: July 19, 2002.

18. Mirant Delta, LLC

[Docket No. ER02–2203–000]

Take notice that, on June 28, 2002, Mirant Delta, LLC (Mirant Delta) tendered for filing certain revised tariff sheets to the Must-Run Service (RMR) Agreement (Rate Schedule FERC No. 5) between Mirant Delta and the California Independent System Operator Corporation (CAISO). The revisions (1) reflect the termination of the RMR Agreement as to Pittsburg Power Plant Units 1 and 2, effective retroactively midnight December 31, 2001, and (2) remove an incorrect reference to Pittsburg Power Plant Units 3 and 4.

Comment Date: July 19, 2002.

19. Wisvest-Connecticut, LLC

[Docket No. ER02–2204–000, No. ER99–967–002]

Take notice that on June 28, 2002, Wisvest-Connecticut, LLC (Wisvest-Connecticut) and PSEG Fossil LLC (PSEG Fossil) (collectively Applicants) filed with the Federal Energy Regulatory Commission (Commission) their Notice of Change in Status for Approval of Market-Based Rate Authority and Filing of Conforming Changes to Market-Based Rates Tariff, Subject to Condition of Closing, and request for waivers pursuant to Section 205 of the Federal Power Act, to address the proposed sale of issued and outstanding membership interests in Wisvest-Connecticut to PSEG Fossil. In addition, the Applicants submitted certain revised tariff sheets of Wisvest-Connecticut's existing tariff permitting power sales at market-based rates, in order to conform to the change in status.

Comment Date: July 19, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17446 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

July 3, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 2574–032.

c. *Date filed:* April 29, 2002.

d. *Applicant:* FPL Energy Maine Hydro LLC.

e. *Name of Project:* Lockwood Hydroelectric Project.

f. *Location:* On the Kennebec River, in the city of Waterville and town of Winslow, Kennebec County, Maine. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. F. Allen Wiley, P.E., Director of Business and Regulatory Affairs—Northeast Region, FPL Energy Maine Hydro LLC, 150 Main Street, Lewiston, Maine 04240.

i. *FERC Contact:* David Turner, e-mail address *david.turner@ferc.gov*, or telephone (202) 219–2844.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time. We do not anticipate the need for preparing a draft Environmental Assessment (EA) and intend to issue a single EA rather than issuing a draft and final EA. The EA will include our recommendations for operating procedures and environmental assessment measures that should be part of any license issued by the Commission. Staff intends to allow at least 30 days for entities to comment on the EA before final action is taken on the license application. All comments on the EA, filed with the Commission, will be considered in an order taking final action on the license application.

l. *Description of the Project:* The project consists of: (1) 1,035 feet of water retaining structures, including a 875-foot-long concrete gravity dam, two spillway sections, and 160-foot-long forebay headworks; (2) a 450-foot-long forebay canal; (3) an approximately 1,300-foot-long bypassed reach; (4) two powerhouses with a total installed capacity of 6,915 kW, and a hydraulic capacity of 5,660 cfs; (5) a project impoundment with a length of 1.2 miles and a surface area of 81.5 acres; and; (7) appurtenant facilities.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Procedural schedule: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made when the Commission determines it necessary to do so.

- Issue Acceptance Letter: July 2002
- Issue Scoping Document: July 2002
- Notice that Application Ready for Environmental Analysis: September 2002
- Notice of the availability of the Environmental Assessment: February 2003
- Ready for Commission decision on the application: April 2003.

o. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17388 Filed 7–10–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms, and Conditions, and Prescriptions

July 5, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project Nos.:* 2576–022 and 2597–019.

c. *Date filed:* August 31, 1999.

d. *Applicant:* Northeast Generation Company.

e. *Names of Projects:* Falls Village Project and Housatonic Project.

f. *Location:* The Falls Village, Bulls Bridge, Shepaug, Rocky Falls and Stevenson developments are located on the Housatonic River, 76.2 miles, 52.9 miles, 44.1 miles, 30.0 miles and 19.3 miles, respectively, from its mouth. The project is in the western portion of Connecticut in the counties of Fairfield, New Haven and Litchfield. Approximately 74 acres of Federal land are within project boundaries.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert A. Gates, Project Manager, Northeast Generating Services, 143 West Street, New Milford, Connecticut 06776 (860) 354–8840 or e-mail at *gatesr@nu.com*.

i. *FERC Contact:* Jack S. Duckworth, (202) 219–2818 or via e-mail at *jack.duckworth@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions and prescriptions:* 60 days from the date of issuance of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is ready for environmental analysis at this time.

l. *Description of the project:*

1. *The Falls Village Development consists of the following existing facilities:* (1) A 300-foot-long, 14-foot-high concrete gravity dam with two spillways having a combined overflow length of approximately 280 feet, and a crest at elevation 631.5 feet National Geodetic Vertical Datum (NGVD); (2) an impoundment 3.8 miles long containing 1,135 are-feet when at elevation 633.2 feet NGVD; (3) a dam-integral powerhouse with a total installed capacity of 9.0 megawatts (MW) producing approximately 36,733 megawatt hours (Mwh) annually; and (4) a switch yard connected to the project via a 69 kilovolt (kV) interconnected transmission line.

2. *The Bulls Bridge Development consists of the following existing facilities:* (1) A 203-foot-long, 24-foot-high stone and concrete gravity dam with a dam crest of 354 feet NGVD; (2) a two-mile-long power canal; (3) a 156-foot-long, 17-foot-high rock fill gravity weir dam; (4) a 2.25 mile-long reservoir with an 1,800 acre-feet storage capacity, a surface area, which, at a normal elevation of 354 feet NGVD, occupies approximately 120 acres; (5) a powerhouse with a capacity of 7.2 MW, producing approximately 44,079 MWh annually; and (6) a 69kV line connecting the development to the Rocky River development.

3. *The Rocky River Pumped Storage Development consists of the following existing facilities:* (1) A 952-foot-long earth-filled core wall dam, a 2,500-foot-long earthen canal dike that forms the north bank of the power canal to the intake structure, six dikes, a dam crest elevation averaging 440.1 feet NGVD, and an intake canal 3,190 feet in length; (2) a 7-mile-long, Candlewood Lake reservoir with a 5,610 acre impoundment at 428.1 feet NGVD; (3) a powerhouse with a rated 31 MW capacity averaging 14,238 MWh per year; and (4) a development connection to the applicant's transmission system via the Rocky River-Carmel Hill 1813 line, the Rocky River-Bull Bridge 1555 line and the Rocky River-West Brookfield 1618 line.

4. *The Shepaug Development consists of the following existing facilities:* (1) A 1,412-foot, bedrock-anchored, concrete gravity dam having a crest elevation of 205.3 feet NGVD; (2) an impoundment, at maximum operational elevation level of 198.3 feet NGVD, occupying 1870 acres; (3) a powerhouse with a rated capacity of 37.2 MW with a 1997 production of 118,880 MWh; and (4) a development connection to the applicant's transmission system via the Shepaug-Bates 1622 line and Shepaug-Stony Hill-West Brookfield 1887 line.

5. *The Stevenson Development consists of the following existing facilities:* (1) A 1,250-foot, bedrock-anchored, concrete gravity dam with a rest elevation of 98.3 feet NGVD, 696 feet of spillway and an integral powerhouse; (2) an impoundment occupying a surface area of 1,063 acres at 101.3 feet NGVD, which contains a storage volume of 2,650 acre-feet; (3) a powerhouse with a rated capacity of

30.5 MW with a 1997 production of 92,448 MWh; and (4) a development connection to the applicant's transmission system via several 115 kV transmission lines.

m. Locations of the application: A copy of the application is available for public inspection and reproduction at the commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the Web at *www.ferc.gov* using the "RIMS" link-select "Docket #" and follow the instructions. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (*see* order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

o. Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008. p. *Procedural Schedule:* The application processing will proceed according to the following tentative schedule:

Receipt of terms and conditions, recommendations & prescriptions: September 2002
Notification of Draft EIS: April 2003
Public Meeting on Draft EIS: May 2003
Final EIS: October 2003

All filings must (1) bear in all capital letters, the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," OR "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Magalie R. Salas,
Secretary.
[FR Doc. 02–17440 Filed 7–10–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2744–000]

North American Hydro Inc.; Notice To Convene Meeting on Alternative Dispute Resolution Process

July 5, 2002.

On June 24, 1997, the Commission issued an "Order Approving Feasibility Study for Fish Exclusion Measures." The order required North American Hydro Inc. or the licensee to file a two-year feasibility study to determine the practicality of fish protection measures at the project. The project is located on the Menominee River in Marinette County, Wisconsin and Menominee County, Michigan.

On September 22, 1999 and on April 28, 2000, based on comments received from the Wisconsin and Michigan Departments of Natural Resources and the U.S. Fish and Wildlife Service, North American Hydro filed its Evaluation of Fish Exclusion Measures for Park Mill Project. Issues that remain unresolved are related to fish entrainment and mortality. These issues include monetary compensation values of the fish, appropriate fish passage protection devices, costs of fish protection measures, a fish protection fund, and compensatory mitigation.

The Commission's Dispute Resolution Service will conduct a convening session on July 25, 2002, commencing at 10:30 a.m., in the Conference Room at the Peshtigo Service Center of the Wisconsin Department of Natural Resources in Peshtigo, Wisconsin. The convening session will cover Alternative Dispute Resolution (ADR) processes and interest-based negotiation. The Dispute Resolution Service will also assist the parties in better identifying and clarifying the issues in the above-captioned docket. If a party has any questions, please call Deborah Osborne at (202) 208–0831.

Magalie R. Salas,
Secretary.
[FR Doc. 02–17441 Filed 7–10–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–851–000]

Southern Company Services, Inc.; Notice of Technical Conference

July 5, 2002.

In the Commission's order issued on March 27, 2002,[1] the Commission directed a technical conference be held to address issues raised by the filing.

Take notice that a technical conference will be held on Wednesday, August 7, 2002, at 9:30 a.m., in a room to be designated, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. If appropriate, the technical conference will continue on Thursday, August 8, 2002 at 9:30 a.m., in a room to be designated, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The parties should be prepared to discuss the contested issues in this proceeding, and the June 21, 2002 staff information requests and the answers thereto. Parties will be provided an opportunity to file comments following the technical conference.

All interested parties and staff are permitted to attend the conference.

Magalie R. Salas,
Secretary.
[FR Doc. 02–17439 Filed 7–10–02; 8:45 am]
BILLING CODE 6717–01–P

[1] Southern Company Service, Inc., 98 FERC ¶ 61,328 (2002).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7244–9]

Proposed CERCLA Administrative Cost Recovery Settlement; Angelillo Property Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Angelillo Property Superfund Site site in Southington, Connecticut with the settling parties

listed in the **SUPPLEMENTARY INFORMATION** portion of this notice. The settlement requires the settling parties to pay $626,000 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023 (Telephone No. 617–918–1440).

DATES: Comments must be submitted on or before August 12, 2002.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023 (Telephone No. 617–918–1440). A copy of the proposed settlement may be obtained from Audrey Zucker, U.S. Environmental Protection Agency, Region 1, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone No. 617–918–1788). Comments should reference the Angelillo Property Superfund Site in Southington, Connecticut and EPA Docket No.1–2001–0031 and should be addressed to Audrey Zucker, U.S. Environmental Protection Agency, Region 1, 1 Congress Street, Suite 1100(SES), Boston, MA 02114–2023.

FOR FURTHER INFORMATION CONTACT: Audrey Zucker, U.S. Environmental Protection Agency, Region 1, 1 Congress Street, Suite 1100(SES), Boston, MA 02114–2023 (Telephone No. 617–918–1788).

SUPPLEMENTARY INFORMATION: The following is a list of settling parties, including settling federal parties, to the proposed settlement:

A.R. Sandri, Inc.; Acushnet Company, Titleist Golf Division; AGC Incorporated; Albany International—Related Parties; Allen Mfg. Co. (The Danaher Companies); Allied Printing Services,Inc.; Allied–Signal—Related Parties (Honeywell International Inc.); American Biltrite, Inc.; American Cyanamid—Related Parties (Cytec Industries Inc.); American Electro Products, Inc.; American Hoechst—Related Parties (CNA Holdings, Inc.); American Optical (Warner Lambert Co.); American Powdered Metals; American Standard, Inc.—Related Parties; American Thread Company, The (Coats American, Inc.); Amperex Corporation (Philips Electronics North America Corporation); Amstar Corporation (Flex–Pack Printing Plant n/k/a Tate & Lyle North American Sugars, Inc.); Anaconda—Related Parties (Atlantic Richfield Company); Anchorage, Inc., The; Anco Packaging Corporation (CCL Label, Inc.); Anderson & Sons, Inc.; Apco Products, Inc.; Ashland Chemical Company—Related Parties; Avco Lycoming Division (Textron Inc.); Avery–Dennison Corp.—Related Parties (Dennison Manufacturing Company); B.A. Ballou & Company; Bailey Corp.—Related Parties; Ball Metal Container Group; Bangor Punta Corp.; Barden Corp.—Related Parties; BASF Corporation—Related Parties; Bedoukian Research, Inc.; Belding Hemingway—Belding Corticelli Thread Co.; Benjamin Moore & Company; Benmont Corporation (Textron, Inc.); Berol—Related Parties (Newell Rubbermaid, Inc.); BIC Corporation (Waterman BIC Pen Corp.)(BIC Pen Corp.); Biltrite Corporation, The; Black & Decker Corp.—Related Parties (Emhart Industries, Inc.); Borden Chemical—Related Parties; Brake Systems, Inc.; Brand–Rex—Related Parties (Akzo Nobel, Inc. f/k/a Akzona)(BICC Cables Corporation); Branson—Related Parties (Branson Ultrasonics Corp.); Bridgeport Machine Inc./Textron, Inc. (Textron, Inc.); Bull Metal Products; Burndy Corporation—Related Parties; C & M Corporation; C. Cowles & Company; C.E. Bradley Laboratories, Inc.; C.F. Jameson & Co., Inc.; C.L. Hauthaway & Sons Corp.; C.R. Bard, Inc.; California Products Corporation; Camger Chemical Systems, Inc.; Camvac Intn'l, Inc.: Dunmore Corporation/Rexham (Rexam, Inc.); Capitol Records, Inc.; Carlisle Corp.—Tensolite Division; Carris Reels, Inc.—Related Parties; Champion International Corporation—Champion Retail (International Paper Company); Chartpak; Chelsea Industries—Related Parties (Maynard Plastics Company)(Pyrotex); Chemical Coatings (Providence, RI); CHR Industries, Inc.; Chromium Process Co.; Ciba Specialty Chemical Corporation (Novartis Corporation f/k/a Ciba–Geigy Corporation and Hamblet & Hayes Company); City of Torrington; Compo Industries—Related Parties; Cooper Industries—Related Parties (Cooper Industries, Inc.)(Belden Wire & Cable Company); Custom Chemicals Co.; Custom Coatings & Laminating Company; D.G.C. Auto Body; Dampney Company, Inc.; Darworth Company; Deitsch Plastics Co., Inc.; Delker Corporation, The/Robert Hunsicker; Design Label Manufacturing Company; Dexter Corporation—Related Parties (Akzo Nobel Aerospace Coatings, Inc.); Dielectric Polymers, Inc.; Dupont—Related Parties (E.I. du Pont de Nemours and Company); Durham Manufacturing Company, The; E.J. Balsser, Inc. (E.J. Gaisser, Inc.); Easco Aluminum/Eastern Extrusion Corp.; Eastern Holding Corporation; Eastern Lacquer Corp./Eastern Chem–Lac; Electrocal; Electrolux Corporation; Energy Maintenance Corporation; Engelhard Corporation; Enthone Incorporated; Ethan Allen—Related Parties; Fairchild—Related Parties (Schlumberger Technology Corporation); Fairprene Industrial Products Company, Inc. (BBA U.S. Holdings, Inc.); Fenner America, Ltd. (Fenner, Inc.); Fibre Leather Manufacturing Corp.; Fish Chem. & Equip., Inc./Fish–Callahan Chemical; Franklin Pumping Service (Franklin Environmental Services, Inc.); Freudenberg–NOK—Related Parties; Frismar, Inc.; GenCorp—Related Parties; General Chemical Corp.—Related Parties; General Electric Company—Related Parties; General Foods Corp.—Carton and Container Div. (Kraft Foods North America, Inc.); General Motors Corp.—Related Parties; George Newman & Co.—Related Parties; George Schmitt & Co., Inc.—Related Parties; Giering Metal Finishing Company, Inc.; Gillette Company, The; Gintzler Graphics, Inc.; Goldshield—Related Parties; GTE Sylvania Corporation—Related Parties (GTE Operations Support Incorporated); Guard All Chemical Company, Inc.; Guilford Gravure, Inc.; H.B. Fuller Company—Related Parties; Haartz Auto Fabric Company; Halliday Lithographs—Related Parties (Quebecor Printing Halliday); Hampden Papers, Inc.—Related Parties; Hampford Research, Inc.—Hampford Chemicals; Handy & Harmon—Related Parties; Harris Semiconductor, Inc. (Harris Corporation); Hartford Courant, The; Hazen Paper Company; Helikon Furniture Co., Inc.; Heminway & Bartlett Manufacturing Co.; Heminway Corporation; Hercules Incorporated; Hicks & Otis Prints, Inc.; Holyoke Card and Paper Company; Hopewell Precision, Inc.; Howe Folding Furniture Company; Hoyt & Worthen Tanning Corporation; Hubbard Hall Chemical Company (Hubbard Hall, Inc.); Humphrey Chemical Company; The I.C.I. Americas—Related Parties; Ideal Tape Co., Inc.; Indusol, Inc.; Industrial Polymers & Chemicals, Inc.; Ingersoll–Rand Company—Related Parties; International Paper Company—Related Parties; Ionics, Incorporated; Irving

Tanning Company—Related Parties; James River Corporation—Related Parties (Fort James Corporation/Fort James Operating Company) (Eastern Holding Corporation); John L. Armitage & Company; K.J. Quinn and Co.—Related Parties (K.J. Quinn & Co., Inc.) (Courtaulds Aerospace, Inc./PRC–DeSoto International); Kanthal Corporation—Related Parties; Keeler & Long, Inc.; KEM Plastic Playing Cards, Inc.; Keystone Cement Company; King Industries, Inc.; L.E. Carpenter & Company; Lakewood Metal Products; Larson Tool & Stamping Co.; Lightolier Corporation—Related Parties (Genlyte Thomas Group, LLC);

Lilly Industries, Inc.—Related Parties (The Valspar Corporation); Litton Ind.—Related Parties; Lonza,Inc.; Lukon, Inc.; Lunquist Tool & Manufacturing Co., Inc. (Lutco, Inc.); M.H. Rhodes, Inc.; Macbeth, Div. of Kollmorgen Corp. (Kollmorgen Corporation); Mace Adhesives & Coating Co., Inc.; Maine Pearl Essence; Majilite Co., Division of Kollmorgen Corp. (Kollmorgen Corporation); Markem Corporation; Mead Specialty—Related Parties (Mead Corporation); Miller Container; Mobil Chemical Co.—Related Parties (Exxon Mobil Corporation); Mohawk Finishing Products, Inc.; Monsanto Company—Related Parties (Pharmacia Corporation/Solutia, Inc.); Morton International, Inc.—Related Parties (Rohm and Haas Company); Narragansett Coated Paper Corp.; Nashua Corp.—Related Parties; New England Aircraft Products/Howmet Corp.; New England Etching Company; New England Printed Tape Company, Inc. (NEPTCO Incorporated); Norton Company—Related Parties; Nu–Brite/Sico (Nu–Brite Chemical Company, Inc.) (O.K.P. Inc. f/k/a Kyanize Paint, Inc.); Pacific Anchor Chemical Corporation—Related Parties (Air Products and Chemicals, Inc.); Parker Hannifin—Related Parties; Permacel; Pierce & Stevens Corp.; Photocircuits Corporation (Kollmorgen Corporation); Pitney Bowes, Inc.; Platt & Labonia Company; Plymouth Rubber Company Inc.; Porce–Len, Inc.; Power Semi–Conductors, Inc.—Related Parties; Prime Tanning Company (Berwick, ME); Quality Nameplate, Inc.; Quebecor Printing Providence, Inc.—Related Parties; Raffi & Swanson—Related Parties; Rapid Power Technologies; Reflexite Corporation; Reichhold, Inc. f/k/a Reichhold Chemicals, Inc.; Reliance—Related Parties (Azko Nobel Coatings Inc.); Rex Leather; Rexall Chemical; Sundown Vitamins/Kraft Foods North America, Inc.; Risdon Corp.—Related Parties (Risdon–AMS (USA), Inc.); Robertshaw Controls Co., Milford Div.; Rockbestos Company–Cerrock Wire & Cable (Rockbestos–Surprenant Cable Corp.); Rogers Corporation—Related Parties; Ross & Roberts, Inc.; Roy Brothers, Inc.; Royal

Business—Related Parties (Olivetti Office U.S.A.); Safety Kleen Corp.–Related Parties (Safety Kleen Systems, Inc.); Sanders Associates, Inc. (Lockheed Martin Corporation) (BAE Systems); Sargent Manufacturing Company; Scharr Industries (Illinois Tool Works, Inc.); Scovill—Related Parties (Saltire Industrial, Inc. f/k/a Scovill Inc.); Shell Chemical Company (Shell Oil Company); Sherwin Williams Company, The—Related Parties; Shipley Company LLC; Solvents Recovery Service of New Jersey, Inc. (Safety Kleen Systems, Inc.); Spaulding Co.–Sports Worldwide, Inc.; Specialty Packaging Prod., Div. Ethyl/VCA (Owens–Illinois Inc.); Spectrum Coatings Laboratories, Inc.; Sprague Electric Company—Related Parties (American Annuity Group, Inc.) (Great American Financial Resources, Inc.)(Sprague Electric Technologies); Stanadyne Automotive Corp.; StanChem, Inc.—Related Parties; Stanley Works, The—Related Parties; Strathmore Products, Inc.; Summit Finishing Co.; Sun Chemical Company (Sequa Corporation); Supreme–Lake Mfg., Inc.; Synthetic Products Co. (SPC Divestitures, Inc.); Tapecon, Inc.; Tech Etch, Inc.; Tex–Tech Industries; Troy Mills, Inc.; Tyco Labs—Related Parties (Tyco International (US), Inc.); U.S. Navy Air Station (Quanset Point, RI); U.S. Postal Service; U.S. Postal Service, Vehicle Maintenance Facility; Uncas Manufacturing Company; Union Camp—Related Parties (International Paper Company); United Merchants & Manufacturing, Decora Div. (Decora, Inc.); United Oil Recovery/United Indus. Services Div.; Upaco Adhesives, Inc.; Upjohn Company, The (n/k/a Pharmacia & Upjohn Company); Uretek, Inc.; Vanderbilt Chemical Corporation (R.T. Vanderbilt Company, Inc.); Verla International, Ltd.; Vistron Corporation (Probrush/BP America, Inc.); Vitramon, Inc.; Voltarc Tubes, Inc. (n/k/a PerkinElmer Optoelectronics, Inc.); Voltax Co., Inc., The, by John L. Armitage & Co., Inc.; Wallace Barnes; Wallace Silversmith—Related Parties; Ware Chemical Corporation (Kraft Foods North America, Inc.); Waterbury Companies—Related Parties; Waterbury Plating Company (Nardozzi Realty Co.); Web Technologies, Inc.; Westfield Coatings Corporation—Related Parties; Westvaco Corporation—Related Parties; Weyerhauser Co., Wood Prod. Div.; Weymouth Art Leather Co.; Whittaker Corporation—Related Parties; Winslow Automatics, Inc.; Xidex Corp. (Anacomp, Inc.); Zollo Drum Co.

Dated: May 23, 2002.

Rich Cavagnero,

Acting Director, Office of Site Remediation and Restoration, Region 1.

[FR Doc. 02–17457 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to guarantee up to $250 million of equipment and other goods and services on behalf of U.S. exporters to a buyer in China. The U.S. exports will enable the Chinese company to increase output of various petrochemicals by 1.815 million metric tons per year. The outputs are HDPE (200,000 tons per year), LDPE (250,000 tons per year), Polypropylene (240,000 tons per year), Ethylene Glycol (356,000 tons per year), Propylene Oxide (88,000 tons per year), Styrene (550,000 tons per year), Butadiene (131,000 tons per year). It is envisioned this new production will be consumed in China. Interested parties may submit comments on this transaction by email to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register.**

Helene S. Walsh,

Director, Policy Oversight and Review.

[FR Doc. 02–17425 Filed 7–10–02; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission. Previously Announced Date & Time: Tuesday, June 25, 2002, Meeting Closed to the Public. This Meeting was Rescheduled for Wednesday, June 26, 2002.

DATE & TIME: Tuesday, July 16, 2002 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This Meeting Will be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, July 18, 2002 at 10 a.m.

PLACE: 999 E Street, NW., Washington DC, (Ninth Floor).

STATUS: This Meeting Will be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2002–07: Careau & Co. and Mohre Communications by Robert F. Carrot, President.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–17517 Filed 7–9–02; 11:37 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Renewals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of certain FDA advisory committees by the Deputy Commissioner of Food and Drugs (the Deputy Commissioner). The Deputy Commissioner has determined that it is in the public interest to renew the charters of the committees listed in the following table for an additional 2 years beyond charter expiration date. The new charters will be in effect until the dates of expiration listed in the following table. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463 (5 U.S.C. app. 2)).

DATES: Authority for these committees will expire on the dates indicated in the following table unless the Deputy Commissioner formally determines that renewal is in the public interest.

Name of committee	Date of expiration
Medical Imaging Drugs Advisory Committee	February 28, 2004
Gastrointestinal Drugs Advisory Committee	March 3, 2004
Advisory Committee for Reproductive Health Drugs	March 23, 2004
Arthritis Advisory Committee	April 5, 2004
Veterinary Medicine Advisory Committee	April 24, 2004
Anesthetic and Life Support Drugs Advisory Committee	May 1, 2004
Blood Products Advisory Committee	May 13, 2004
Pulmonary-Allergy Drugs Advisory Committee	May 30, 2004
Drug Safety and Risk Management Advisory Committee (formerly Drug Abuse Advisory Committee)	May 31, 2004
Science Advisory Board/NCTR	June 2, 2004
Peripheral and Central Nervous System Drugs Advisory Committee	June 4, 2004
Psychopharmacologic Drugs Advisory Committee	June 4, 2004
Transmissible Spongiform Encephalopathies Advisory Committee	June 9, 2004

FOR FURTHER INFORMATION CONTACT: Linda A. Sherman, Advisory Committee Oversight and Management Staff (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220.

Dated: July 5, 2002.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 02–17478 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Members on Public Advisory Committees; Drug Safety and Risk Management Advisory Committee (Formally Drug Abuse Advisory Committee)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for four members to serve on the Drug Safety and Risk Management Advisory Committee in the Center for Drug Evaluation and Research.

FDA has a special interest in ensuring that women, minority groups, and the physically challenged are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, or physically challenged candidates. Final selection from each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance on membership.

DATES: Nominations should be received before September 1, 2002.

ADDRESSES: All nominations for membership should be sent to Kimberly Topper, and all nominations for consumer-nominated members should be sent to Linda Sherman (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Kimberly Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: topperk@cder.fda.gov; or

Linda Sherman, Advisory Committee Oversight and Management Staff (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220, e-mail: lsherman@oc.fda.gov.

SUPPLEMENTARY INFORMATION: On June 1, 2002, the Drug Safety and Risk Management Advisory Committee (formerly Drug Abuse Advisory Committee) was rechartered with 9 of the proposed 13 members. Accordingly, FDA is requesting nominations for members to serve on the Drug Safety and Risk Management Advisory Committee (formerly Drug Abuse Advisory Committee).

Function: The committee advises the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services (DHHS) and the Department of Justice with regard to safety, abuse potential, risk management, risk communication, and quantitative evaluation of spontaneous reports, and recommends actions to be taken by DHHS with regard to marketing, investigation, and control of such drugs or other substances.

Criteria for Members

Persons nominated for membership on the committees described previously in this document must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as anesthesiology, surgery, internal medicine, infectious disease, asthma, rheumatology, microbiology, pediatrics, ophthalmology, cardiology, clinical/medical oncology, hematology, radiology, nuclear medicine, biostatistics, epidemiology, dermatopathology/immunodermatology, dermatology, psychopharmacology, neurochemistry, neuropharmacology, endocrinology, obstetrics and gynecology, reproductive endocrinology, gastroenterology, pharmacology, clinical pharmacology, hepatology, virology, pharmaceutical manufacturing, bioavailability and bioequivalence research, pharmacokinetics, neurology, psychiatry, psychology, neuropharmacology, neuropathology, pulmonary disease, allergy, immunology, clinical immunology, safety, abuse potential, risk management, risk communication and quantitative evaluation of spontaneous reports or other appropriate areas of expertise.

The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is up to 4 years.

Criteria for Consumer-Nominated Members

FDA currently attempts to place on each of the committees described previously in this document one voting member who is nominated by consumer organizations. These members are recommended by consumer organizations which have the responsibility for screening, interviewing, and recommending candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. This would involve, for example, an understanding of research design, benefit/risk and the legal requirements for safety and efficacy of the products under review, and considerations regarding individual products. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is up to 4 years. Nominations for all committees listed previously in this document are invited for consideration for membership as openings become available.

Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict on interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: July 5, 2002.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 02–17477 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Safety and Risk Management 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). The meeting will be open to the public.

Name of Committee: Drug Safety and Risk Management Advisory Committee (formerly Drug Abuse 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 17, 2002, from 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD–021), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (for Express delivery: 5630 Fishers Lane, Room 1093, Rockville MD 20857), 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12535. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss ways to improve the usefulness of consumer medication information (CMI) distributed with prescriptions being filled at the nation's pharmacies. Findings of a recent FDA-sponsored study(www.fda.gov/ohrms/dockets/ac/acmenu.htm) showed that CMI is currently being distributed with more than 85 percent of prescriptions and that scientific accuracy of the materials is high, but the usefulness of materials is variable due largely to omissions of important risk and benefit information. The committee will consider: (1) Potential causes of insufficiencies in CMI, including current practices of the parties involved in developing and processing CMI and pharmacy practices that may affect the distribution and content of CMI, and (2) potential interventions to address causes of CMI insufficiencies in the current system, and scientific methods to assess and monitor whether effective communication of key information to patients is occurring.

Procedure: 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 15, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 15, 2002, 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.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kimberly L. Topper by July 15, 2002.

FDA regrets that it was unable to publish this notice 15 days prior to the Drug Safety and Risk Management Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Drug Safety and Risk Management Advisory Committee were available at this time, the Commissioner of Food and Drugs 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 5, 2002.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 02–17402 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0258]

Draft Revised Guidance for Industry on Bioavailability and Bioequivalence Studies for Orally Administered Drug Products—General Considerations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft revised guidance for industry entitled ''Bioavailability and Bioequivalence for Orally Administered Drug Products—General Considerations.'' FDA's Biopharmaceutics Coordinating Committee determined that a revision of the guidance was necessary as a result of experience with implementation of the guidance, input from the Advisory Committee for Pharmaceutical Science at a meeting held on November 28 and 29, 2001, and changes in agency thinking based on new data. This revision should provide better guidance to sponsors conducting bioavailability (BA) and bioequivalence (BE) studies for orally administered drug products.

DATES: Submit written or electronic comments on the draft revised guidance by August 12, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this draft revised guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Aida L. Sanchez, Center for Drug Evaluation and Research (HFD–650), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5847.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft revised guidance for industry entitled ''Bioavailability and Bioequivalence for Orally Administered Drug Products—General Considerations.'' This document is intended to provide information to sponsors and/or applicants planning to include BA and BE information for orally administered drug products in investigational new drug applications (INDs), new drug applications (NDAs), abbreviated new drug applications (ANDAs), and their supplements. This draft revises the guidance published as a final guidance in the **Federal Register** on October 27, 2000 (65 FR 64449). It is being revised as a result of changes in agency thinking based, in part, on input from the Advisory Committee for Pharmaceutical Science, experience with the guidance, and comments from industry. This draft revision of the guidance does the following: (1) Changes recommendations for the use of replicate and nonreplicate study designs for extended-release products and includes recommendations regarding dissolution methods development (section III, Methods to Document BA and BE), (2) changes to the use of only the average BE approach for BE comparisons, (section IV, Comparison of BA Measures in BE Studies), (3) clarifies the definitions of proportionality (section V, Documentation of BA and BE) in the documentation of BA and BE in response to comments from industry, (4) changes recommendations regarding waivers of BE studies (subsection V.C.2, Waivers of In Vivo BE Studies (Biowaivers)) in certain situations, and (5) makes other changes such as use of the more general term ''modified release'' as opposed to ''extended'' or ''delayed release'' (subsections V.D.2 and V.D.3) and minor corrections to citations of the regulations. This draft revision should provide better guidance to sponsors conducting BA and BE studies for orally administered drug products.

This draft revised guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft revised guidance, when finalized, will represent the agency's current thinking on submitting BA and BE information to INDs, NDAs, and ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written comments on the draft revised guidance. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. This draft revised guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: June 28, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–17403 Filed 7–10–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–24 IA]

Extension of Approved Information Collection, OMB Approval Number 1004–0004

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from those persons who submit Form 2520–1 to apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the Western United States. The BLM uses this information to determine if the applicant is eligible to make a desert-land entry under the appropriate land entry laws.

DATES: You must submit your comments to BLM at the address below on or before September 9, 2002. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0004'' and your name and address with your comments.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Lands and Realty Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumption we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Congress passed the Desert Land Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321–323), as amended by the Act of March 3, 1891 (26 Stat. 1096; 43 U.S.C. 231, 323, 325, 327–329) to encourage and promote the economic development of the arid and semiarid public lands. Through the Act, you may apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the Western United States. The regulations in 43 CRF 2520 provide guidelines and procedures to obtain public lands under the Act.

You qualify to file a desert-land entry if you are a citizen of the United States; 21 years old; and a resident in the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Utah, Washington, or Wyoming (no residency is required in the State of Nevada).

You may apply for one or more tracts of public lands totaling no more than 320 acres. The lands must be surveyed or unsurveyed, unappropriated, non-mineral, and non-timber. The lands must be suitable for agricultural purposes and more valuable for that purpose than any other. The tracts of land must be sufficiently close to each other to manage satisfactorily as an economic unit.

You must locate lands you feel can be economically developed and determine the legal land description. You must contact the BLM State Office where the lands are located and verify the lands are available for desert-land entry application.

When BLM receives the application, we will examine your application for completeness and accuracy and classify the lands included in the application. BLM will approve your application if the lands are classified suitable for desert-land entry or reject your application if the lands are classified unsuitable for desert-land entry.

Based on past experience processing these applications, BLM estimates the public reporting burden for completing the Form 2520–1 is 90 minutes. BLM estimates that we receive approximately 20 applications annually, with a total annual burden of 30 hours.

Any member of the public may request and obtain, without charge, a copy of the BLM Form 2520–1 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: May 22, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–17409 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0010

AGENCY: Bureau of Land Management, Interior

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from those persons who submit a Conveyance Affecting Color or Claim of Title Application (Form No. 2540–2) to apply for public lands under a color-of-title claim. The BLM uses the information to determine if the applicant is eligible to acquire public lands under the Color-of-Title Act of December 22, 1928.

DATES: You must submit your comments to BLM at the address below on or before September 9, 2002. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You many mail comments to: Regulatory Affairs Group (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0010'' and your name and address with your comments.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Lands and Realty Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Congress passed the Color-of-Title Act of December 22, 1928 (45 Stat. 1069), as amended by the Act of July 28, 1953 (67 Stat. 227; 43 U.S.C. 1068–1068b), to provide for the transfer of legal title to public lands from the United States to eligible individuals, groups, or corporations who have a valid color-of-title claim. The regulations at 43 CFR part 2540 provide guidelines to file a color-of-title claim.

Any individual, group, or corporation that possesses valid evidence of a title to public lands administered by BLM may file a color-of-title application (Form 2540–2). The Act refers to Class I and Class II claims. A Class I is a claim:

(1) held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years; and

(2) where claimant or predecessors placed valuable improvements and cultivated part of the land.

A Class II is a claim held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for the period commencing not later than January 1, 1901, to date of application, during which time they paid taxes levied on the land by State and local governmental units.

A claim is not held in good faith when held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession if it was initiated while the land was withdrawn or reserved for Federal purposes.

When BLM receives the application, we will analyze the information, conduct an on-site field examination of the lands, and prepare reports. The BLM will approve your application if you meet the requirements of a Class I or Class II claim. We will reject your application if you do not meet the requirements of a Class I or Class II claim. Class II claims are discretionary and we may reject the application if the public interest in retention of the lands clearly outweighs the interest of the applicant

Based on past experience processing these applications, BLM estimates the public reporting burden for completing the Form 2540–2 is one hour. BLM estimates that we receive approximately 37 applications annually, with a total annual burden of 37 hours.

Any member of the public may request and obtain, without charge, a copy of the BLM Form 2540–2 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of a public record.

Dated: May 22, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–17410 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–001]

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) request the Office of Management and Budget (OMB) to extend an existing approval to collect information from those persons who submit a Color-of-Title Tax Levy and Payment Record Application (Form No. 2540–3) to apply for public lands under a color-of-title claim. The BLM uses the information to determine if the applicant is eligible to acquire public lands under the Color-of-Title Act of December 22, 1928.

DATES: You must submit your comments to BLM at the address below on or before September 9, 2001. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0011'' and your name and address with your comments.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Lands and Realty Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Congress passed the Color-of-Title Act of December 22, 1928 (45 Stat. 1969), as amended by the Act of July 28, 1953 (67 Stat. 227; 43 U.S.C. 1068–1068b), to provide for the transfer of legal title to public lands from the United States to eligible individuals, groups, or corporations who have a valid color-of-title claim. The regulations at 43 CFR

2540 provide guidelines to file a color-of-title claim.

Any individual, group, or corporation that possesses valid evidence of a title to public lands administered by BLM may file a color-of-title application. The Act refers to Class I and Class II claims. A Class I claim is a claim:

(1) Held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years; and

(2) where the claimant or predecessors placed valuable improvements and cultivated part of the land.

A Class II claim is a claim held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim of color-of-title for the period commencing not later than January 1, 1901, to date of application, during which time they paid taxes levied on the land by State and local government units.

A claim is not held in good faith when held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession if it was initiated while the land was withdrawn or reserved for Federal purposes.

The information we collect on the Color-of-Title Tax Levy and Payment Record Form No. 2540–3 is required by 43 CFR 2540 to process applications to acquire legal title to public lands under the December 22, 1928 Act, as amended by the July 28, 1953 Act. The following information is collected on the form:

(1) Applicant's name;

(2) Legal land description claimed;

(3) Itemized data relating to all recorded tax payments in chronological order; and

(4) Certification by the proper county official.

When BLM receives the application, we will analyze the information, conduct an on-site field examination of the lands, and prepare reports. The BLM will approve your application if you meet the requirements of a Class I or Class II claim. We will reject your application if you do not meet the requirements of a Class I or Class II claim. Class II claims are discretionary and we may reject the application if the public interest in retention of the lands clearly outweighs the interest of the applicant.

Based on past experience processing these applications, BLM estimates the public reporting burden for completing the Form 2540–3 is one hour. BLM estimates that we receive approximately 37 applications annually, with a total annual burden of 37 hours.

Any member of the public may request and obtain, without charge, a copy of the BLM Form No. 2540–3 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of a public record.

Dated: May 28 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–17411 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0012

AGENCY: Bureau of Land Management, Interior

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from States and local government agencies and from qualified nonprofit corporations and associations who submit an Application for Land for Recreation or Public Purposes (form No. 2740–1) to obtain public lands and benefits for recreational and public purposes. The BLM uses the information to determine if an applicant meets the requirements of the Recreation and Public Purpose Act (R&PP) of June 14, 1926.

DATES: You must submit your comments to BLM at the address below on or before September 9, 2000. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0012'' and your name and address with your comments.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Commentes will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Lands and Realty Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TTD) my call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Recreation and Public Purpose Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*), authorizes the Secretary of the Interior to lease or convey certain public lands to States and local government agencies, and to qualified nonprofit corporations and associations for recreational and public purpose under specified conditions. The term ''public purpose'' means providing facilities or services for the benefit of the public in connection with, but not limited to, public health, safety, or welfare. We permit use of lands or facilities for habitation, cultivation, trade, or manufacturing only when necessary for and integral to the essential part of public purpose. 43 CFR 2740 regulations provide guidelines to lease or convey public lands under the Act.

The Act applies to all public lands, except lands within national forests, national parks and monuments, national wildlife refuges, Indian lands, and acquired lands. We lease revested Oregon and California Railroad grant lands, and reconveyed Coos Bay Wagon Road grant lands in western Oregon only to State and Federal instrumentalities, political subdivisions, and to municipal corporations.

Lease periods may be for any length of time, but must not exceed 20 years for nonprofit entities and 25 years for Federal, States and local governmental entities. We issue leases subject to appropriate environmental and legal stipulations and leases must contain provisions for compliance with:

(1) Nondiscrimination based on race, color, sex, age, religion, or national origin;

(2) An approved plan of management and development upon which BLM based the lease decision (we may cancel a lease for nonuse or a use (without prior BLM consent) other than for which BLM issued the lease);

(3) The Federal Government may reserve the standing timber, use of water, or place other limitations on the use of natural resource; and

(4) Other reasonable stipulations we may require as part of the consideration for the moderate charge for land.

BLM issues patents under the Act that convey a restricted title containing provisions which, if not complied with, may result in reversion of the title to the United States. These provisions are:

(1) Nondiscrimination clauses providing that the patentee may not restrict or permit restrictions on the use of the lands conveyed or facilities because of race, color, sex, age, religion, or national origin;

(2) A provision that, if the patentee or its successor in interest attempts to transfer tile or control over the land to another or the land is devoted to a use (without prior BLM consent) other than for what it conveyed, title will revert to the United States;

(3) The patent must stipulate the lands in perpetuity are used for the purposes for which the lands are acquired (the lease or patent may stipulate that certain provisions of the development plan, including the management plan, may be subject to review by the Secretary of the Interior or his delegate); and

(4) All minerals are reserved to the United States. After receiving the form, the BLM will:

(1) Determine if the applicant's proposal conforms with land use planning, review land status to determine if the lands are subject to application, and determine if the application meets all requirements of the law and regulations:

(2) Review the development and management plans to determine adequacy and effectiveness, and evaluate the construction schedule and estimated financing to ensure they are realistic and practicable;

(3) Secure the views of other agencies that have an interest in the lands, including State and local planning and zoning departments;

(4) Check for the presence of unpatented mining claims (R&PP leases and conveyances cannot be issued where mineral claims are present) and, if necessary to determine the validity of a mining claim. The cost of the determination will be the responsibility of the applicant;

(5) Conduct a field examination and other investigations to gather information and data on the environmental considerations and proper classification of the lands;

(6) Publish a notice to solicit views and comments from the public concerning the proposal.

Based on past experience processing these applications, BLM estimates the public reporting burden for completing and providing the information for Form 2740–1 is 40 hours. BLM estimates that we receive approximately 55 applications annually, with a total annual burden of 2,200 hours.

Any member of the public may request and obtain, without charge, a copy of the BLM Form No. 2740–1 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of a public record.

Dated: May 28, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–17412 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0029

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from those persons who submit a Color-of-Title Application (Form No. 2540–1) to apply for public lands under a color-of-title claim. The BLM uses the information to determine if the applicant is eligible to acquire public lands under the Color-of-Title Act of December 22, 1928.

DATES: You must submit your comments to BLM at the address below on or before September 9, 2002. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0029'' and your name and address with your comments.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Lands and Realty Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) the accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) ways to enhance the quality, utility, and clarity of the information collected; and

(d) ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Congress passed the Color-of-Title Act of December 22, 1928 (45 Stat. 1069), as amended by the Act of July 28, 1953 (67 Stat. 227; 43 U.S.C. 1068–1068b), to provide for the transfer of legal title to public lands from the United States to eligible individuals, groups, or corporations who have a valid color-of-title claim. The regulations at 43 CFR 2540 provide guidelines to file a color-of-title claim.

Any individual, group, or corporation that possesses valid evidence of a title to public lands administered by BLM may file a Color-of-Title Application (Form 2540–1). The Act refers to Class I and Class I claims. A Class I claim is a claim:

(1) Held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years; and

(2) where claimant or predecessors placed valuable improvements and cultivated part of the land.

A Class II claim is a claim held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for the period commencing not later than January 1, 1901, to date of application, during which time they paid taxes levied on the land by State and local governmental units.

A claim is not held in good faith when held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession if it was initiated while the land was withdrawn or reserved for Federal purposes.

When BLM receives the application, we will analyze the information, conduct an on-site field examination of the lands, and prepare reports. The BLM will approve your application if you meet the requirements of a Class I or Class II claim. We will reject your application if you do not meet the requirements of a Class I or Class II claim. Class II claims are discretionary and we may reject the application if the public interest in retention of the lands clearly outweighs the interest of the applicant.

Based on past experience processing these applications, BLM estimates the public reporting burden for completing the Form 2540–1 is 15 minutes. BLM estimates that we receive approximately 37 applications annually, with a total annual burden of 9 hours.

Any member of the public may request and obtain, without charge, a copy of the BLM Form 2540–1 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of a public record.

Dated: May 28, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–17413 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0121).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR) titled ''Administrative Appeal Procedures'' (formerly titled ''Preliminary Statement of Issues and Fee Waiver''). We are also soliciting comments from the public on this ICR.

DATES: Submit written comments on or before August 12, 2002.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0107), 725 17th Street, NW., Washington, DC 20503. Also, submit copies of your written comments to Carol Shelby, Regulatory Specialist, Minerals Management Service, MS 320B2, PO Box 25165, Denver, Colorado 80225. If you use an overnight courier service, MMS's courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also submit your comments at our e-mail address *mrm.comments@mms.gov.* Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151 or FAX (303) 231–3385.

FOR FURTHER INFORMATION CONTACT: Carol Shelby, Regulatory Specialist, phone (303) 231–3151 or FAX (303) 231–3385.

SUPPLEMENTARY INFORMATION:

Title: Administrative Appeal Procedures.

OMB Control Number: 1010–0121.

Bureau Form Numbers: None.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions for the Secretary.

On January 12, 1999, DOI published a proposed rule in the **Federal Register** (64 FR 1930) to revise the appeals process. Proposed 43 CFR part 4, subpart J, would have established a new 1-step process for appeals of royalty orders. Among other actions, the proposed rule would have replaced the current regulations at 30 CFR part 290 and 43 CFR part 4, subpart E, as they relate to appeals of royalty orders. MMS submitted an information collection request entitled ''Preliminary Statement of Issues and Fee Waiver'' to cover the information collection requirements in that proposed rule. OMB approved that request on April 13, 1999, and assigned OMB Control Number 1010–0121.

MMS received numerous negative comments about some of the provisions in the proposed rule. Consequently, on May 13, 1999, MMS published a final rule in the **Federal Register** (64 FR 26240) making final only those portions of the January 1999 proposed rule that received few, if any, comments. For example, rather than finalizing the substantive procedural changes in the proposed rule, the regulations in 30 CFR part 290 were separated into two subparts—subparts A and B—and rewritten using plain English principles. Subpart A relates to appeals for the Offshore Minerals Management program, and subpart B relates to appeals for the Royalty Management Program (currently Minerals Revenue Management). Subpart J of 43 CFR part 4 was added to the final rule to incorporate specific time frames required in the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. However, the final rule does not contain the substantive changes required to change the appeals process from a 2-step to a 1-step process as originally proposed in the proposed rule.

MMS is revising this information collection to cover the reporting requirements contained in the final rule. These requirements are located in 30 CFR parts 250 and 290. Refer to the burden chart for identified reporting requirements and associated burden hours. Submission of the information in this collection is necessary for MMS to initiate and track appeals of disputed orders. Proprietary information that is submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: On occasion.

Estimated Number and Description of Respondents: 170 lessees or designees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 265 hours. See the following chart for a breakdown of the burden estimate by CFR section and paragraph.

30 CFR Section	Requirement	Annual number of responses	Burden hours per response	Annual burden hours
250.1409 (a); (b)(2)	(a) When you receive the Reviewing Officer's final decision, you have 60 days to either pay the penalty or file an appeal in accordance with 30 CFR part 290 * * * (b) If you file an appeal, you must either: (1) [see § 250.1409(b)(1) below] or (2) Notify the Regional Adjudication Office * * * that you want your lease-specific/area-wide bond on file to be used as the bond for the penalty amount * * *.	10	1	10
250.1409 (b)(1)	(b) If you file an appeal, you must either: (1) Submit a surety bond * * * or (2) [see § 250.1409(b)(2) above] * * *.	([1])		
290.4(a), (b)(1)	For your appeal to be filed, MMS must receive all of the following within 60 days after you receive the decision or order: (a) A written Notice of Appeal together with a copy of the decision or order you are appealing * * * (b) A nonrefundable processing fee of $150 paid with the Notice of Appeal * * * (1) Identify the order you are appealing on the check or other form of payment * * *.	10	10	100
290.7(a)(2)	(a) The decision or order is effective during the 60–day period for filing an appeal * * * unless (1) * * * or (2) you post a surety bond under 30 CFR 250.1409 pending the appeal * * *.	([1])		
290.105(a)(1) and (2)	(a) You may appeal an order to the Director, Minerals Management Service * * * by filing a Notice of Appeal in the office of the official issuing the order within 30 days from service of the order * * * (1) Within the same 30–day period, you must file * * * a statement of reasons or written arguments or briefs * * * (2) If you are a designee, when you file your Notice of Appeal, you must serve your Notice of Appeal on the lessees for the leases in the order you appealed.	150 ([2])	1	150
290.106(a)	(a) If you are a lessee, * * * you may join in that appeal * * * by filing a Notice of Joinder with the office or official that issued the order.	10	.5	5
Total		180		265

[1] Burden covered in OMB Control Number 1010-0006.
[2] The statement of reasons required in 30 CFR 290.105(a)(1) is part of the administrative appeals process and is exempt from the Paperwork Reduction Act of 1995. Consequently, the burden for preparation of the statement of reasons is not included in this information collection request.

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Burden: We have identified $1,500 of ''non-hour'' cost burden.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on February 28, 2002, we published a **Federal Register** notice (67 FR 9316) with the required 60–day comment period announcing that we would submit this ICR to OMB for approval. We received comments from one organization. We responded to the comments in our ICR submission for OMB approval. We have posted a copy of the ICR at our Internet Web site *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.hem.* We will also provide a copy of the ICR to you without charge upon request.

If you wish to comment in response to this notice, please send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive your comments by August 12, 2002. The PRA provides that 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.

Public Comment Policy: We will post all comments received in response to this notice on our Internet Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm* for public review. We also make copies of these comments, including names and home addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado.

Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, telephone (202) 208–7744.

Dated: July 2, 2002.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 02–17407 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Alaska State Museum, Juneau, AK, and in the Control of the U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Alaska State Museum, Juneau, AK, and in the control of the U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, Anchorage, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice. A detailed assessment of the human remains was made by the Bureau of Land Management, Alaska State Office and the Alaska State Museum professional staff in consultation with representatives of the Kenaitze Indian Tribe and Seldovia Village Tribe.In 1956, human remains representing a minimum of one individual were removed from Halibut Cove, Kachemak Bay, AK, during legally authorized work by archeologist Joel M. Moss. Mr. Moss donated the remains to the Alaska State Museum the same year. The human remains are estimated to date to the 19th century or earlier. No known individual was identified. The single associated funerary object is a stone lamp.Based on cranial morphology, stratigraphy, and an associated funerary object, this individual has been identified as Native American. Based on geographic location, this individual is affiliated with Athabaskan culture and, specifically, with the Athabaskan tribe represented by the Seldovia Village Tribe. This determination of cultural affiliation is based upon the continuity of Native American occupation in the Kachemak Bay, AK, area and verification by representatives of the Kenaitze Indian Tribe that Kachemak Bay is within the traditional territory of the Tainana Athabaskans. Members of the Seldovia Village Tribe report use of the Kachemak Bay area by their ancestors.Based on the above-mentioned information, officials of the Bureau of Land Management, Alaska State Office have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Bureau of Land Management, Alaska State Office also have determined that, pursuant to 43 CFR 10.2 (d)(2), the one object listed above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management, Alaska State Office have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and tribes represented by the Seldovia Village Tribe.This notice has been sent to officials of the Kenaitze Indian Tribe and the Seldovia Village Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Robert E. King, Alaska State NAGPRA Coordinator, Bureau of Land Management, 222 West 7th Avenue, Number 13, Anchorage, AK 99513-7599, telephone (907) 271-5510, before August 12, 2002. Repatriation of the human remains and associated funerary object to the Seldovia Village Tribe may begin after that date if no additional claimants come forward.

Dated:April 25, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17430 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of the American Museum of Natural History, New York, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by American Museum of Natural History professional staff in consultation with representatives of the Hawai'i Island Burial Council, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaua'i/Ni'ihau Island Burial Council, Maui/Lana'i Island Burial Council, Moloka'i Island Burial Council, O'ahu Island Burial Council, and Office of Hawaiian Affairs.

In an unknown year, human remains representing a minimum of one individual were collected by an unknown person from ''Sandwich Islands.'' The American Museum of Natural History received these remains in 1929 as a gift from Jessie Y. Loomis in the name of Earnest Yates Loomis, deceased. The American Museum of Natural History's documentation states that these human remains had been held by the American Institute of Phrenology, but it does not indicate whether Mr. or Mrs. Loomis was a member of the American Institute of Phrenology. The American Museum of Natural History has no information regarding the American Institute of Phrenology's acquisition of these remains. No known individual was identified. No associated funerary objects are present.

In an unknown year, human remains representing a minimum of one individual were collected by an unknown person and identified as a ''Sandwich Islander from Kahahlooa.'' The American Museum of Natural History received these remains in 1929 as a gift from Jessie Y. Loomis in the name of Earnest Yates Loomis, deceased. The American Museum of Natural History's documentation states that these human remains had been held by the American Institute of Phrenology, but it does not indicate whether Mr. or Mrs. Loomis was a member of the American Institute of Phrenology. American Museum of Natural History documentation indicates that, in 1867, these remains were in the possession of John Butler, Esq. The American Museum of Natural History has no information regarding the American Institute of Phrenology's or Mr. Butler's acquisition of these remains. No known individual was identified. No associated funerary objects are present.

These individuals have been identified as Native Hawaiian based on the American Museum of Natural History's documentation describing each as a ''Sandwich Islander.'' Sandwich Islands is a former name of the Hawaiian Islands. Archeological, biological, geographic, linguistic, and consultation evidence indicate a lengthy Native Hawaiian occupation of the Hawaiian Islands. The geographic location reported for the human remains is consistent with the traditional territory of Native Hawaiians, represented here by the Hawai'i Island Burial Council, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaua'i/Ni'ihau Island Burial Council, Maui/Lana'i Island Burial Council, Moloka'i Island Burial Council, O'ahu Island Burial Council, and Office of Hawaiian Affairs.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of two individuals of Native Hawaiian ancestry. Officials of the American Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native Hawaiian human remains and the Hawai'i Island Burial Council, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaua'i/Ni'ihau Island Burial Council, Maui/Lana'i Island Burial Council, Moloka'i Island Burial Council, O'ahu Island Burial Council, and Office of Hawaiian Affairs.

This notice has been sent to officials of the Hawai'i Island Burial Council, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaua'i/Ni'ihau Island Burial Council, Maui/Lana'i Island Burial Council, Moloka'i Island Burial Council, O'ahu Island Burial Council, and Office of Hawaiian Affairs. Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with these human remains should contact Elaine Guthrie, Acting Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5835, before August 12, 2002. Repatriation of the human remains to the Hawai'i Island Burial Council, Hui Malama I Na Kupuna 'O Hawai'i Nei, Kaua'i/Ni'ihau Island Burial Council, Maui/Lana'i Island Burial Council, Moloka'i Island Burial Council, O'ahu Island Burial Council, and Office of Hawaiian Affairs may begin after that date if no additional claimants come forward.

Dated: June 18, 2002

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17415 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Antelope Valley Indian Museum, Lancaster, CA, and in the Control of the California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Antelope Valley Indian Museum, Lancaster, CA, and in the control of the California Department of Parks and Recreation, Sacramento, CA, that meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The one cultural item is a wedding blanket made of white cotton. The dates of fabrication and/or use are unknown. The blanket was donated by an unidentified resident of Oraibi Village, Third Mesa, in Arizona, to the Antelope Valley Indian Museum, Lancaster, CA, in 1954. The owner of the museum, Grace W. Oliver, donated the blanket to the California Department of Parks and Recreation in 1979.

Departmental records indicate that it was taken from a burial cave that was disturbed as a result of construction activities. Information provided by representatives of the Hopi Tribe of Arizona and of the village of Oraibi substantiates cultural affiliation of the blanket with the Hopi Tribe of Arizona.

Based on the above-mentioned information, officials of the California Department of Parks and Recreation have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the California Department of Parks and Recreation also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity, that can be reasonably traced between this item and the Hopi Tribe of Arizona.

This notice has been sent to officials of the Hopi Tribe of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this unassociated funerary object should contact Paulette Hennum, NAGPRA Coordinator, California Department of Parks and Recreation, 1416 9th Street, Room 902, Sacramento, CA 95814, telephone (916) 653-7976, before August 12, 2002. Repatriation of this unassociated funerary object to the Hopi Tribe of Arizona may begin after that date if no additional claimants come forward.

Dated: May 16, 2002.

Paula Molloy,

Acting Manager, National NAGPRA Program.

[FR Doc. 02–17085 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Colorado Historical Society, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Colorado Historical Society, Denver, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Colorado Historical Society professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. The following tribes were invited, but have been unable to participate in consultations: the Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico, Shoshone Tribe of the Wind River Reservation, Wyoming; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

In October 1955, human remains representing a minimum of four individuals were removed from the eroded ground surface of site 5LN32, on private land near Boyero, Lincoln County, CO. No known individuals were identified. The 133 associated funerary objects are a one awl fragment and 132 bone beads and bead fragments. Additional associated funerary objects from this burial were described in ''Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Denver Department of Anthropology and Museums of Anthropolicy, Denver CO,'' published in the **Federal Register** on April 10, 2001 (see Volume 66, Number 69, pages 18654–56). In accordance with provisions of NAGPRA, 43 CFR 10.10(b)(2), the University of Denver responded to a repatrisan claim by the Pawnee Nation of Oklahoma. The claim requested that control of the associated funerary objects be transferred to the Pawnee Nation of Oklahoma, and that termporary custody of the associated funeral objects be transferred to Colorado Historical Society. These requests were fulfilled, respectively, on December 31, 2001, and on January 24, 2002.

Maurice Frink and Willena D. Cartwright of the Colorado Historical Society and Dr. Arnold Withers of the University of Denver Department of Anthropology excavated the site. According to the original site records, the remains were excavated from a burial pit exposed by weathering. Associated funerary objects, archeological context, and mortuary patterns indicate that the site dates from approximately the Early Ceramic period (circa A.D. 1000–1000, also known as Plains Woodland) to the Middle Ceramic period (circa A.D. 1000–1500). The preponderance of the evidence, including archeology, oral traditions presented during consultations with the tribes listed above, expert opinion, and new evidence provided by the Pawnee Nation of Oklahoma in their repartriation request of October 30, 2001, indicates that a relationship of shared group identity can be reasonably traced between these human remains and associated funerary objects and the Pawnee Nation of Oklahoma.

In May 1993, human remains representing one individual were removed from site 5LR1683, the Roberts Ranch burial, or Office of Archaeology and Historic Preservation (OAHP) Burial Number 75, on private land near Livermore, Larimer County, CO. No known individual was identified. The 404 associated funerary objects are 2 shell pendants, 110 shell disk beads, 235 bone beads, 2 grinding slabs, 12 pieces of debitage, 2 chipped stone scrapers, 36 juniper seed beads, and 5 *Olivella* sp. shell beads.

After discovery, OAHP staff excavated the burial under a State of Colorado archeological permit. Radiocarbon dates from the site range from A.D. 320 to 540. Style of funerary objects, manner of interment, and radiocarbon dates indicate that the burial dates to the Early Ceramic period (circa A.D. 100–1000). The preponderance of the evidence, including archeology, oral traditions presented during consultations with the tribes listed above, expert opinion, and new evidence provided by the Pawnee Nation of Oklahoma in their repatriation request of October 30, 2001, indicates that a relationship of shared group identify can be reasonably traced between these human remains and associated funerary objects and the Pawnee Nation of Oklahoma.

In May 1994 and May 1996, human remains representing a minimum of two individuals were removed from site 5JF223, the Magic Mountain site, or OAHP Burial Number 166, on municipal land in Golden, Jefferson County, CO. No known individuals were identified. No associated funerary objects are present.

The remains were excavated by staff of Centennial Archaeology, Inc., during a planned excavation of the site under a State of Colorado archeological permit. Both individuals were contextually associated with the Early Ceramic period occupational component of the site, which dates approximately A.D. 200 to 1000. The preponderance of the evidence, including archeology, oral traditions presented during consultations with the tribes listed above, expert opinion, and new evidence provided by the Pawnee Nation of Oklahoma in their repatriation request of October 30, 2001, indicates that a relationship of shared group identity can be reasonably traced between these human remains and the Pawnee Nation of Oklahoma.

In July 1998, human remains representing a minimum of two individuals were removed from site 5JF1780, the Lena Gulch site, or OAHP Burial Number 150, during highway construction of Colorado highway C–470 on state lands near Golden, Jefferson County, CO. No known individuals were identified. The 369 associated funerary objects include 75 chipped stone artifacts (including 11 corner-notched projectile points), 2 ground cobbles, 203 stone disk beads, 4 nuggets of raw copper, 14 cord-marked pottery sherds, 4 bone awls, 22 bone beads, 2 shell pendants, 2 shell beads, 1 unmodified shell, and approximately 40 unmodified rabbit incisors apparently representing an ornamental object.

Colorado Department of Transportation archeologists conducted excavations of the inadvertent discoveries under a State of Colorado archeological permit. The remains were removed from primary interment contexts disturbed by construction activity. Contextual evidence indicates that the two individuals were interred at or near the same time. Diagnostic artifacts and radiocarbon dates (A.D. 599 to 768) indicate that the burials date to the Early Ceramic period. The preponderance of the evidence, including archeology, oral traditions presented during consultations with the tribes listed above, expert opinion, and new evidence provided by the Pawnee Nation of Oklahoma in their repatriation request of October 30, 2001, indicates that a relationship of shared group identity can be reasonably traced between these human remains and associated funerary objects and the Pawnee Nation of Oklahoma.

In September 1998, human remains representing a minimum of one individual were removed from site 5WL2614, or OAHP Burial Number 154, during excavations associated with pipeline construction on private land in Weld County, CO. No known individual was identified. No associated funerary objects are present.

After discovery, the site was excavated under a State of Colorado archeological permit by Metcalf Archaeological Consultants. The human remains were sent to Dr. Diane France of Colorado State University for analysis. The method of interment indicates that this was a primary interment. Radiocarbon dates for the site (A.D. 580 to 770) indicate that the burial dates to the Early Ceramic period. Artifacts associated with the burial and method of interment are consistent with Early Ceramic period mortuary contexts along the Rocky Mountain Front Range. The preponderance of the evidence, including archeology, oral traditions presenting during consultations with the tribes listed above, expert opinion, and new evidence provided by the Pawnee Nation of Oklahoma in their repatriation request of October 30, 2001, indicates that a relationship of shared group identity can be reasonably traced between these human remains and the Pawnee Nation of Oklahoma.

In 1995, at the time that Colorado Historical Society was completing its NAGPRA inventory, and in 1996 and 1998 for human remains discovered on State and private lands, officials of Colorado Historical Society determined that, pursuant to 43 CFR 10.2(d)(1), the above-mentioned human remains represent 10 individuals of Native American ancestry. At the time, officials of Colorado Historical Society also determined that according to the definition of cultural affiliation provided under 43 CFR 10.2(e), there was not sufficient evidence to trace a relationship of shared group identity between the human remains and associated funerary objects and any present-day Native American tribe or Native Hawaiian organization. The Colorado Historical Society provided an inventory of these culturally unidentifiable human remains and associated funerary objects to the Department Consulting Archeologist as required under 43 CFR 10.9(e)(6).

Through ongoing consultations with Native American tribes, along with information presented by tribal experts and scholars during a NAGPRA consultation project in partnership with the Colorado Commission of Indian Affairs and tribes in October 2000 in Denver, CO, and information presented by the Pawnee Nation in their October 30, 2001, repatriation request, the Colorado Historical Society received additional evidence regarding cultural affiliation of these human remains and associated funerary objects.

Based on the above-mentioned information, officials of the Colorado Historical Society have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of 10 individuals of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 43 CFR 10.2(d)(2), the 906 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Colorado Historical Society have determined that, pursuant to 43 CFR 10.2(e), and in accordance with 25 U.S.C. 3005(a)(4), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Pawnee Nation of Oklahoma.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne-Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Indian Tribe, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Flandreau Santee Sioux Tribe of South Dakota; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Midewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Prairie Island Indian Community of Minnesota Midewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Midewakanton Sioux Community of Minnesota (Prior Lake); Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Spirit Lake Tribe, North Dakota (formerly known as the Devils Lake Sioux Tribe); Standing Rock Sioux Tribe of North and South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; and Yankton Sioux Tribe of South Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Anne W. Bond, Director of Collections and Exhibitions, Colorado Historical Society, 1300 Broadway, Denver, CO 80203–2137, telephone (303) 866–4691, before August 12, 2002. Repatriation of these human remains and associated funerary objects to the Pawnee Nation of Oklahoma may begin after that date if no additional claimants come forward.

Dated: June 6, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17427 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Columbus Museum, Columbus, GA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Columbus Museum, Columbus, GA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Columbus Museum professional staff in consultation with representatives of the Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations. Representatives of the Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Thlopthlocco Tribal Town, Oklahoma were invited to consult at museum expense, but declined to participate.

In 1981, human remains representing one individual were removed during salvage excavations at the Coweta tallahassee site (1RU11), Russell County, AL, by staff of the Columbus Museum. No known individual was identified. The 914 associated funerary objects are 1 British sword hilt with blade fragments, 2 musket balls, 2 gun flints, 15 brass buttons, 891 blue glass beads, 1 white glass bead, 1 brass buckle, and 1 scabbard buckle. The associated funerary objects indicate that these human remains were probably buried during the early 18th century. Site 1RU11 is believed to have been the location of the Creek community of Coweta tallahassee. Benjamin Hawkins, the United States Principal Temporary Agent for Indians South of the Ohio River, established an agency at Coweta tallahassee in 1797. He noted that Coweta tallahassee was inhabited by European Americans, Europeans, and African Americans, as well as Native Americans. While it is not possible to conclusively demonstrate that these human remains are Native American, the preponderance of the evidence supports a determination that they are more than likely Native American.

In 1957-1983, human remains representing 66 individuals were removed during salvage excavations at the Abercrombie site (1RU61), Russell County, AL, by staff of the Columbus Museum. No known individuals were identified. The 859 associated funerary objects are 780 whelk shell beads, 5 whelk shell face mask gorgets, 1 pair of shell earrings, 1 olive shell, 2 large mussel shells, 1 large mussel shell, 1 large cockle shell, 2 greenstone disks, 1 greenstone spatulate celt (spud), a lithic ''toolkit'' consisting of 41 pieces of chert and 11 pieces of bone or antler, 1 chert flake, 1 bone spatula, 1 bone tine, 1 antler tip, 1 reconstructed pottery jar with scroll design, 1 pottery duck head effigy, 1 pottery vessel, 1 copper or brass arrow pendent, 1 Hispanic olive jar sherd, and 5 glass trade beads. The three pottery vessels are believed to have been manufactured around A.D. 1550-1650. The Hispanic olive jar is believed to have been manufactured around A.D. 1600. The five glass trade beads are believed to have been manufactured around A.D. 1590. The associated funerary objects and other diagnostic artifacts found at site 1RU61 indicate that these human remains were probably buried during the 16th or early 17th centuries. Benjamin Hawkins noted that the site was abandoned at the time of his visit in 1797.

In the 17th century, the area in which 1RU11 and 1RU61 are located was called the Province of Apalachicoli by the Spanish. The area is believed to have been occupied by Hitchiti speakers until the late 17th century when Muskhogee speakers also known as the Lower Creek -- occupied the area. Both the Hitchiti and the Lower Creek are ancestral to the present-day Creek and Seminole and other Indian tribes.

In 1967, human remains representing one individual were removed from the Pinkston site (1Mc6), Macon County, AL. No known individual was identified. The human remains were donated to the Columbus Museum by Frank Morast. Mr. Morast also donated seven items that he identified as having been found with the human remains. The seven associated funerary objects are one copper/brass chest plate, two copper/brass neck bands, one copper/brass disk, and two copper/brass armbands. The Pinkston site (1Mc6) is purported to have been the Muskogee town site of Autosi.

Based on the above-mentioned information, officials of the Columbus Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 68 individuals of Native American ancestry. Officials of the Columbus Museum also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 1780 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Columbia Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Seminole Nation of Oklahoma; and Thlopthlocco Tribal Town,Oklahoma.

This notice has been sent to officials of the Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Seminole Nation of Oklahoma; and Thlopthlocco Tribal Town, Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Jeanne Marie Warzeski, the Columbus Museum, 1251 Wynnton Road, Columbus, GA 31906, telephone (706) 649-0713 or fax (706) 649-1070, before August 12, 2002. Repatriation of the human remains and associated funerary objects to the Kialegee Tribal

Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Seminole Nation of Oklahoma; and Thlopthlocco Tribal Town,. Oklahoma may begin after that date if no additional claimants come forward.

Dated: June 6, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17428 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Lambertville Historical Society, Lambertville, NJ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of the Lambertville Historical Society, Lambertville, NJ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Lambertville Historical Society professional staff in consultation with the New Jersey State Museum and representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and Stockbridge-Munsee Community of Mohican Indians of Wisconsin. The Lambertville Historical Society also consulted with the Native American Alliance of Bucks County and the Delaware Nation Grand Council of North America, two nonfederally recognized Indian groups.

In either 1858 or 1862, human remains representing one individual were recovered by Captain John S. Bailey near the old lime kiln on the banks of the Delaware River at Lower Black's Eddy, Bucks County, PA. No known individual was identified. No associated funerary objects are present. The human remains consist of the right parietal bone of a skull. The elevated skullcap and high-vaulted shape are characteristic of Native American populations. An August 5, 1873, article in the Bucks County Intelligencer reported that there was an ''indication that the spot [from which the human remains were recovered] was an Indian burial place, as well as a manufactory of arrow heads and other utensils of stone.''

These human remains are believed to have been found at the Lower Black's Eddy site (36BU23). The Lower Black's Eddy site was excavated in 1893 by Dr. Henry C. Mercer and was considered by him to be one of the oldest and largest village sites in the Delaware Valley between Trenton and the Lehigh River. The site was excavated again in 1982 and 1986-87. These excavations identified a stratified sequence spanning the Late/Terminal Archaic (3000-1000 B.C), Early/Middle Woodland (1000 B.C.-A.D. 500), and Late Woodland periods (A.D. 500-1600). The relatively good condition of the skull and the acidity of the soil at the Lower Black's Eddy site indicate that the human remains were probably buried during the Late Woodland period (A.D. 500-1600). The Delaware River and its tributaries are thought to be the homeland of the Delaware Indians, many of whom were relocated to Oklahoma and Wisconsin during the 19th century.

Based on the above-mentioned information, officials of the Lambertville Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Lambertville Historical Society also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Delaware Nation, Oklahoma; Delaware Tribe of Indians, Oklahoma; and Stockbridge-Munsee Community of Mohican Indians of Wisconsin.

This notice has been sent to officials of the Delaware Nation, Oklahoma; Delaware Tribe of Indians, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Stockbridge-Munsee Community of Mohican Indians of Wisconsin; Native American Alliance of Bucks County; and the Delaware Nation Grand Council of North America. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Nancy Keim Comley, Lambertville Historical Society, P.O. Box 2, Lambertville, NJ 08530, telephone (609) 397-0770, before August 12, 2002. Repatriation of the human remains to the Delaware Nation, Oklahoma; Delaware Tribe of Indians, Oklahoma; and Stockbridge-Munsee Community of Mohican Indians of Wisconsin may begin after that date if no additional claimants come forward.

Dated: March 27, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17418 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Logan Museum of Anthropology, Beloit College, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Logan Museum of Anthropology that meets the definition of ''sacred object'' and ''object of cultural patrimony'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The cultural item is a bear headdress (Xoots Shakee.at). It is comprised of an ermine fur crown decorated around the edge with sea-lion whiskers and red and yellow shafted flicker feathers. The carved wooden frontlet represents a bear whose breast and abdomen are decorated with the head of an eagle and the head and front legs of a frog. The carving is painted red, black, blue, and green and is inlaid with abalone shell along the top and along each side of the bear crest. The interior frame of the headdress is constructed of wood and whalebone and lined with cotton cloth.

Accession and catalogue records of the Logan Museum of Anthropology and the Portland Art Museum indicate that the bear headdress was collected by Axel Rasmussen in Alaska between 1926 and 1936. Mr. Rasmussen went to Alaska in the late 1920s as superintendent of schools at Wrangell. In 1937, he left Wrangell for a similar position in Skagway, where he stayed until his death in 1945. The headdress was probably collected while he was in Wrangell, as the date marked on the collector's catalogue card predates his tenure in Skagway. In 1948, his art collection was donated to the Portland Art Museum, which sold the headdress to the St. Paul Gallery in St. Paul, MN, in 1959. Rev. Glen Ridenour purchased the headdress from the St. Paul Gallery at an unknown date and sold it to the Logan Museum of Anthropology in 1964.

Consultations with and documentation provided by representatives of the Central Council of Tlingit and Haida Indian Tribes acting on behalf of the Teikweidi Clan of the Tlingit confirm the Tlingit identity of this cultural item, and the Teikweidi Clan of the Tlingit as the rightful custodians of this item. Central Council of Tlingit and Haida Indian Tribes representatives have provided evidence that the headdress is needed for religious ceremonies by the clan, and that the headdress has ongoing historical, traditional, and cultural importance to the Tlingit people, and to the Teikweidi Clan in particular, and that under the Tlingit system of communal property ownership, this cultural item could not have been alienated, appropriated, or conveyed by any individual.

Based on the above-mentioned information, officials of the Logan Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(3), this cultural item is a ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Logan Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(4), this cultural item has ongoing historical, traditional, and cultural importance to the clan itself and is of such central importance that it could not have been alienated, appropriated, or conveyed by any individual. Lastly, officials of the Logan Museum of Anthropology have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between this sacred object/object of cultural patrimony and the Teikweidi Clan of the Tlingit tribe, whose interests are represented here by the Central Council of Tlingit and Haida Indian Tribes.

This notice has been sent to officials of the Central Council of Tlingit and Haida Indian Tribes. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact William Green, Director, Logan Museum of Anthropology, Beloit College, 700 College St., Beloit, WI 53511, telephone (608) 363-2119 before August 12, 2002. Repatriation of this sacred object/object of cultural patrimony to the Central Council of Tlingit and Haida Indian Tribes may begin after that date if no additional claimants come forward.

Dated: June 19, 2002

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17414 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Logan Museum of Anthropology, Beloit College, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Logan Museum of Anthropology that meet the definition of ''sacred objects'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The 27 cultural items are one mud head kachina mask (catalogue number 1542); one mask (6896); one snake costume (comprised of twelve parts) (1597.1-.12); one prayer stick (8369); two dance wands (3891, 3892); five ceremonial dance paddles (7026, 7027, 7028, 7029, 7030); four ceremonial hoes (7020, 7021, 7022, 7023); two dance sticks (7502, 9075); seven painted wooden sticks (7441.1-.6, 8799); one ceremonial wand (8367); and two prayer or dance sticks (8798.1-.2).

Between 1968 and 1971, eleven objects were donated to the Logan Museum of Anthropology from the Herbert S. and Sonia Bleeker Zim Collection. These include two dance sticks: one from Moenkopi, AZ, measures 22¼ inches long and ¾ inch thick; the other, which is painted, measures approximately 16 inches long, is in the shape of an arrow, and has pine twigs and yarn tied to each end. The other nine objects are six painted wooden sticks carved in various animal forms, all measuring approximately 12 inches in length, one painted wooden stick 15½ inches long with images of corn and a rain cloud on both sides, and two prayer or dance sticks measuring between 9 and 11 inches and painted with imagery of tadpoles, cornstalks, and rain clouds. There is no information available regarding how or when the Zims acquired these items.

In 1957, four ceremonial hoes and five ceremonial dance paddles were acquired through an exchange with the Southwest Museum, Los Angeles, CA. The hoes measure between 7½ and 12 inches in length; one is painted with a rain cloud design. The dance paddles measure between 18 and 24 inches in length. Two of the dance paddles are painted with human figures; one is painted with a corn design and kachina on one side, while the other is painted with a corn design and has feathers attached. Another dance paddle is painted with a figure on one side, which is wearing a tableta headdress and is identified as Shalako Mana kachina. Catalogue information identifies it as part of an altar or altarpiece and as having been used by the Priestess of Maurrau. Logan Museum of Anthropology catalogue information identifies both the hoes and dance paddles as ceremonial. There is no information available regarding the objects' collection history prior to acquisition by the Logan Museum of Anthropology. The Hopi Tribe of Arizona identified the five ceremonial dance paddles as Marau Vaho.

The snake costume and the mud head kachina mask were purchased for the Logan Museum of Anthropology through the Bob Becker North American Indian Fund in 1976 and 1982 respectively. The snake costume consists of twelve parts: rope and leather armbands; two shell necklaces; a bandolier of leather, shell, and cloth; a leather purse; a leather sash with shell and metal tinklers; a cloth kilt with shells; a feather headdress; a fur container; and cloth and leather anklets. The costume was purchased from the

J.N. Bishop Gallery in Los Angeles, CA. A notarized letter signed by Mrs. J.N. Bishop states that the costume was purchased legally and that Mrs. Bishop knew the owner of the costume. The mud head kachina mask is from First Mesa, AZ; it measures 11½ inches in height, is constructed of dyed cotton, and was purchased from Gallery II Primitive Art in Phoenix, AZ. Catalogue information does not provide data on the objects' collection history prior to acquisition by the Logan Museum of Anthropology. The Hopi Tribe of Arizona identified the mud head kachina mask as a Koyemsi Kwatsi.

One mask was purchased from Walter Randall, Inc., Primitive, Archaic and Fine Arts, New York, NY, in 1961. Catalogue information refers to the item as a Kachina cult mask. The mask is constructed of horsehide with wooden 'pop' eyes and mouth and measures 7½ by 5½ inches. Catalogue information does not provide data on the object's collection history prior to acquisition by the Logan Museum of Anthropology. The Hopi Tribe of Arizona identified the mask as a Katsin Kwatsi.

One ceremonial wand and one prayer stick were donated to the Logan Museum of Anthropology in 1964 by Helen-Margaret Greene of Tucson, AZ. The donor's inventory refers to the ceremonial wand as a corn flower baton with spruce or mariposa lily, purchased from Alfred Joshongewa at Shungopavi, Second Mesa, AZ, in 1960. The wand is 14 inches in length and is constructed of painted wood with handspun cotton, prayer feathers, and spruce twigs attached. The prayer stick is constructed of painted wooden dowels wrapped in corn leaves with a cluster of herbs and feathers and is 6 inches in length. The Logan Museum of Anthropology catalogue information identifies both these items as ceremonial. No information is available regarding the collection history of the prayer stick. The Hopi Tribe of Arizona identified the prayer stick as a Paho.

Two wooden dance wands derive from unknown sources. They were acquired by the Logan Museum of Anthropology in 1983. One dance wand is painted with a tadpole design on one side and a kachina and corn image on the other. It measures 20 by 3½ inches. The other dance wand is painted with a rain cloud image on one side and six pairs of vertical red lines on the other and is 22¾ inches in length and 6½ inches in width. Catalogue information does not provide data regarding the collection history of the objects prior to acquisition by the Logan Museum of Anthropology. The Hopi Tribe of Arizona identified the dance wands as Marua Vaho.

Accession and catalogue records of the Logan Museum of Anthropology indicate that these cultural items are of Hopi origin from Hopi villages in northern Arizona. Consultation with representatives of the Hopi Tribe of Arizona acting on behalf of Hopi traditional religious leaders confirm the Hopi identity of these cultural items. Representatives of the Hopi Tribe of Arizona acting on behalf of Hopi traditional religious leaders have identified these cultural items as needed by Native American traditional religious leaders for the practice of traditional Native American religion by its present-day adherents. Furthermore, representatives of the Hopi Tribe identify the Society Priests of the Hopi Tribe of Arizona as the rightful custodians of these items.

Based on the above-mentioned information, officials of the Logan Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(3), these 27 cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Logan Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these sacred objects and the Hopi Tribe of Arizona.

This notice has been sent to officials of the Hopi Tribe of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact William Green, Director, Logan Museum of Anthropology, Beloit College, 700 College St., Beloit, WI 53511, telephone (608) 363-2119, before August 12, 2002. Repatriation of these sacred objects to the Hopi Tribe of Arizona may begin after that date if no additional claimants come forward.

Dated: June 25, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17416 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Metropolitan Park District of the Toledo Area, Toledo, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Metropolitan Park District of the Toledo Area, Toledo, OH.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Metropolitan Park District of the Toledo Area professional staff in consultation with the Lucas County Coroner's Office, the Center for Historic and Military Archaeology at Heidelberg College, and representatives of the Grand Traverse Band of Ottawa & Chippewa Indians of Michigan, Little River Band Ottawa Indians of Michigan, Little Traverse Band of Odawa Indians of Michigan, and Ottawa Tribe of Oklahoma. The Metropolitan Park District of the Toledo Area also consulted with representatives of the American Indian Intertribal Association, a nonfederally recognized Indian group.

In 1999, human remains representing two individuals were found by an unknown person at a site on Audubon Islands State Nature Preserve, Lucas County, OH. The site was investigated by the Lucas County Coroner's Office. No known individuals were identified. The 1,590 associated funerary objects are 1,484 glass seed beads, 2 iron tomahawk heads, 1 barbed iron rod (possibly a fishing spear), 68 fragments of spalled iron rust, 1 iron knife, 2 iron nails, 1 iron folding knife with bone handle, 1 pair of iron scissors, 1 copper broach, 3 copper rings, 3 brass tinkling cones, 3 lead musket balls, 18 whole or fragmentary flint flakes, 1 vermillion clay lump, and 1 ceramic sherd with cord-roughed design.

The Lucas County Coroner's Office identified the human remains as Native American based on the presence of marked shoveling of the incisors and flattening of the proximal femur shaft. The associated funerary objects indicate that these human remains were probably buried around the A.D. 1790-1810 period.

Audubon Island is located in the lower Maumee Valley in northern Ohio. Some Ottawa bands had taken up residence in the lower Maumee Valley by A.D. 1740-1750. Following Pontiac's siege of Detroit in the summer of 1763, some of the Ottawa bands from that area resettled to the lower Maumee Valley. In 1764, Captain Thomas Morris met an Ottawa delegation at the foot of the Maumee Rapids, adjacent to Audubon Island. Between 1783 and 1794, Audubon Island was known as ACol. McKee's Island,@ and was farmed as part of Alexander McKee's Department of Indian Affairs post at the foot of the Maumee Rapids. Several other Euro-Canadian traders occupied lands in the area, presumably with the consent of the local Ottawa.

In 1795, many of the Great Lakes-Ohio Valley tribes signed the Treaty of Greenville, which produced several land cessions, including a 12-square-mile reserve surrounding the foot of the Maumee Rapids and Audubon Island. Occupation of Audubon Island by the Ohio Ottawa appears to have ceased at that time, at which point some of them moved to Walpole Island, Canada.

Between 1807 and 1817, the United States established four small reservations for the Ottawa along the lower Maumee River. Audubon Island lies between two of these reservations. The four reservations were finally ceded to the United States in 1831-1833 in return for lands in present Franklin County, KS. In 1867, the Kansas reservation organization was dissolved and the Ottawa sold their individual allotments and moved to Oklahoma.

Based on the above-mentioned information, officials of the Metropolitan Park District of the Toledo Area have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Metropolitan Park District of the Toledo Area also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 1,590 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Metropolitan Park District of the Toledo Area have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Ottawa Tribe of Oklahoma.

This notice has been sent to officials of the Grand Traverse Band of Ottawa & Chippewa Indians of Michigan, Little River Band Ottawa Indians of Michigan, Little Traverse Band of Odawa Indians of Michigan, Ottawa Tribe of Oklahoma, American Indian Intertribal Association, and Walpole Island First Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objectsshould contact Gary Horn, Associate Director, Metropolitan Park District of the Toledo Area, 5100 West Central Avenue, Toledo, OH 43615-2100, telephone (419) 535-3050, before August 12, 2002. Repatriation of the human remains and associated funerary objects to the Ottawa Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: April 23, 2002

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17426 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalogue records and associated documents relevant to the human remains, was made by Phoebe Hearst Museum of Anthropology professional staff in consultation with representatives of the Arctic Slope Regional Corporation.

In 1963, human remains representing at least one individual were removed from Structure E, Mound A, at the Birnirk site, Point Barrow, AK, by K. Bohnsack. These human remains were donated to the Phoebe A. Hearst Museum in 1964 by S. Holland. No known individual was identified. No associated funerary objects are present.

These individuals have been identified as Native American based on geographic information and documentation at the Phoebe A. Hearst Museum. Consultation with tribal representatives, geographic location, and documentation at the Phoebe A. Hearst Museum suggest that a relationship exists between contemporary inhabitants of the Arctic Slope Regional Corporation and these human remains from Point Barrow, AK, and Birnirk, AK.

Based on the above-mentioned information, officials of the Phoebe Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Arctic Slope Regional Corporation.

This notice has been sent to officials of the Arctic Slope Regional Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley CA 94720, telephone (510) 642-6096, before August 12, 2002. Repatriation of the human remains to the Arctic Slope Regional Corporation may begin after that date if no additional claimants come forward.

Dated:May 24, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17417 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Springfield Science Museum, Springfield, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Springfield Museum of Science, Springfield, MA, that meet the definition of ''unassociated funerary objects'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The five cultural items are a copper ''nose ring,'' a bracelet, two tubular beads, and a pendant. In 1906, J.T. Bowne purchased these cultural items from a collector in Oregon and donated them to the Springfield Science Museum in 1925. According to museum records, these items were removed from a burial mound at Klamath Falls, OR. Historic sources, oral traditions, and consultation information also indicate that these cultural items are from the burial of a Klamath individual from traditional Klamath territory in Oregon. The Springfield Science Museum does not have possession of the human remains from this site.

Based on the above-mentioned information, officials of the Springfield Science Museum have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Springfield Science Museum also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these cultural items and the Klamath Indian Tribe of Oregon.

This notice has been sent to officials of the Klamath Indian Tribe of Oregon. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact David Stier, Director, Springfield Science Museum, 236 State Street, Springfield, MA 01103, telephone (413) 263-6800, extension 321, before August 12, 2002. Repatriation of these unassociated funerary objects to the Klamath Indian Tribe of Oregon may begin after that date if no additional claimants come forward.

Dated: June 6, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–17429 Filed 7–10–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF JUSTICE

[AAG/A Order No. 275–2002]

Privacy Act of 1974; Computer Matching Agreement

AGENCY: Department of Justice.

ACTION: Notice—computer matching between the Department of Justice (DOJ) and the United States Postal Service (USPS).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Public Law 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818, June 19, 1989), OMB Bulletin 89–22, ''Instructions of Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' and OMB Circular No. A–130, Revised February 8, 1996, ''Management of Federal Information Resources,'' the Department of Justice is issuing a public notice of its intent to conduct a computer matching program with the USPS. Under this matching program, entitled USPS Employees Who Are Federal Delinquent Debtors, the USPS will provide information to the DOJ relating to current or former USPS employees whose salary or other Federal benefits are subject to offset to satisfy delinquent debts owed to Federal agencies.

DATES: Effective date: The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

Reporting: In accordance with Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public'' and Circular No. A–130, Revised February 8, 1996, ''Management of Federal Information Resources'', copies of this notice and report are being provided to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority: This matching program is being conducted under the authority of the following statutes and regulations which authorize agencies to collect, or refer to other agencies for collection, delinquent debts owed to the United States and/or which specifically authorize collection by salary or other administrative offset to satisfy such debts: The Debt Collection Act of 1982 (Public Law 97–365), as amended by the Debt Collection Improvement Act (DCIA) of 1996 (Public Law 104–134, section 31001), which authorizes Federal agencies to offset a Federal employee's salary as a means of satisfying delinquent debts owed to the United States (5 U.S.C. 5514(a) and note).

Objectives To Be Met By the Matching Program: The purpose of this program is to provide DOJ with current information on individuals who (1) are delinquent in paying their debts to the United States government and (2) are current or former employees of the USPS, so that DOJ can pursue potential salary or administrative offsets.

Records To Be Matched: DOJ will provide records from the Debt Collection Offset Payment System, JUSTICE/JMD–009. This system of records contains information on almost 19,000 persons indebted to the United States who have allowed their debts to become delinquent and whose debts are in the DOJ data base for debts submitted to the Treasury Offset Program (TOP). DOJ records will be matched against records contained in USPS' Privacy Act System of Records: Finance Records—Payroll System, USPS 050.020, which contains records of about 800,000 employees.

Categories of Records/Individuals Involved: DOJ will submit the name and nine digit Social Security Number (SSN) of each delinquent debtor in DOJ's TOP data base USPS will compare the name and SSN for each debtor record submitted by DOJ to its data base of employee records. For each DOJ record that matches a USPS record, USPS will provide to the DOJ, the name, SSN, date of birth, home address, place of work and employee type (e.g., permanent or temporary).

Notice Procedures: For current and future USPS employees completing a PS Form 2591, Application for Employment, and various other personnel and benefit related forms, notice of possible computer matches involving their records is included in the Privacy Act Statement accompanying each form. DOJ provides direct notice to delinquent debtors that DOJ will seek to collect the delinquent debt via tax refund, salary, or administrative offset, and that DOJ will use computer matching to accomplish the offsets. Both USPS and DOJ have provided constructive notice to record subjects through the publication of system of records notices in the **Federal Register** for the records involved in this match that contain routine uses permitting disclosures for this matching program.

Address for Receipt of Public Comments or Inquiries: Interested persons are invited to submit written comments regarding this notice to Imogene McCleary, Deputy Director, Debt Collection Management, Justice Management Division, 325 7th Street NW., 2nd Floor South, Washington, DC 20530.

Dated: July 25, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

[FR Doc. 02–17423 Filed 7–10–02; 8:45 am]

BILLING CODE 4410–CN–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2212–02; AG Order No. 2597–2002]

RIN 1115–AE26

Extension of the Designation of El Salvador Under the Temporary Protected Status Program; Automatic Extension of Employment Authorization Documentation for Salvadorans

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The designation of El Salvador under the Temporary Protected Status (TPS) program will expire on September 9, 2002. This notice extends the Attorney General's designation of El Salvador for 12 months until September 9, 2003. This extension allows eligible nationals of El Salvador to re-register for TPS and to apply for an extension of their employment authorization documentation. The re-registration period will begin on September 9, 2002 and remain in effect through November 12, 2002.

Given the large number of Salvadorans affected by this notice and given that the initial registration period runs for the duration of the initial 18-month designation period, the Immigration and Naturalization Service (Service) recognizes that many re-registrants will not receive their new Employment Authorization Documents (EADs) until after their current EADs expire on September 9, 2002. Accordingly, this notice automatically extends, until March 9, 2003, the validity of EADs issued pursuant to the El Salvador TPS program, and explains how TPS beneficiaries or their employers may determine which EADs are automatically extended. This notice also sets forth procedures by which Salvadoran TPS class members must re-register for the 12-month extension.

EFFECTIVE DATES: The extension of the TPS designation for El Salvador is effective September 9, 2002, and will remain in effect until September 9, 2003. The re-registration period begins September 9, 2002 and will remain in effect until November 12, 2002. Applications for re-registration will not be accepted before September 9, 2002.

FOR FURTHER INFORMATION CONTACT: Emily Crowder Frazelle, Program Analyst, Residence and Status Branch, Adjudications, Immigration and Naturalization Service, 425 I Street, NW., Room 3040, Washington, D C 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Attorney General Have To Extend the Designation of El Salvador Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (the Act) states that at least 60 days before the end of a designation, or any extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine that the foreign state no longer continues to meet the conditions for designation, the period of designation is extended automatically for 6 months pursuant to section 244(b)(3)(C) of the Act, although the Attorney General may exercise his discretion to extend the designation for a period of 12 or 18 months. 8 U.S.C. 1254a(b)(3)(C).

Why Did the Attorney General Decide To Extend the TPS Designation for El Salvador?

On March 9, 2001, the Attorney General initially designated El Salvador under the TPS program for a period of 18 months, based on a series of severe earthquakes that caused numerous fatalities and injuries and left 1.6 million people (over one-quarter of the country's population) without adequate housing. 66 FR 14214; Service Resource Information Center Report (RIC Report) (May 14, 2002). Following the initial designation, the Departments of State and Justice have monitored the reconstruction progress in El Salvador. The Attorney General's decision to extend the TPS designation is made on the determination that the conditions that warranted TPS designation initially continue to exist.

The Department of State reports that the earthquakes affected two-thirds of the country and damaged or destroyed over 300,000 houses. State Department Report (May 9, 2002). While the Government of El Salvador has made great strides in responding to the immediate humanitarian impact of the earthquakes, the Department of State reports that much of the country remains devastated. As of April 2002, the Government of El Salvador has replaced less than one quarter of the 170,000 homes destroyed by the earthquakes. *Id.* An estimated one half of all families who lost their homes remain in temporary metal or plastic shelters. RIC Report.

The Department of State also reports that El Salvador's infrastructure remains severely damaged. ''More than three-quarters of the over 1,000 km. of damaged road [sic] needs repair.'' State Department Report. The earthquakes affected 40 percent of the country's education and health infrastructure; many of the 2,200 schools, 120 health centers, and 900 public buildings damaged in the earthquakes have yet to be repaired or replaced. *Id.* The Service Resource Information Center reports that, by the beginning of 2002, there had been little reconstruction in the health sector. The seven most quake-damaged hospitals were described by health officials as still in a ''critical state,'' and work on rebuilding smaller healthcare facilities had only begun. RIC Report.

El Salvador's reconstruction efforts also have been hindered by delays in the disbursement of aid needed to rebuild. As of October 2001, El Salvador had received only 39 percent of the $354 million committed by donors, much of which has been from the United States. State Department Reportcommendation. While USAID is assisting reconstruction through a 2-year $110 million program, most of the major USAID activities did not commence until March 2002. *Id.*

The Service Resource Information Center reports that El Salvador's recovery has been further affected by a subsequent drought. Food stocks were already depleted following the earthquakes, and the drought has left at least 35,000 subsistence farming families destitute (approximately 318,000 people). As of April 2002, up to 200,000 people were still threatened by "food insecurity." UNICEF reported in April 2002 that 34 percent of children in the four eastern departments most affected by last year's drought suffer from malnutrition, up from 12 percent in 2000. RIC Report. Ongoing housing shortages, damage to infrastructure, reduction in employment opportunities, and the infancy of the reconstruction effort render El Salvador temporarily unable to absorb the return of its nationals. State Department Report.

Based on this review, the Attorney General, after consultation with appropriate government agencies, finds that the conditions that prompted designation of El Salvador under the TPS program continue to be met. 8 U.S.C. 1254a(b)(3)(C). There continues to be a substantial, but temporary, disruption of living conditions in El Salvador as a result of environmental disaster, and El Salvador continues to be unable, temporarily, to handle adequately the return of its nationals. 8 U.S.C. 1254a(b)(1)(B)(i)-(ii). On the basis of these findings, the Attorney General concludes that the TPS designation for El Salvador should be extended for an additional 12-month period. 8 U.S.C. 1254a(b)(3)(C).

If I Currently Have TPS Benefits Through the El Salvador TPS Program, Do I Still Re-Register for TPS?

Yes. If you already have received TPS benefits through the El Salvador TPS program, your benefits will expire on September 9, 2002. Accordingly, you must re-register for TPS in order to maintain your benefits through September 9, 2003. See the following re-registration instructions. TPS benefits include temporary protection against removal from the United States, as well as work authorization, during the TPS designation period and any extension thereof. 8 U.S.C. 1254a(a)(1).

If My Initial El Salvador TPS Application Is Pending, Do I Still Re-Register for TPS?

Yes. If your initial TPS application is still pending approval, you must re-register for TPS during the re-registration period in order to be eligible for this extension. See the following re-registration instructions.

If I Am Currently Registered for TPS, How Do I Re-Register for an Extension?

All persons previously granted TPS benefits under the El Salvador TPS program who wish to maintain such benefits must apply for an extension by filing (1) a Form I–821, Application for Temporary Protected Status, without the filing fee; (2) a Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches x 1½ inches). See the chart below to determine whether you must submit the one hundred and twenty dollar ($120) filing fee with the Form I–765. Applicants for an extension of TPS benefits do not need to be re-fingerprinted and thus need not pay the fifty-dollar ($50) fingerprint fee. Child beneficiaries of TPS who have reached the age of fourteen (14) but were not previously fingerprinted must pay the fifty dollar ($50) fingerprint fee with the application for extension.

Submit the completed forms and applicable fee, if any, to the Service's service center office having jurisdiction over your place of residence during the 60-day re-registration period that begins September 9, 2002, and ends November 12, 2002 (inclusive of such end date). Applications will not be accepted before the re-registration period begins.

If	Then
You are applying for an Employment Authorization Document until September 9, 2003.	You must complete and file the Form I–765, Application for Employment Authorization, with the $120 fee.
You already have an Employment Authorization Document or do not require such a document.	You must complete and file Form I–765 with no fee.
You are applying for an Employment Authorizataion Document and are requesting a fee waiver.	You must complete and file: (1) Form I–765 with no fee and (2) a fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. A national of El Salvador (or alien having no nationality who last habitually resided in El Salvador) who is otherwise eligible for TPS and has applied for, or plans to apply for, asylum, but who has not yet been granted asylum or withholding of removal, may also apply for TPS. Denial of an application for asylum or any other immigration benefit does not affect an applicant's ability to apply for TPS, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8 U.S.C. 1158(b)(2); 8 U.S.C. 1254a(c)(2)(B)(i).

Does This Extension Allow Nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) Who Entered the United States After February 13, 2001, To Apply for TPS?

No. This is a notice of an extension of the TPS designation for El Salvador, not a notice of redesignation of El Salvador under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those who are not already TPS class members. To be eligible for benefits under this extension, Salvadorans (or aliens having no nationality and who last habitually resided in El Salvador) must have resided continuously in the United States since February 13, 2001, and must have been continuously physically present in the United States since March 9, 2001.

Is Late Initial Registration Possible?

Yes. Some persons may be eligible for late initial registration under 8 CFR 244.2. To be eligible for late initial registration, an applicant must:

(1) Be a national of El Salvador (or alien who has no nationality and who last habitually resided in El Salvador);

(2) Have been continuously physically present in the United States since March 9, 2001;

(3) Have continuously resided in the United States since February 13, 2001; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the initial registration period from March 9, 2001, through September 9, 2002, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant. 8 CFR 244.2(f)(2).

An applicant for late initial registration must file an application for late registration within a 60-day period immediately following the expiration or termination of the conditions described above. 8 CFR 244.2(g).

Why Is the Attorney General Automatically Extending the Validity of EADs From September 9, 2002, to March 9, 2003?

The Attorney General has decided to extend automatically the validity of EADs to prevent a lapse in Service-issued employment authorization documentation for qualified re-registrants during the time that re-registration applications are processed. Since Because the initial designation's registration period remains open until September 9, 2002, the Service will continue to receive and process initial TPS applications until the end of the initial designation period. To minimize overlapping receipts of both initial registration and re-registration applications, which are filed on the same forms but have different documentation and fee requirements, the Attorney General has elected to open the 60-day re-registration period only after the initial registration period closes on September 9, 2002. Given the staggering of initial registration and re-registration periods, and given the large number of Salvadoran TPS class members who are eligible for re-registration, re-registrants would receive their new EADs only after their current EADs have expired. To prevent a gap in employment authorization documentation for qualified re-registrants, the Attorney General is extending automatically the validity of the applicable EADs for a period of 6 months, to March 9, 2003. 8 U.S.C. 1254a(a)(2); 1254a(d)(1)-(2).

Who Is Eligible To Receive an Automatic Extension of His or Her EAD?

To receive an automatic extension of his or her EAD, an individual must be a national of El Salvador (or an alien having no nationality who last habitually resided in El Salvador) who has applied for and received an EAD under the initial TPS designation for El Salvador. This automatic extension is limited to EADs bearing an expiration date of September 9, 2002, and the notation: ''A–12'' or ''C–19'' on the face of the card under ''Category'' for EADs issued on Form I–766 or ''274A.12(A)(12)'' or 274A.12(C)(19)'' on the face of the card under ''Provision of Law'' for EADs issued on Form I–688B.

TPS applicants who have not yet received their initial or provisional EAD, including those who apply after the date of this notice but before the initial registration period closes on September 9, 2002, may receive an EAD that facially expires on September 9, 2002. Such an EAD is covered by the automatic extension described above, even though some applicants may receive their EAD only after September 9, 2002.

Must Qualified Individuals Apply to the Service for the Automatic Extension of Their TPS-related EADs?

No, qualified individuals do not have to apply for this automatic employment authorization extension to March 9, 2003. However, qualified individuals must re-register for TPS during the re-registration period that begins on September 9, 2002, and continues through November 12, 2002, in order to be eligible for a new EAD that is valid until September 9, 2003.

What Documents May a Qualified Individual Show to His or Her Employer as Proof of Employment Authorization and Identity When Completing the Employment Eligibility Verification Form (Form I–9)?

For completion of the Form I–9 at the time of hire or re-verification, qualified individuals who have received an extension of employment authorization by virtue of this **Federal Register** notice may present to their employer a TPS-related EAD as proof of identity and employment authorization until March 9, 2003. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present to their employer a copy of this **Federal Register** notice regarding the automatic extension of employment authorization documentation to March 9, 2003. In the alternative, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I–9 may be presented as proof of identity and employment eligibility; it is the choice of the employee.

How May Employers Determine Which EADs That Have Been Automatically Extended Through March 9, 2003, Are Acceptable for Completion of the Form I–9?

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I–9 until March 9, 2003, employers of Salvadoran TPS class members whose employment authorization has been automatically extended by this notice must accept an EAD that contains an expiration date of September 9, 2002, and that bears one of the following notations: ''A–12'' or ''C–19'' on the face of the card under ''Category'' for EADs issued on Form I–766; or, ''274A.12(A)(12)'' or ''274A.12(c) (19)'' on the face of the card under ''Provision of Law'' for EADs issued on Form I–688B. New EADs or extension stickers showing the March 9, 2003 expiration date will not be issued.

Employers should not request proof of Salvadoran citizenship. Employers presented with an EAD that this **Federal Register** notice has extended automatically and that appears to be genuine and to relate to the employee should accept the document as a valid ''List A'' document and should not ask for additional Form I–9 documentation. This action by the Attorney General through this **Federal Register** notice does not affect the right of an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force. For questions, employers may call the Service's Office of Business Liaison Employer Hotline at 1–800–357–2099 to speak to a Service representative. Also, employers may call the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155, or 1–800–362–2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688, or 1–800–237–2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

Notice of Extension of Designation of El Salvador Under the TPS Program

By the authority vested in me as Attorney General under sections 244(b)(1)(B), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of El Salvador for TPS continue to be met. 8 U.S.C. 1254a(b)(3)(A). Accordingly, I order as follows:

(1) The designation of El Salvador under section 244(b)(1)(B) of the Act is extended for an additional 12-month period from September 9, 2002, to September 9, 2003. 8 U.S.C. 1254a(b)(3)(C).

(2) As of June 10, 2002, there are approximately 263,000 nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) who have applied for TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of El Salvador (or an alien having no nationality who last habitually resided in El Salvador) who received TPS during the initial designation period must re-register for TPS during the 60-day re-registration period from September 9, 2002 until November 12, 2002.

(4) To re-register, the applicant must file the following: (1) Form I–821, Application for Temporary Protected Status; (2) Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches by 1½ inches). There is no fee for a Form I–821 filed as part of the re-registration application. If the applicant requests employment authorization documentation, he or she must submit one hundred and twenty dollars ($120) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization documentation must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee. The fifty-dollar ($50) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS. 8 CFR 244.17(c). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension terminates on September 9, 2003, the Attorney General will review the designation of El Salvador under the TPS program and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. 8 U.S.C. 1254a(b)(3)(A).

(6) TPS-related Employment Authorization Documents that expire on September 9, 2002 are extended automatically until March 9, 2003 for qualified Salvadorans.

(7) Information concerning the extension of designation of El Salvador under the TPS program will be available at local Service offices upon publication of this notice and the Service's National Customer Service Center at 1–800–375–5283. This information will also be posted on the Service Web site at *http://www.ins.usdoj.gov.*

Dated: July 8, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–17479 Filed 7–8–02; 3:48 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Survey of the Costs to Employers To Expand the Quarterly Unemployment Insurance Wage Report

ACTION: Notice.

SUMMARY: The Department of Labor as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed survey of costs to employers if modifications were made to their state unemployment insurance quarterly wage reports. The changes involve expanding the employee name fields and adding three additional labor market information (LMI) elements. A similar study of costs, which would be incurred by State Workforce Agencies (SWAs), has recently been completed (OMB Control No. 1205–0419, expired 12/31/2001) (See **Federal Register**/Vol. 64, No. 60/Tuesday, March 30, 1999/ Notices, page 15179, for the original announcement of the survey). A copy of the proposed information collection request (IRC) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 9, 2002.

ADDRESSES: Bill Whitt, Office of Income Support, Employment and Training Administration, Department of Labor, Room S4231, 200 Constitution Ave, NW., Washington, DC 20210; (202) 693–3219 (this is not a toll-free number), Fax 202–693–3229, E-mail *bwhitt@doleta.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

SWAs collect and maintain quarterly wage record information from employers for purposes of administering state unemployment insurance programs; among other things, the information includes employee name, social security number (SSN), quarterly wages and employer identification number. Federal law requires that a number of state and federal agencies use UI quarterly wage record information in certain program operations. In addition, wage records are provided by the SWAs to the National Directory of New Hires (NDNH), a database primarily used for child support enforcement purposes.

The Social Security Administration (SSA) maintains the NDNH on behalf of the Department of Health and Human Services (HHS). Part of SSA's responsibility is to verify the name and social security number of individuals and the employer identification numbers on the UI wage records provided to the NDNH. This verification involves matching SSA name/SSN information against the UI wage records. However, a lack of standardization among SWAs in the reporting of such information makes verification difficult and diminishes the usefulness of the information in the NDNH. SSA has established a standard for reporting and storage of the name field for W–2 purposes and HHS suggests that implementation of the same standard for UI wage records would be beneficial to the NDNH, the UI agencies and other users of wage records. Effective use of such a standard by the UI agencies may improve the utility of wage record data now being used for detection and collection of unemployment insurance overpayments.

A change in the name field requirements may be costly for some employers to implement. Therefore, ETA is interested in gathering estimates from employers of the costs that they expect to incur if they were to adopt the new standard.

In addition to name field standardization, some groups have expressed interest in LMI, such as quarterly hours paid, weeks worked and the zip code designating the location of jobs, that is not currently available from most SWA's UI tax and wage records or from other sources. Wage data currently received are utilized for a number of government programs as well as for research purposes. For example, under the Workforce Investment Act, states use data from the wage records to evaluate the outcomes of job training programs and services and to gather LMI. The additional wage record data elements could enhance the measurement of performance of such programs.

Gaining some knowledge of the potential cost of reporting the additional information will help the ETA in making future decisions on whether to encourage SWAs to ask employers for this information. A survey form, which shows the standards for the suggested changes, has been developed to assist employers in estimating their costs for compliance with the suggested changes.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of ETA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including 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.

III. Current Actions

To examine the potential cost to employers, the ETA is planning to collect survey data from random samples of employers in the United States. The survey will collect information on how (1) employers currently submit UI tax and wage records, current costs associated with quarterly reporting, estimated costs for the initial change to accommodate expanded name fields and the additional labor market elements, and the on-going annual costs to employers for these changes; (2) the changes may impact employer staff costs and information technology costs; and (3) easily employers believe the changes can be implemented. As a supplement to the survey, a small number of employers will be asked to participate in case studies regarding similar, but more detailed questions in relation to possible costs associated with adding wage record elements.

Type of Review: New.

Agency: Employment and Training Administration.

Title: Survey of the Costs to Employers to Expand the Quarterly Unemployment Insurance Tax Report.

Affected Public: Employers.

Total Respondents: Sample of employers, approximately 1600 for survey; 12 for case studies.

Frequency: One time only.

Total Responses: 1,612.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response (minutes)	Burden (hours)
Survey	1600	One time	1600	30	800
Case Studies	12	One time	12	90	18
Totals			1612		818

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintaining): $0.00.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: July 5, 2002.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 02–17447 Filed 7–10–02; 8:45 am]

BILLING CODE 4510–30–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46164; File No. SR–EMCC–2000–01]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Approving a Proposed Rule Change Relating to Financial Statements Prepared in Accordance With International Accounting Standards or United Kingdom Generally Accepted Accounting Principles

July 3, 2002.

On February 29, 2000, the Emerging Markets Clearing Corporation (''EMCC'') filed a proposed rule change with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and on October 26, 2000, and on November 13, 2000, amended it proposed rule change. Notice of the proposal was published in the **Federal Register** on December 13, 2000.[2] One comment letter was received.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

EMCC's rule change will modify EMCC rule 2, section 3(b) to permit EMCC to accept financial statements from an applicant prepared in accordance with International Accounting Standards (''IAS'') or United Kingdom Generally Accepted Accounting Principles (''UK GAAP'') without requiring the applicant to provide a discussion of the material variations of such accounting principles from United States Generally Accepted Accounting Principles (''US GAAP'') unless EMCC determines that circumstances warrant the applicant's providing such discussion. For financial statements prepared in accordance with any other accounting standard, the applicant must still provide EMCC with a discussion of the material variations of the accounting principles used from US GAAP.[4]

When membership requirements were initially established in 1996, EMCC's staff had minimal experience in analyzing non-U.S. financial statements. Therefore, EMCC deemed it prudent to require applicants submitting audited financial statements prepared on a basis other than US GAAP to provide a discussion of the material differences. Since that time, EMCC's staff's familiarity with, understanding of, and expertise in evaluating financial statements not prepared in accordance with US GAAP has significantly increased.[5]

When assessing an applicant's qualifications for EMCC membership, the audited financial statements comprise only a portion of the materials provided to and reviewed by EMCC. Such additional materials include, but are not limited to, reports filed with the applicant's primary regulator, interim financials, and a detailed risk management questionnaire. To assure itself that the applicant's financial responsibility and operational capability is sufficient for membership, EMCC might also require an applicant to make its books and records available to EMCC. Thus, EMCC has the ability to seek information its deems necessary or relevant to sufficiently assess and review an applicant's qualifications and capability for membership.

II. Comments

Edmund L. Jenkins, Chairman of the Financial Accounting Standards Board, suggested that the Commission delay approval of EMCC's proposed rule change until the Commission passes judgment on the suitability of financial statements prepared according to non-U.S. accounting standards without supplemental information in the context of an SEC concept release.[6]

III. Discussion

the Commission finds that the proposed rule change is consistent with the Act's requirements and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F) of the Act. [7] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. By enabling EMCC to accept financial statements from prospective members that are prepared in accordance with IAS or UK GAAP without a discussion of the material variations of these accounting principles from US GAAP should facilitate the timely review and processing of an applicant's membership application and should encourage additional applicants to seek EMCC membership, which should have the effect of increasing EMCC's membership. Expanded EMCC membership would result in more firms availing themselves of the efficiencies obtained through use of a registered clearing agency, which should promote the prompt and accurate clearance and settlement of securities transactions eligible for processing at EMCC. Furthermore, because of EMCC's staff's familiarity with, understanding of, expertise in evaluating financial statement prepared in accordance with IAS or UK GAAP, EMCC can dispose of the requirement of a statement of material differences from US GAAP for these two accounting principles without any lessening of its ability to provide safe clearance and settlement services.

In response to the one commenter, EMCC's rule change differs from the Commission's consideration of potential changes to the filing requirements for securities issued to the general public by foreign issuers. EMCC's rule change deals only with EMCC's requirements for the financial reports of its own members and prospective members, which are sophisticated and highly regulated banks and broker-dealers that are engaged in the business of trading emerging market securities. This rule change has no affect on any financial statements filed with the Commission (financial statements filed with the Commission must be prepared in

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43675 (Dec. 5, 2000), 65 FR 77948.

[3] Letter from Edmund L. Jenkins, Chairman, Financial Accounting Standards Board (Jan. 3, 2001).

[4] Pursuant to EMCC's rules, EMCC requires its members to submit audited financial statements and other interim periodic financial statements. EMCC will also allow its members to provide these financial statements prepared in accordance with IAS or UK GAAP without requiring the member to provide a discussion of the material variations of such accounting principles from US GAAP unless EMCC determines that circumstances warrant the applicant's providing such discussion.

[5] EMCC has stated that its staff responsible for reviewing financial statements not prepared in accordance with US GAAP will remain informed of the material variations between US GAAP and IAS and between US GAAP and UK GAAP.

[6] Securities Exchange Act Release No. 42430 (Feb. 16, 2000), 65 FR 8896 (Feb. 23, 2000). This concept release sought public comment on the subject of whether and under what conditions the Commission should accept foreign private issuers' financial statements that are prepared according to IAS.

[7] 15 U.S.C. 78q–1(b)(3)(F).

accordance with US GAAP) and has no affect on the ability of U.S. public investors' access to financial information of the underlying emerging market securities.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–2000–01) be, and hereby, is approved.

For the Commission by the Division of market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17432 Filed 7–10–02; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3426]

State of Arizona; (Amendment #1); Disaster Loan Areas

In accordance with a notice received from the Federal Emergency Management Agency, dated July 2, 2002, the above numbered declaration is hereby amended to include Coconino and Gila Counties in the State of Arizona as disaster areas due to damages caused by wildfires occurring on June 18, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Maricopa, Mohave, Pinal and Yavapai Counties in Arizona; and Kane County in Utah. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is August 24, 2002, and for economic injury the deadline is March 25, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 5, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–17465 Filed 7–10–02; 8:45 am]

BILLING CODE 8025–01–P

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3428]

State of Texas; Disaster Loan Areas

As a result of the President's major disaster declaration on July 4, 2002, I find that Bexar, Blanco, Comal, Hays, Kerr and Medina Counties in the State of Texas constitute a disaster area due to damages caused by severe storms and flooding occurring on June 29, 2002 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 2, 2002 and for economic injury until the close of business on April 4, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Atascosa, Bandera, Burnet, Caldwell, Edwards, Frio, Gillespie, Guadalupe, Kendall, Kimble, Llano, Real, Travis, Uvalde, Wilson and Zavala in the State of Texas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit available elsewhere	6.750
Homeowners without Credit available elsewhere	3.375
Businesses with Credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 342811. For economic injury the number is 9Q4900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 5, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–17466 Filed 7–10–02; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority, which covers the Social Security Administration (SSA). Notice is hereby given that both the Information Technology Systems Review Staff (S1J–2) and the Office of Information Systems Security (S1NG) in the Office of the Deputy Commissioner Finance, Assessment and Management (S1) are abolished. The policy functions of both this staff and this office are transferred to the new Office of the Chief Information Officer. The operational program management responsibility for IT systems security is consolidated in the new Office of Systems Security Operations Management under the Deputy Commissioner Finance, Assessment and Management's Office of Financial Policy and Operations (S1N). The new material and changes are as follows:

Section S1.00 The Office of the Deputy Commissioner Finance, Assessment Management—(Mission)

Replace with the following:

The Office of the Deputy Commissioner Finance, Assessment and Management (ODCFAM) directs the administration of comprehensive SSA management programs including budget, acquisition and grants, facilities management and publications and logistics. The Office directs the development of Agency policies and procedures as well as the management of the Agency financial management systems. It directs the evaluation of programs operations quality and the management of Agency quality assurance, management integrity and the oversight of SSA's matching operations.

Section S1.10 The Office of the Deputy Commissioner Finance, Assessment Management —(Organization)

Delete C.2. The Information Technology Systems review Staff (S1J–2).

Re-number C.3. to C.2.

Section S1N.10 The Office of Financial Policy and Operations—(Organization)

Delete G. in its entirety

Add

G. The Office of Systems Security Operations Management

Section S1N.20 Office of Financial Policy and Operations—(Functions)

Delete G. in its entirety

Add

G. The Office of Systems Security Operations Management (OSSOM) directs, coordinates, and manages SSA's information systems security programs. This includes the development of SSA's security program requirements and procedures, the implementation of governing directives in the area of systems security, the administration of the Agency access control program, and managing an onsite systems review and a comprehensive security compliance and monitoring program. OSSOM provides educational training and awareness programs to management and employees on systems security operational policies, procedures, and requirements; serves as the operational focal point for day-to-day contact with the Office of Inspector General on matters of fraud, waste and abuse; and provides direction to the Agency's systems security officers. OSSOM is also responsible for implementing security requirements and executing safeguards for SSA's state information exchange program.

Dated: July 1, 2002.

Jo Anne B. Barnhart,

Commissioner.

[FR Doc. 02–17383 Filed 7–10–02; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority, which covers the Social Security Administration (SSA). This notice moves the Chief Information Officer from the immediate Office of the Commissioner and establishes the Office of the Chief Information Officer. The new material and changes are as follows:

Section SA.20 Office of the Commissioner—(Functions)

Delete from

A.

The Chief Information Officer is also located in the immediate Office of the Commissioner and reports directly to the Commissioner on statutorily defined CIO duties and as a key advisor to the Deputy Commissioner of Social Security.

Section S.10 The Social Security Administration—(Organization):

Add

M. The Office of the Chief Information Officer

Add

Subchapter TH

The Office of the Chief Information Officer

TH.00 Mission

TH.10 Organization

TH.20 Functions

Section TH.00 The Office of the Chief Information Officer—(Mission)

The Office of the Chief Information Officer (OCIO) develops the Information Resource Management Plan and defines the Information Technology (IT) vision and strategy for the Social Security Administration. The Office shapes the application of technology in support of the Agency's Strategic Plan including the Information Technology Architecture that outlines the long term Strategic Architecture and Systems Plans for the Agency and includes Agency IT Capital Planning. The OCIO supports and manages pre and post implementation reviews of major IT programs and projects as well as project tracking at critical review points. The OCIO provides oversight of major IT acquisitions to ensure they are consistent with Agency architecture and with the IT budget, and is responsible for the development of Agency IT security policies. The Office directs the realization of the Agency's Information Technology Architecture to guarantee architecture integration, design consistency, and compliance with federal standards, works with other Agencies on government-wide projects such as e-GOVERNMENT, and develops long range planning for IT Human Resource Strategies.

Section TH.10 The Office of the Chief Information Officer—(Organization)

The Office of the Chief Information Officer, under the leadership of the Chief Information Officer includes:

A. The Chief Information Officer
B. The Immediate Office of the Chief Information Officer
C. The Office of Information Technology Systems Review
D. The Office of Information Technology Security Policy

Section TH.20 The Office of the Chief Information Officer—(Functions)

A. The Chief Information Officer is directly responsible to the Commissioner for carrying out the OCIO mission and providing general supervision to the major components of the OCIO. The CIO is a member of the Federal CIO Council. The Deputy Chief Information Officer assists the Chief Information Officer in carrying out his/her responsibilities.

B. The Immediate Office of the Chief Information Officer provides the CIO with management support on the full range of his/her responsibilities. Other duties include the coordination and preparation of reports on a variety of IT projects, the Information Resource Management Plan, and enterprise IT Architecture. The Office is responsible for Agency compliance with legislation, OMB directives and GAO guidance concerning IT capital and investment control and for issuance of Agency procedures in this area. It also designates a member to serve on the Architecture Review Board (ARB). The CIO will select the chair of the ARB.

C. The Office of Information Technology Systems Review serves as the principal independent source of advice to the Information Technology Advisory Board, the SSA Chief Financial Officer, and the CIO on the feasibility, suitability, and conformance to regulations of proposed systems plans and acquisitions, on proposed systems design and requirement specifications, and on all other systems strategies and related issues. It reviews the proposed Information Technology Systems (ITS) budget and Agency Procurement Requests for adequacy, clarity, cost-effectiveness, achievability, consistency with Agency plans, and to ensure that project objectives are realistic and complete. It conducts technical reviews of the functional requirements and design specifications of all ITS hardware and software systems to ensure their sufficiency and compliance with applicable policies, procedures, and Agency plans. The Office conducts in-process reviews of systems, planned implementation strategies, contracts, interagency agreements, and other ongoing work in the systems area to determine compliance with Agency decisions and plans and monitors significant ITS projects to ensure that Agency objectives and timeframes are met. The Office conducts Information Management reviews, maintains the Agency ITS budget projects accounting data base, and provides the CIO and Commissioner with regular status reports on the execution of the Agency's ITS budget.

D. The Office of Information Technology Security Policy is responsible for directing and managing SSA's overall information systems security program. This includes the development of SSA's security policy requirements and the effective implementation of other governing directives. It guides SSA-wide security awareness programs for management and employees on security policy/requirements. The Office is also responsible for setting policy for developing and implementing security requirements/safeguards for SSA's state information exchange program and leading and coordinating physical security policy.

Dated: July 1, 2002.

Jo Anne B. Barnhart,

Commissioner.

[FR Doc. 02–17382 Filed 7–10–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4064]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (RFGPs) in an Open Competition Seeking Cooperative International Projects To Introduce American and Foreign Participants to Each Other's Social, Economic, and Political Structures

Important Note: This Request for Grant Proposals contains language in certain sections that is new or significantly different from that used in the past. Please pay special attention to the following sections: General Program Guidelines; Ineligibility; Program Data Requirements, and Budget Guidelines and Cost-Sharing Requirements.

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for cooperative international projects that introduce American and foreign participants to each others' social, economic, and political structures and international interests. U.S.-based public and private non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that support international projects in the United States and overseas involving current or potential leaders.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFGP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

Announcement Name and Number: All correspondence with the Bureau concerning this RFGP should reference the ''Open Competition for Cooperative International Projects'' and reference number: ECA/PE/C–03–01. Please refer to title and number in all correspondence or telephone calls to the Office of Citizen Exchanges.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions may contact the Office of Citizen Exchanges, room 216, SA–44, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone number 202/619–5326, fax number 202/260-0440, or *pmidgett@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer, Raymond H. Harvey, on all other inquiries and correspondence.

To Download a Solicitation Package Via Internet: The entire Solicitation Package also may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Program Information

Overview

We welcome proposals that directly respond to the following themes, regions and countries. Given budgetary considerations, projects in countries and for themes other than those listed will not be eligible for consideration and will be ruled technically ineligible. The themes listed below are important to the Office of Citizen Exchanges, but no guarantee is made or implied that grants will be made in all categories.

Proposals for single country, sub-regional and regional projects will be accepted. In some cases, where noted, multi-country proposals will be given priority consideration.

The Bureau encourages applicants to consider carefully the choice of target countries and issues. In order to prevent duplication of effort, proposals should reflect an understanding of the work of development agencies, where appropriate, on the target themes, and focus on countries for which there has been limited investment on the selected issue, or for which exchange activities would complement—not duplicate—current assistance programs.

All exchanges must be bilateral, with roughly equal numbers of participants from the U.S. and foreign countries or will be declared technically ineligible. Applicants should carefully review the following recommendations for proposals in specific geographical areas.

Sub-Saharan Africa (AF)

Contacts for African programs: Curtis Huff, 202/619–5972; e-mail: *chuff@pd.state.gov,* and Carol Herrera, 202/619-5405; e-mail: *cherrera@pd.state.gov,* James Ogul, 202/205-0535; e-mail: *jogul@pd.state.gov.*

For all Sub-Saharan African Countries and Two Special Projects Per Below for Namibia and Senegal

1. *Creating awareness and changing behavior to combat HIV/AIDS:* Proposals should foster awareness of risk and promote behavior changes crucial to control and eventual eradication of the disease. Proposals should address a selection of the following topics: Education strategies to teach prevention to people who don't believe it can happen to them or believe that infection is inevitable; stigma reduction strategies for people living with HIV/AIDS; engagement of political, religious, cultural and other leaders in public education efforts; grassroots mobilization and advocacy.

2. *Professionalism & independence in the media:* Proposals to build professionalism in the media—*i.e.,* gaining an appreciation of and skill for objective reporting; developing subject specialization (*e.g.,* legal, environmental, health, or financial issues); giving fair coverage to positive as well as negative news; separating opinion from news coverage; avoiding inflammatory presentations; and maintaining independence from special interests. Attention should be given to laws that constrain freedom of information and to forces that urge journalists to censor themselves. We encourage programs with hands-on activities such as professional internships, small group training and specially tailored projects, rather than academic seminars. Of special interest are projects on political reporting in a multi-party democracy.

Namibia media project: Proposals should develop and implement in Namibia a broadcast (radio and television) journalism-training program at the university level and for practicing journalists. The emphasis should be on practical education aimed at generating professional quality broadcasting products, including script writing, text editing, management of call-in programs, interviewing skills, location work, and application of Internet and other IT resources for program development. Applicants must work with one of the following: University of Namibia, the Polytechnic University in Windhoek, and/or the Namibia Broadcasting Corporation. The project should include development of a curriculum to be used by Namibian partners and 3–4 month internships in the U.S. for practicing Namibian journalists. Contact Curt Huff at 202/619–5972 to discuss internship possibilities. Applicants must also contact the Public Affairs Officer at the U.S. Embassy in Windhoek (tel 264–61–229801; fax 264–61–232476; e-mail *Gkopf@pd.state.gov*) for more detailed guidance on the type of program desired and contacts with whom to work. Although not a requirement, one or two other Sub-Saharan countries could be included in the project, and the best fit would be English-speaking countries where elections are anticipated in 2003.

3. *Education for democracy at the grassroots and in government:* Proposals should be school-based, producing a curriculum and training teachers in its use, or community-based, involving citizens in awareness and skill-building activities, with emphasis on the role that the individual should and can play in a democracy. Issues to be addressed might include the meaning of civil society, the separation of governmental powers, the role of non-governmental organizations, components of democracy and national identity, political tolerance, social diversity, rule of law, democratic and team-centered approaches to decision-making. Of special interest are projects that focus on leadership development for at-risk youth and school-based programs aimed at inculcating a culture of lawfulness that counters crime and corruption by educating young people on their civil, moral, and legal obligations to society. Proposals should include different ethnic and religious groups in order to expand the dialogue for coexistence.

4. *U.S.-Africa trade, finding markets, using AGOA:* The African Growth and Opportunities Act (AGOA), signed into law in May of 2000, offers qualifying African countries (there are 35 as of this time) preferential access to U.S. markets for their industries. Proposals should ''jumpstart'' the AGOA process by providing medium and small African business entrepreneurs and members of business associations an understanding of AGOA and of the American market place. Projects should enhance African understanding of U.S. business norms and actual practices, of U.S. customs operations, product distribution and retailing, and help them develop business linkages and relationships with manufacturers and business in their respective sectors.

5. *Organizational Management: businesses, hospitals, NGOs, educational institutions:* Proposals should develop training programs in management that would be useful in a variety of settings (*e.g.,* businesses, NGOs, educational institutions, hospitals, government offices), meeting 21st century needs. Topics might include strategic planning, budgeting, personnel issues, delegation, leadership, negotiation, and presentation skills.

6. *Judicial reform, independence, and development:* Proposals should address the educational and organizational needs of judges and their staffs, streamlining of court procedures, and development of codes of conduct. Such projects should be conducted in close cooperation with in-country stakeholders who would help to define specific objectives and plan activities. The project should build interest and cooperation between U.S. and African judges, staffs, and professional organizations.

Senegalese Judicial project: Proposals would focus on training Senegalese judges in areas such as contract law, business law, transparency/combating corruption, money laundering, and alternative sentencing. We encourage linkages between the Center for Judicial Training of Senegal and the National Judicial College at the University of Nevada-Reno. The exchange should include seminars, courtroom visits, trial simulations and professional appointments. Activities in Senegal should include seminars and workshops for judicial professionals as well as business groups, NGOs and academics.

7. *Cross-cultural, inter-ethnic and inter-religious dialogues:* Proposals should promote constructive dialogue and the reduction of stereotyping, violence, hatred, and incitement among diverse groups. A proposal could address a particular conflict or develop a broadly applicable educational program. It could work through the media or educational institutions or NGOs or other implementation channels. It should build a valued working relationship between U.S. and African professionals in conflict management and resolution, and it should develop, test, and result in a training program that can continue after grant support is finished.

Of particular interest would be a proposal on Post-Conflict Recovery (consideration should be given to countries such as Angola, Democratic Republic of the Congo, Sierra Leone, Rwanda, Ethiopia and Eritrea). Issue should include setting priorities and reconciliation methodologies after a long war, *i.e.* family reunification, land tenure, encouraging a return to the countryside, permanent resettlement in place vs. return to pre-conflict homes, de-mining and major infrastructure repair.

8. *Strengthening women's roles in society—business, politics, and social leadership:* Proposals should promote equal opportunity for women in one or more areas of life such as business, politics, social and other areas of leadership. Projects might provide leadership training, network building, advocacy strategies, analyses of discriminatory practices, confidence building activities, and visions of a more equitable society. A rationale should be developed on whether to include men in the project. Projects should also build a valued working relationship between U.S. and African partners.

9. *Environmental education and protection:* Proposals should develop exchanges which focus public awareness on the threat posed by environmental deterioration, facilitate efforts to combat the threat by mobilizing governmental and/or non-governmental action, and work at multiple levels to educate and to develop solutions. Of special interest are proposals that would strengthen national park systems, that would clean up major cities, and that would make clean water much more widely available. ECA Bureau funds cannot be used for construction projects, but should be used for planning and mobilizing forces to accomplish these goals. Proposals should build a valued working relationship between Americans and Africans that is likely to continue after grant support is finished.

East Asia and the Pacific (EAP)

The contact for East Asian and Pacific programs: Steve Lebens, 202/260–5485; e-mail: *slebens@pd.state.gov.*

For China

1. *Rule of Law:* Proposals should include the development of an independent judiciary; the enforcement of commercial laws such as intellectual property rights protection, sanctity of contracts, and competition policy; labor rights; government accountability; and alternative dispute resolution. The objective is to acquaint officials, journalists, lawyers and other relevant professionals with the concepts and practice of law in the U.S. and China.

2. *World Trade Organization Implementation:* Proposals should focus on the issues of World Trade Organization implementation, including TRIPS compliance, Intellectual Property Rights enforcement, regulatory transparency, sector reforms, and measures that government and business can take to ease the displacement of workers in the process of economic liberalization.

3. *Volunteerism:* Proposals should emphasize the role that volunteer groups play in giving voice to citizens'

concerns and how such organizations succeed in developing effective volunteer networks.

4. *Women in Society:* Proposals should foster a dialogue on effectively addressing the common challenges women face in both countries, including combating family violence, a rapidly growing concern in China.

Please note that the need to involve individuals and organizations in the Western region of China's vast interior should be reflected in successful proposals, particularly in the Rule of Law and WTO proposals.

For Indonesia, Malaysia, Philippines or Thailand

1. *Conflict Resolution:* Proposals should focus on the use of arbitration and reconciliation techniques to create conditions for the peaceful resolution of disputes in a multi-ethnic, multi-cultural, multi-religious society. Participants could be leaders from government, civil society, and religious institutions as well as from the media. Activities promoting cultural and religious tolerance are especially welcome, as are projects, which factor in follow-up activities.

2. *Religious Institutions in a Democracy:* Proposals should build a better understanding of the role religion plays in each country, with emphasis on how religious groups and institutions participate in a democratic, secular society in which the separation of church and state and tolerance are the guiding principles. Participants could be religious as well as lay leaders. Activities should illustrate how American religious leaders, both lay and ordained, function free of state control, contribute to society at large, and provide spiritual and ethical guidance. Balanced, two-way exchanges are essential.

3. *Education:* Proposals should promote an understanding of the role of public and private schools, with and without religious affiliations, in ethnically, culturally, and religiously diverse societies. Participants could be schoolteachers, administrators, and education officials. Activities should illustrate how education can promote tolerance and encourage understanding of democratic values. Balanced, two-way exchanges are essential.

Near East and North Africa (NEA); South Asia (SA)

Contacts for NEA and SA programs: Thomas Johnston, 202/619–5325; {*tjohnsto@pd.state.gov*} or Susan Krause, 202/619–5332; {*skrause@pd.state.gov*}.

The countries/entities comprising the NEA and SA Areas are listed below. Currently there is no U.S. mission in Iran, Iraq, or Libya. Please consider countries and specific themes listed below as guides to potential exchange partnerships. But note that all themes may be appropriate for single country, multi-country or regional proposals.

Countries/Entities of the Near East and North Africa—Algeria; Bahrain; Egypt; Iran; Iraq*; Israel; Jordan; Kuwait; Lebanon; Libya; Morocco; Oman; Qatar; Saudi Arabia; Syria; Tunisia; the United Arab Emirates (UAE); the West Bank and Gaza; Yemen.

***Note:** For Iraq—grant proposals may only be submitted for projects that involve Iraqis residing in the areas of northern Iraq outside the control of the government of Iraq and/or Iraqi expatriates living in other parts of the Middle East. Regarding northern Iraq, current restrictions make the authorization of the travel of American citizens to any part of Iraq under a USG grant unlikely, and the expenditure of USG funds in Iraq requires a license from Office of Foreign Asset Control (OFAC). OFAC can and does authorize the provision of a broad range of services and materials that conform to the U.S. Oil-for-Food Goods Review List. Programming with Iraqis from the North or expatriates living outside Iraq that would take place in the United States or in other countries is not subject to these restrictions.

Countries of South Asia—Afghanistan; Bangladesh; Bhutan; India; the Maldives; Nepal; Pakistan; Sri Lanka.

For India; Bangladesh; Pakistan; Iraq; Nepal; Egypt; Morocco; Jordan; Israel; the West Bank and Gaza; Lebanon; Syria; Saudi Arabia; Kuwait; the UAE

1. *Citizen Participation and Advocacy (Building and Strengthening Non-governmental Organizations):* Proposals should promote an understanding of the proper role of NGO's, facilitate Internet communication, and develop cooperation between educators and NGO's and between government agencies and NGO's for community action. Social and political activism, encouraged, focused, and channeled through non-governmental organizations, is a basic underpinning of democratic society. Strengthening NGO advocacy skills, management, grassroots support, recruitment and motivation of volunteers, fundraising and financial management, media relations, and networking for mutual support and reinforcement will strengthen democratic/civil society trends in the region. It is essential that organizations submitting proposals in this category recognize that democratic activism may be viewed with suspicion by some of the governments in the area and that foreign involvement with local NGO's must be carefully thought out and approached with subtlety and sensitivity. Close consultation with American Embassy/Consulate officers is critical.

For India; Israel; Iraq; the West Bank and Gaza; Pakistan; Lebanon; Sri Lanka

2. *Conflict Management/Ethnic Tolerance and Cooperation:* Proposals should focus on redefining inter-communal conflict in specific situations and, through facilitating dialogue—among teachers, professionals, businesspersons, journalists, community activists—promote better understanding among parties in conflict. A community that expends its time, its energy, and its material resources on offensive or defensive combat is unable to develop or maintain a civil basis for democratic institutions. Communal and ethnic tolerance is difficult to achieve, and the problem has worsened with the rise of community-based political groupings. There are numerous community groups working to bring about resolution to the challenge posed by ethnic nationalism, and the American experience of absorbing, integrating, and accommodating diverse communities from various parts of the world into a civil, as opposed to an ethnically defined, polity would be useful to these groups. Of particular relevance would be the experience of programs that teach tolerance in either a formal setting or in novel, arts/media-based contexts.

For Israel; the West Bank and Gaza; Egypt; Syria; Lebanon; Tunisia; Morocco; Jordan; India; Nepal; Pakistan; and Iraqi

3. *Journalism Training, Professional Skills, and Responsibility/The Role of the Press in a Democratic Society:* Proposals should promote professionalism and provide training and advice to individuals and organizations devoted to the protection of press freedoms and to the defense of journalists and their right to practice their profession with integrity. The development of professionalism in media—gaining an appreciation for the importance of objective reporting; the ethics of presenting a true and balanced account of events; developing subject specialization; applying rational management techniques to newspaper publishing; etc.—remains an area in which serious efforts must be expended if the fourth estate is to fulfill its potential as a pillar of democratic society. Proposals should focus on how professional journalists deal with laws

that constrain press freedoms or promote self-censorship.

For Syria

A proposal is sought to assist the Faculty of Journalism of the University of Damascus in developing a journalism certification program for journalism graduates that will deal with the issues outlined above. The positive role of a free and open press in a democracy cannot be overstated; one of the tasks in the development of a free press is training and sustaining a corps of professional journalists. One means for doing so is working with university journalism faculties to strengthen curriculum, train professors, seek international accreditation, and develop internship programs.

For Egypt; India; Israel; Iraq; Syria; Lebanon; Saudi Arabia; Kuwait; UAE; Bahrain; Oman; Qatar; Yemen. This theme is also appropriate for a South Asia regional exchange or a regional project involving the countries of the Arabian Gulf

4. *Women's Activism, Political Activism and Leadership, and Organizational Skills:* Proposals should acquaint elected women leaders with skills in budget, human resource management, policy analysis, legislative drafting, and fighting corruption. Although the principle of equal rights for women and minorities has attained the status of a basic value in many legal systems throughout the region, women continue to exercise disproportionately little political and social influence. While some women's groups have organized themselves and actively campaign for equal rights and a greater say in local issues, women need to learn how to develop consensus on issues and build a constituency, mobilize support—both urban/political and grassroots—raise money at the municipal, state, and national levels, and how to win elections. Once elected, at either the state or the national level, women need to know how to effectively represent the interests of their constituents. They also need to know how to advocate for changes in policy as well as practice in the areas of health care, education, domestic violence, and equal treatment under the law.

For All Countries; Iraq

5. *Good Governance/The Accountability of Government:* Proposals should assist in the development of mechanisms of control to counteract corruption. Although concepts such as good governance and ethics, transparency, responsiveness, and the fight against corruption play an increasing role in public debates, in the media, and in regional conferences, there is little evidence of reform. A populace experiencing abuses of power and corruption on a daily basis loses confidence in its institutions. The American NGO would work with indigenous NGO's, citizens' rights groups, journalists, human rights organizations, and government officials to share experiences on how best to expose and combat corruption. Success in making government at all levels accountable and transparent would contribute greatly toward the development of democratic institutions and civic responsibility and would encourage increased foreign investment.

For Egypt

The Egyptian People's Assembly would welcome the opportunity to cooperate with one or more American institutions in arranging exchange visits, training, and possibly internships/fellowships for young Assembly staffers/civil servants. Focus areas would include legislative research and drafting, constituent relations, public affairs, media relations, etc. American hosts might include both the U.S. Congress and state legislatures.

For India; Pakistan; Nepal; Afghanistan; Morocco; Egypt; Iraq; Jordan; General

6. *Adult Education/Teacher and Technical Training:* Proposals should lead to an upgrading of teacher training and development of technical education curricula. In countries throughout the Near East, North Africa, and South Asia, the workforce is characterized by an abundance of underemployed university graduates and an oversupply of unskilled day laborers. While universities proliferate, there are very few institutions in which one can learn how to be a skilled teacher, how to operate a water treatment plant, how to implement environmentally and scientifically sound agricultural practices, or how to design and plan road safety measures. There is a real need for trained teachers at all levels as well as for technically qualified, mid-level workers. In order to develop sustainable economies that can produce a reasonable standard of living for growing populations in the 21st century, many NEA and SA countries must rapidly upgrade their teacher training and their technical education curricula.

For Egypt; Israel; Jordan; the West Bank and Gaza; Lebanon; Bahrain; India; Nepal

7. *Environmental Protection/Natural Resources Management:* Proposals should develop exchanges which enhance public awareness of the threat posed by environmental deterioration, facilitate efforts to combat the threat by mobilizing either governmental or non-governmental organizations, engage municipal officials, planners, and service providers, and work at multiple levels to educate and to develop solutions. Environmental deterioration is closely linked, both directly and indirectly, with issues of public health (air and water pollution; solid waste management) and economic welfare (preservation of natural sites; eco-tourism; agricultural productivity; the rational management of natural resources; the balance between industrial growth and environmental concerns, especially in urban areas). Since pollutant-laden air and impure groundwater are trans-boundary issues, faced by all countries/entities, multi-country proposals would be welcome. Of special concern to India is the need for increased awareness and training regarding the treatment and disposal of hazardous, often medical/bio-medical waste.

For the Middle East Region

Proposals should develop exchanges which enhance public awareness of natural resources management, largely on the allocation, conservation, purification, and re-use of water, potentially with an educational component.

For the Middle East Region; Iraq

8. *Public Health/Mental Health:* Proposals should address the introduction or improvement of mental health programs dealing with traumatic experiences or violence. Issues of public health are central to the social well-being and to the economic productivity and stability of a country. Proposals should include education/training designed to address problems resulting from traumatic experiences, or to address the behavior of individual citizens living in an environment of violence.
(Formal medical education and dispensing of medications are outside the purview of this theme and will not be accepted activities for funding based on exchange guidelines.)

For India

Proposals should promote exchange programs among governmental or non-governmental organizations, municipal officials, planners, and service providers to educate and develop solutions for current practices having a negative impact on public health. Such practices include lack of adequate water treatment, inadequate vehicle exhaust standards, food processing facilities, waste collection and disposal (including biomedical waste), lack of sterile practices at hospitals, the absence of screening at blood banks, the operation of aging smokestack industries, etc.

For Israel; the West Bank and Gaza; Lebanon; India: Pakistan; Bangladesh

Proposals should investigate the causes of increased societal and/or in-school violence, to train individuals such as teachers and youth leaders to recognize trauma/stress-related behavior and address it, and to develop programs focused on youth and young adults—the most common perpetrators and victims of the violence—are needed. Statistics in Israel indicate an alarming increase in incidents of violence in Israeli society, particularly school violence and domestic violence. Similar patterns appear to exist in the West Bank and Gaza. Educators posit that the ubiquitous violence and uncertainty that characterize the Israeli-Palestinian confrontation has a spillover effect, with students acting out in the schools what they witness in the streets and at home.

For NEA and SA Region wide; India; Iraq

9. *Rule of Law/Administration of Justice:* Proposals should introduce judges of both lower and higher courts to the functioning of the legal systems in the U.S. and foreign countries, with emphasis on introducing the principles and practices of U.S. jurisprudence and such fundamental procedures as alternate dispute resolution, early neutral evaluation, case management, the acceptance of guilty pleas, continuous trial proceedings, and arbitration/mediation. A well-trained, independent judiciary is fundamental to a democratic political and social system. Public perception of unequal and unfair treatment before the bench of women, members of ethnic minority communities and the poor is widespread in the region. Even well qualified and well-intentioned judges are obstructed in their efforts to deliver justice by case backlog, by procedural delay, and by insufficient authority to exercise judicial discretion in court management.

For Pakistan or South Asia Regional

Proposals should address such issues as performance standards (efficiency; competence; fairness of administration), ethical standards (impropriety; corruption; discrimination against specific groups, such as women or minorities), and other related concerns. The goal of these exchanges is to enhance the professionalism of the judiciary, the quality of the relationship between the judiciary and the bar, and, by extrapolation, raise the quality of the administration of justice.

For Israel; Jordan; the West Bank and Gaza; Egypt; Iraq; Pakistan; Regionwide

10. *Civic Education:* Proposals should focus on integrating civic education concepts such as increased citizen awareness, participation, volunteerism, and community service into elementary and secondary education. The development of ethics and civic responsibility/virtue through education is an important step in creating a more civil and democratic society. Middle Eastern groups are particularly interested in learning how American school systems have incorporated in their curricula community service, environmental campaigns, and other activities that involve students in the larger society.

Western Hemisphere Affairs (WHA)

The Bureau of Western Hemisphere Affairs includes the countries of Canada, Mexico, Central and South America, and the Caribbean.

The contact for Western Hemisphere Affairs programs: Laverne Johnson, 202/619–5337; e-mail: *ljohnson@pd.state.gov*.

For Peru, Mexico, Chile, Uruguay, and Paraguay

1. *Civil Society Participation in Government:* Proposals should focus on the role of NGOs in influencing political processes, lobbying, and networking with other organizations. Participants would be representatives of politically engaged NGOs with a good government focus. Project activities might focus on how municipal teams, including government officials, educational leaders, NGOs, business leaders, *etc.*, join forces to develop approaches to economic development or solutions to major problems (environment, crime, drug use, *etc.*). Ideally, participants will be committed activists who will share ideas, successes, and challenges from the two countries.

For Brazil, Argentina, Peru, Uruguay, Venezuela, Guatemala, Costa Rica, and Honduras

2. *Improving Civil Rights for Afro-Latino Minorities:*

Proposals should focus on Non-Governmental Organizations (NGOs) working for the inclusion of Afro-Latinos and other minorities in higher education, modernization of curriculum to counter negative images of those groups, and the training and education of young leaders from those communities.

For Caribbean and Haiti

3. *HIV/AIDS Awareness:* Proposals should focus on creative community-based initiatives that will promote better health care and prevent the spread of HIV/AIDS. Proposals should focus on educating girls and young women on some of the following topics: the need for prevention and stigma reduction strategies for people living with HIV/AIDS, engagement of political, religious, cultural and other leaders in public education efforts; grassroots mobilization and advocacy.

For Chile, Guatemala, Peru, and Nicaragua

4. *Protection of Indigenous Cultures in a Shrinking World:* Proposals would address the protection of indigenous cultures by demonstrating ways in which technology can be adapted to local conditions, and how these technologies can be used to protect and preserve and disseminate information about local cultural heritage. Emphasis under this theme is on assisting countries in preserving their cultural heritage through programs designed to reduce the threat of pillage of sites representing irreplaceable cultural heritage, and to create opportunities to develop long-term strategies for preserving cultural property through training and conservation, museum development, and public education. Projects might include supporting the preservation of cultural sites, objects in a site, museum or similar institution, or forms of traditional cultural expression.

For Peru, Brazil, Nicaragua, and Chile

5. *Democracy Support/Good Governance:* Proposals may address any of the following program concepts designed to enhance democracy within these countries: Anti-corruption, Administration of Justice (also Comparative Legal Systems), Civilian-Military Relations, Civil Society Participation in Government, Leadership for Democracy, and Alternative Dispute Resolution as a Solution to Inter-ethnic conflict. Proposals should focus on how a democratic government functions from the community to the national level in addressing these concepts.

For Chile, Mexico, and Brazil

6. *Sustainable Economic Development:* Proposals should focus on the impact of globalization on the national economy with emphasis on both the benefits of globalization and the inherent risks involved in

participating in the global economy. Projects, which include orderly market compliance, intellectual property rights (IPR) enforcement, regulatory transparency, sector reforms and measures that government and business can take to ease the displacement of workers in the process of economic liberalization. A sub-theme would include a discussion of how the U.S. implements commercial diplomacy including how we negotiate and plan our trade/commercial relations.

Central and Eastern Europe (CEE) and Eurasia

Requests for proposals involving the following countries will be announced in separate competitions: CEE—Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Poland, Romania, Slovak Republic, and Slovenia. Eurasia—Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Proposals involving these regions WILL NOT be accepted under this competition and if received, will be deemed technically ineligible.

Western Europe (WEU)

Proposals involving this region WILL NOT be accepted under this competition and if received, will be deemed technically ineligible.

General Program Guidelines

Applicants must identify the local organizations and individuals in the counterpart country with whom they are proposing to collaborate and describe in detail previous cooperative programming and/or contacts. Specific information about the counterpart organizations' activities and accomplishments is required and must be included in the section on Institutional Capacity. All proposals must contain letters of support tailored to the project being proposed from all foreign-country partner organizations. Failure to include the above information and documentation will make a proposal technically ineligible.

Exchanges and training programs supported by institutional grants from the Bureau should operate at two levels: they should enhance institutional partnerships, and they should offer practical information and experience to individuals and groups to assist them with their professional responsibilities. Strong proposals usually have the following characteristics:

- A proven track record of working in the proposed issue area;
- Experienced staff with language facility and a commitment by the staff to monitor projects locally to improve accountability;
- A clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant; and
- A follow-on plan beyond the scope of the Bureau grant.

Proposal narratives must demonstrate an organization's willingness to consult closely with the Public Affairs Section and other officers at the U.S. Embassy. Proposal narratives must confirm that all materials developed for the project will acknowledge USG funding for the program as well as a commitment to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits. Please note that this will be a formal requirement in all final grant awards.

Suggested Program Designs

Bureau-supported exchanges may include internships; study tours; short-term, non-technical experiential learning, extended and intensive workshops and seminars taking place in the United States or overseas. Examples of possible program activities include.

1. A U.S.-based program that includes: orientation to program purposes and to U.S. society; study tour/site visits; professional internships/placements; interaction and dialogue; hands-on training; professional development; and action plan development.

2. Capacity-building/training-of-trainer (TOT) workshops to help participants to identify priorities, create work plans, strengthen professional and volunteer skills, share their experience to committed people within each country, and become active in a practical and valuable way.

3. Seed/small grants to indigenous non-profit organizations to support community-based educational projects that build upon exchange activities and that address issues of local concern. Proposals may include a component for a Seed/Small Grants Competition (often referred to as 'sub-grants' or 'secondary grants'). This requires a detailed plan for recruitment and advertising; description of the proposal review and award mechanism; a plan for how the grantee would monitor and evaluate small grant activity; and a proposed amount for an average grant. The small grants should be directly linked to exchange activities. Small/seed grants may not be used for micro-credit or re-loaning purposes. Small/seed grants may not exceed 10% of the total value of the grant funds sought from ECA.

4. Site visits by U.S. facilitators/experts to monitor projects in the region and to provide additional training and consultations as needed.

5. Content-based Internet training/cyber-training to encourage citizen participation in workshops, fora, chats, and/or discussions via the Internet that will stimulate communication and information sharing among key opinion leaders on priority topics as a form of cost sharing. Proposals that include Internet utilization must reflect knowledge of the opportunities and obstacles that exist for use of information technologies in the target country or countries, and, if needed, provide hardware, software and servers, preferably as a form of cost sharing. Federal standards are under review and their adoption may impact on the implementation of these programs.

Ineligibility

All proposals will undergo an initial review to determine their technical eligibility. A proposal will be deemed technically ineligible for consideration if:

1. It does not fully adhere to the guidelines established in this document and in the Proposal Submission Instructions;
2. It is not received by the deadline;
3. It is not submitted by a U.S. based Public Private not for profit organization meeting provisions described in Internal Revenue code section 26 USC 503 c (3);
4. The foreign country or geographic location is ineligible.
5. The proposal does not include an in-country foreign partner organization(s) and does not contain letters of support from foreign partners, tailored to the proposed project and specific information in the narrative about the partner organization's past activities and accomplishments;
6. The proposed exchange activity is not bilateral in scope with roughly equal numbers of participants from the U.S. and foreign countries;
7. It does not provide at least 50% cost-sharing of the grant funds sought from ECA;
8. It does not confirm that all materials developed for the project will acknowledge USG funding for the program;
9. It does not include a commitment to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits.

Activities ineligible for support: Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; *i.e.,* clerical work, auto maintenance, *etc.,* and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, academic scholarship programs are ineligible for support.

The Office does not support proposals limited to conferences or seminars (*i.e.,* one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are a small part of a larger project in duration and scope that is receiving Bureau funding from this competition. The Office will only support workshops, seminars and training sessions that are an integral part of a larger project. No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that for programs including U.S. internships, grant applicants submit letters tentatively committing host institutions to support the internships. In the selection of foreign participants, the Department and U.S. Embassies retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. When participants are selected, grantee institutions will provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States. (*See* section below on requirements for maintenance of and provision to ECA of data on participants and program activities.)

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Evaluation

In general, evaluation should be ongoing and evolving throughout the duration of the project. The evaluation plan will incorporate an assessment of the program from a variety of perspectives. Specifically, project assessment efforts will focus on: (a) Determining if objectives are being met or have been met, (b) identifying any unmet needs, and (c) assessing if the project has effectively discovered resources, advocates, and financial support for sustainability of future projects. Informal evaluation through discussions and other sources of feedback will be carried out throughout the duration of the project. Formal evaluation will be conducted at the end of each phase, using instruments designed specifically to measure the impact of the activities and should obtain participants' feedback and comments on the program content and administration. A detailed evaluation will be conducted at the conclusion of the project and the report will be submitted to the Department of State Bureau of Educational and Cultural Affairs. When possible, the evaluation should be done by an independent evaluator.

Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau of Educational and Cultural Affairs as required. As a minimum, the data must include the following:

• Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

• Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place.

Budget Guidelines and Cost-Sharing Requirements

Grants awarded to eligible organizations with less than four years of experience in conducting international development or exchange programs will be limited to $60,000. Applicants must submit a comprehensive budget for the entire program. Grant awards will range from $125,000 to $175,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Since Bureau grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. To be eligible for consideration under this competition, proposals *must* provide a *minimum* of 50 percent cost sharing of the amount of grant funds sought from ECA, although proposals with higher cost-sharing levels are welcome.

Example: A proposal requests $140,000 in grant funds from ECA, for a project with a total budget of $500,000. The required minimum allowable cost-sharing offered must amount to at least $70,000. In this case, the cost-sharing far exceeds the minimum, since actual cost-sharing is $360,000.

When cost sharing is offered, it is understood and agreed that the applicant must provide the minimum amount of cost sharing as stipulated in this RFGP and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all allowable costs, which are claimed as being your contribution to cost participation, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced proportionately to the contribution.

The following project costs are eligible for consideration for funding:

1. *Travel costs.* International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

2. *Per Diem.* For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at *http://www.policyworks.gov/*

3. *Interpreters.* If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should

contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance.* Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop, and translate materials for participants.

8. *Equipment.* Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

9. *Working Meal.* The grant budget may provide for only one working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to included costs for travel insurance for U.S. participants in the budget.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct or indirect costs per detailed instructions in the Solicitation Package.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on *Friday, October 4, 2002.* Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 12 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs Ref.: ECA/PE/C/–03–01, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the US Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. The program office, the Public Diplomacy section and other elements at the U.S. Embassy will review all eligible proposals. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are *not* rank ordered and *all* carry equal weight in the proposal evaluation after all required elements have been met (required cost-sharing, letters of support, willingness to work with U.S. embassies, *etc.*).

1. *Program planning to achieve program objectives:* Proposals should clearly demonstrate how the institution plans to achieve the program's objectives. Objectives should be reasonable, feasible, and flexible. The proposal should contain a detailed agenda and relevant work plan that demonstrates substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. For technical projects, foreign experts and their local partners will be required to have the necessary education, training and experience for the work to

be undertaken, in addition to language skills where applicable.

3. *Institutional Record/Ability:* Proposals should demonstrate an institutional record of successful development or exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Many successful applicants will have a multiyear track record of successful work in the selected country or within the region.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Follow-on Activities:* Proposals should identify other types of exchanges or linkages that might be undertaken after completion of the Bureau supported activity.

7. *Monitoring and Project Evaluation Plan:* Proposals should provide a detailed plan for monitoring and evaluating the program. The evaluation plan should identify anticipated outcomes and performance requirements clearly related to program objectives and activities and include procedures for ongoing monitoring and corrective action when necessary. The identification of best practices relating to project administration is also encouraged, as is the discussion of unforeseen difficulties.

8. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals must provide 50% cost sharing (of the amount of grant funds requested from ECA) through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: July 2, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–17454 Filed 7–10–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–12294]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces the FMCSA's receipt of applications from 30 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before August 12, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments and see the submissions of other commenters at *http://dms.dot.gov.* Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Thirty individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemptions will achieve the required level of safety.

Qualifications of Applicants

1. Danny Adams

Mr. Adams, age 44, has finger-counting vision in his right eye due to childhood trauma. The best-corrected visual acuity in his left eye is 20/20. An optometrist examined him in 2001 and certified, ''This patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Adams reported that he has driven straight trucks for 27 years, accumulating 157,000 miles. He holds a Class A commercial driver's license (CDL) from South Carolina, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

2. Michael D. Armstrong

Mr. Armstrong, 52, has amblyopia in his right eye. His best-corrected vision is 20/50 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist certified, ''It is my opinion that his vision is sufficient to operate a commercial vehicle.'' Mr. Armstrong reported that he has driven tractor-trailer combinations for 9 years, accumulating 900,000 miles. He holds a Class A CDL from Florida, and his driving record shows no accidents or convictions for traffic violations in a CMV for the last 3 years.

3. Thomas E. Barnhart

Mr. Barnhart, 53, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. His optometrist examined him in 2001 and certified, ''In my medical opinion Thomas Barnhart has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Barnhart submitted that he has driven straight trucks for 10 years, accumulating 400,000 miles. He holds a Chauffeur's License from Indiana, and there are no CMV accidents or convictions for moving violations on his driving record for the last 3 years.

4. William J. Bell

Mr. Bell, 33, underwent cataract surgery on his right eye in childhood. The best-corrected visual acuity of his right eye is 20/200 and of his left eye 20/25. His ophthalmologist examined him in 2002 and stated, ''In summary, based on my understanding of his continuously satisfactory driving record, repeated visual field examinations indicating a horizontal field of at least 150 degrees, and his recorded binocular visual acuity of 20/25, I believe that he has 'sufficient vision to perform the driving tasks required to operate a commercial vehicle.' '' Mr. Bell reported that he has driven straight trucks for 3 years, accumulating 27,000 miles. He holds a Class C Maryland driver's license, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

5. Frank R. Berritto

Mr. Berritto, 62, has amblyopia in his right eye. His best-corrected visual acuity is 20/200 in the right eye and 20/20 in the left. Following an examination in 2002, his ophthalmologist certified, ''Mr. Berrito's condition is stable, and in my medical opinion, he has sufficient vision necessary for driving his commercial vehicle.'' Mr. Berritto submitted that he has driven buses for 3 years, accumulating 42,000 miles. He holds a Class C CDL from New York, and his driving record shows he has had no accidents or convictions for moving violations in a CMV in the last 3 years.

6. Robert B. Brewer, Jr.

Mr. Brewer, 63, has a dislocated lens in his right eye due to trauma in 1982. His best-corrected visual acuity is 20/60 in the right eye and 20/20 in the left. An ophthalmologist examined him in 2001 and stated, ''In my medical opinion, Mr. Brewer has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to Mr. Brewer's application, he has driven straight trucks for 10 years, accumulating 125,000 miles, and tractor-trailer combinations for 10 years, accumulating 862,500 miles. He holds a Class A CDL from Montana, and, according to his driving record, he has had no accidents or convictions for moving violations in a CMV in the last 3 years.

7. Jack D. Clodfelter

Mr. Clodfelter, 66, experienced an ischemic attack in his right eye in 1998. His aided visual acuity in the right eye is 20/80 and in the left 20/20. An optometrist examined him in 2001 and certified, ''It is my opinion that Mr. Clodfelter has sufficient vision to perform the driving tasks required while operating a commercial vehicle.'' In his application, Mr. Clodfelter stated he has 21 years and 2.6 million miles of experience in operating tractor-trailer combinations. He holds a North Carolina Class A driver's license currently, but at the time of his application he held a Class A CDL, now expired. There are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

8. James W. Collins

Mr. Collins, 38, has amblyopia in his right eye. His best-corrected vision in the right eye is 20/100 and in the left, 20/20. An ophthalmologist examined him in 2002 and certified, ''In my opinion, Mr. Collins' vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Collins submitted that he has driven straight trucks for 5 years, accumulating 41,000 miles. He holds a Class B CDL from Illinois, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

9. Douglas W. Cotney

Mr. Cotney, 55, had a choroidal rupture in his right eye due to trauma in 1972. His visual acuity is 20/400 in the right eye and 20/20 in the left. Following an examination in 2002, his optometrist stated, ''It is my medical opinion that Mr. Cotney has sufficient vision to perform the driving tasks required to operate a commercial vehicle just as he has done for the past 30 years.'' Mr. Cotney reported that he has 35 years and 472,000 miles of experience in driving straight trucks. He holds a Class DMV driver's license from Alabama, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

10. Tommy J. Cross, Jr.

Mr. Cross, 21, has an aphakic right eye due to congenital cataract extraction in childhood. His best-corrected visual acuity is counting fingers in the right eye and 20/20 in the left. An optometrist who examined him in 2001 certified, ''In my professional medical opinion, Mr. Tommy J. Cross, Jr. has sufficient vision to safely perform the driving tasks necessary to operate a commercial vehicle.'' Mr. Cross reported that he has driven straight trucks for 3 years, accumulating 85,000 miles, and tractor-trailer combination vehicles for 2 years, accumulating 125,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

11. Daniel K. Davis III

Mr. Davis, 43, has an aphakic left eye due to trauma in 1980. His best-corrected vision is 20/20 in the right eye and 20/800 in the left. An optometrist who examined him in 2002 noted that Mr. Davis would be applying for a CDL and certified, ''In my medical opinion, Mr. Davis has sufficient vision to perform the driving tasks required.'' Mr. Davis reported that he has operated straight trucks for 20 years, accumulating 400,000 miles. He holds a Class DM driver's license from Massachusetts. His driving record for the last 3 years shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV. He exceeded the speed limit by 14 mph.

12. Eric D. Davis

Mr. Davis, 41, lost his right eye due to trauma at age 12. His visual acuity is 20/15 in the left eye. An ophthalmologist examined him in 2001 and certified, ''Eric has sufficient vision to be able to drive a commercial truck.'' Mr. Davis stated that he has driven straight trucks for 22 years, accumulating 462,000 miles, and tractor-trailer combinations for 4 years, accumulating 300,000 miles. He holds an Ohio Class A CDL, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

13. Gary R. Evans

Mr. Evans' left eye was removed during childhood secondary to complications of a congenital cataract. His best-corrected visual acuity is 20/40 in the right eye. His ophthalmologist examined him in 2002 and certified, ''In my opinion, he does have sufficient vision to perform driving tasks associated with operating a commercial vehicle.'' In his application, Mr. Evans, age 47, reported that he has driven straight trucks for 18 years, accumulating 369,000 miles. He holds a Connecticut Class 2 driver's license, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

14. Shelton L. Harvey

Mr. Harvey, 57, has had a macular hole in his left eye due to trauma since 1988. His best-corrected visual acuity is 20/20 in the right eye and 20/150 in the left. Following an examination in 2002, his optometrist certified, ''In my medical opinion Mr. Harvey has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to his application, Mr. Harvey has operated tractor-trailer combinations for 9 years, accumulating 540,000 miles. He holds a Georgia Class C driver's license currently, but at the time of his application he held a Class A CDL, now expired. His driving record for the last 3 years shows that he had no accidents and one conviction for a moving violation—Speeding—in a CMV. He exceeded the speed limit by 17 mph.

15. Gary T. Hicks

Mr. Hicks, 42, has amblyopia in his right eye. His best-corrected visual acuity is 20/50 in the right eye and 20/20 in the left. Following an examination in 2002, his ophthalmologist commented, ''Mr. Hicks has stable amblyopia in the right eye. He also has full visual fields in each eye. It is my opinion that he will be able to continue his occupation as a commercial vehicle operator.'' Mr. Hicks submitted that he has driven straight trucks for 25 years, accumulating 875,000 miles, tractor-trailer combinations for 10 years, accumulating 10,000 miles, and buses for 1 year, accumulating 2,000 miles. He holds a Class A CDL from North Carolina, and his driving record shows he has had no accidents or convictions for moving violations in a CMV during the last 3 years.

16. Walter R. Morris

Mr. Morris, 58, has been aphakic in the left eye since age 8 due to trauma. His best-corrected vision is 20/15 in the right eye and counting fingers in the left. An ophthalmologist examined him in 2001 and stated, ''He has sufficient vision to drive a commercial vehicle without prescription eyeglasses.'' Mr. Morris, who holds a Class A CDL from New Jersey, reported that he has been driving tractor-trailer combination vehicles for 40 years, accumulating 2.6 million miles. His driving record shows he has had no accidents or convictions for traffic violations in a CMV during the last 3 years.

17. Barbara C. Pennington

Ms. Pennington, 38, has been blind in the right eye since 1991 due to an accident. She has best-corrected visual acuity of 20/30 in the left eye. Following an examination in 2001, her ophthalmologist stated, ''Patient has good vision in left eye to operate a commercial vehicle.'' Ms. Pennington submitted that she has driven tractor-trailer combinations for 8 years, accumulating 650,000 miles. She holds a Florida Class A CDL, and her driving record shows that during the last 3 years she has had no accidents or convictions for moving violations in a CMV.

18. Stephen C. Perdue

Mr. Perdue, 58, has been blind in the left eye since 1970 due to a retinal detachment. His corrected visual acuity in the right eye is 20/25+. Following an examination in 2002, his ophthalmologist stated, ''It is my opinion once again that this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Perdue reported that he has driven straight trucks for 2 years, accumulating 200,000 miles, and tractor-trailer combinations for 36 years, accumulating 3.9 million miles. He holds a Class A CDL from North Carolina. His driving record shows he has had one accident and no convictions for moving violations in a CMV over the last 3 years. According to the police report, the accident occurred in a construction zone where the lane shifts were poorly marked and some of the old markings were still visible. The police report indicated that the driver of the other vehicle followed the old markings, causing his trailer to veer into the lane occupied by Mr. Perdue's vehicle. Neither driver was cited.

19. Allen V. Pickard

Mr. Pickard, 43, has a macular scar in his left eye due to an injury in 1996. His visual acuity is 20/20 in the right eye and 20/120 not correctable in the left. An optometrist who examined him in 2001 certified, ''I do believe that Mr. Pickard has adequate vision to safely operate a commercial motor vehicle.'' Mr. Pickard submitted that he has operated straight trucks for 27 years, accumulating 135,000 miles, and tractor-trailer combinations for 12 years, accumulating 600,000 miles. He holds a Class A CDL from South Dakota, and his driving record shows he has had no accidents or convictions for traffic violations in a CMV for the last 3 years.

20. Larry A. Priewe

Mr. Priewe, 44, lost his left eye due to an injury 38 years ago. His visual acuity is 20/15 corrected in the right eye. An ophthalmologist examined him in 2001 and certified, ''In my medical opinion, you have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Priewe submitted that he has driven tractor-trailer combinations for 23 years, accumulating 2.1 million miles. He holds a Class AM CDL from North Dakota. His driving record for the past 3 years shows one accident and no convictions for moving violations in a CMV. According to the police report, Mr. Priewe's vehicle was stuck in a snowdrift and partially on the roadway during a blowing snowstorm, and he was unable to put out his flares due to his compartment being blocked by snow. Another vehicle coming over a hillcrest struck the rear of his vehicle. Neither driver was cited.

21. Gary L. Reveal

Mr. Reveal, 56, has been blind in his right eye since birth due to optic nerve damage. His best-corrected vision is 20/15 in the left eye. An optometrist examined him in 2001 and stated, ''He does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Reveal reported he has driven straight trucks for 36 years, accumulating 1.1 million miles, and tractor-trailer combinations for 17 years, accumulating 340,000 miles. He holds an Ohio Class A CDL. His driving record shows that he has had one accident and no convictions for moving violations in a CMV for the past 3 years. As indicated by the police report, Mr. Reveal was stopped to back into a private driveway while a second vehicle behind him was stopped to let him proceed. The second vehicle was struck by a third vehicle and pushed into Mr. Reveal's vehicle. The driver of the third vehicle was charged with ''Following Too Closely.'' Mr. Reveal was *not* charged.

22. Billy L. Riddle

Mr. Riddle, 45, has amblyopia in his left eye. He has 20/15 vision in the right eye and 20/160 in the left. Following an examination in 2002, his optometrist certified, ''Patient has sufficient vision to drive a commercial vehicle.'' Mr. Riddle submitted that he has driven straight trucks and tractor-trailer combinations for 19 years, accumulating 380,000 miles in the former and 950,000 miles in the latter. He holds a Class A CDL from Texas, and his driving record for the last 3 years shows no accidents or convictions for traffic violations in a CMV.

23. Randolph L. Rosewicz

Mr. Rosewicz, 49, lost his left eye at age 3 due to congenital glaucoma. His best-corrected visual acuity is 20/20 in the right eye. An ophthalmologist examined him in 2002, and commented, ''With the stability noted I believe that the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rosewicz submitted that he has 17 years and 255,000 miles of experience in operating straight trucks. He holds a Class ABCDM CDL from Wisconsin, and his driving record shows that he has had no accidents or convictions for moving violations in a CMV for the last 3 years.

24. Robert L. Savage

Mr. Savage, 68, has had a macular scar in his left eye since 1946. His best-corrected vision is 20/20 in the right eye and 20/80 in the left. His ophthalmologist examined him in 2001 and certified, ''He functions commensurate with safe operation of a commercial vehicle, with vision sufficient.'' In his application, Mr. Savage indicated he has driven tractor-trailer combinations for 3 years, accumulating 21,000 miles. He holds a Class A CDL from Texas, and his driving record for the past 3 years shows no accidents or convictions for traffic violations in a CMV.

25. Kenneth D. Sisk

Mr. Sisk, 33, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/300 in the left. Following an examination in 2002, his optometrist certified, ''I do not see any problem with him operating a commercial vehicle, especially since he has been driving about 17 years with no problems and seems to compensate well for the lack of acuity in the left eye.'' Mr. Sisk reported that he has operated straight trucks for 6 years, accumulating 225,000 miles, and tractor-trailer combinations for 6 years, accumulating 60,000 miles. He holds a Class A CDL from North Carolina, and his driving record for the past 3 years shows no accidents or convictions for traffic violations in a CMV.

26. Kenneth E. Suter, Jr.

Mr. Suter, 38, has amblyopia in his left eye. His best-corrected visual acuity is 20/15 in the right eye and 20/200+ in the left. Following an examination in 2002, his optometrist affirmed, ''Based on this vision examination, I feel you have sufficient vision to operate a commercial vehicle as you have done so safely in the past.'' Mr. Suter holds a Class A CDL from Ohio, and reported that he has driven straight trucks for 15 years, accumulating 675,000 miles, and tractor-trailer combinations for 6 years, accumulating 30,000 miles. His driving record shows no accidents or convictions for moving violations in a CMV for the past 3 years.

27. Patrick D. Talley

Mr. Talley, 36, has a macular scar in his right eye due to histoplasmosis in childhood. His best-corrected visual acuity is 20/50 in the right eye and 20/20 in the left. Following an examination in 2002, his optometrist certified, ''In my medical opinion, he does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Talley reported that he has operated straight trucks for 14 years, accumulating 318,000 miles. He holds a Class DM driver's license from South Carolina, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

28. Loren R. Walker

Mr. Walker, 60, experienced an ischemic attack in his left eye in 1975. His best-corrected vision is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his ophthalmologist certified, ''In my opinion, this individual has adequate vision to continue driving a commercial vehicle as he has been for the past 30 years.'' Mr. Walker submitted that he has operated straight trucks for 5 years, accumulating 55,000 miles, and tractor-trailer combinations for 9 years, accumulating 816,000 miles. He holds a Class A CDL from Idaho. He has had no accidents and one conviction for a traffic violation—Using the Second Lane of a Three-Lane Highway—in a CMV for the last 3 years, according to his driving record.

29. Edward C. Williams

Mr. Williams, 51, has had a macular hole in his left eye since 1992. His best-corrected visual acuity is 20/20 in the right eye and 20/200 in the left. An optometrist examined him in 2001 and certified, ''Mr. Williams' vision is adequate to operate a commercial vehicle.'' Mr. Williams submitted that he has driven straight trucks and tractor-trailer combinations for 24 years, accumulating 1.3 million miles in the former and 660,000 miles in the latter. He holds a Class AM CDL from Alabama. His driving record for the last 3 years shows he has had two accidents and no convictions while operating a CMV. According to the police report for the first accident, an oncoming vehicle that crossed the centerline while attempting to pass collided with Mr. Williams' vehicle. According to the police report for the second accident, Mr. Williams was driving a wrecker towing a vehicle when the towed vehicle incurred a flat tire, causing it to hit a bridge. Mr. Williams was not cited in either accident.

30. Timothy J. Wilson

Mr. Wilson, 47, is blind in the right eye due to an injury in 1965. His visual acuity is 20/20 in the left eye. Following an examination in 2001, his optometrist certified, ''In my medical opinion, Mr. Wilson has sufficient vision to safely perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Wilson indicated he has driven straight trucks for 5 years, accumulating 15,000 miles, and tractor-trailer combinations for 25 years, accumulating 500,000 miles. He holds a Class AM CDL from Maryland, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address.

Issued on: July 2, 2002.

Pamela M. Pelcovits,

Acting Associate Administrator, Policy and Program Development.

[FR Doc. 02–17098 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12709]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LUCKY LADY.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 12, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12709. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* LUCKY LADY. *Owner:* Donald E. Beard.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''Length of Vessel: 45.6; Breadth: 15.0; Draft: 4.6; Gross Tonnage: 32 GRT; Net Tonnage: 25 NRT;''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:*

''Our intended use is to charter this vessel to those tourists who would like to see the coastline locally in Kachemak Bay and extending around the point to Seward, or from Homer to Kodiak. We would like to tour the coves and bays of the coastline and allow those tourists who would like an option other than Fishing and Hunting Charters to see and photograph Alaska. The vessel is designed for extended stays on board, complete with a skiff on her aft that can be used to travel into land for hiking, sightseeing, and photography. We intend to do overnight charters, extending to 7 day ''coastline tour'' charters, depending upon the desires of the clients. In essence we will be ''renting a Yacht''.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1970. Place of construction: Quebec, Canada.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''There are currently no commercial passenger vessel operators based in Homer who provide charters of this nature. The majority of operators run 8 hour Fishing Charters in a 6 pack vessel. Other vessels provide hunting charters where the vessel drops the hunters off in an area, then picks them up at a later date. The other option are the water taxi's, which deliver people to the ''other side'' of Kachemak bay, drop them off, and then later pick them up. This tourist group goes hiking, stays at one of the lodges, or visits one of the restaurants. Again, this is limited and does not allow the experience of traveling the coastline. There is a market open for those people who choose not to fish but would like to spend time on the ocean viewing and photographing our coastline. We have the vessel to cater to that market.'' ''We have received only positive feedback and support from the small passenger vessel operators in our area. Additionally, we have received positive comments from our local Chamber of Commerce and business owners, as our business will be contributing to our local economy.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''This will have no impact on U.S. shipyards. The Homer boat harbor consists primarily of 6 pack fishing charter vessels, commercial fishing vessels, large commercial vessels, and private use boats.''

Dated: July 8, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–17448 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12710]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SERENITY.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 12, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12710. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* SERENITY. *Owner:* Eric N. Lamb & Christina Tilly.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''50 ft LOA, 14.1 ft Breadth, 52,000 lbs weight (per 46 USC 14502.''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* Non-fishing 6-pack sightseeing sailing cruises around San Diego Harbor & the San Diego Coastline.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1987. *Place of construction:* Taipei, Taiwan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''Rapid growth in the San Diego area, it's rising population and the continuing increase of tourists coming to this city, has created a demand for the services we wish to offer. Our target market is growing at a faster pace than the existing six-pack charters now available for solely harbor & coastal 'sight seeing' cruises. Being a ''NO FISHING'' charter, we will have no impact on the majority of existing six-pack charters in the area.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''We feel this has no impact on U.S., Shipyards.''

Dated: July 8, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–17449 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12711]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel THE OBJECTIVE.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 12, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12711. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: THE OBJECTIVE. *Owner:* The Objective, Inc.

(2) Size, capacity and tonnage of vessel. According to the *applicant:* ''46 ft. LOA pilot-house trawler-yacht, 27 net tons''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* ''To provide recreational charters, both day and overnight, designed to enhance client appreciation of our country as experienced by water, and to create an appreciation of the role of wood in the design and history of recreational vessels.'' ''Territorial waters of the contiguous United States as well as Alaska and Hawaii, but predominantly along the Eastern Seaboard.''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1968. *Place of construction:* Hong Kong.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''None, since there are no other commercial operators with this same intended commercial use, and since the proposed scope of business is very small and the area of operation is not concentrated n one specific region of U.S. waters.''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''None, except a FAVORABLE economic impact when the vessel is hauled every 18–36 months for routine maintenance, painting, and refurbishing. Recent haul-outs since 1997 have been in Florida and South Carolina.''

Dated: July 8, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–17450 Filed 7–10–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20990]

Laidlaw Inc.—Acquisition of Control—Rockton Bus Company, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: In an application filed under 49 U.S.C. 14303, Laidlaw, Inc. (Laidlaw), a noncarrier, through its indirectly controlled subsidiary, Laidlaw Transit, Inc. (Transit Inc.) (collectively referred to as Laidlaw), seeks to acquire indirect control of Rockton Bus Company, Inc. (Rockton), a motor passenger carrier. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by August 26, 2002. Applicant may file a reply by September 9, 2002. If no comments are filed by August 26, 2002, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20990 to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any comments to applicant's representative: Fritz R. Kahn, 1920 N Street (8th Floor), NW., Washington, DC 20036–1601.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Rockton is a motor passenger carrier that is authorized to provide special and charter operations pursuant to federally issued authority in Docket No. MC–165295. Laidlaw submits that, pursuant to a voting trust agreement, dated November 1, 1999, Transit, Inc., acquired all of Rockton's outstanding shares of stock.

Laidlaw directly or indirectly controls a number of motor passenger carriers, including Transit, Inc. (MC–161299). Laidlaw's motor passenger carrier subsidiaries, with the exception of Greyhound Lines, Inc. (Greyhound), are largely limited to charter and special operations in the United States. Greyhound holds federally issued operating authority in Docket No. MC–1515 and provides mainly nationwide, scheduled regular-route operations. As a result of the proposed acquisition, Laidlaw asserts that Rockton will be able to offer its Illinois and Iowa originated passengers tour and sightseeing services over an expanded area and that the addition of Rockton to the Laidlaw family will promote the efficient use of buses and ensure that Rockton and the other Laidlaw affiliates will have an adequate number of buses to serve the public.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicant has shown that the proposed acquisition of control will have a positive effect on the adequacy of transportation to the public and will result in no increase in fixed charges and no changes in employment. See 49 CFR 1182.2(a)(7). Additional information may be obtained from applicant's representative.

On the basis of the application, we find that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at: ''*http://WWW.STB.DOT.GOV*.''

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on August 26, 2002, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street,

SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: July 2, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–17110 Filed 7–10–02; 8:45 am]

BILLING CODE 4915–00–P

Corrections

Federal Register

Vol. 67, No. 133

Thursday, July 11, 2002

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 COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010313063–1297–02; I.D. 121200A]

RIN 0648–A020

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements

Correction

In rule document 02–1875 beginning on page 4100 in the issue of Monday, January 28, 2002, make the following correction:

On page 4140, in the table, the second page of table 3 was inadvertently left out. The missing page of table 3 is corrected to read as set forth below.

Table 3 to Part 679--Product Recovery Rates for groundfish species and conversion rates for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE											
		15 PECTORAL GIRDLE	16 HEADS	17 CHEEKS	18 CHINS	19 BELLY	20 FILLETS W/SKIN & RIBS	21 FILLETS W/SKIN NO RIBS	22 FILLETS W/RIBS NO SKIN	23 FILLETS SKNLESS/BNLESS	24 FILLETS DEEP SKIN	30 SURIMI	31 MINCE
PACIFIC COD	110	0.05	---	0.05	---	0.01	0.45	0.35	0.25	0.25	---	0.15	0.5
ARROWTOOTH FLOUNDER	121	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
FLATHEAD SOLE	122	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
ROCK SOLE	123	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
DOVER SOLE	124	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
REX SOLE	125	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
YELLOWFIN SOLE	127	---	---	---	---	---	0.32	0.27	0.27	0.22	---	0.18	---
GREENLAND TURBOT	134	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
THORNYHEAD ROCKFISH	143	---	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	---	---	---
SCULPINS	160	---	---	---	---	---	---	---	---	---	---	---	---
ATKA MACKEREL	193	---	---	---	---	---	---	---	---	---	---	0.15	---
POLLOCK	270	---	0.15	---	---	---	0.35	0.30	0.30	0.21	0.16	0.16[1];0.17[2]	0.22
SMELTS	510	---	---	---	---	---	---	0.38	---	---	---	---	---
EULACHON	511	---	---	---	---	---	---	0.38	---	---	---	---	---
CAPELIN	516	---	---	---	---	---	---	---	---	---	---	---	---
SHARKS	689	---	---	---	---	---	---	0.30	0.30	0.25	---	---	---
SKATES	700	---	---	---	---	---	---	---	---	---	---	---	---
SABLEFISH	710	---	---	0.05	---	---	0.35	0.30	0.30	0.25	---	---	---
OCTOPUS	870	---	---	---	---	---	---	---	---	---	---	---	---
SQUID	875	---	---	---	---	---	---	---	---	---	---	---	---
ROCKFISH	---	---	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	---	---	---
Conversion rates to Net Weight for PACIFIC HALIBUT	200	---	—	—	---	---	---	---	---	---	---	---	---

[FR Doc. C2–1875 Filed 7–10–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2001–11032]

Funding for Mandated Security Modifications to Flightcrew Compartment Doors

Correction

In notice document 02–16499, beginning on page 44496 in the issue of Tuesday, July 2, 2002, make the following correction:

On page 44496, in the third column, under the ''**ADDRESSES**'' section, in the third and fourth lines, the web address is corrected to read as set forth below, ''*http://www2.airweb.faa.gov/airplane__security/announce*.htm''.

[FR Doc. C2–16499 Filed 7–10–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
July 11, 2002

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7237–1]

RIN 2060–AG98

National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for fabric and other textile coating, printing, slashing, dyeing, and finishing operations, pursuant to section 112(d) of the Clean Air Act (CAA). This action also revises the title of the source category. The Printing, Coating and Dyeing of Fabrics source category was included in the initial list of categories of hazardous air pollutants (HAP), published in the **Federal Register** on July 16, 1992. This action changes the title of the source category to Printing, Coating, and Dyeing of Fabrics and Other Textiles, to clarify the applicability of the proposed NESHAP to HAP-emitting operations performed on textile substrates including, but not limited to, fabric.

The EPA has estimated that there are approximately 135 major source facilities in the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category. The principal HAP emitted by these affected sources include toluene, methyl ethyl ketone (MEK), methanol, xylenes, methyl isobutyl ketone (MIBK), methylene chloride, n-hexane, trichloroethylene, and n,n-dimethyl formamide. Secondary HAP emitted include 1,1,1-trichloroethane, naphthalene, ethyl benzene, glycol ethers (ethylene glycol), biphenyl, and styrene.

Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the eye, lung, and mucous membranes, effects on the central nervous system, and damage to the liver. The EPA has classified two of the HAP as probable or possible human carcinogens. In general, these adverse health effect findings have only been shown with concentrations higher than those typically in the ambient air. The proposed standards would reduce nationwide HAP emissions from major sources by approximately 60 percent. The reduction in HAP emissions would be achieved by requiring all fabric and other textiles coating, printing, slashing, dyeing, and finishing operations at major sources to meet the HAP emission standards reflecting the application of the maximum achievable control technology (MACT). Emission reductions achieved by these standards, when combined with the emission reductions achieved by other similar standards, would protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare, protect the environment, and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before September 9, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing, they should do so by July 31, 2002. If requested, a public hearing will be held within approximately 30 days following publication of this document in the **Federal Register**.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–97–51, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–97–51, U.S. EPA, 501 M Street, SW., Room M–1500, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in **FOR FURTHER INFORMATION CONTACT**.

Public Hearing. If a public hearing is held, it will be held at the new EPA facility complex in Research Triangle Park, North Carolina. You should contact Ms. Janet Eck, Coatings and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–7946, to request to speak at a public hearing or to find out if a hearing will be held.

Docket. Docket No. A–97–51 contains supporting information used in developing the proposed standards. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Vinson Hellwig, Coatings and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–2317; facsimile number (919) 541–5689; electronic mail (e-mail) address: *hellwig.vinson@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by e-mail to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® file format. All comments and data submitted in electronic form must note the docket number: A–97–51. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Mr. Vinson Hellwig, c/o OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Janet Eck, Coatings and Consumer Products Group (C539–03), Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–7946 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also contact Ms. Eck to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. 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 will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

WorldWide Web (WWW). In addition to being available in the docket, an electronic copy of the proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The proposed source category definition includes sources that engage in the coating, printing, slashing, dyeing, or finishing of any fabric or other textile. In general, sources that engage in fabric and other textiles coating, printing, slashing, dyeing, or finishing operations are covered under the North American Industrial Classification System (NAICS) codes listed in the following table. However, sources classified under other NAICS codes may be subject to the proposed standards if they meet the applicability criteria. Not all sources classified under the NAICS codes in the following table will be subject to the proposed standards because some of the classifications cover products outside the scope of the NESHAP for printing, coating and dyeing of fabrics and other textiles.

TABLE 1.—CATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE PROPOSED STANDARDS

NAICS Code	NAICS product description
31321	Broadwoven Fabric Mills
31322	Narrow Fabric Mills and Schiffli Machine Embroidery
313241	Weft Knit Fabric Mills
313311	Broadwoven Fabric Finishing Mills
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills
313320	Fabric Coating Mills
314110	Carpet and Rug Mills
326220	Rubber and Plastics Hoses and Belting and Manufacturing
339991	Gasket, Packing, and Sealing Device Manufacturing

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your operation is regulated by this action, you should examine the applicability criteria in § 63.4281 of the proposed rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

I. Background
  A. What is the source of authority for development of NESHAP?
  B. What criteria are used in the development of NESHAP?
  C. What are the health effects associated with HAP emissions from coating, printing, slashing, dyeing, and finishing operations?
II. Summary of the Proposed Rule
  A. What source categories and subcategories are affected by the proposed rule?
  B. What is the relationship to other rules?
  C. What are the primary sources of emissions and what are the emissions?
  D. What is the affected source?
  E. What are the emission limits, operating limits, and other standards?
  F. What are the testing and initial compliance requirements?
  G. What are the continuous compliance provisions?
  H. What are the notification, recordkeeping, and reporting requirements?
III. Rationale for Selecting the Proposed Standards
  A. How did we select the source category and subcategories?
  B. How did we select the regulated pollutants?
  C. How did we select the affected source?
  D. How did we determine the basis and level of the proposed standards for existing and new or reconstructed sources?
  E. How did we select the format of the proposed standards?
  F. How did we select the testing and initial compliance requirements?
  G. How did we select the continuous compliance requirements?
  H. How did we select the notification, recordkeeping, and reporting requirements?
  I. How did we select the compliance date?
IV. Summary of Environmental, Energy, and Economic Impacts
  A. What are the air impacts?
  B. What are the cost impacts?
  C. What are the economic impacts?
  D. What are the non-air health, environmental, and energy impacts?
V. Administrative Requirements
  A. Executive Order 12866, Regulatory Planning and Review
  B. Executive Order 13132, Federalism
  C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
  D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
  E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  F. Unfunded Mandates Reform Act of 1995
  G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601, *et seq.*
  H. Paperwork Reduction Act
  I. National Technology Transfer and Advancement Act

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The Printing, Coating, and Dyeing of Fabrics source category was listed on July 16, 1992 (57 FR 31576) under the Surface Coating Processes industry group. As has been noted previously in this preamble, today's action changes the title of the source category to Printing, Coating, and Dyeing of Fabrics and Other Textiles.

Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT standards cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air health and environmental impacts, and energy requirements.

C. What Are the Health Effects Associated With HAP Emissions From Coating, Printing, Slashing, Dyeing, and Finishing Operations?

The HAP emitted from coating, printing, slashing, dyeing, and finishing operations include toluene, MEK, methanol, xylenes, MIBK, methylene chloride, n-hexane, trichloroethylene, and n,n-dimethylformamide. These compounds account for about 81 percent of the nationwide HAP emissions from this source category. The HAP that would be controlled with the proposed rule are associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (*e.g.,* irritation of the eyes, lungs, and mucous membranes, effects on the central nervous system, and damage to the heart and liver) and acute health disorders (*e.g.,* respiratory irritation and central nervous system effects such as drowsiness, headache, and nausea). The EPA has classified two of the HAP (methylene chloride and naphthalene) as probable or possible human carcinogens.

We do not have the type of current detailed data on each of the facilities covered by the emission standards for this source category, and the people living around the affected facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these affected facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these affected facilities. However, to the extent the adverse effects do occur, the proposed rule would reduce emissions and subsequent exposures.

II. Summary of the Proposed Rule

A. What Source Categories and Subcategories Are Affected by the Proposed Rrule?

The proposed rule would apply to you if you own or operate a fabric or other textile coating, printing, slashing, dyeing, or finishing operation or group of such operations that is a major source, or is located at a major source, or is part of a major source of HAP emissions, whether or not you manufacture the substrate. The coating, printing, slashing, dyeing, or finishing operations themselves are not required to be major sources of HAP emissions in order for them to be covered by the proposed rule. As long as some part of the facility where the operations are located (*e.g.,* a process boiler or manufacturing operations associated with production of the final product) causes it to be a major source, the coating, printing, slashing, dyeing, and finishing operations would be subject to the standards.

Any major HAP-emitting facility that performs coating, printing, slashing, dyeing, or finishing of fabric or other textiles is in this source category. As defined in the proposed rule, fabric or other textiles includes, but is not limited to, yarn, fiber, cord, thread, fabric and textile products, tents, roofing, soft baggage, marine fabric, drapery linings, flexible hoses, hot-air balloons, and awnings. The source category includes three subcategories (coating and printing, slashing, and dyeing and finishing) as described in the following paragraphs.

The coating and printing subcategory encompasses coating activities and equipment used to apply semi-liquid coating material to one or both sides of a textile web substrate. Once the coating is dried (and cured, if necessary) it bonds with the substrate to form a continuous solid film for decorative, protective, or functional purposes. Similarly, the coating and printing subcategory includes printing activities and equipment used to apply color and patterns to textile substrates, usually in the form of a paste. After application of the printing material, the substrate is treated with steam, heat, or chemicals to fix the color. If you coat fabric or other textiles and any other substrate on a coating line, then that line would be subject to the proposed rule unless it is specifically exempted in another NESHAP. We currently plan to provide such an exemption in the tire cord production NESHAP for tire cord coating lines that occasionally coat fabric. Another exemption is planned for the paper and other web coating NESHAP for lines that coat medical tape or duct tape.

The slashing subcategory includes the yarn preparation process performed on warp yarn prior to weaving. Slashing is the application of a chemical solution (known as sizing) to a yarn in a water solution followed by squeezing and drying.

The dyeing and finishing subcategory includes the equipment and operations involved in two separate but related processes that are both performed at some sources, while only one or the other is performed at other sources. Dyes and finishes are applied to yarn, fiber, cord, thread, or fabric in aqueous solutions and then dried. Dyeing is the application of color to the whole body of a textile substrate. Finishing is a process performed after dyeing that improves the appearance and/or usefulness of a textile substrate.

You would not be subject to the proposed rule if your coating, printing, slashing, dyeing, or finishing operation is located at an area source. An area source of HAP is any facility that has the potential to emit HAP but is not a major source. You may establish area source status by limiting the source's potential to emit HAP through appropriate mechanisms available through your permitting authority.

Exclusions from the source category include coating, printing, slashing, dyeing or finishing at sources using only coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials that contain no organic HAP; coating, printing, slashing, dyeing, or finishing that occurs at research or laboratory facilities or that is part of janitorial, building, and facility maintenance operations; and coating, printing, slashing, dyeing, or finishing used by an affected source and not for commerce, unless organic HAP emissions from the facility that performs coating, printing, slashing, dyeing, or finishing operations are as high as the specified major source HAP emissions.

B. What Is the Relationship to Other Rules?

Affected sources subject to the proposed rule may also be subject to other rules. We specifically request comments on how monitoring, recordkeeping, and reporting requirements can be consolidated for sources that are subject to more than one rule.

New Source Performance Standards—40 CFR part 60, subpart VVV. The new source performance standards (NSPS) for polymeric coating of supporting substrates apply to affected facilities that apply elastomers, polymers, or prepolymers to a supporting web other than paper, plastic film, metallic foil, or metal coil and that began construction, reconstruction, or modification after April 30, 1987. The pollutants regulated are volatile organic compounds (VOC). The affected facility is each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of the affected substrate. Emissions of VOC from the coating operation must be reduced by at least 90 percent or a total enclosure must be installed around the coating operation vented to an add-on control device that is at least 95 percent efficient. Depending on criteria in the NSPS, VOC emissions from onsite coating mix preparation equipment must be vented to a 95 percent efficient add-on control device or each piece of mix preparation equipment must be covered.

The proposed requirements for coating operations differ from the NSPS in three ways. First, the ''affected source'' for the proposed rule is defined broadly as the collection of all of the coating and printing operations and associated processes at the facility, whereas the ''affected facility'' for the NSPS is defined narrowly as each individual coating operation. The proposed NESHAP's broader definition of an affected source allows averaging across coating and printing lines for compliance purposes. Second, the proposed rule regulates organic HAP. While most organic HAP emitted from coating and printing operations are VOC, some VOC are not listed as HAP, and, therefore, the NSPS regulates a broader range of pollutants than the proposed NESHAP. Third, the HAP emission limitations in the proposed rule are in terms of an overall control efficiency (OCE) with an alternative weight fraction of solids applied emission rate limit based on the amount of coating solids used at the affected source. The VOC limitations in the NSPS are emission reduction standards; there is not an emission rate option based on the amount of coating solids used. Because of the differences between the two rules, compliance with either rule cannot be deemed compliance with the other. A coating or printing operation that meets the applicability requirements of both rules must comply with both. Overlapping reporting, recordkeeping, and monitoring requirements may be resolved through your title V permit.

Future national emission standards for the surface coating of paper and other web products. The paper and other web coating NESHAP were proposed September 13, 2000 (65 FR 55332). If you operate a coating line(s) that applies coatings both to paper and other web and to fabric and other textile substrates on the same line, then the coating line(s) is subject to the proposed printing, coating, and dyeing of fabrics and other textiles NESHAP. The only exceptions are where the paper and other web substrate being coated is medical tape or duct tape or where fabric is being laminated to a paper or other web substrate, and these exceptions will be specified in the paper and other web NESHAP.

Future national emission standards for tire manufacturing. The EPA has identified affected sources in the tire manufacturing source category that coat tire cord and that also sometimes apply coatings to textile cord used in the production of belts and hoses. If the source is subject to the tire manufacturing NESHAP, it is not subject to the proposed printing, coating, and dyeing of fabrics and other textiles NESHAP.

C. What Are the Primary Sources of Emissions and What Are the Emissions?

HAP emission sources. Coating and printing material application and curing are the largest contributors of HAP emissions at coating and printing affected sources. For example, based on the responses to a survey of the coating industry, the portion of total affected source HAP emissions attributed to coating application and curing is estimated to be approximately 95 percent. Other operations and activities that may create HAP emissions associated with coating/printing include storage tanks, substrate preparation, coating and printing material mixing/thinning operations, parts and equipment cleaning, and waste and wastewater operations.

The primary source of HAP emissions from slashing is methanol from polyvinyl alcohol (PVA) size, typically applied to synthetics (although it adheres to and is used for natural fibers as well). The methanol is present in the PVA size as a contaminant and is not needed for the slashing process. The methanol emissions can arise either from the size cooking operation and/or from the application or slashing process—the distribution is unclear, although it will depend upon the temperature at which the size is cooked, the cooking time, and how often mixing containers (cookers) are opened.

The sources of HAP emissions from dyeing are the HAP constituents that are contained in dyestuffs and auxiliary chemicals as purchased. The HAP constituents are needed to impart certain desirable characteristics to the dyed substrate (e.g., certain colors can only be attained through the use of HAP-containing dyestuffs or auxiliaries.) No HAP are known to be added by the users. The fraction of HAP contained in dye materials that is emitted to the atmosphere is generally estimated to range from zero to 10 percent, although a few sources report from 19 percent to as much as 100 percent emitted. The fraction of HAP in dye materials emitted to the atmosphere depends on the characteristics of the specific HAP constituents and the pressures and temperatures that the HAP are exposed to in the dyeing process operations. Most HAP constituents are believed to be rinsed from the substrate before the substrate is dried, because drying a substrate with unattached dye would adversely affect the quality of the dyed product.

The sources of HAP emissions from finishing are the HAP constituents that are contained in finishing materials as purchased, *i.e.,* as delivered to the affected source, before alteration. As is the case with dyeing, the HAP constituents are needed to impart certain desirable characteristics to the finished substrate (e.g., a resin finish containing HAP might be applied to a cotton/polyester blend for durable press and dimensional stability). No HAP are known to be added by the users. In finishing, unlike in dyeing, the fraction of HAP contained in finishes that is emitted to the atmosphere is generally assumed to be 100 percent with the exception of HAP that cross-link to the fiber, such as formaldehyde. This is because finished textiles are generally dried and cured at relatively high temperatures over 300 degrees Fahrenheit.

Organic HAP. Available emission data collected during the development of the proposed NESHAP show that the primary organic HAP emitted from coating and printing include toluene, MEK, hexane, and n,n-dimethylformamide. These compounds account for approximately 92 percent of this subcategory's nationwide organic HAP emissions. Other significant organic HAP identified include MIBK, hexane, and methylene chloride.

Available emission data collected during the development of the proposed NESHAP show that the organic HAP emitted from slashing is methanol. Methanol accounts for almost 100 percent of this subcategory's nationwide organic HAP emissions.

Based on emission data reported in survey responses collected during the development of the proposed NESHAP, methanol, glycol ether, and ethylene glycol are the primary HAP emitted from textile dyeing and finishing operations. These HAP account for approximately 82 percent of this subcategory's nationwide HAP emissions. Other significant organic HAP identified include formaldehyde, toluene and styrene.

Inorganic HAP. Based on information reported in survey responses during the development of the proposed NESHAP, inorganic HAP, including chromium, cobalt, hydrogen chloride, lead, manganese compounds and nickel, are components of some coatings, dyes, and finishes used by this source category. Inorganic HAP are not likely to be emitted because of the application techniques used.

D. What Is the Affected Source?

We define an affected source as a stationary source, a group of stationary sources, or part of a stationary source to which a specific emission standard applies. The proposed standards define the affected source for each subcategory as the collection of all equipment associated with the coating and printing, the slashing, or the dyeing and finishing performed on a textile substrate. For the purpose of defining the affected source, the textile substrate includes staple fibers and filaments suitable for conversion to or use as yarns, or for the preparation of woven, knit, or nonwoven fabrics; yarns made from natural or manufactured fibers; fabrics and other manufactured products made from staple fibers and filaments and from yarn; and garments and other articles fabricated from fibers, yarns, or fabrics. Also for each subcategory, the specific regulated materials are defined. Regulated materials are the HAP-containing materials that are the source of HAP emissions limited by the requirements of the proposed NESHAP.

The affected source for the coating and printing subcategory includes: all web coating and printing equipment used to apply cleaning materials to a substrate to prepare it for coating or printing material application, to apply coating or printing materials to a substrate and to dry or cure the coating or printing materials after application by exposure to heat or radiation (coating or printing material drying or curing), or to clean coating/printing operation equipment; all storage containers and mixing vessels in which regulated materials are stored or mixed; all manual and automated equipment and containers used for conveying regulated materials; all storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating or printing operation; and all manual and automated equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals. Coating or printing material drying or curing at ambient conditions is not drying or curing for the purpose of the proposed standards. The regulated materials for the coating and printing subcategory are the coating, printing, thinning and cleaning materials used in the affected source.

The affected source for the slashing subcategory includes: all slashing equipment used to apply and dry size on warp yarn; all storage containers and mixing vessels in which regulated materials are stored or mixed; all manual and automated equipment and containers used for conveying regulated materials; all storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a slashing operation; and all manual and automated equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals. The regulated materials for the slashing subcategory are the slashing materials used in the affected source.

The affected source for the dyeing and finishing subcategory includes: all dyeing and finishing equipment used to apply dyeing or finishing materials, to fix dyeing materials to the substrate, to rinse the textile substrate, to dry or cure the dyeing or finishing materials, or to clean dyeing/finishing operation equipment; all storage containers and mixing vessels in which regulated materials are stored or mixed; all manual and automated equipment and containers used for conveying regulated materials; all storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a dyeing or finishing operation; and all manual and automated equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals. The regulated materials for the dyeing and finishing subcategory are the dyeing, finishing, and cleaning materials used in the affected source.

E. What Are the Emission Limits, Operating Limits, and Other Standards?

We are proposing standards that would limit organic HAP emissions from coating, printing, slashing, dyeing, and finishing operations. The proposed standards include emission limits, operating limits, and work practice standards. Emission limits are being proposed for the coating and printing, slashing, and dyeing and finishing subcategories. Operating limits and work practice standards are being proposed for the coating and printing subcategory.

Emission limits. In the coating and printing subcategory, we are proposing to limit organic HAP emissions to the atmosphere from each new and reconstructed affected source to one of the following three specified levels: (1) At least a 98 percent organic HAP OCE (OCE limit); (2) no more than 0.08 kilograms (kg) organic HAP/kg of coating solids used (0.08 pound (lb) organic HAP/lb of coating solids used) during each monthly compliance period (emission rate limit); or (3) if you are using an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and the efficiency of the capture system is 100 percent (outlet concentration limit). The proposed HAP emission limits for each existing affected source are: (1) To achieve at least a 97 percent OCE limit; (2) an emission rate limit of no more than 0.12 kg organic HAP/kg of coating solids used (0.12 lb organic HAP/lb of coating solids used) in each monthly compliance period; or (3) if you are using an oxidizer to control organic HAP emissions, operate the oxidizer to achieve the outlet concentration limit of no greater than 20 ppmv on a dry basis and the efficiency of the capture system is 100 percent.

You may choose from several compliance options in the proposed rule to achieve the coating and printing emission limits. You could comply through a pollution prevention approach by applying regulated materials that meet the emission rate limits, either individually (compliant material option) or collectively (emission rate without add-on controls option), during each monthly compliance period. Second, you could use a capture system and add-on control device to meet either the applicable organic HAP OCE limit or emission rate limit. Third, you could use a 100 percent efficient capture system and an oxidizer that reduces organic HAP emissions to no more than 20 ppmv.

In the slashing subcategory, we are proposing to require each new, reconstructed and existing affected source to emit no organic HAP. This is not an absolute zero HAP limit since the compliance procedures specify that to determine organic HAP emissions, you would count only organic HAP present in the materials you use at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1 percent or more for other organic HAP compounds. To comply with the slashing organic HAP emission limits, you must apply only materials that individually meet the standard during each monthly compliance period.

In the dyeing and finishing subcategory, we are proposing to limit organic HAP emissions from each new, reconstructed and existing affected source that conducts dyeing operations only or both dyeing and finishing operations to no more than 0.016 kg organic HAP per kg of dyeing material used (0.016 lb organic HAP per lb of dyeing material used) for each monthly compliance period. You could comply with the dyeing and finishing organic HAP emission rate by applying materials that meet the emission rate, either individually or collectively, during each monthly compliance period. Each new, reconstructed and existing affected source that conducts only finishing operations is required to emit no organic HAP. This is not an absolute zero HAP limit since the compliance procedures specify that to determine organic HAP emissions, you would count only organic HAP that are present in the materials you use at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1 percent or more for other organic HAP compounds.

Operating limits. If you reduce emissions from coating or printing operations by using a capture system and add-on control device (other than a solvent recovery system for which you conduct a liquid-liquid material balance), the proposed operating limits would apply to you. These limits are site-specific parameter limits that you determine during the initial performance test of the system. For capture systems that are not permanent total enclosures (PTE), you would establish average volumetric flow rates or duct static pressure limits for each capture device (or enclosure) in each capture system. For capture systems that are PTE, you would establish limits on average facial velocity or pressure drop across openings in the enclosure.

For thermal oxidizers, you would monitor the combustion temperature. For catalytic oxidizers, you would either monitor the temperature immediately before and after the catalyst bed, or you would monitor the temperature before the catalyst bed and prepare and implement an inspection and maintenance plan that includes periodic catalyst activity checks. For carbon adsorbers for which you do not conduct a liquid-liquid material balance, you would monitor the carbon bed temperature and the amount of steam or nitrogen used to desorb the bed. For condensers, you would monitor the outlet gas temperature from the condenser. For concentrators, you would monitor the temperature in the desorption gas stream and the pressure drop across the zeolite wheel or rotary carbon bed.

The site-specific parameter limits that you establish must reflect operation of the capture system and add-on control devices during a performance test that demonstrates achievement of the emission limits during representative operating conditions.

Work practice standards. If you use an emission capture system and add-on control device for compliance, you would be required to develop and implement a work practice plan to minimize organic HAP emissions from mixing operations, storage tanks and other containers, and handling operations for coating, printing, thinning, cleaning, and waste materials.

Operations during startup, shutdown, or malfunction. If you use a capture system and add-on control device for compliance, you would be required to develop and operate according to a startup, shutdown, and malfunction plan (SSMP) during periods of startup, shutdown, or malfunction of the capture system and add-on control device.

General Provisions. The General Provisions (40 CFR part 63, subpart A) would also apply to you as indicated in the proposed rule. The General Provisions codify certain procedures and criteria for all 40 CFR part 63 NESHAP. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting and recordkeeping, performance testing, and monitoring. The proposed rule refers to individual sections of the General Provisions to emphasize key sections that are relevant. However, unless specifically overridden in the proposed rule, all of the applicable General Provisions requirements would apply to you.

F. What Are the Testing and Initial Compliance Requirements?

Compliance dates. Existing affected sources would have to be in compliance with the final standards no later than [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]. New and reconstructed affected sources would have to be in compliance upon startup of the affected source or by the [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], whichever is later. The effective date is the date on which the final rule is published in the **Federal Register**.

The proposed initial compliance period begins on the compliance date and ends on the last day of the first full month following the compliance date; except for new and reconstructed sources required to conduct performance tests, the initial compliance period ends on the last day of the first full month following the performance test if the performance test is conducted later than the compliance date (the proposed rule allows the test to be conducted up to 180 days later).

Being ‘‘in compliance’’ means that the owner or operator of the affected source meets the requirements to achieve the emission limitations during the initial compliance period. At the end of the initial compliance period, the owner or operator would use the data and records generated to determine whether or not the affected source is in compliance with the organic HAP emission limit and other applicable requirements for that period. If the affected source does not meet the emission limit and other applicable requirements, it is out of compliance for the entire initial compliance period.

Emission limits. With the exception of the slashing emission limit, there are several proposed options for complying with the proposed emission limits, and the testing and initial compliance requirements vary accordingly. You would be able to use different compliance options for different coating, printing, dyeing, and finishing operations in the affected source for each subcategory and also for the same operation at different times.

Compliance based on materials used in the affected source. If you demonstrate compliance with the proposed coating and printing emission limits based on the materials used, you would determine the mass of organic HAP and the mass fraction of solids in all materials used during the month of the initial compliance period. You would be required to demonstrate either that the organic HAP content of each coating and printing material meets the applicable emission limit and that you use no organic HAP-containing thinning or cleaning materials (compliant material option); or that the total mass of organic HAP in all coating, printing, thinning, and cleaning materials used divided by the total mass of solids in coating and printing materials used meets the applicable emission limit (emission rate without add-on controls option).

The compliant material option is a pollution prevention option that allows you to easily demonstrate compliance by using low-HAP or non-HAP coating and printing materials. If you use coating and printing materials that, based on their organic HAP content, individually meet the kg (lb) organic HAP emitted per kg (lb) solids used levels in the applicable emission limits and you use non-HAP thinners and other additives and cleaning materials, this compliance option is available to you. For this option, we have minimized recordkeeping and reporting requirements. You can demonstrate compliance by using readily available purchase records containing manufacturer's formulation data to determine the organic HAP content of each coating, printing, or other material and the amount of each material used. You would not need to perform any detailed emission rate calculations.

To demonstrate compliance with the compliant material option, you would demonstrate that the organic HAP content of each coating and printing material meets the applicable emission limit in Table 1 to the proposed subpart, and that you used no organic HAP-containing thinning or cleaning materials. For example, if you are using the compliant materials option for your existing source, you would demonstrate that: (1) Each coating and printing material used has an organic HAP content no greater than 0.12 kg (0.12 lb) organic HAP per kg (lb) solids used, (2) and that you used no organic HAP-containing thinning or cleaning materials. Note that ''no organic HAP'' is not intended to mean absolute zero. Materials that contain ''no organic HAP'' should be interpreted to mean materials that contain organic HAP levels below the levels specified in § 63.4341(e) of the proposed rule, which are typical reporting levels. These typical reporting levels only count organic HAP that are present at 0.1 percent or more by mass for OSHA-defined carcinogens and at 1.0 percent or more by mass for other compounds.

To determine the mass fraction of organic HAP in coating, printing, thinning, and cleaning materials and the mass fraction of solids in coating and printing materials, you could rely on manufacturer's formulation data. You would not be required to perform tests or analysis of the material if formulation data are available. Alternatively, you could use results from the test methods listed below. You may also use alternative test methods provided you get EPA approval in accordance with the NESHAP General Provisions, 40 CFR 63.7(f). However, if there is any inconsistency between the test method results (either EPA's or an approved alternative) and manufacturer's data, the test method results would prevail for compliance and enforcement purposes.

- For mass fraction of organic HAP, you would use Method 311 of 40 CFR part 63, appendix A;
- The proposed rule would allow you to use nonaqueous volatile matter as a surrogate for organic HAP, which would include all organic HAP plus all other organic compounds, and excluding water. If you choose this option, you would use Method 24 of 40 CFR part 60, appendix A; and
- For mass fraction of solids, you would use Method 24 of 40 CFR part 60, appendix A.

The emission rate without add-on controls option is a pollution prevention option where you can demonstrate compliance based on the organic HAP contained in the mix of coating, printing, thinning, and cleaning materials you use. This option allows you the flexibility to use some individual coating or printing materials that do not individually meet the emission limit if you use other low-HAP or non-HAP coating or printing materials such that overall emissions from the affected source during the compliance period meet the emission limit.

To demonstrate initial compliance with the emission rate limit without add-on controls option, you would be required to:

- Determine the quantity of each coating, printing, thinning, and cleaning material you used.
- Calculate the mass of organic HAP in each coating, printing, thinning, and cleaning material using the same types of data and methods previously described for the compliant material option.
- Determine the mass fraction of solids for each coating and printing material you used using the same types of data or methods described for the compliant material option.
- Calculate the total mass of organic HAP in all materials used and total mass of solids for all coating and printing materials used. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.
- Calculate the ratio of the total mass of organic HAP to the total mass of solids for the materials used.
- Record the calculations and results and include them in your Notification of Compliance Status.

Note that if you choose to use this option for a particular coating/printing operation or group of operations rather than for an entire affected source, you would calculate the organic HAP emission rate using just the materials used in that operation or group. You would need to separately demonstrate compliance for all other operations in the affected source.

To demonstrate compliance with the proposed slashing emission limits, you must use the compliant material option and demonstrate that each slashing material used during the initial compliance period contains no organic HAP. As was noted regarding thinning or cleaning materials used in coating/printing operations, ''no organic HAP'' is not intended to mean absolute zero. Materials that contain ''no organic HAP'' should be interpreted to mean materials that contain organic HAP levels below the levels specified in § 63.4341(e) of the proposed rule, which are typical reporting levels.

To demonstrate compliance with the proposed dyeing and finishing emission limits, you would be required to demonstrate either that the organic HAP content of each dyeing, finishing and cleaning material meets the applicable emission limit (compliant material option) or that the total mass of organic HAP in all dyeing, finishing and cleaning materials used divided by the total mass of dyeing, finishing and cleaning materials used meets the applicable emission limit (emission rate without add-on controls option).

As previously described for coating/printing operations, the compliant material option is a pollution prevention option that allows you to easily demonstrate compliance by using low-HAP or non-HAP dyeing, finishing and cleaning materials. To demonstrate compliance with the compliant material option, you would demonstrate that the organic HAP content of each dyeing, finishing, and cleaning material meets the applicable emission limit in Table 1 to the proposed subpart. To determine the mass of organic HAP in dyeing, finishing and cleaning materials, you may rely on manufacturer's formulation data. You would not be required to perform tests or analysis of the material if formulation data are available. Alternatively, you could use results from the test methods listed below. You may also use alternative test methods provided you get EPA approval in accordance with the NESHAP General Provisions, 40 CFR 63.7(f). However, if there is any inconsistency between the test method results (either EPA's or an approved alternative) and manufacturer's data, the test method results would prevail for compliance and enforcement purposes.

- For mass fraction of organic HAP, you would use Method 311 of 40 CFR part 63, appendix A;
- The proposed rule would allow you to use nonaqueous volatile matter as a surrogate for organic HAP, which would include all organic HAP plus all other organic compounds, and excluding water. If you choose this option, you would use Method 24 of 40 CFR part 60, appendix A.

Again as previously described for coating/printing operations, the emission rate without add-on controls option is a pollution prevention option where you can demonstrate compliance based on the organic HAP contained in the mix of dyeing, finishing, and cleaning materials you use. This option allows you more flexibility that the compliant material option, but requires the calculation of the emission rate each month. To demonstrate initial compliance with the emission rate without add-on controls option, you would be required to:

- Determine the mass of each dyeing, finishing and cleaning material you used.
- Calculate the mass of organic HAP in each dyeing, finishing and cleaning material.
- Calculate the total mass of organic HAP in all materials and the total mass of all materials used for the compliance period. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.
- Calculate the ratio of the total mass of organic HAP in the materials used to the total mass of materials used.
- Record the calculations and results and include them in your Notification of Compliance Status.

Note that if you choose to use this option for a particular dyeing/finishing operation or group of operations rather than for an entire affected source, you would calculate the organic HAP emission rate using just the materials used in that operation or group. You would need to separately demonstrate compliance for all other operations in the affected source.

Compliance based on using a capture system and add-on control device for coating and printing operations. If you use a capture system and add-on control device on a coating/printing operation, other than a solvent recovery system for which you conduct a liquid-liquid material balance, you would determine the capture and control efficiencies of the equipment or the oxidizer outlet organic HAP concentration. For the organic HAP emission rate limit, you also would determine the mass fraction of organic HAP and the mass fraction of solids in all materials used during the month of the initial compliance period. You would be required to demonstrate either that the organic HAP OCE is greater than or equal to the applicable organic HAP OCE limit, that the oxidizer outlet organic HAP concentration is no greater than 20 ppmv on a dry basis and the efficiency of the capture system is 100 percent, or that the capture and control system reduces organic HAP emissions to a level no greater than the applicable emission rate limit.

If you use a solvent recovery system for which you conduct a liquid-liquid material balance, you would be required to demonstrate either that the organic HAP OCE determined by material balance during the month of the initial compliance period is greater than or equal to the applicable organic HAP OCE limit or that the solvent recovery system reduces organic HAP emissions to a level no greater than the applicable emission rate limit.

The proposed testing and initial compliance requirements associated with determining the OCE of the capture system and add-on control device are summarized in the following paragraphs.

If you use a capture system and add-on control device, other than a solvent recovery system for which you conduct material balances, you would be required to conduct an initial performance test to determine the capture and control efficiencies of the equipment (or the capture efficiency of the capture system and the oxidizer outlet organic HAP concentration) and to establish operating limits to be achieved on a continuous basis. The performance test would have to be completed no later than the compliance date for existing sources and 180 days after the compliance date for new and reconstructed sources. If you are demonstrating compliance with the applicable emission rate limit with add-on controls, you would need to schedule the performance test in time to obtain the results for use in calculating your emission rate for the month of the initial compliance period.

You would determine both the efficiency of the capture system and either the organic HAP emission reduction efficiency of the add-on control device or the outlet organic HAP concentration of the oxidizer. To determine the capture efficiency, you would either verify the presence of a PTE using EPA Method 204 of 40 CFR part 51, appendix M (and all materials must be applied and dried or cured within the enclosure); or use one of three protocols in proposed § 63.4365 to measure capture efficiency. If you have a PTE and all regulated materials are applied and dried or cured within the enclosure and you route all exhaust gases from the enclosure to an add-on control device, then you would assume 100 percent capture. To demonstrate compliance with the oxidizer outlet organic HAP concentration limit, 100 percent capture is required.

To determine the organic HAP emission reduction efficiency of the add-on control device, you would conduct measurements of the inlet and outlet gas streams. Only the outlet gas stream would be measured to determine outlet concentration. The performance test would consist of three runs, each run lasting 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

- Method 1 or 1A for selection of the sampling sites.
- Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate.
- Method 3, 3A, or 3B for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981.
- Method 4 to determine stack moisture.
- Method 25 or 25A to determine organic volatile matter concentration. You would use Method 25A to demonstrate compliance with the oxidizer outlet organic HAP

concentration limit because the limit is less than 50 ppmw. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator, could be used.

If you use a solvent recovery system, you could determine the OCE using a liquid-liquid material balance instead of conducting an initial performance test. If you use the material balance alternative, you would be required to measure the amount of all materials used during the month of the initial compliance period and determine the total volatile matter contained in these materials. You would also measure the amount of volatile matter recovered by the solvent recovery system during the compliance period. Then you would compare the amount recovered to the amount used to determine the OCE. You would record the calculations and results and include them in your Notification of Compliance Status.

Additional proposed testing and initial compliance requirements associated with demonstrating compliance using the emission rate with add-on controls option are as follows:

• Determine the mass fraction of organic HAP in each coating, printing, thinning, and cleaning material used and the mass fraction of solids in coating and printing materials used during the month of the initial compliance period, as described previously in ''Compliance based on materials used in the affected source.''

• Calculate the total mass of organic HAP in all materials and total mass of solids for all coating and printing materials. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.

• Calculate the organic HAP emission reductions from the controlled coating or printing operations using the capture and control efficiencies determined during the performance test or the materials balance for the month and the total mass of organic HAP in materials used in controlled coating and printing operations.

• Calculate the ratio of the total mass of HAP emissions to the total mass of solids for the materials used during the month of the initial compliance period.

• Record the calculations and results and include them in your Notification of Compliance Status.

• Develop and implement a work practice plan to minimize emissions from storage, mixing, and handling of organic HAP-containing materials.

Operating limits. As mentioned above, you would establish operating limits as part of the initial performance test of a capture system and add-on control device, other than a solvent recovery system for which you conduct liquid-liquid material balances. The operating limits are the minimum or maximum (as applicable) values achieved for capture systems and add-on control devices during the performance test, conducted under representative conditions, that demonstrated compliance with the emission limits.

The proposed rule specifies the parameters to monitor for the types of emission control systems commonly used in the industry. You would be required to install, calibrate, maintain, and continuously operate all monitoring equipment according to the manufacturer's specifications and ensure that the continuous parameter monitoring systems (CPMS) meet the requirements in § 63.4374 of the proposed rule. If you use add-on control devices other than those identified in the proposed rule, you would submit the operating parameters to be monitored to the Administrator for approval. The authority to approve the parameters to be monitored is retained by EPA and is not delegated to States.

If you use a thermal or catalytic oxidizer, you would continuously monitor the appropriate temperature and record it at least every 15 minutes. For thermal oxidizers, the temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. The operating limit would be the average temperature measured during the performance test, and for each consecutive 3-hour period the average temperature would have to be at or above this limit. For catalytic oxidizers, temperature monitors are placed immediately before and after the catalyst bed. The operating limits would be the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed during the performance test. For each 3-hour period, the average temperature and the average temperature difference would have to be at or above these limits. Alternatively, you would be allowed to meet only the temperature limit before the catalyst bed if you develop and implement an inspection and maintenance plan that includes periodic catalyst activity checks.

If you use a carbon adsorber and do not conduct liquid-liquid material balances to demonstrate compliance, you would monitor the carbon bed temperature after each regeneration and the total amount of steam or nitrogen used to desorb the bed for each regeneration. The operating limits would be the carbon bed temperature (not to be exceeded) and the amount of steam or nitrogen used for desorption (to be met as a minimum).

If you use a condenser and do not conduct liquid-liquid material balances to demonstrate compliance, you would monitor the outlet gas temperature to ensure that the air stream is being cooled to a low enough temperature. The operating limit would be the average condenser outlet gas temperature measured during the performance test, and for each consecutive 3-hour period the average temperature would have to be at or below this limit.

If you use a concentrator, you would monitor the desorption concentrate stream gas temperature and the pressure drop of the dilute stream across the concentrator. These values would be recorded at least once every 15 minutes. The operating limits would be the average temperature (to be met as a minimum) and the average pressure drop (not to be exceeded) measured during the performance test.

For each capture system that is not a PTE, you would establish operating limits for gas volumetric flow rate or duct static pressure for each enclosure or capture device. The operating limit would be the average volumetric flow rate or duct static pressure during the performance test to be met as a minimum. For each capture system that is a PTE, the operating limit would require the average facial velocity of air through all natural draft openings to be at least 200 feet per minute or the pressure drop across the enclosure to be at least 0.007 inch water.

Work practices. If you use a capture system and add-on control device for compliance, you would be required to develop and implement on an ongoing basis a work practice plan for minimizing organic HAP emissions to the atmosphere from storage, mixing, material handling, and waste handling operations. This plan would include a description of all steps taken to minimize emissions from these sources (e.g., using closed storage containers, practices to minimize emissions during filling and transfer of contents from containers, using spill minimization techniques, placing solvent-laden cloths in closed containers immediately after use, etc.). You would have to make the plan available for inspection if the Administrator requests to see it.

Operations during startup, shutdown, or malfunction. If you use a capture system and add-on control device for compliance, you would be required to develop and operate according to a SSMP during periods of startup, shutdown, or malfunction of the capture system and add-on control device.

G. What Are the Continuous Compliance Provisions?

Emission limits. If you demonstrate compliance with the proposed emission limits for slashing based on the materials used (compliant material option), you would demonstrate continuous compliance if, for each monthly compliance period, the organic HAP content of each slashing material used meets the emission limits. You would use manufacturer's data to demonstrate compliance each month as you did for the initial compliance period.

If you demonstrate compliance with the proposed emission limits for coating and printing based on the materials used, you would demonstrate continuous compliance if, for each monthly compliance period, either you use only coating and printing materials that meet the applicable emission limit and only non-HAP thinning and cleaning materials (compliant material option); or that the ratio of total mass of organic HAP to total mass of solids in coating and printing materials used is less than or equal to the emission limits (emission rate without add-on controls option). You would follow the same procedures for calculating the organic HAP to coating and printing solids ratio that you used for the initial compliance period.

If you demonstrate compliance with the proposed emission limits for dyeing and finishing based on the materials used, you would demonstrate continuous compliance if, for each monthly compliance period, either the organic HAP content of each dyeing, finishing and cleaning material meets the applicable emission limit (compliant material option) or the total mass of organic HAP in all dyeing, finishing and cleaning materials used divided by the total mass of dyeing, finishing and cleaning materials used meets the applicable emission limit (emission rate without add-on controls option). You would follow the same procedures for determining the mass of organic HAP in all materials used during the month that you used for the initial compliance period.

For each coating or printing operation on which you use a capture system and add-on control device, other than solvent recovery for which you conduct a liquid-liquid material balance, the continuous parameter monitoring results for each month would affect your compliance determination. If the monitoring results indicate no deviations from the operating limits and there were no bypasses of the add-on control device, you would assume the capture system and add-on control device are achieving the same emission reduction as they did during the performance test in which the operating limits were established. If you are demonstrating compliance with either the organic HAP OCE option or the emission rate with add-on controls option, you would then apply the OCE to the total mass of organic HAP in materials used in controlled coating or printing operations to determine the monthly mass of organic HAP emissions from those operations. If there were any deviations from the operating limits during the month or any bypasses of the add-on control device, you would account for them in the calculation of the applicable emission rate by assuming the capture system and add-on control device were achieving zero emission reduction during the periods of deviation.

For each coating and printing operation on which you use a solvent recovery system and conduct a liquid-liquid material balance each month, you would use the liquid-liquid material balance to determine the emission rate. You would be required to measure the amount of all materials used during each month and determine the volatile matter content of these materials. You would also measure the amount of volatile matter recovered by the solvent recovery system during the month and calculate the weight percent of organic HAP used that was emitted to determine compliance with the organic HAP OCE option. If you are complying with the emission rate with add-on controls option, you would apply the OCE to the total mass of organic HAP in the materials used to determine total organic HAP emissions as input to the compliance demonstration.

Operating limits. If you use an emission capture system and add-on control device, the proposed rule would require you to achieve on a continuous basis the operating limits you establish during the performance test. If the continuous monitoring shows that the capture system and add-on control device are operating outside the range of values established during the performance test, you have deviated from the established operating limits.

If you operate a capture system and add-on control device with bypass lines that could allow emissions to bypass the add-on control device, you would have to demonstrate that organic HAP emissions collected by the capture system are routed to the add-on control device by monitoring for potential bypass of the add-on control device. You may choose from the following four monitoring procedures:

- Flow control position indicator to provide a record of whether the exhaust stream is directed to the add-on control device;
- Car-seal or lock-and-key valve closures to secure the bypass line valve in the closed position when the add-on control device is operating;
- Valve closure continuous monitoring to ensure any bypass line valve or damper is closed when the add-on control device is operating; or
- Automatic shutdown system to stop the coating or printing operation when flow is diverted from the add-on control device.

A deviation would occur for any period of time the bypass monitoring procedures indicate that emissions are not routed to the add-on control device.

Work practices. If you use an emission capture system and add-on control device for compliance, you would be required to implement on an ongoing basis the work practice plan you developed during the initial compliance period. If you did not develop a plan for reducing organic HAP emissions or you do not implement the plan, this would be a deviation from the work practice standard.

Operations during startup, shutdown, and malfunction. If you use a capture system and add-on control device for compliance, you would be required to develop and operate according to a SSMP during periods of startup, shutdown, and malfunction of the capture system and add-on control device.

H. What Are the Notification, Recordkeeping, and Reporting Requirements?

You would be required to comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63, as described in the proposed rule. The General Provisions notification requirements include: initial notifications, notification of performance test if you are complying using a capture system and add-on control device, notification of compliance status, and additional notifications required for affected sources with continuous monitoring systems. The General Provisions also require certain records and periodic reports.

Initial notifications. If you own or operate an existing affected source, you would be required to send a notification to the EPA Regional Office in the region where your affected source is located and to your State agency no later than [DATE 1 YEAR FROM DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]. For new and reconstructed sources, you would send the notification within 120 days after the date of initial startup or [DATE 120 DAYS FROM DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], whichever is later. The report notifies us and your State agency that you have an existing affected source that is subject to the proposed standards, or that you have constructed a new affected source. Thus, it allows you and the permitting authority to plan for compliance activities. You would also need to send a notification of planned construction or reconstruction of a source that would be subject to the proposed rule and apply for approval to construct or reconstruct.

Notification of performance test. If you demonstrate compliance by using a capture system and add-on control device for which you do not conduct a liquid-liquid material balance, you would conduct a performance test. The performance test would be required no later than the compliance date for an existing affected source. For a new or reconstructed affected source, the performance test would be required no later than 180 days after initial startup or [180 DAYS FROM DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], whichever is later. You must notify us (or the delegated State or local agency) at least 60 calendar days before the performance test is scheduled to begin and submit a report of the performance test results no later than 60 days after the test.

Notification of compliance status. You would send us a Notification of Compliance Status within 30 days after the end of the initial compliance period. In the notification, you would certify whether each affected source has complied with the proposed standards, identify the option(s) you used to demonstrate initial compliance, summarize the data and calculations supporting the compliance demonstration, and provide information on any deviations from the emission limits, operating limits, or other requirements.

If you elect to comply by using a capture system and add-on control device for which you conduct performance tests, you must provide the results of the tests. Your notification would also include the measured range of each monitored parameter, the operating limits established during the performance test, and information showing whether the source has complied with its operating limits during the initial compliance period.

Recordkeeping requirements. You would be required to keep records of reported information and all other information necessary to document compliance with the proposed rule for 5 years. As required under the General Provisions, records for the 2 most recent years must be kept on-site; the other 3 years' records may be kept off-site. Records pertaining to the design and operation of the emission control and monitoring equipment must be kept for the life of the equipment.

You would need to keep all documentation supporting initial notifications and notifications of compliance status.

If your affected source is complying with the slashing emission limits, you would need to keep records of the organic HAP content of each slashing material as purchased.

Depending on the compliance option that you choose for your affected source complying with the dyeing and finishing or coating and printing emission limits, you would need to keep records of the following:

- Organic HAP content, volatile matter content, coating and printing materials solids content, and quantity of the dyeing, finishing, coating, printing, thinning, and cleaning materials used during each compliance period.
- For the emission rate (with or without add-on controls) compliance options, calculations of your emission rate for each compliance period.

If your affected source is in the coating and printing subcategory and you demonstrate compliance by using a capture system and add-on control device, you would also need to keep records of the following:

- All required measurements, calculations, and supporting documentation needed to demonstrate compliance with the standards.
- All results of performance tests and parameter monitoring.
- All information necessary to demonstrate conformance with your plan for minimizing emissions from mixing, storage, and waste handling operations.
- All information necessary to demonstrate conformance with the affected source's SSMP when the plan procedures are followed.
- The occurrence and duration of each startup, shutdown, or malfunction of the emission capture system and add-on control device.
- Actions taken during startup, shutdown, and malfunction that are different from the procedures specified in the affected source's SSMP.
- Each period during which a CPMS is malfunctioning or inoperative (including out-of-control periods).

The proposed rule would require you to collect and keep records according to certain minimum data requirements for the CPMS. Failure to collect and keep the specified minimum data would be a deviation that is separate from any emission limits, operating limits, or work practice standards.

Deviations, as determined from these records, would need to be recorded and also reported. A deviation is any instance when any requirement or obligation established by the proposed rule including, but not limited to, the emission limits, operating limits, and work practice standards, is not met.

If you use a capture system and add-on control device to reduce organic HAP emissions, you would have to make your SSMP available for inspection if the Administrator requests to see it. The plan would stay in your records for the life of the affected source or until the source is no longer subject to the proposed standards. If you revise the plan, you would need to keep the previous superseded versions on record for 5 years following the revision.

Periodic reports. Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you would submit a semiannual report stating that the affected source has been in continuous compliance. If deviations occur, you would include them in the report as follows:

- Report each deviation from the emission limit.
- Report each deviation from the work practice standards if you use an emission capture system and add-on control device.
- If you use an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, report each deviation from an operating limit and each time a bypass line diverts emissions from the add-on control device to the atmosphere.
- Report other specific information on the periods of time the deviations occurred.

You would also have to include in each semiannual report an identification of the compliance option(s) you used for each affected source and any time periods when you changed to another compliance option.

Other reports. You would be required to submit reports for periods of startup, shutdown, or malfunction of the capture system and add-on control device. If the procedures you follow during any startup, shutdown, or malfunction are inconsistent with your SSMP, you would report those procedures with your semiannual reports in addition to immediate reports required by 40 CFR 63.10(d)(5)(ii).

Electronic reporting option. Comments are invited on the option of voluntary electronic reporting for all reporting requirements in the proposed rule. The option would allow the use of the Internet to meet the reporting requirements of the proposed rule. You would be allowed to choose the option to submit all reports electronically in lieu of filing written reports. The electronic records submittals would need to include all the information that otherwise would be submitted in written reports. The electronic submittals would be via electronic data interchange and would use Data Exchange Templates (DET). The DET or electronic forms will be used to ''tag'' data elements, which will allow reporting of the information to EPA. You would submit the electronic forms through EPA's Central Data Exchange (CDX). We would supply the required data elements, and you would be responsible for submitting the data appropriately ''tagged.'' If the rule were delegated to State, local or tribal agencies for implementation and enforcement, EPA would coordinate with the delegated agencies to provide them with either the electronic information or a hard copy of the required report.

Under this proposed electronic reporting option, it would be necessary to establish: (1) That an electronic document was sent (or not sent); (2) when the document was sent; (3) by whom the document was sent, and including both the individual who sent it and the identity of the entity the individual is authorized to represent; (4) when the document was received; (5) that the document was not altered from the time it was sent to the time it was received; and (6) the contents of the document sent.

Specifically, we request comment on the concept of electronic reporting, advantages to the regulated community by reducing reporting burdens; cost or cost savings; advantages or disadvantages to State/local/tribal agencies; and difficulties to be overcome in the implementation of electronic reporting.

III. Rationale for Selecting the Proposed Standards

A. How did We Select The Source Category and Subcategories?

Printing, coating, and dyeing of fabrics (changed by today's action to printing, coating, and dyeing of fabrics and other textiles) is a source category that is on the list of source categories to be regulated because it contains major sources which emit or have the potential to emit at least 10 tons of any one HAP or at least 25 tons of any combination of HAP annually. The proposed rule would control HAP emissions from both new and existing major sources. Area sources are not being regulated under the proposed rule.

Printing, coating, and dyeing of fabrics as described in the initial listing includes any affected source engaged in those activities. We also have found that slashing and finishing operations in printing, coating and dyeing sources have the potential to emit major source levels of organic HAP. We use the product lists contained in the NAICS code descriptions to describe the vast array of products composed of or containing fabric, textiles, yarn, fiber, cord, or thread that has been coated, printed, slashed, dyed or finished.

We intend the source category to include sources for which fabric and other textiles coating, printing, slashing, dyeing and finishing is either their principal activity or an integral part of a production process that is the principal activity. Many coating, printing, slashing, dyeing and finishing operations are located at plant sites that are dedicated to these activities. However, some are located at sites for which some other activity is principal, such as production of sheets and towels or rubber belt manufacturing. Collocated coating, printing, slashing, dyeing and finishing operations comparable to the types and sizes of the dedicated affected sources, in terms of the affected operation and applicable emission control techniques, are included in the source category.

The source category does not include research or laboratory facilities; janitorial, building, and facility maintenance operations; coating, printing, slashing, dyeing, or finishing operations in which no organic HAP-containing materials are used; or coating, printing, slashing, dyeing or finishing used by a facility and not for commerce, unless organic HAP emissions from the coating, printing, slashing, dyeing or finishing operations are at major source levels.

Subcategory selection. The statute gives us discretion to determine if and how to subcategorize. Once the floor has been determined for new or reconstructed and existing affected sources for a source category or subcategory, we must set MACT standards that are no less stringent than the MACT floor. Such standards must then be met by all sources within the source category or subcategory. A subcategory is a group of similar sources within a given source category. As part of the regulatory development process, we evaluate the similarities and differences between industry segments or groups of affected sources comprising a source category. In establishing subcategories, we consider factors such as process operations (type of process, raw materials, chemistry/formulation data, associated equipment, and final products); emission characteristics (amount and type of HAP); add-on control device applicability; and opportunities for pollution prevention. We may also consider existing rules or guidance from States and other regulatory agencies in determining subcategories.

After reviewing survey responses from the industry, facility site visit reports, and information received from stakeholder meetings, we found that the printing, coating, and dyeing of fabrics and other textiles source category may be grouped into three subcategories with differing material application and performance requirements, emission characteristics, applicable add-on emission controls and pollution prevention opportunities. The three subcategories are: (1) Coating and printing, (2) slashing, and (3) dyeing and finishing. The following paragraphs include descriptions of each subcategory.

Coating and printing subcategory. The coating and printing subcategory includes affected sources that apply coatings to or print textile substrates. The coating and printing manufacturing processes, HAP emissions, and types of controls in use sufficiently set them apart from the other processes that are used in the manufacture of textile products to warrant a subcategory. Coating is a web coating operation, and the physical operations and most sources performing coating are separate and distinct from the other textile operations. Many coating operations are subject to State reasonably available control technology requirements or to the polymeric coating of supporting substrates NSPS (40 CFR part 60, subpart VVV) and have installed emission control systems for VOC. Since a number of the VOC emitted from coating operations are also organic HAP (*e.g.,* toluene, MEK, xylene, and methanol), the VOC emission control systems in place are also effective for controlling organic HAP emissions. Printing is a web process very similar to coating and uses some of the same equipment. The application and drying of printing materials and the organic HAP emission sources are identical or nearly identical to coating, and, therefore, the control options and limits for coating would be applicable to printing as well.

Coating is a specialized chemical finishing technique designed to produce textiles to meet high performance requirements, *e.g.,* for end products such as tents, roofing, soft baggage, marine fabric, drapery linings, flexible hoses, hot-air balloons, and awnings. Coatings generally impart elasticity to substrates, as well as resistance to one or more elements such as abrasion, water, chemicals, heat, fire, and oil. The substrate itself provides strength (such as tear strength) and can include wovens, nonwovens, knits, yarn, cord, and thread, although woven fabrics are most commonly used.

Printing is the application of color to a substrate in a design or pattern. In some cases, the printing material is chemically the same as coating material only thinned to a lower viscosity. There are typically four types of printing, including rotary screen, engraved roller, flat-bed screen, and heat transfer. Rotary screen and engraved roller closely resemble coating and use principally the same type of equipment as coating. Flat-bed screen is typically not a high production technique and does not emit large quantities of HAP over a period of time given the limits of production. Heat transfer emits little or no HAP in the transfer of the print to the substrate.

Both the substrates coated and printed as well as the coatings themselves vary. A number of different substrates can be coated including rayon, nylon, polyester, cotton, and blends. Coating chemicals used vary depending on end use of the coated substrate. Examples of coating chemicals include vinyl, urethane, silicone, and styrene-butadiene rubber. The polymer can be bought in various forms such as chunks, blocks, chips, pellets or fine powder. However, besides the polymer resins, several other chemicals can also be included in the prepared coating. These include plasticizers to increase pliability (*e.g.*, fatty acids, alcohols), solvents to disperse solids and adjust viscosity (*e.g.*, toluene, xylene, N,N-dimethylformamide, and MEK), pigments, curing agents, and fillers (*e.g.*, carbon black and teflon). Rubber coating materials are frequently compounded in the facility performing the coating. Manmade fibers coated with epoxy or phenolic resins are often not immediately cured following application, but are first laid in a mold and then cured under pressure to form a composite structure.

The coating or printing process generally is made up of the following unit operations: mixing the coating or printing materials (including the solvents), conditioning the substrate, applying the coating or printing materials to the substrate, evaporating the solvent in a drying oven and sometimes curing or vulcanizing by exposure to heat, and cleaning coating or printing operation equipment. A coating or printing operation with coating or printing material drying or curing at ambient conditions is not coating or printing for the purpose of the proposed subpart. Therefore, a coating or printing operation that does not dry or cure the applied coating or printing material by exposure to heat is not subject to the requirements of the proposed subpart.

The application processes used by affected sources in the industry are similar in that they use continuous web coating techniques, but they include several types of coating and substrates. The coating industry treats coating as a surface applied coating in which a distinct layer of coating is applied to the textile surface.

Slashing subcategory. The slashing subcategory includes affected sources that perform slashing operations. The slashing equipment, emission characteristics, and opportunities for pollution prevention in the industry are distinct from those in the rest of the fabric and other textiles coating, printing, and dyeing source category, warranting a separate subcategory.

Slashing is a yarn preparation process performed on warp yarn prior to weaving. Warp yarns need to sustain their elongation and flexibility during the weaving process, which necessitates the slashing process. In the slashing process, large rolls (beams) of warp yarn are passed through a size box containing the aqueous sizing compound. Squeeze rolls remove excess solution and the yarn then passes through a drying unit that usually consists of steam filled dry cans (rollers) or an oven and then through a series of separator bars to prevent the ends from sticking together. After the separation process, the warp is then wound onto the loom beam. Some mills perform desizing. During the desizing step, at the end of the textile process, most of the sizing (slashing material) is removed from the textile by washing and the sizing is present in the wastewater.

The objectives of slashing are to strengthen, smooth the outer surface, and lubricate the yarn. The chemical nature of the size applied is dependent on the yarn substrate and the type of weaving being used. The three main types of size currently used are natural products (starch), fully synthetic products (*e.g.*, PVA), and semisynthetic blends (*e.g.*, modified starches and carboxymethyl cellulose (CMC)).

When starch or modified starch is the sizing compound, there is water but no HAP emitted from the slashing process. Starch is used principally on cotton, but does not work well on synthetic fibers. Also, starch is not more widely used and is not a good substitute for synthetic sizing because of water pollution concerns. Starch greatly increases the biological oxygen demand and cannot be partially recycled.

The PVA and CMC are typically recycled when possible to reduce water treatment and water pollution. The CMC is not as widely used as starch and PVA because of the cost of the material. The CMC is not as effective in the slashing process on cotton and synthetic textiles as starch, modified starches, or PVA, respectively.

The primary source of HAP emissions from slashing is methanol from PVA size, typically applied to synthetics (although it adheres to and is used for natural fibers as well). The methanol is present in the PVA size as a contaminant and is not needed for the slashing process. The methanol emissions can arise either from the size cooking operation and/or from the application or slashing process; the distribution is unclear, although it will depend upon the temperature at which the size is cooked, the cooking time, and how often mixing containers (cookers) are opened. These processes are not presently regulated by Federal, State or local agencies, and there are no known HAP emission capture or add-on control systems in use on size cooking or slashing processes. However, information submitted to us from suppliers representing approximately 74 percent of the domestic market for PVA indicate that PVA with less than 1 percent methanol is readily available, and these suppliers are now changing their production to supply the lower HAP material.

Dyeing and finishing subcategory. The dyeing and finishing subcategory includes affected sources that perform dyeing and/or finishing operations. The process operations, materials and the organic HAP emissions sufficiently set these processes apart from the other processes that are used in the manufacture of textile products to warrant a subcategory. Dyeing and finishing processes both use various types of aqueous materials, the choice of which depends on the type of substrate and the desired properties in the end product. Many affected sources perform both dyeing and finishing and use some common equipment (*e.g.*, tenter frames) for unit operations in both processes. In some cases, the finishes are applied to the substrate wet from the dyeing process, and no drying is done until after the finish application. No add-on organic HAP emission controls are known to be in use on dyeing processes and very few on finishing processes. The few add-on emission controls used on finishing processes were installed to control opacity and are not effective at controlling organic HAP emissions. The similarities of process operation equipment, sources of organic HAP emissions (many of which are fugitive), absence of add-on HAP emission controls and opportunities for pollution prevention in the dyeing and finishing industry lend these operations well to subcategorization for the purpose of determining emission limits.

Dyeing is the application of color to the whole body of a textile material with some degree of color fastness. Textiles are dyed using continuous and batch processes, and dyeing may take place at any of several stages in the manufacturing process (*i.e.*, prior to fiber extrusion, fiber in staple form, yarn, fabric, garment). Most of the dyeing is done in finishing departments of basic manufacturing sources, although there are also several commission dyehouses. From an environmental perspective, dyeing has typically been viewed as a wastewater issue due to large quantities of water, chemicals, and auxiliaries (such as salt) used.

Dyeing is essentially a mass transfer process where the dye diffuses in solution, adsorbs onto the fiber surface, and finally, within the fiber. Dyeing is complicated by the fact that there are many sources of color variations, such as dyes, substrate, preparation of substrate, dyeing auxiliaries used, and water. Processing variables such as time, temperature, and dye liquor ratio (lbs of dyebath to lbs of cloth) also affect dyeing results. There are hundreds of dyes within several dye classes, each of which exhibits different results when applied to different types of substrates.

Various types of dyeing machines are used for both continuous and batch processes. Every dye system has different characteristics in terms of factors such as versatility, cost, tension of substrate, use of carriers and weight limitations. Dyeing systems can be aqueous, nonaqueous (inorganic solvents), or use sublimation (thermosal, heat transfer). Hydrophilic fibers such as cotton, rayon, wool, and silk are typically easier to dye as compared with hydrophobic fibers such as acetate, polyesters, polyamides, and polyacrylonotriles.

The four basic steps in the dyeing process are: dissolving or dispersing dye, diffusing dye onto the fiber surface, absorbing dye onto the fiber surface, and diffusing dye into the fiber. Batch dyeing involves moving the dye liquor through the goods or moving the goods through the dye liquor. The substrate is immersed in the dyebath during the entire period of dyeing. In batch dyeing, a certain amount of substrate, usually 220 to 2,200 lbs, is loaded onto a dyeing machine and is brought to equilibrium or near equilibrium with a solution containing the dye. Once immersed in the dye bath, because the dyes have an affinity for the fibers, the dye molecules leave the dye solution and enter the fibers over a period of minutes to hours.

Auxiliary chemicals and controlled dyebath conditions (mainly temperature) accelerate and optimize the action. The dye is fixed in the fiber using heat and/or chemicals after which the substrate is washed to remove unfixed dyes and chemicals. There is a trend to use lower liquor ratios (lbs of dyebath to lbs of cloth) in batch dyeing, which lends benefits such as faster heating/cooling and less waste. Batch equipment can usually be purchased as atmospheric (operated below 212 degrees Fahrenheit) or pressurized (operated to about 280 degrees Fahrenheit) machines. Most batch dyeing is being done using pressurized machines, although some sources use atmospheric machines, especially for dyeing. Atmospheric dyeing might be required for fleeces and stretch fabrics, such as Lycra®, which typically cannot be dyed using jet equipment. Dyeing processes in pressurized machines release no organic HAP emissions to the atmosphere since the process is totally enclosed, and the pressure is released at the end of the dyeing process by cooling the dye bath which is subsequently drained before opening the dyeing machine. However, in some cases, the drying of the pressure-dyed substrate releases HAP emissions.

Continuous processes typically consist of dye application, dye fixation with chemicals or heat, and washing. Almost all continuous dyeing is done at atmospheric pressure. Continuous dyeing is usually used for long runs of polyester/cotton fabrics and involves immersing fabrics in a relatively concentrated dyebath for short periods. Substrate is fed continuously into a dye range at speeds usually between 540 and 2,690 feet per minute, and a concentrated solution of dyes and chemicals (held in pads) is moved evenly and uniformly to the goods with thorough penetration. A pad mangle helps apply pressure to squeeze dye solution into the fabric, and the dye is usually diffused or fixed by heating in a steamer or oven. Dye fixation on fiber occurs much more rapidly in continuous dyeing as compared to batch dyeing. After fabrics are dyed, they are dried in ovens or tenter frames after washing to remove un-reacted chemical or loose dye. A substrate that is processed through atmospheric batch dyeing is not dried at the dye range; it is sent to finishing and may be finished wet or dry.

Various classes of dyes can be used, *e.g.*, disperse for synthetics and direct for cellulosics. Dyes used in the textile industry are mostly synthetic and are derived from coal tar and petroleum-based derivatives. Dyes are sold as powders, granules, pastes, liquid dispersions, and solutions. Not only are dyes applied in different ways, they also impart color using different mechanisms. Dyes can be classified according to chemical constitution or method of application. Dyestuffs can work on principles of electrostatic bonding, covalent bonding, or physical entrapment. For example, acid dyes work through the mechanism of electrostatic bonding, whereas disperse dyes work by physical entrapment. Different dye classes exhibit different affinities depending on the type of fiber, although even dyes within the same classes can show wide affinity variations. They also exhibit different properties such as their fastness under end use conditions (*e.g.*, light, laundering, or dry cleaning).

Various combinations of chemical auxiliaries and process conditions (temperature and pressure) may be used to better fix the dye on the textile or impart specific characteristics. For example, a dye bath may contain the dyestuffs along with appropriate auxiliaries such as wetting agents and also specific chemicals such as acetic acid or sodium hydroxide. The use of higher temperatures and superatmospheric pressures have reduced the need for dye carriers (chemical accelerants) that were required at lower temperatures for the use of disperse dyes on synthetic substrates, such as polyester.

The sources of HAP emissions from dyeing are the HAP constituents that are contained in dyestuffs and auxiliary chemicals as purchased. The HAP constituents are needed to impart certain desirable characteristics to the dyed substrate (*e.g.*, certain colors can only be attained through the use of HAP-containing dyestuffs or auxiliaries.) No HAP are known to be added by the users. The fraction of HAP contained in dye materials that are emitted to the atmosphere are generally estimated to range from zero to 10 percent, but have been reported as high as 100 percent, and depend on the characteristics of the specific HAP constituents and the pressures and temperatures that the HAP are exposed to in the dyeing process operations. The fraction of HAP emitted to the atmosphere from dye materials have not been confirmed by test data. Most HAP constituents are believed to be rinsed from the substrate before the substrate is dried, because drying a substrate with unattached dye would adversely affect the quality of the dyed product.

Finishing refers to any process operation performed after bleaching, dyeing, or printing that improves the appearance and/or usefulness of a textile substrate. Finishing encompasses any of several mechanical (*e.g.*, texturizing, napping) and chemical processes (*e.g.*, optical finishes, softeners, urea-formaldehyde resins for crease resistance) performed on fiber, yarn, or fabric to improve its appearance, texture, or performance. The organic HAP emission sources from finishing are specific chemical compounds that may be applied and released during subsequent drying and curing operations. Chemical finishing is also referred to as wet finishing. No chemicals are used in mechanical or dry finishing.

The textile is usually dried prior to chemical finishing using either convective (hot air) or conductive (heated cans) methods. Chemical finishing is commonly done on a continuous finishing range (pad and tenter frame). The textile is passed through an aqueous solution containing the finishing chemical(s) and auxiliaries. After treatment, the textile is typically passed through an oven to drive off water and activate/cure finishing chemicals. It is important to note that there is no set recipe for the chemical finishes or mechanical finishing processes applied to any given substrate. Finishing methods are used according to desired characteristics of the end product (which vary widely and are market driven), and the firms themselves have some amount of flexibility in the specific processes or chemicals they choose to use for a particular function.

The industry uses numerous categories of proprietary chemical speciality products that are used as chemical finishes. Some examples of chemical finish classes include:

• Resin finishes (permanent press) are used on cotton or rayon to minimize the need to iron by keeping the fabric smooth after washing and drying. Most resins contain formaldehyde; resins without formaldehyde are typically much costlier and adversely affect product quality.

• Softeners are used with resins to improve the way the fabric feels by breaking down hardness or stiffness.

• Stain resist finishes are used extensively on carpets and upholstery fabrics. Soil release finishes allow soils and stains to be removed by laundering.

• Water repellants used to prevent fabrics from being wet out (breathable, unlike waterproofing agents) include, but are not limited to, wax, silicone, and fluorine.

• Flame retardant qualities can be achieved by using special fibers or phosphorus-based finishes.

• Antistatic agents decrease or eliminate static electricity in textiles.

• Handbuilders give the fabrics body or stiffness. Other examples of types of chemical finishes include anticreasing agents, deodorants, moth resisting agents, oil repellants, rust preventatives, and shrinkage controllers. Some companies use more specialized finishes like electrical finishes and teflon®. Because there are typically a wide variety of choices of chemical finishes that can be used within each finish class, it is often difficult to tag finishes used in certain classes as always toxic or nontoxic. In certain cases, as in the case of permanent press finishes, most of the resins used contain formaldehyde, although low or non-formaldehyde finishes are being developed to suit certain applications.

There are also several different types of mechanical finishing techniques. For example, heatsetting can be done to improve dimensional stability in synthetic textiles. Shearing involves using rotary blade(s) to trim raised surfaces and reduce pilling. Other examples include embossing, glazing, sueding, and polishing.

Many chemical and mechanical alternatives are available for every finishing operation, but the specific nature and applicability of these is unclear. Some mechanical finishes and design alternatives can avoid chemical processing. For example for softness, enzyme softening of cotton and other mechanical alternatives can be used. Proper use and application of N-methylol crosslinkers can minimize formaldehyde releases. Mechanical finishing (compacting) can also eliminate use of the crosslinker. Some crosslinkers that eliminate formaldehyde are available, but much more expensive. The industry has made a lot of efforts to reduce the amount of free formaldehyde in resins, however good substitutes that do not adversely affect the quality of the product are difficult to find. Formaldehyde contents can vary anywhere from less than one half of one percent for light weight fabrics to 4 percent for heavy fabrics (melamine-formaldehyde resins), and there is a lot of variability in types of resins. Formaldehyde itself does not affect the product, however it does affect the properties of the resin itself (manufacturing). Acrylic handbuilders and stiffeners can replace formaldehyde-based handbuilders.

The sources of organic HAP emissions from finishing are the HAP constituents that are contained in finishing materials as purchased. As is the case with dyeing, the organic HAP constituents are needed to impart certain desirable characteristics to the finished substrate (*e.g.*, a resin finish containing organic HAP might be applied to a cotton/polyester blend for durable press and dimensional stability). No organic HAP are known to be added by the users. In finishing, unlike in dyeing, the fraction of organic HAP contained in finishes that are emitted to the atmosphere are generally assumed to be 100 percent with the exception of HAP that cross-link to the fiber, such as formaldehyde. This is because the finished textile is typically dried and cured at relatively high temperatures over 300 degrees Fahrenheit.

B. How did We Select The Regulated Pollutants?

Organic HAP. Available emission data collected during the development of the proposed NESHAP show that the primary organic HAP emitted from printing, coating and dyeing sources include toluene, MEK, methanol, xylenes, MIBK, methylene chloride, n-hexane, trichloroethylene, and n,n-dimethylformamide. These compounds account for approximately 81 percent of this category's nationwide organic HAP emissions. However, many other organic HAP are used, or can be used, in coating, printing, slashing, dyeing, and finishing operations. Therefore, the proposed rule would regulate emissions of all organic HAP.

Inorganic HAP. Based on information reported during development of the proposed NESHAP, inorganic HAP contained in the coating, printing, dyeing and finishing materials used by this source category include chromium, cobalt, hydrogen chloride, lead, manganese compounds and nickel. There is limited opportunity for these HAP to be emitted into the ambient air because all of the application techniques used involve direct application of the inorganic HAP-containing material to the substrate by techniques such as knife-over-roll, reverse roll, dip, pad and immersion. These techniques would not typically generate air emissions of the inorganic compounds. Once deposited on the substrate, the inorganic compounds remain on the substrate and are not emitted during subsequent drying and curing process operations. Therefore, we conclude that there are limited or no air emissions of inorganic HAP, and the proposed standards would not regulate them.

C. How Did We Select the Affected Source?

In selecting the affected source(s) for emission standards, our primary goal is to ensure that MACT is applied to HAP-emitting operations or activities within the source category or subcategory being regulated. The affected source also serves to establish where new source MACT applies under a particular standard. Specifically, the General Provisions in subpart A of 40 CFR part 63 define the terms ''construction'' and ''reconstruction'' with reference to the term ''affected source'' and provide that new source MACT applies when construction or reconstruction of an affected source occurs. The collection of equipment and activities evaluated in determining MACT (including the MACT floor) is used in defining the affected source.

When an emission standard is based on a collection of emissions sources, or total facility emissions, we select an affected source based on that same collection of emission sources, or the total facility, as well. This approach for defining the affected source broadly is particularly appropriate for industries where a plantwide emission standard provides the opportunity and incentive for owners and operators to utilize control strategies that are more cost effective than if separate standards were established for each emission point within an affected source.

Selection of affected source. The affected source for the proposed standards is broadly defined for each subcategory. It includes all operations associated with coating and printing, with slashing, or with dyeing and finishing and in all cases includes the cleaning of process operation equipment. These operations include storage and mixing of regulated materials, regulated material application and flash-off and drying and curing of applied materials by exposure to heat, cleaning operations, waste handling operations, and wastewater treatment operations.

In selecting the affected source, we considered, for each operation, the extent to which HAP-containing materials are used and the amount of HAP that are emitted. Coating, printing, slashing, dyeing and finishing material application, flash-off, and curing/drying operations by exposure to heat account for the majority of HAP emissions from coating, printing, slashing, dyeing and finishing operations. These operations are included in the affected source.

We were not able to obtain data to adequately quantify HAP emissions from storage, mixing, cleaning, waste handling and wastewater treatment. However, solvents that are added to coatings as thinners, for example, and HAP from other HAP-containing materials such as dyeing or finishing auxiliaries, may be emitted during mixing and storage. The level of emissions depends on the type of mixing and the type of storage container and the work practices used at the affected source. The magnitude of emissions from cleaning depends heavily on the amount and HAP content of cleaning materials used. Emissions from waste handling operations depend on the type of system used to collect and transport organic HAP-containing waste materials in the affected source. For example, solvent-laden rags that are used to clean application equipment could be a source of HAP emissions. The method used to isolate and store such rags affects the level of emissions to ambient air. The HAP emissions from wastewater treatment depend on the quantity and types of HAP discharged to the wastewater treatment operation and the subsequent wastewater treatment processes, e.g., treatment by aeration or by biodegradation. Mixing, storage, cleaning, waste handling, and wastewater treatment operations are included in the affected source.

A broad definition of the affected source was selected to provide maximum flexibility in complying with the proposed emission limits for organic HAP. In planning its total usage of HAP-containing materials, each affected source can select among available coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials, as well as use of emission capture systems and add-on controls for coating and printing operations, to maximize emissions reductions in the most cost-effective manner.

Additional information on the coating, printing, slashing, dyeing and finishing operations is included in the docket for the proposed standards.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New or Reconstructed Sources?

The sections below present the rationale for determining the MACT floor, regulatory alternatives beyond the floor, and selection of the proposed standards for existing and new or reconstructed affected sources in each of the three subcategories identified in the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category.

How did we determine the MACT floor technology? After we identify the specific source categories or subcategories of sources to regulate under section 112 of the CAA, we must develop emission standards for each category and subcategory. Section 112(d)(3) establishes a minimum baseline or ''floor'' for standards. For new sources in a category or subcategory, the standards cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

Coating and printing subcategory. There are an estimated 60 facilities in the coating and printing subcategory. Quantitative data on HAP use and emission control were obtained from 22 coating sources. The 22 sources in the MACT database are representative of the different sizes of companies and the range of products in the national population of coating sources. Qualitative data providing descriptions of coating and printing processes, HAP control technologies, and process and control technology concerns also were obtained from site visits and industry trade groups, such as the Rubber Manufacturers Association. These data verified that the coating processes and HAP emission sources are similar for all coating types and that similar HAP control technologies are used. They also verified that, although we do not have quantitative data on printing operations, it is reasonable to use the coating data for making decisions for both coating and printing sources due to the similarities between coating and printing processes and materials used.

The MACT database shows that the most common approach for reducing organic HAP emissions at coating and printing sources is the use of add-on capture and control systems. At the sources reporting the highest level of control, coating application stations are enclosed in rooms, and the ventilation air is directed to the add-on control device. This type of capture system can achieve 100 percent capture of emissions when designed to meet the criteria specified in EPA Method 204 of 40 CFR part 51, appendix M. This capture system is called a PTE. Of the 22 sources in the MACT database, six reported the use of PTE and 13 reported that they operated control devices on a total of 29 coating lines. Of the 29 controlled lines, 16 lines use thermal oxidizers, three lines use catalytic oxidizers, nine lines use carbon adsorbers, and one line uses an electrostatic precipitator.

The MACT database contains information concerning the level of HAP emissions from coating application and drying/curing, the capture efficiency for each coating application area or for the entire coating line, and the destruction or removal efficiency of the add-on control device receiving the HAP emissions. We were able to determine the coating line application and drying/curing OCE for each source from this information when available. This value was the most common among all the data available, and it was determined that the coating application and drying/curing OCE was the value that was most correlated with HAP emissions. Therefore, the coating application and drying/curing OCE was used as the basis for the MACT floor calculations. The OCE was calculated as a sourcewide average to incorporate the effects of averaging across coating lines in sources with more than one coating line.

To determine the existing source MACT floor, the sources were ranked based on the average OCE. The statute requires EPA to base the floor for existing sources on the average emission limitation achieved by the best performing 12 percent of existing sources for which the Administrator has data. The best performing 12 percent of the 22 sources in the MACT database constitutes a set of three affected sources. All three of the best-performing sources use capture systems and add-on control devices including both thermal oxidizers and carbon adsorbers. The two sources using thermal oxidizers are achieving 100 percent capture of application station emissions through the use of PTE. The reported OCE for the top three sources ranged from 93 to 99 percent. These data clearly indicate that controls on some specific coating operations may be capable of achieving greater than 99 percent HAP destruction based on 100 percent capture and thermal oxidizer destruction efficiency greater than 99 percent. However, to determine the level of emission control that is technically and consistently achievable over the long term with thermal oxidation, it is important to consider not only the level of control reported, but also the data quality concerns and the control levels that EPA has generally found to be achievable for this type of control technology. This approach ensures that factors that affect control levels, such as variations in source operating conditions and inlet loadings to the add-on control device, are accommodated in the determination of the MACT floor.

A study conducted by EPA indicated that a 98 percent reduction is the minimum control efficiency that new thermal oxidizers can be expected to achieve. Information from vendor guarantees supports the determination of a destruction efficiency of 98 percent for thermal oxidizers. Therefore, we adjusted the destruction efficiencies for the two MACT floor sources using thermal oxidizers to 98 percent. The calculated MACT floor using the adjusted value results in an average 97 percent OCE for the three sources that make up the best-performing 12 percent of sources in the coating and printing subcategory. Therefore, the MACT floor for existing sources is 97 percent OCE.

As indicated previously in this preamble, the MACT floor for new sources must reflect the emission control achieved in practice by the best-controlled similar source. The OCE data cited above show that the best-controlled similar source for which we have data is using a PTE to achieve 100 percent capture and a thermal oxidizer, which as described above, we have determined can consistently achieve 98 percent destruction. Therefore, a 98 percent OCE is the MACT floor for new and reconstructed sources in the coating and printing subcategory.

Data from the coating MACT database were used to calculate alternative emission rate limits for existing and new and reconstructed sources. The alternative organic HAP emission rate was calculated based on applying the MACT floor OCE (97 percent for existing sources and 98 percent for new and reconstructed sources) to a pre-controlled HAP emission rate representative for this industry. This calculation process, described in the docket, resulted in HAP emission rates of 0.12 lb of organic HAP per lb of solids for existing sources and 0.08 lb of organic HAP per lb of solids for new and reconstructed sources. The alternative emission rate limits are being proposed to provide compliance flexibility for affected sources.

Slashing subcategory. As has been previously noted in this preamble, the primary source of HAP emissions from slashing is methanol from PVA size. The methanol emissions can arise either from the size cooking operation, the application process, or both; the distribution is unclear. Also as previously noted, there are no known HAP emission capture or control systems in place on size cooking or slashing processes. Therefore, we judged that the most reasonable approach to establishing a MACT floor would be to identify a pollution prevention option that is the average being achieved by all affected slashing operations.

Based on information submitted to the EPA by the American Textile Manufacturers Institute (ATMI) on September 17, 1999, we determined that the majority, not just the top 12 percent, of the domestic textile market in 1998 was using PVA for slashing with methanol comprising less than 1 percent by weight of the PVA "as purchased." Methanol is a contaminant in the PVA that is a residual material from the manufacture of the PVA. Prior to 1999, the typical PVA sizing compound contained from 4 to 10 percent methanol. The ATMI submittal included letters from suppliers representing approximately 74 percent of the domestic market for PVA. The letters indicated that the "less than 1 percent methanol" is readily available and that the suppliers are changing their production to supply the lower HAP material. The letters provide detailed information from the PVA suppliers and are located in the Confidential Business Information files at EPA. Information collected from the WWW on two domestic suppliers of PVA confirms that PVA with "less than 1 percent methanol" is readily available from suppliers.

On the basis of the information described above, we determined that the MACT floor for the slashing subcategory is the use of low-HAP PVA containing less than 1 percent HAP, by weight, "as purchased." For the purpose of determining the mass fraction of organic HAP in a slashing material, each organic HAP that is not an OSHA-defined carcinogen as specified in 29 CFR 1910.1200(d)(4) and that is measured to be present at less than 1 percent is counted as zero. Therefore, since methanol is not an OSHA-defined carcinogen, the floor for slashing is zero organic HAP. Other synthetic organic sizing compounds in use also contain HAP, but the HAP content of these sizing compounds is well below 1 percent.

Because PVA sizing is available with zero organic HAP, and this represents the emission rate achieved by the majority of sources in this subcategory and by the ''best similar source,'' the MACT floor for existing, new, and reconstructed sources is the pollution prevention option of zero organic HAP in the sizing material ''as purchased.''

Dyeing and finishing subcategory. Quantitative data on dyeing materials usage were received from 41 sources. Similarly, quantitative data on finishing materials usage were received from 31 sources. All of the information in the dyeing and finishing MACT database is confidential; therefore, no individual facility data are presented in this preamble.

Qualitative information providing descriptions of dyeing and finishing processes, pollution prevention opportunities, and verification that add-on control technologies generally are not used on dyeing and finishing HAP emission sources were also obtained from site visits and industry trade groups such as the ATMI. The qualitative data provide a representation of the dyeing and finishing industry and verify that the MACT database is reflective of the variety of dyeing and finishing processes that are used by the affected sources that will be subject to the proposed rule.

The MACT floors for dyeing and finishing were evaluated on the basis of the HAP content of the purchased materials used in the dyes and finishes applied. There are currently no emission controls used to reduce HAP emissions from dyeing operations. The few emission controls used on finishing operations were installed to reduce opacity and most are not efficient at reducing HAP emissions. Furthermore, no emission factors have been developed for dyeing or finishing operations and the split of emissions, particularly from dyeing, are dependent on site specific conditions such as the unit operations the textile passes through in the process range, the types of equipment used for the process, the dye or finish chemistry, and the process conditions, e.g., the points in the process where the textile is subjected to heat. Finally, the available data include information on the HAP content of the dyeing or finishing materials used annually and HAP emission estimates based on the mass of HAP contained in the materials used in the process. Defining the MACT floor in terms of the mass of HAP per mass of purchased materials (weight percent HAP in the purchased materials) correlates directly to HAP emissions, serves to reduce the HAP emissions at the source, and is not dependent on the split of emissions between different unit operations in the process range or between media (air and water).

For this analysis, we determined that a total of 30 of the 41 sources with dyeing processes in the MACT database are major or synthetic minor HAP emission sources and 12 of the 29 sources with finishing processes in the MACT database are major or synthetic minor HAP emission sources. Eleven sources with dyeing processes could not be used in the MACT floor analysis for the following reasons: one source has been shut down, nine are area sources, and the title V HAP status of one source has not been determined. Similarly, 19 sources with finishing process information could not be used in the MACT floor analysis for the following reasons: one source has been shut down, one reported only coating process information, 15 are area sources of HAP emissions, and the title V HAP status of two sources has not been determined. Information from the sources with indeterminate title V HAP status was examined to determine if any of the sources could potentially be MACT floor sources. None was determined to be a MACT floor source. Separate MACT floor analyses were done for dyeing and finishing, as described in the following paragraphs.

We evaluated two different approaches for determining the MACT floor in weight percent organic HAP in dyeing materials. The dyeing survey collected information on the organic HAP content of dyes and of auxiliary chemicals, which we refer to in this discussion as ''dye materials.'' There are 11 chemical dye classes in which these dye materials are classified. In the first approach to determining the MACT floor, we determined the weight percent organic HAP in dye materials for each source in the MACT floor database, without regard to the dye classes used at each source. To calculate the weight percent organic HAP, the mass of organic HAP in dye materials as purchased was calculated and divided by the total mass of dye materials purchased. The result was multiplied by 100 to calculate the weight percent HAP in dye materials purchased by each source. For the four best-performing sources (12 percent of 30 sources), each of which reported zero organic HAP in dye materials as purchased, the calculated MACT floor was zero weight percent organic HAP. However, under this approach only three of the 11 dye classes reported in the dyeing survey were represented in the MACT floor.

Since the choice of a dye class depends on many factors, including substrate, color (market driven), end use of the dyed substrate, and quality (*e.g.,* dye fastness), and cannot be made purely on the basis of organic HAP content of the materials, we chose a second approach to determining the MACT floor that would represent all of the dye classes reported in the dyeing survey. Under this second approach, a MACT floor analysis was done for each dye class in the database. For each dye class, the weight percent organic HAP in dye materials purchased was calculated for each source using the dye class. The usage of different dye classes varied across the sources. Some dye classes were used by as few as two sources while others were used by as many as 14 sources. Therefore, the number of best-performing sources for each dye class was either one or two (taking 12 percent of the number of sources using the dye class and rounding up to the next whole number).

To determine the MACT floor for dyeing, we calculated a weighted average organic HAP content of dye materials as purchased from the dye class MACT floors, using the total mass of dye materials used by the MACT floor source or sources for each dye class to weight the dye class MACT floor organic HAP contents. The dyeing MACT floor organic HAP content in materials as purchased was determined to be 1.58 weight percent for existing sources.

No technology has been identified that could achieve a lower organic HAP content in materials as purchased. Therefore, the dyeing MACT floor organic HAP content in materials as purchased for new and reconstructed sources was also determined to be 1.58 weight percent.

Since the choice of a finish class depends on the desired characteristics of the finished substrate and cannot be made solely on the basis of the HAP content of the finish, we also chose the approach of calculating the MACT floor that would represent all of the finish classes reported in the finishing survey. As was the case for dyeing, a MACT floor analysis was done for each finish class in the database. The finishing survey collected information on the organic HAP content of each finish class as purchased. In some cases, sources reported different chemistry for finishes within the same finish class for use on different products. Therefore, for each finish class used by each source, the weight percent organic HAP in finishing materials purchased was calculated by determining the total mass of organic HAP in finishing materials as purchased for the finish class (sum of the mass of organic HAP in different formulations within the finish class), divided by the total mass of finishing materials purchased for the finish class (sum of mass of finishing materials purchased within the finish class) multiplied by 100. The one source (12 percent of the number of sources reporting use of the finish class, which ranged from one to eight) reporting the lowest weight percent organic HAP in finishing materials for each finish class was chosen as the floor affected source. The usage of different finish classes varied across the sources. Some finish classes were used by only one source while others were used by as many as eight sources. Therefore, there was only one best-performing source for each finish class (taking 12 percent of the number of sources using the finish class and rounding up to one).

To determine the MACT floor for finishing, we calculated a weighted average organic HAP content of finishing materials as purchased from the finish class MACT floors, using the total mass of finishing materials used by the MACT floor source for each finish class to weight the finish class MACT floor organic HAP contents. The weighted average organic HAP content in finishing materials as purchased was determined to be 0.03 weight percent for existing sources. As was the case for the slashing subcategory MACT floor, for the purpose of determining the mass fraction of organic HAP in a finishing material, each organic HAP that is not an OSHA-defined carcinogen as specified in 29 CFR 1910.1200(d)(4) and that is measured to be present at less than 1 percent, is counted as zero. Therefore, the finishing MACT floor for existing sources is zero organic HAP in finishing materials as purchased.

No technology has been identified that could achieve a lower organic HAP content in finishing materials as purchased. Therefore, the finishing MACT floor for new and reconstructed sources was also determined to be zero organic HAP in finishing materials as purchased.

How did we consider beyond-the-floor technology? After the MACT floors have been determined for new or reconstructed and existing sources in a source category or subcategory, we must set emission standards that are no less stringent than the floors. Such standards must then be met by all sources within the category or subcategory. We identify and consider any reasonable regulatory alternatives that are ''beyond-the-floor,'' taking into account emissions reductions, cost, non-air quality health and environmental impacts, and energy requirements. These alternatives may be different for new or reconstructed and existing sources because of different MACT floors, and separate standards may be established for new and existing sources.

Coating and printing subcategory. The beyond-the-floor levels of control for coating and printing, to be considered, must be greater than an OCE of 97 percent for existing sources. The floor for existing sources was based on the use of control equipment with a control efficiency of 97 percent and a capture efficiency of 100 percent. In addition, we applied the 97 percent MACT floor OCE to a pre-controlled HAP emission rate representative for this industry to calculate an alternative emission rate limit.

We identified two regulatory alternatives more stringent than the existing source MACT floor level of control for organic HAP and the alternative emission rate limit. These alternatives were conversion to coating and printing materials that have a very low, or no, organic HAP content and use of add-on capture systems and add-on control devices to achieve an OCE of 98 percent.

Lower-organic-HAP liquid coatings fall into two primary categories. The most common category is waterborne coatings, which allow the mixing of certain materials that would be incompatible in organic solvent borne coatings. The second category is higher solids coatings that result from alternate technologies such as ultraviolet (UV)-curable coatings and electron beam (EB)-curable coatings. Some urethane coatings can be applied with a thermal process. These coatings do not employ organic HAP or VOC to keep the pigment and other components of the coating in solution until curing. Therefore, organic HAP emissions are very small.

These lower-organic-HAP coatings are currently in production use for some products in the coating industry, but their applicability is limited in that, for some products, these coatings are not able to achieve the desired final product characteristics. Similarly, low-organic-HAP or waterborne printing materials are used for the majority of printed products, but these printing materials are not able to achieve the desired final product characteristics for certain products, such as designer and fashion apparel, requiring the use of higher organic HAP printing materials. Given the limited applicability of waterborne, UV-curable, EB-curable, and thermal (hot-melt) coating and waterborne printing materials, we do not believe it is feasible to require the use of these coating and printing materials and rejected them as a beyond-the-floor option for organic HAP.

It is technically feasible to reduce emissions from affected sources by at least 98 percent through the use of capture systems and add-on control devices. Based on the model plants analysis used to estimate the impacts of the proposed rule, the incremental HAP reductions that could be achieved by using capture systems and add-on control devices to comply with a ''beyond-the-floor'' alternative of 98 percent reduction would range from about 0.09 megagram (Mg) (0.1 ton) to about 3.8 Mg (4.2 tons) per affected source. The 98 percent reduction alternative would result in an estimated additional HAP reduction of 32 tons per year. To achieve this small incremental HAP emissions reductions, existing affected sources would have to upgrade or replace most existing add-on control systems. We believe the incremental emissions reductions that would be achieved at this time are not supported by the additional cost that many existing sources would incur to upgrade or replace existing add-on control systems. Therefore, we rejected requiring 98 percent overall control as a beyond-the-floor option for organic HAP at existing sources in the coating and printing subcategory.

The beyond-the-floor levels of control for coating and printing, to be considered, must be greater than an OCE of 98 percent for new or reconstructed affected sources. The new source floor was based on the use of control equipment with a destruction efficiency of 98 percent and a capture efficiency of 100 percent. Vendors could not guarantee greater than 98 percent destruction efficiency for the operating conditions experienced in coating and printing and over the life of the equipment.

The use of low HAP containing coating and printing materials was considered for a beyond-the-floor option for new or reconstructed sources. However, as is explained above for existing sources, it was determined that some products in the coating and printing industry cannot meet certain performance characteristics with low-organic-HAP coating and printing materials.

For these reasons, we determined that requiring beyond-the-floor emission limits for new or reconstructed sources is not practicable for this subcategory.

Slashing subcategory. The MACT floors for new or reconstructed sources and existing sources in the slashing subcategory are based on pollution prevention options reflecting the use of non-HAP materials. There is no beyond-the-floor technology that could achieve a lower organic HAP content in materials as purchased than zero percent.

Dyeing and finishing subcategory. The MACT floors for new or reconstructed sources and existing sources in the dyeing and finishing subcategory represent pollution prevention options reflecting the use of low- and non-HAP materials. No beyond-the-floor technology has been identified that could achieve a lower-organic-HAP content in materials as purchased and would be applicable to all products for dyeing operations; and zero percent HAP is the lowest-organic-HAP content in materials as purchased for finishing operations that can be achieved.

How did we select the proposed standards? For existing sources in each subcategory, we based the proposed standards on the existing source MACT floor. As described earlier, we determined that beyond-the-floor options were not technically or economically feasible for all existing sources. For the same reasons, we based the proposed standards for new or reconstructed sources in each subcategory on the new source MACT floor.

We note here that our assumption, used in the development of the MACT floors, that 100 percent of the organic HAP in the materials used are emitted by the affected source would not apply when the source sends waste organic HAP-containing materials to a facility for treatment or disposal. We made that assumption because the industry survey responses provided little information as to the amount of organic HAP recovered and recycled or treated and disposed. We, therefore, concluded that that practice may not be common within the printing, coating, and dyeing industry. We recognize, however, that some large affected sources may conduct such activities and should be allowed to account for such activities in determining their emissions. Thus, the proposed rule allows you to reduce the organic HAP emissions by the amount of any organic HAP contained in waste treated or disposed at a hazardous waste treatment, storage, and disposal facility that is regulated under 40 CFR part 262, 264, 265, or 266.

Coating and printing subcategory. In the coating and printing subcategory, the MACT levels of control for new or reconstructed and existing sources can be achieved in several different ways. Many sources would be able to upgrade existing or install new emission control systems to comply with the MACT floor OCE. Sources using oxidizers to control organic HAP emissions with low inlet loadings may be able to comply with the oxidizer outlet organic HAP concentration limit. Some sources would be able to use low- or non-HAP coating and printing materials, or a combination of low-HAP coating and printing materials and emission control systems to comply with the emission rate limit. If a source is also using thinning or cleaning materials that contain organic HAP, then it may be able to switch to lower-HAP or non-HAP thinning and cleaning materials, which are widely available, to reduce the sourcewide organic HAP emission rate to the MACT level.

Slashing subcategory. In the slashing subcategory, sources can use readily available slashing materials that comply with the emission rate limit.

Dyeing and finishing subcategory. Sources in the dyeing and finishing subcategory can use dyeing and finishing materials that comply with the emission rate limit. If certain products require the use of higher-HAP materials, sources in the dyeing and finishing subcategory also can comply with the affected source organic HAP emission rate limit by averaging across all dyeing and/or finishing materials used.

E. How Did We Select the Format of the Proposed Standards?

Numerical emission standards are required by section 112(h) of the CAA unless we can justify that it is not feasible to prescribe or enforce an emission standard, in which case a design, equipment, work practice, or operational standard can be set.

We selected the format of the proposed standards for the coating and printing subcategory to be an overall percent reduction of emissions, taking into account both capture and control system efficiencies. Data available to us regarding the efficiency of capture and control systems used in this industry indicate that overall efficiency is typically determined by a performance test for capture systems and oxidizers and liquid-liquid material balance for solvent recovery systems. The proposed standards allow for determining OCE through a variety of mechanisms to be consistent with industry practices. We selected this format because it reflects MACT at all affected sources and allows flexibility in the method selected for achieving the percent reduction limit.

To encourage the use of low- and non-HAP materials in coating and printing operations, alternative standards based on HAP content are also proposed that will achieve HAP reductions comparable to the overall percent reduction limit. The format of the proposed alternative standards is mass of organic HAP per mass of coating solids. The performance-based nature of the proposed format would allow coating operation owners and operators flexibility in choosing any combination of means (including coating reformulation, use of lower-HAP or non-HAP materials, solvent elimination, and add-on control devices) to comply with the emission limits that is workable for their particular situations.

We selected the format of the proposed standards for the slashing and the dyeing and finishing subcategories to be mass of organic HAP per mass of materials used in the process. The format promotes a pollution prevention approach to reducing emissions from these processes and limits organic HAP emissions from the various sources of emissions without requiring a site-specific determination of the split of organic HAP between air and water and the distribution of organic HAP emissions between potential emission sources. The overall percent reduction in emissions format that we are proposing for the coating and printing subcategory is not appropriate for the slashing subcategory or the dyeing and finishing subcategory because organic HAP emission controls are not used to reduce emissions from these processes.

In lieu of emission standards, section 112(h) of the CAA allows work practice standards or other requirements to be established in the following situations: when a pollutant cannot be emitted through a conveyance or capture system, or when measurement is not practicable because of technological and economic limitations. Many printing, coating and dyeing sources use some type of work practice measure to reduce HAP emissions from mixing, cleaning, storage, and waste handling areas as part of their standard operating procedures. They use these measures to decrease solvent usage and minimize exposure to workers. However, we do not have data to quantify accurately the emissions reductions achievable by the work practice measures. The level of emissions depends on the type of equipment used and the work practices used at the affected source and would be very site-specific. For example, emissions from solvent-laden rags used to clean coating application stations would depend on the method used to isolate and store such rags. In addition to lacking adequate data and information to quantify an emissions level for such operations, it is not practicable to measure emissions from these operations since they often occur in large open areas not amenable to testing. Therefore, work practice standards are appropriate for such operations under section 112(h) of the CAA.

Under the options where emissions are reduced by using low- or non-HAP materials, we assume that all the organic HAP in the materials entering the affected source are volatilized (emitted). Therefore, emissions from operations occurring within the affected source (*e.g.,* mixing operations) are accounted for in the determination of total materials usage at the affected source. However, when you comply by using capture systems and add-on control devices, emissions from mixing, storage, and waste handling operations are often not routed to the add-on control devices and would not be practicable to measure for inclusion in a determination of compliance with the emission limit. Therefore, the proposed rule would require development and implementation of an emission reduction work practice plan to assure that emissions are reduced from such operations.

F. How Did We Select the Testing and Initial Compliance Requirements?

The proposed standards would allow you to choose among several methods to demonstrate compliance with the proposed standards for organic HAP: use of materials which individually contain low or no organic HAP; achieving an overall organic HAP emission rate from all materials that is less than the applicable emission rate limit; or, for coating and printing affected sources, capture systems and add-on control devices.

Materials with low- or no-organic-HAP. You would be required to document the organic HAP content of all materials and show that each is less than the applicable emission limit. You would also have to show that each thinner and each cleaning material used contains no organic HAP. You would use manufacturer's formulation data to document the organic HAP content of slashing materials and would have the option of using manufacturer's formulation data to document the organic HAP content of coating, printing, dyeing, finishing, cleaning and thinning materials.

Method 311 is the method developed by EPA for determining the mass fraction of organic HAP in coatings and has been used in surface coating NESHAP. We have not identified any other methods that provide advantages over Method 311 for use in the proposed standards.

Method 24 is the method developed by EPA for determining the mass fractions of volatile matter and solids for coatings and can be used if you choose to determine the nonaqueous volatile matter content as a surrogate for organic HAP. In other standards, VOC emission control measures have been implemented in coating industries with Method 24 as the compliance method. We have not identified any other methods that provide advantages over Method 24 for use in the proposed standards.

Overall organic HAP emission rate. To demonstrate initial compliance for coating and printing operations using this option, you would calculate the organic HAP emission rate for one or more coating and printing operation in the affected source, based on the mass of organic HAP in all coating, printing, thinning, and cleaning materials and the mass of coating solids used during the compliance period. Similarly, for dyeing and finishing operations, you would calculate the mass of organic HAP in all dyeing, finishing and cleaning materials used during the compliance period. You would be required to demonstrate that the organic HAP emission rate does not exceed the applicable emission limit using the methods discussed previously.

Capture systems and add-on control devices. If you use a capture system and add-on control device, other than a solvent recovery device for which you conduct a liquid-liquid material balance, you would be required to conduct an initial performance test of the system to determine its OCE or oxidizer outlet organic HAP concentration. For a solvent recovery system for which you conduct a liquid-liquid material balance, you would determine the quantity of volatile matter applied and the quantity recovered during the initial compliance period to determine its OCE.

If you are demonstrating compliance with the organic HAP emission rate with add-on controls option, the OCE would be combined with the monthly mass of organic HAP in the coating, printing, thinning, and cleaning materials used to calculate the monthly HAP emission rate in kg HAP/kg of coating solids.

If you conduct a performance test, you would also determine parameter operating limits during the test. The test methods that the proposed standards would require for the performance test are required under many standards of performance for industrial surface coating sources under 40 CFR part 60 and NESHAP under 40 CFR part 63. We have not identified any other methods that provide advantages over these methods.

G. How Did We Select the Continuous Compliance Requirements?

To demonstrate continuous compliance with the proposed monthly emission limits, you would also need records of the quantity of coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials used and the data and calculations supporting your determination of their organic HAP content. If you conduct liquid-liquid material balances, you would need records of the quantity of volatile matter used and the quantity recovered by the solvent recovery system each month.

To ensure continuous compliance with the proposed organic HAP emission limits and operating limits, the proposed standards would require continuous parameter monitoring of capture systems and add-on control devices and recordkeeping. We selected the following requirements based on reasonable cost, ease of execution, and usefulness of the resulting data to both the owners or operators and EPA for ensuring continuous compliance with the emission limits and operating limits.

We are proposing that certain parameters be continuously monitored for the types of capture systems and add-on control devices commonly used in the industry. These monitoring parameters are used in other standards for similar industries. The values of these parameters that correspond to compliance with the proposed emission limits are established during the initial or most recent performance test that demonstrates compliance. These values are your operating limits for the capture system and add-on control device.

You would be required to determine 3-hour average values for most monitored parameters for the affected source. We selected this averaging period to reflect operating conditions during the performance test to ensure the control system is continuously operating at the same or better control level as during a performance test demonstrating compliance with the emission limits.

H. How Did We Select the Notification, Recordkeeping, and Reporting Requirements?

You would be required to comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63, as described in Table 2 of the proposed subpart OOOO. We evaluated the General Provisions requirements and included those we determined to be the minimum notification, recordkeeping, and reporting necessary to ensure compliance with and effective enforcement of the proposed standards, modifying them as appropriate for the fabric and other textiles printing, coating, and dyeing industry.

I. How Did We Select the Compliance Date?

You would be allowed 3 years to comply with the final standards for existing affected sources. This is the maximum period allowed by the CAA. We believe that 3 years for compliance is necessary to allow adequate time to accommodate the variety of compliance methods that existing sources may use. Some sources in this category would need this 3-year maximum amount of time to develop and test reformulated coating, printing, dyeing and finishing materials. We want to encourage the use of these pollution prevention technologies. In addition, time would be needed to establish records management systems required for enforcement purposes. Some sources may need the time to purchase and install emission capture and control systems. In such cases, you would need to obtain a permit for the use of add-on controls, which will require time for approval from the permitting authority.

The CAA requires that new or reconstructed affected sources comply with standards immediately upon startup or the effective date of the final rule, whichever is later.

IV. Summary of Environmental, Energy, and Economic Impacts

The proposed standards will affect an estimated 135 major sources that perform coating, printing, slashing, dyeing and finishing operations. The impacts are presented relative to a baseline reflecting the level of control prior to the standards. Due to consolidation throughout the industry, there is expected to be little growth within the printing, coating and dyeing industry during the next 5 years. Only three new coating sources and no new printing, slashing, dyeing, or finishing sources are projected. For more information on how impacts were estimated, see the docket for the proposed rule.

A. What Are the Air Impacts?

We estimated that compliance with the proposed emission limits would result in reductions of nationwide organic HAP emissions of 4,104 tpy (3,723 Mg/yr). This represents a reduction of 60 percent from the baseline organic HAP emissions of 6,820 tpy (6,187 Mg/yr). Table 2 to this preamble gives a summary of the primary air impacts by subcategory associated with implementation of the rule as proposed.

TABLE 2.—SUMMARY OF PRIMARY AIR IMPACTS BY SUBCATEGORY FOR EXISTING SOURCES

Subcategory	Emissions before NESHAP (tpy)	Emissions after NESHAP (tpy)	Emission reduction (tpy)	Percent reduction
Coating and Printing	5,571	2,389	3,182	57
Dyeing and Finishing	901	153	748	83
Slashing	348	174	174	50
Source Category Nationwide Total	6,820	2,716	4,104	60

B. What Are the Cost Impacts?

We have estimated the costs related to complying with the emission limitations and meeting the monitoring, recordkeeping, and reporting requirements. The costs to comply with the emission limitations include the costs of adding or upgrading emission control systems; the increased cost of compliant, low-formaldehyde permanent press finishes; and the cost of performance testing emission control systems. We have assumed for this analysis that all sources with affected slashing and dyeing operations will comply through the use of reformulated slashing, dyeing, thinning, and cleaning materials, and that these materials can be utilized without the need for capital expenditures. Annual costs for meeting the monitoring, recordkeeping, and reporting requirements of the proposed rule have also been included.

To comply with the proposed standards, coating and printing affected sources that are not currently in compliance would likely use either upgraded existing emission control systems or new emission control systems. We estimated the capital and annual costs of carbon adsorbers, thermal oxidizers, catalytic oxidizers and coating rooms, using model plants based on information in our facility database. We examined the current level of control reported by each source in the database to determine control measures and associated model plant costs required to achieve compliance with the proposed emission limits. Control costs estimated for the database sources were extrapolated to nationwide totals.

The dyeing and finishing compliance options are based on the use of low-HAP materials. Qualitative information concerning pollution prevention measures gathered from stakeholder meetings and site visits indicated that there would be substantial costs incurred in reducing the formaldehyde content of permanent press resins. We used information collected from a research and marketing company and textile chemical suppliers to estimate the incremental cost to produce finished fabric, using a compliant resin versus a formaldehyde resin. The incremental cost was applied to the quantity of fabric estimated to currently be finished with non-compliant formaldehyde resins.

Performance testing costs for coating and printing sources using add-on control systems to comply with the standard include the labor hours required to conduct performance testing and monitoring on each emission capture system and add-on control device used and to develop the associated data elements for recordkeeping and reporting purposes. Recordkeeping and reporting includes all labor hours related to installing recordkeeping and reporting systems, developing SSMP, initial notification, compliance status notification, performance test notification, performance test report, materials usage tracking, training personnel, and monitoring deviations and SSMP reports and recordkeeping.

We estimate total capital costs, in 1997 dollars, for the approximately 135 existing major sources to be $18.8 million and annual costs, in 1997 dollars, to be $14.5 million. These annual costs include approximately $5.6 million associated with add-on control systems for coating and printing operations, $7.5 million in direct costs associated with finishing material usage, and $1.4 million in monitoring, reporting, and recordkeeping costs.

The only new source costs would be for the three projected new coating sources. New coating sources would not install controls beyond those required for new source review, and these controls would meet the proposed new source limit. They would incur no capital costs, and we estimate their annual costs to be a total of $13,000 to comply with the proposed rule's monitoring, recordkeeping, and reporting requirements.

C. What Are the Economic Impacts?

The Agency prepared an economic impact analysis to evaluate the impacts the proposed rule would have on the producers and consumers of fabric and other textiles coating, printing, dyeing and finishing products, and society as a whole. Overall, the analysis indicates a minimal change in the prices, production quantities, and international trade of coated, printed, dyed, and finished products.

Social costs take into account changes in behavior by producers and consumers due to the imposition of compliance costs from the proposed rule. Based on the estimated compliance costs associated with the proposed rule and the predicted changes in price and production in the affected industries, the estimated annual social cost of the proposed rule is projected to be $14.5 million (2000 dollars). It is projected that producers of coated, printed, dyed and finished fabrics would absorb $10.4 million, while the remaining $4.1 million would be passed through to consumers.

We estimate that prices for coated, printed, dyed, and finished fabrics and other textiles would increase by less than one-tenth of one percent as a result of the proposed standards. Production quantities of coated, printed, dyed, and finished fabrics and other textiles would decline by the same magnitude, one-tenth of a percent, as well.

The effects of the proposed rule on international trade of coated, printed, dyed, and finished fabric and other textiles were also estimated. Because the predicted changes in price for both coated, printed, dyed, and finished fabric and other textiles are small, trade of these products is not expected to be significantly affected. We expect that imports of both coated and finished fabrics and other textiles would increase by less than one-tenth of a percent.

For new sources, it can be reasonably assumed that the investment decision to enter the coating, printing, dyeing and finishing industry may be slightly altered as a result of the proposed rule; however, other factors will weigh more heavily in this decision. For example, current economic trends have shown a continuous decline of the textile market as more manufacturing moves abroad. Only three new coating sources are projected to come on-line in the 5 years following promulgation of the rule, and no additional printing, slashing, dyeing or fabric finishing sources are projected. The three new coating sources that are projected to come on-line would incure a total of only $13,000 in annual costs to meet the requirements of the proposed standards.

Quantified economic impacts of the proposed rule on printed, dyed, and slashed fabric products were not calculated in the economic impact analysis because the compliance costs for the sources that produce these products are minimal and relate only to monitoring, recordkeeping, and reporting activities. Based on a qualitative analysis of the printing, dyeing, and slashing markets, we have determined that the impact on the prices and quantities of these products would be insignificant. We have also determined that international trade of these products would not be significantly affected. For more information, refer to the ''Economic Impact Analysis of the Proposed Textile Coating, Printing, Dyeing and Finishing NESHAP'' in the docket for the proposed rule.

D. What Are the Non-Air Health, Environmental, and Energy Impacts?

Based on information from industry survey responses, we found no indication that the use of low-organic HAP content coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials at existing sources would result in any increase or decrease in non-air health, environmental, and energy impacts. There would be no change in the utility requirements associated with the use of these materials, so there would be no change in the amount of energy consumed as a result of the material conversion. Also, there would be no significant change in the amount of materials used or the amount of waste produced.

Non-air environmental and energy impacts would result from the installation of new and the upgrade of existing add-on controls by affected sources in the coating and printing subcategory. Affected sources adding carbon adsorber systems would require increased cooling water usage for the condenser used to recover organic HAP from the regenerated carbon, and in certain situations for spray towers to cool the gas entering the carbon adsorber. The estimated increase in nationwide total cooling water usage would be 70.3 million gallons per year. The cooling water is assumed not to result in wastewater. There would be a small increase in water usage for steam to regenerate carbon. The steam used to regenerate carbon yields water requiring wastewater treatment. The estimated increase in nationwide total wastewater generation would be 3.8 million gallons per year.

Affected sources using existing catalytic oxidizers to comply with the proposed emission limits probably would be required to install larger volumes of catalysts and to replace the catalysts more frequently than current replacement cycles to maintain high performance levels, resulting in a small increase in solid waste generation. Similarly, affected sources that currently do not operate emission control systems and that install catalytic oxidizers to comply with the proposed emission limits would increase solid waste generation. Sometimes the spent catalyst is regenerated by the manufacturer for reuse. Activated carbon used in carbon adsorbers is returned to the manufacturer at the end of its useful life and converted to other salable products. Little solid waste impact is expected from this source.

Energy requirements for implementation of the compliance options for coating and printing affected sources would include electricity to collect and treat ventilation air, electricity to light PTE, and natural gas to provide supplemental fuel for stable operation of oxidizers. The estimated increase in nationwide total electricity usage would be almost 2.8 million kilowatt hours per year and the estimated nationwide total natural gas usage would increase by about 195 million standard cubic feet per year.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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.

Pursuant to the terms of Executive Order 12866, the proposed rule was determined to not be a significant regulatory action because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include rules that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Section 6 of Executive Order 13132, EPA may not issue a rule that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed rule. The EPA also may not issue a rule that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed rule.

The proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of Section 6 of the Executive Order do not apply to the proposed rule. Although Section 6 of Executive Order 13132 does not apply to the proposed rule, EPA did consult with State and local officials to enable them to provide timely input in the development of the proposed rule.

C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

The proposed rule does not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate printing, coating, and dyeing affected sources. Thus, Executive Order 13175 does not apply to the proposed rule.

The EPA specifically solicits additional comment on the proposed rule from tribal officials.

D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the rule. The proposed rule is not subject to Executive Order 13045 because it does not establish an environmental standard based on an assessment of health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, the proposed rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act of 1995

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, 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 to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the proposed rule for any year has been estimated to be $14.5 million. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's proposed rule on small entities, ''small entity'' is defined as: (1) A small business according to Small Business Administration (SBA) size standards by NAICS code ranging from 500 to 1,000 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

We applied the definition of a small business as provided by the SBA at 13 CFR 121, and classified by the NAICS. The firms owning sources directly affected by the proposed rule are generally classified by the NAICS codes 313210 (Broadwoven Fabric Mills), 313311 (Broadwoven Fabric Finishing Mills), 313320 (Fabric Coating Mills), and 313312 (Textile and Fabric Finishing (except Broadwoven Fabric) Mills).

The SBA defines small businesses in NAICS codes 313210, 313311, and 313320 as those with fewer than 1000 employees (as described in (1) above). In NAICS code 313312, the SBA defines a small business as one with fewer than 500 employees. In the past several years, production in the textile manufacturing industry has become more capital intensive, thus utilizing smaller numbers of employees. This leads a substantial fraction of the companies in the fabric and other textiles coating, printing, finishing, dyeing, and slashing source category to be considered small businesses based on SBA's small business size standards.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

The EPA identified 40 small companies classified as owning coating operations by NAICS 313320. Of these 40 small coating companies, 22 (55 percent) are projected to face zero compliance costs. Fifteen (37.5 percent) face costs less than 1 percent of their sales, and two (5 percent) have cost-to-sales ratios between 1 and 3 percent. Only one (2.5 percent) of these companies has a cost-to-sales ratio that exceeds 3 percent (3.2 percent). This analysis leads us to conclude that there is not a significant impact on a substantial number of small entities in the coating and printing subcategory.

For the dyeing and finishing subcategory, the engineering analysis determined that at most five finishing businesses representing seven facilities, would face positive compliance costs in order to meet the requirements specified by the proposed NESHAP. Of these five firms, we were able to identify one company as large. This means that at most four small businesses face compliance costs associated with the proposed rule.

The EPA did not possess sufficient data to identify the five finishing facilities expected to face compliance costs, so the small business analysis for finishers consisted of a sensitivity analysis of cost-to-sales ratios using minimum, mean, median, and maximum estimated compliance costs for finishing facilities. Sales data were available for 58 percent of all small business finishers EPA identified including those not subject to the rule. Using median compliance cost estimates for finishing sources, EPA found that only three companies had cost-to-sales ratios between 1 and 3 percent and none had a cost-to-sales ratio exceeding 3 percent. This analysis leads us to conclude that there is not a significant impact on a substantial number of small entities in the dyeing and finishing subcategory.

For the small and large companies that engage in dying and slashing, compliance costs are limited to monitoring, recordkeeping, and reporting costs. Based on a qualitative analysis, EPA concludes that the cost will be minimal.

Although this proposed rule will not have a substantial impact on small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. We made an effort to identify the small businesses potentially impacted by this rule. For the coating and printing subcategory we contacted the State regulatory agency or the facility for every small business we identified. For the dyeing and finishing subcategory we determined there were few small businesses potentially impacted by the rule, but were unable to identify these facilities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

H. Paperwork Reduction Act

The information collection requirements in the proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2071.01) and a copy may be obtained from Sandy Farmer by mail at the Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *farmer.sandy@epa.gov,* or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (subpart A of 40 CFR part 63), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The proposed standards would require maintaining records of all coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials data and calculations used to determine compliance. This information includes the amount (kg) used during each monthly compliance period, mass fraction organic HAP, and, for coating and printing materials only, mass fraction of solids.

If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each calculation of the affected sourcewide emissions for each monthly compliance period and all data, calculations, test results, and other supporting information used to determine this value.

The monitoring, recordkeeping, and reporting burden for this collection (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to be 213 labor hours per affected source at a total annual cost of $1.4 million. This estimate includes, for affected sources with existing or newly-installed add-on control systems, a one-time performance test and report (with repeat tests where needed), one-time submission of a SSMP with semiannual reports for any event when the procedures in the plan were not followed, semiannual compliance status reports, and recordkeeping. There are no capital/startup costs associated with the monitoring requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's rules are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the EPA'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. By U.S. Postal Service, send comments on the ICR to the Director, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460 (or by courier, send comments on the ICR to the Director, Collection Strategies Division (2822), U.S. EPA, 401 M Street, SW., Room 925H, West Tower, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 11, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by August 12, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in the proposed rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, § 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards (VCS) in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.,* material specifications, test methods, sampling and analytical procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

The proposed rule involves technical standards. The EPA proposes in the proposed rule to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A–F, and 311. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, and 204A–F. The search and review results have been documented and are placed in the docket for the proposed rule.

The VCS ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' is cited in the proposed rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981 is an acceptable alternative to Method 3B.

Six VCS: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 91), and ASTM D5403–93 are already incorporated by reference in EPA Method 24. Five VCS: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94 are incorporated by reference in EPA Method 311.

In addition to the VCS EPA proposes to use in the proposed rule, the search for emissions monitoring procedures identified 16 other VCS. The EPA determined that ten of these 16 standards would not be practical due to lack of equivalency, detail, and/or quality assurance/quality control requirements. Therefore, we do not propose to adopt these VCS in the proposed rule. The reasons for this determination for the ten methods are discussed below.

The standard ISO 10780:1994, ''Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts,'' is impractical as an alternative to EPA Method 2 in the proposed rule. This standard recommends the use of L-shaped pitots, which historically have not been recommended by EPA because the S type design has large openings which are less likely to plug up with dust.

The standard ASTM D3464–96, ''Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer,'' is impractical as an alternative to EPA Method 2 for the purposes of the proposed rule primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The standard EN 12619:1999, ''Stationary Source Emissions—Determination of the Mass Concentration of Total Gaseous Organic Carbon at Low Concentrations in Flue Gases—Continuous Flame Ionization Detector Method,'' is an impractical alternative to EPA Method 25A for the purposes of the proposed rule. This standard is impractical because it does not measure solvent process vapors in concentrations greater than 40 ppm carbon. A method whose upper limit is 40 ppm carbon has a measurement range too limited to be useful in measuring source emissions.

Four of the ten VCS are impractical alternatives to EPA test methods for the purposes of the proposed rule because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM 3796–90 (Reapproved 1996), ''Standard Practice for Calibration of Type S Pitot Tubes,'' for EPA Method 2; ASTM D3271–87, ''Standard Practice for Direct Injection of Solvent-Reducible Paints into a Gas

Chromatograph for Solvent Analysis,'' for EPA Method 311; ASTM E337–84 (Reapproved 1996), ''Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures),'' for EPA Method 4; and CAN/CSA Z223.2–M86(1986), ''Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams,'' for EPA Method 3A.

Three of the ten VCS are impractical alternatives to EPA test methods for the purposes of the proposed rule because they lacked sufficient quality assurance and quality control requirements necessary for EPA compliance assurance requirements: ASTM D3154–91, ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' for EPA Methods 1, 2, 2C, 3, 3B, and 4; ASTM D5835–95, ''Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration,'' for EPA Method 3A; and ISO 10396:1993, ''Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations,'' for EPA Method 3A.

The following six of the 16 VCS identified in this search were not available at the time the review was conducted for the purposes of the proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 12M, ''Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters,'' for EPA Method 2; ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 1 (and possibly 2); ISO/DIS 11890–1 Part 1, ''Paints and Varnishes—Determination of Volatile Organic Compound (VOC) Content—Difference Method,'' for EPA Method 24; ISO/DIS 11890–2 Part 2, ''Paints and Varnishes—Determination of Volatile Organic Compound (VOC) Content—Gas Chromatographic Method,'' for EPA Method 24; ISO/DIS 12039, ''Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods,'' for EPA Method 3A; and ISO/FDIS 14965, ''Air Quality—Determination of Total Nonmethane Organic Compounds—Cryogenic Preconcentration and Direct Flame Ionization Method,'' for EPA Method 25A and parts of Method 25. While we are not proposing to include these six VCS in today's proposal, EPA will consider the standards when final.

The EPA takes comment on compliance demonstration requirements proposed in this rule and specifically invites the public to identify potentially applicable VCS. Commenters should also explain why the proposed rule should adopt these VCS in lieu of or in addition to EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, appendix A, was used).

Section 63.8 of subpart A of the General Provisions allows for any State or source to apply to EPA for permission to use an alternative method in place of any of the EPA testing methods or performance standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 17, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be 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.*

2. Part 63 is amended by adding subpart OOOO to read as follows:

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

Tables to Subpart OOOO of Part 63

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

What This Subpart Covers

§ 63.4280 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for fabric and other textiles printing, coating and dyeing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.4281 Am I subject to this subpart?

(a) Except as provided in paragraph (c) of this section, the source category to which this subpart applies is the printing, coating, slashing, dyeing or finishing of fabric and other textiles, and it includes the subcategories listed in paragraphs (a)(1) through (3) of this section.

(1) The coating and printing subcategory includes any facility that coats or prints fabric or other textiles. Coating and printing operations are defined in § 63.4381. Coated and printed substrates are used in products including, but not limited to, architectural structures, apparel, flexible hoses, hot-air balloons, lightweight liners, luggage, military fabric, rainwear, sheets, tents, threads and V-belts. The coating and printing subcategory includes any fabric or other textile coating line that also performs coating on another substrate unless such coating is specifically exempted from this subpart by another NESHAP in this part.

(2) The slashing subcategory includes any facility with slashing operations as defined in § 63.4381. In the slashing process, sizing compounds are applied to warp yarn to bind the fiber together and stiffen the yarn to provide abrasion resistance during weaving.

(3) The dyeing and finishing subcategory includes any facility that dyes or finishes a fabric or other textiles. Dyeing and finishing operations are defined in § 63.4381. Dyed and finished textiles are used in a wide range of products including, but not limited to, apparel, carpets, high-performance industrial fabrics, luggage, military fabrics, outer wear, sheets, towels, and threads.

(b) You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source, as defined in § 63.4282, that is a major source, is located at a major source, or is part of a major source of hazardous air pollutants (HAP). A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (Mg) (10 tons) or more per year or any combination of HAP at a rate of 22.68 Mg (25 tons) or more per year.

(c) This subpart does not apply to coating, printing, slashing, dyeing, or finishing operations that meet the criteria of paragraphs (c)(1) through (3) of this section.

(1) Coating, printing, slashing, dyeing or finishing operations conducted at a source that uses only coating, printing, slashing, dyeing, finishing, thinning and cleaning materials that contain no organic HAP as determined according to § 63.4341.

(2) Coating, printing, slashing, dyeing, or finishing that occurs at research or laboratory facilities or that is part of janitorial, building, and facility maintenance operations.

(3) Coating, printing, slashing, dyeing, or finishing used by a facility and not for commerce, unless organic HAP emissions from the coating, printing, slashing, dyeing or finishing operations are as high as the major source HAP emissions specified in paragraph (b) of this section.

63.4282 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, and existing affected source within each of the three subcategories listed in § 63.4281(a).

(b) The affected source for the coating and printing subcategory is the collection of all of the items listed in paragraphs (b)(1) through (5) of this section that are used in coating and printing operations. The regulated materials for the coating and printing subcategory are the coating, printing, thinning and cleaning materials used in the affected source.

(1) All web coating and printing equipment used to apply cleaning materials to a substrate to prepare it for coating or printing material application, to apply coating or printing materials to a substrate and to dry or cure the coating or printing materials, or to clean coating/printing operation equipment;

(2) All storage containers and mixing vessels in which coating, printing, thinning, or cleaning materials are stored or mixed;

(3) All manual and automated equipment and containers used for conveying coating, printing, thinning, or cleaning materials;

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating or printing operation; and

(5) All manual and automated equipment, structures, and/or devices(s) used to convey, treat, or dispose of wastewater streams or residuals.

(c) The affected source for the slashing subcategory is the collection of all of the items listed in paragraphs (c)(1) through (5) of this section that are used in slashing operations. The regulated materials for the slashing subcategory are the slashing materials used in the affected source.

(1) All slashing equipment used to apply and dry size on warp yarn;

(2) All storage containers and mixing vessels in which slashing materials are stored or mixed;

(3) All manual and automated equipment and containers used for conveying slashing materials;

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a slashing operation; and

(5) All manual and automated equipment, structures, and/or devices(s) used to convey, treat, or dispose of wastewater streams or residuals.

(d) The affected source for the dyeing and finishing subcategory is the collection of all of the items listed in paragraphs (d)(1) through (5) of this section that are used in dyeing and finishing operations. The regulated materials for the dyeing and finishing subcategory are the dyeing, finishing and cleaning materials used in the affected source.

(1) All dyeing and finishing equipment used to apply dyeing or finishing materials, to fix dyeing materials to the substrate, to rinse the textile substrate, to dry or cure the dyeing or finishing materials, or to clean dyeing/finishing operation equipment;

(2) All storage containers and mixing vessels in which dyeing, finishing or cleaning materials are stored or mixed;

(3) All manual and automated equipment and containers used for conveying dyeing, finishing or cleaning materials;

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating or printing operation; and

(5) All manual and automated equipment, structures, and/or devices(s) used to convey, treat, or dispose of wastewater streams or residuals.

(e) An affected source is a new source if it meets the criteria in paragraph (e)(1) of this section and the criteria in either paragraph (e)(2) or (3) of this section.

(1) You commenced the construction of the source after July 11, 2002, by installing new coating, printing, slashing, dyeing, or finishing equipment.

(2) The new coating, printing, slashing, dyeing or finishing equipment is used at a source where no coating, printing, slashing, dyeing or finishing was previously performed.

(3) The new coating, printing, slashing, dyeing and finishing equipment is used in a subcategory in which no equipment was previously used.

(f) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(g) An affected source is existing if it is not new or reconstructed.

§ 63.4283 When do I have to comply with this subpart?

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) through (c) of this section. The compliance date begins the initial compliance period during which you conduct the initial compliance demonstration described in §§ 63.4340, 63.4350, 63.4360, and 63.4365.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section:

(1) If the initial startup of your new or reconstructed affected source is before [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], the compliance date is the [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

(2) If the initial startup of your new or reconstructed affected source occurs after [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is the date 3 years after [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

(c) For an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP emissions, the compliance date is specified in paragraphs (c)(1) and (2) of this section.

(1) For any portion of the source that becomes a new or reconstructed affected source subject to this subpart, the compliance date is the date of initial startup of the affected source or [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], whichever is later.

(2) For any portion of the source that becomes an existing affected source subject to this subpart, the compliance date is the date 1 year after the area source becomes a major source or 3 years after [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], whichever is later.

(d) You must meet the notification requirements in § 63.4310 according to the dates specified in that section and in subpart A of this part. Some of the notifications must be submitted before the compliance dates described in paragraphs (a) through (c) of this section.

Emission Limitations

§ 63.4290 What emission limits must I meet?

You must meet the emission limit for the subcategory or subcategories present in your facility. The three subcategories are: coating and printing, slashing, and dyeing and finishing. Table 1 to this subpart presents the emission limits for a new or reconstructed affected source and for an existing affected source in each subcategory.

§ 63.4291 What are my options for meeting the emission limits?

You must include all regulated materials (as defined in § 63.4381) used in the affected source when determining whether the organic HAP emission rate is equal to or less than the applicable emission limit in Table 1 to this subpart. To make this determination, you must use at least one of the compliance options for the subcategory listed in paragraphs (a) through (c) of this section.

(a) *Coating and printing.* You may apply any one of the compliance options in paragraphs (a)(1) through (5) of this section to an individual coating/printing operation or to multiple coating/printing operations in the affected source as a group or to the entire affected source in the coating and printing subcategory. You may use different compliance options for different coating/printing operations or at different times on the same coating/printing operation. However, you may not use different compliance options at the same time on the same coating/printing operation. If you switch between compliance options for any coating/printing operation or group of operations, you must document this switch as required by § 63.4330(c), and you must report it in the next semiannual compliance report required in § 63.4320.

(1) *Compliant material option.* Demonstrate that the organic HAP content of each coating and printing material used in the coating/printing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, and that each thinning and cleaning material used contains no organic HAP. You must meet all the requirements of §§ 63.4340, 63.4341, and 63.4342 to demonstrate compliance with the applicable emission limit using this option.

(2) *Emission rate without add-on controls option.* Demonstrate that, based on the regulated materials used in the coating/printing operation(s), the organic HAP emission rate for the coating/printing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, calculated as a monthly emission rate. You must meet all the requirements of §§ 63.4350, 63.4351, and 63.4352 to demonstrate compliance with the applicable emission limit using this option.

(3) *Emission rate with add-on controls option.* Demonstrate that, based on the regulated materials used in the coating/printing operation(s) and the organic HAP emissions reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the coating/printing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart, calculated as a monthly emission rate. If you use this compliance option, you must also demonstrate that all capture systems and control devices for the coating/printing operation(s) meet the operating limits required in § 63.4292, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4360 through 63.4363 and §§ 63.4370 through 63.4374 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

(4) *Organic HAP overall control efficiency option.* Demonstrate that,

based on the organic HAP emission capture and add-on control efficiencies achieved, the organic HAP overall control efficiency is greater than or equal to the applicable organic HAP overall control efficiency limit in Table 1 to this subpart. If you use this compliance option, you must also demonstrate that all capture systems and control devices for the coating/printing operation(s) meet the operating limits required in § 63.4292, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4365 through 63.4368 and §§ 63.4370 through 63.4374 to demonstrate compliance with the applicable emission limits, operating limits, and work practice standards using this option.

(5) *Oxidizer outlet organic HAP concentration limit.*

If you use an oxidizer to control organic HAP emissions, demonstrate that the oxidizer is operated such that the outlet organic HAP concentration is no greater than 20 parts per million by volume (ppmv) on a dry basis, and the efficiency of the capture system is 100 percent. If you use this compliance option, you must also demonstrate that all capture systems and oxidizers for the coating/printing operation(s) meet the operating limits required in § 63.4292, and that you meet the work practice standards required in § 63.4293. You must meet all the requirements of §§ 63.4365 through 63.4368 and §§ 63.4370 through 63.4374 to demonstrate compliance with the applicable emission limits, operating limits, and work practice standards using this option.

(b) *Slashing.* You must use the compliant material option to demonstrate that the mass fraction of organic HAP in each slashing material used in the slashing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart. You must meet all the requirements of §§ 63.4340, 63.4341, and 63.4342 to demonstrate compliance with the applicable emission limit.

(c) *Dyeing and finishing.* You may apply either of the compliance options in paragraphs (c)(1) and (2) of this section to an individual dyeing/finishing operation or to multiple dyeing/finishing operations in the affected source as a group or to the entire affected source in the dyeing and finishing subcategory. You may use different compliance options for different dyeing/finishing operations or at different times on the same dyeing/finishing operation. However, you may not use different compliance options at the same time on the same dyeing/finishing operation. If you switch between compliance options for any dyeing/finishing operation or group of operations, you must document this switch as required by § 63.4330(c), and you must report it in the next semiannual compliance report required in § 63.4320.

(1) *Compliant material option.* Demonstrate that the mass fraction of organic HAP in each dyeing, finishing, and cleaning material used in the dyeing/finishing operation(s) is less than or equal to the applicable emission limit in Table 1 to this subpart. You must meet all the requirements of §§ 63.4340, 63.4341, and 63.4342 to demonstrate compliance with the applicable emission limit using this option.

(2) *Emission rate without add-on controls option.* Demonstrate that, based on the dyeing, finishing, and cleaning materials used in the dyeing/finishing operation(s), the organic HAP emission rate for the dyeing operation(s), the organic HAP emission rate for the finishing operation(s) or the combined organic HAP emission rate for dyeing and finishing is less than or equal to the applicable emission limit(s) in Table 1 to this subpart, calculated as a monthly emission rate. You must meet all the requirements of §§ 63.4350, 63.4351, and 63.4352 to demonstrate compliance with the applicable emission limit(s) using this option.

§ 63.4292 What operating limits must I meet?

(a) For any coating/printing operation, slashing operation, or dyeing/finishing operation on which you use the compliant material option or coating/printing operation or dyeing/finishing operation on which you use the emission rate without add-on controls option, you are not required to meet any operating limits.

(b) For any controlled coating/printing operation on which you use the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option, except those for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4361(d)(5), you must meet the operating limits specified in Table 2 of this subpart. These operating limits apply to the emission capture and control systems on the coating/printing operation(s) for which you use this option, and you must establish the operating limits during the performance test according to the procedures in § 63.4367. You must meet the operating limits at all times after you establish them.

(c) If you use an add-on control device other than those listed in Table 2 of this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.4293 What work practice standards must I meet?

(a) For any slashing operation or dyeing/finishing operation, you are not required to meet any work practice standards. For any coating/printing operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any work practice standards.

(b) If you use either the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for a coating/printing operation, you must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of coating, printing, thinning, and cleaning materials used in, and waste materials generated by, the coating/printing operations for which you use this option; or you must meet an alternative standard as provided in paragraph (c) of this section. The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented.

(1) All organic-HAP-containing coating, printing, thinning, cleaning, and waste materials must be stored in closed containers.

(2) Spills of organic-HAP-containing coating, printing, thinning or cleaning materials, and waste materials must be minimized.

(3) Organic-HAP-containing coating, printing, thinning, cleaning, and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels which contain organic-HAP-containing coating, printing, thinning and other materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of organic HAP must be minimized during cleaning of storage, mixing, and conveying equipment.

(c) As provided in § 63.6(g), we, EPA, may choose to grant you permission to use an alternative to the work practice standards in this section.

General Compliance Requirements

§ 63.4300 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations in this subpart as specified in paragraphs (a)(1) and (2) of this section.

(1) Each affected source must be in compliance with the applicable emission limit in Table 1 to this subpart at all times.

(2) Any coating/printing operation for which you use either the emission rate with add-on controls option, as specified in § 63.4291(a)(3), the organic HAP overall control efficiency option, as specified in § 63.4291(a)(4), or the oxidizer outlet organic HAP concentration option, as specified in § 63.4291(a)(5), must be in compliance with the emission limitations as specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) The coating/printing operations must be in compliance with the applicable emission limit in Table 1 to this subpart at all times.

(ii) Each controlled coating/printing operation must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4292 at all times except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4361(h).

(iii) Each controlled coating/printing operation must be in compliance with the work practice standards in § 63.4293 at all times.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) If your affected source uses an emission capture system and add-on control device, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any coating/printing operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move the substrate among enclosures.

§ 63.4301 What parts of the General Provisions apply to me?

Table 3 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

Notifications, Reports, and Records

§ 63.4310 What notifications must I submit?

(a) You must submit the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (e) and (h) that apply to you by the dates specified in those sections, except as provided in paragraphs (b) and (c) of this section.

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup or 120 days after [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], whichever is later. For an existing affected source, you must submit the Initial Notification no later than 1 year after [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

(c) *Notification of Compliance Status.* You must submit the Notification of Compliance Status required by § 63.9(h) no later than 30 calendar days following the end of the initial compliance period described in § 63.4340, § 63.4350, or § 63.4360 that applies to your affected source. The Notification of Compliance Status must contain the information specified in paragraphs (c)(1) through (9) of this section and in § 63.9(h).

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of the report and beginning and ending dates of the reporting period. The reporting period is the initial compliance period described in § 63.4340, § 63.4350, § 63.4360, or § 63.4365 that applies to your affected source.

(4) Identification of the compliance option or options specified in § 63.4291 that you used during the initial compliance period on each coating/printing operation in each coating/printing affected source, on each slashing operation in each slashing affected source, and on each dyeing/finishing operation in each dyeing/finishing affected source.

(5) Statement of whether or not the affected source achieved the emission limitations for the initial compliance period.

(6) If you had a deviation, include the information in paragraphs (c)(6)(i) and (ii) of this section.

(i) A description of and statement of the cause of the deviation.

(ii) If you failed to meet the applicable emission limit in Table 1 to this subpart, include all the calculations you used to determine the kilogram (kg) organic HAP emitted per kg of solids used in coating and printing material or the weight percent organic HAP compounds in slashing, dyeing or finishing material to demonstrate your failure to meet the applicable emission limit. You do not need to submit information provided by the materials suppliers or manufacturers or test reports.

(7) For each of the data items listed in paragraphs (c)(7)(i) through (iii) of this section that is required by the compliance option(s) you used to demonstrate compliance with the emission limit, include an example of how you determined the value, including calculations and supporting data. Supporting data can include a copy of the information provided by the supplier or manufacturer of the example regulated material or a summary of the results of testing conducted according to § 63.4341(a), (b), or (c). You do not need to submit copies of any test reports.

(i) Mass fraction of organic HAP and mass fraction of solids for one coating or printing formulation including thinning materials, mass fraction of organic HAP for one cleaning material and mass fraction of organic HAP for all of the regulated materials ''as purchased'' used in one slashing operation or dyeing/ finishing operation.

(ii) Mass of coating or printing formulation used in coating/printing operation or of regulated materials used in slashing or dyeing/finishing operation during the compliance period.

(iii) The amount of waste materials and the mass of organic HAP contained in the waste materials for which you are claiming an allowance in Equation 1 of § 63.4351.

(8) The calculation of kg organic HAP per kg of coating and printing solids used and of kg organic HAP per kg of dyeing and finishing material ''as purchased'' for the compliance option(s) you use, as specified in paragraphs (c)(8)(i) through (iv) of this section.

(i) For the compliant material option as specified in § 63.4291(a)(1) for coating/printing operations and § 63.4291(c)(1) for dyeing/finishing operations, provide an example calculation of the organic HAP content for one coating and one printing material, or for one dyeing and one finishing material, as appropriate, using Equation 1 of § 63.4341.

(ii) For the emission rate without add-on controls options as specified in § 63.4291(a)(2) for coating/printing operations, provide the calculation of the total mass of organic HAP emissions; the calculation of the total mass of coating and printing solids used; and the calculation of the organic

HAP emission rate, using Equations 1, 2, and 3, respectively, of § 63.4351.

(iii) For the emission rate without add-on controls option as specified in § 63.4291(b)(2) for dyeing/finishing operations, provide the calculation of the total mass of organic HAP emissions; the calculation of the total mass of dyeing, finishing, and cleaning materials used; and the calculation of the organic HAP emission rate, using Equations 5, 6, and 7, respectively, of § 63.4351.

(iv) For the emission rate with add-on controls option as specified in § 63.4291(a)(3), provide the calculation of the total mass of organic HAP emissions before add-on controls using Equation 1 of § 63.4351, and the calculation of the organic HAP emission rate using Equation 5 of § 63.4361.

(9) For the emission rate with add-on controls option as specified in § 63.4291(a)(3), the organic HAP overall control efficiency option as specified in § 63.4291(a)(4), and the oxidizer outlet organic HAP concentration option as specified in § 63.4291(a)(5), for each controlled coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), you must include the information specified in paragraphs (c)(9)(i) through (iv) of this section.

(i) For each emission capture system, a summary of the data and copies of the calculations supporting the determination that the emission capture system is a permanent total enclosure (PTE) or a measurement of the emission capture system efficiency. If you are demonstrating compliance with the oxidizer outlet organic HAP concentration option, the emission capture system must be a PTE. Include a description of the protocol followed for measuring capture efficiency, summaries of any capture efficiency tests conducted, and any calculations supporting the capture efficiency determination. If you use the data quality objective (DQO) or lower confidence limit (LCL) approach, you must also include the statistical calculations to show you meet the DQO or LCL criteria in appendix A to subpart KK of this part. You do not need to submit complete test reports.

(ii) A summary of the results of each add-on control device performance test. You do not need to submit complete test reports.

(iii) A list of each emission capture system's and add-on control device's operating limits and a summary of the data used to calculate those limits.

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4293 and the startup, shutdown and malfunction plan required by § 63.4300.

§ 63.4320 What reports must I submit?

(a) *Semiannual compliance reports.* You must submit semiannual compliance reports for each affected source according to the requirements of paragraphs (a)(1) through (7) of this section. The semiannual compliance reporting requirements of this section may be satisfied by reports required under other parts of the Clean Air Act (CAA), as specified in paragraph (a)(2) of this section.

(1) *Dates.* Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must prepare and submit each semiannual compliance report according to the dates specified in paragraphs (a)(1)(i) through (iv) of this section.

(i) The first semiannual compliance report must cover the first semiannual reporting period which begins the day after the end of the initial compliance period described in § 63.4340, § 63.4350, § 63.4360, or § 63.4365 that applies to your affected source and ends on June 30 or December 31, whichever date is the first date at least 6 months after the end of the initial compliance period.

(ii) Each subsequent semiannual compliance report must cover the subsequent semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iii) Each semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(iv) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the date specified in paragraph (a)(3) of this section.

(2) *Inclusion with title V report.* Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to this section along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the semiannual compliance report includes all required information concerning deviations from any emission limitation in this subpart, its submission shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a semiannual compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(3) *General requirements.* The semiannual compliance report must contain the information specified in paragraphs (a)(3)(i) through (v) of this section, and the information specified in paragraphs (a)(4) through (7) and (c)(1) of this section that is applicable to your affected source.

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31.

(iv) Identification of the compliance option or options specified in § 63.4291 that you used on each coating/printing operation, slashing operation, and dyeing/finishing operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning and ending dates you used each option.

(v) If you used the emission rate without add-on controls, the emission rate with add-on controls, or the organic HAP overall control efficiency compliance option (§ 63.4291(a)(2), (3), or (4)), the calculation results for each month during the 6-month reporting period.

(4) *No deviations.* If there were no deviations from the emission limitations in Table 1 to this subpart, § 63.4292, and § 63.4293 that apply to you, the semiannual compliance report must include a statement that there were no deviations from the emission limitations during the reporting period. If you use the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option and there were no periods during which the

continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out-of-control during the reporting period.

(5) *Deviations: compliant material option.* If you use the compliant material option, and there was a deviation from the applicable HAP content requirements in Table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (iv) of this section.

(i) Identification of each coating, printing, slashing, dyeing or finishing material used that deviated from the emission limit, each cleaning material used in dyeing/finishing operations that deviated from the emission limit, and each thinning or cleaning material used in coating/printing operations that contained organic HAP, and the dates and time periods each was used.

(ii) The calculation of the organic HAP content using Equation 1 of § 63.4341 for each regulated material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (e.g., information provided by material suppliers or manufacturers, or test reports).

(iii) The determination of mass fraction of organic HAP for each regulated material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (e.g., information provided by material suppliers or manufacturers, or test reports).

(iv) A statement of the cause of each deviation.

(6) *Deviations: emission rate without add-on controls option.* If you use the emission rate without add-on controls option and there was a deviation from the applicable emission limit in Table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (iii) of this section.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable 1-month emission limit in Table 1 to this subpart.

(ii) The calculations used to determine the 1-month organic HAP emission rate for the compliance period in which the deviation occurred. You must submit the calculations for Equations 1, 1A and 1B, 2, 3, and 4 in § 63.4351, and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4351(a)(3)(iii) or (b)(3)(ii). You do not need to submit background data supporting these calculations (e.g., information provided by materials suppliers or manufacturers, or test reports).

(iii) A statement of the cause of each deviation.

(7) *Deviations: add-on controls options.* If you use one of the add-on controls options in § 63.4291(a) and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xv) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable 1-month emission limit in Table 1 to this subpart.

(ii) If you use the emission rate option, the calculations used to determine the 1-month organic HAP emission rate for each compliance period in which a deviation occurred. You must submit the calculations that apply to you, including Equations 1, 1A and 1B, 2, 3, and 4 of § 63.4351; Equations 1, 1A and 1B, 3, and 5 of § 63.4361; and Equation 4 of § 63.4361. You do not need to submit the background data supporting these calculations (e.g., information provided by materials suppliers or manufacturers, or test reports).

(iii) If you use the organic HAP overall control efficiency option, the calculations used to determine the 1-month organic HAP overall control efficiency for each compliance period in which a deviation occurred. You must submit the calculation of organic HAP overall control efficiency using Equation 3A of § 63.4361 for a solvent recovery system for which you conduct a liquid-liquid material balance according to § 63.4361(d)(5), or Equation 6 of § 63.4361 for an emission capture system and add-on control device other than a solvent recovery system for which you conduct a liquid-liquid material balance according to § 63.4361(d)(5). You do not need to submit the background data supporting these calculations (e.g., test reports).

(iv) The date and time that each malfunction started and stopped.

(v) A brief description of the CPMS.

(vi) The date of the latest CPMS certification or audit.

(vii) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(viii) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(ix) The date and time period of each deviation from an operating limit in Table 2 to this subpart, date and time period of any bypass of the add-on control device, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(x) A summary of the total duration of each deviation from an operating limit in Table 2 to this subpart and each bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total source operating time during that semiannual reporting period.

(xi) A breakdown of the total duration of the deviations from the operating limits in Table 2 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(xii) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(xiii) A description of any changes in the CPMS, coating/printing operation, emission capture system, or add-on control device since the last semiannual reporting period.

(xiv) For each deviation from the work practice standards, a description of the deviation, the date and time period duration of the deviation, and the actions you took to correct the deviation.

(xv) A statement of the cause of each deviation.

(b) *Performance test reports.* If you use one of the add-on control options in § 63.4291(a), you must submit reports of performance test results for emission capture systems and add-on control devices no later than 60 days after completing the tests as specified in § 63.10(d)(2).

(c) *Startup, shutdown, malfunction reports.* If you use one of the add-on control options in § 63.4291(a) and you have a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section.

(1) If your actions were consistent with your startup, shutdown, and malfunction plan, you must include the information specified in § 63.10(d) in the semiannual compliance report.

(2) If your actions were not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shut down, and malfunction report as described in paragraphs (c)(2)(i) and (ii) of this section as required by paragraph (a) of this section.

(i) You must describe the actions taken during the event in a report delivered by facsimile, telephone, or other means to the Administrator within 2 working days after starting actions that are inconsistent with the plan.

(ii) You must submit a letter to the Administrator within 7 working days after the end of the event, unless you have made alternative arrangements with the Administrator as specified in § 63.10(d)(5)(ii). The letter must contain the information specified in § 63.10(d)(5)(ii).

§ 63.4330 What records must I keep?

You must collect and keep a record of the data and information specified in this section. Failure to collect and keep these records is a deviation from the applicable standard.

(a) A copy of each notification and report that you submitted to comply with this subpart, and the documentation supporting each notification and report.

(b) A current copy of information provided by materials suppliers or manufacturers, such as manufacturer's formulation data or test data used to determine the mass fraction of organic HAP for coating, printing, slashing, dyeing, finishing, thinning, and cleaning materials; and the mass fraction of solids for coating and printing materials. If you conducted testing to determine mass fraction of organic HAP, of coating, printing, slashing, dyeing and finishing materials or the mass fraction of solids of coating or printing materials, you must keep a copy of the complete test report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or supplier. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(c) For each compliance period, the records specified in paragraph (c)(1) for coating/printing operations and the records specified in paragraph (c)(2) for dyeing/finishing operations.

(1) A record of the coating/printing operations on which you used each compliance option and the time periods (beginning and ending dates) you used each option. For each month, a record of all required calculations for the compliance option(s) you used, as specified in paragraphs (c)(1)(i) through (iv) of this section.

(i) For the compliant material option, a record of the calculation of the organic HAP content for each coating and printing material, using Equation 1 of § 63.4341.

(ii) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coating, printing, thinning and cleaning materials used each month using Equations 1, 1A, and 1B of § 63.4351 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4351(a)(3)(iii); the calculation of the total mass of the solids contained in all coating and printing materials used each month using Equation 2 of § 63.4351; and the calculation of each 1-month organic HAP emission rate using Equation 3 of § 63.4351.

(iii) For the emission rate with add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coating, printing, thinning and cleaning materials used each month using Equations 1, 1A, and 1B of § 63.4351 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4351(a)(3)(iii); the calculation of the total mass of the solids contained in all coating and printing materials used each month using Equation 2 of § 63.4351; the calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices using Equations 1 and 1A and 1B of § 63.4361 and Equations 3 and 4 of § 63.4361, as applicable; and the calculation of each month's organic HAP emission rate using Equation 5 of § 63.4361.

(iv) For the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option, the records specified in paragraph (j) of this section.

(2) A record of the dyeing/finishing operations on which you used each compliance option and the time periods (beginning and ending dates) you used each option. For each month, a record of all required calculations for the compliance option(s) you used, as specified in paragraphs (c)(2)(i) and (ii) of this section.

(i) For the compliant material option, a record of the calculation of the mass fraction of organic HAP for each dyeing, finishing, and cleaning material, according to § 63.4341(h)(1).

(ii) For the emission rate without add-on controls option, the calculation for the total mass of organic HAP emissions for the dyeing, finishing and cleaning materials used each month using Equations 4 and 4A of § 63.4351 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4351(a)(3)(iii); the calculation of the total mass of dyeing, finishing, and cleaning materials used each month using Equation 5 of § 63.4351; and the calculation of each 1-month organic HAP emission rate using Equation 6 of § 63.4351.

(d) A record of the name and mass of each coating, printing, dyeing, finishing, thinning and cleaning material used during each compliance period. If you are using the compliant material option for all regulated materials at the source, you may maintain purchase records for each material used rather than a record of the mass used.

(e) A record of the mass fraction of organic HAP for each coating, printing, dyeing, finishing, thinning and cleaning material used during each compliance period.

(f) A record of the mass fraction of coating and printing solids for each coating and printing material used during each month.

(g) If you use an allowance in Equation 1 or 4 of § 63.4351 for organic HAP contained in waste materials sent to or designated for shipment to a treatment, storage, and disposal facility (TSDF) according to § 63.4351(a)(3)(iii) or (b)(3)(ii), you must keep records of the information specified in paragraphs (g)(1) through (3) of this section.

(1) The name and address of each TSDF to which you sent waste materials for which you used an allowance in Equation 1 or 4 of § 63.4345, a statement of which subparts under 40 CFR parts 262, 264, 265, and 266 apply to the facility, and the date of each shipment.

(2) Identification of the coating/printing or dyeing/finishing operations producing waste materials included in each shipment and the month or months in which you used the allowance for these materials in Equation 1 or 4, respectively, of § 63.4351.

(3) The methodology used in accordance with § 63.4351(a)(3)(iii) or (b)(3)(ii) to determine the total amount of waste materials sent to or the amount collected, stored, and designated for transport to a TSDF each month; and the methodology to determine the mass of

organic HAP contained in these waste materials. This must include the sources for all data used in the determination, methods used to generate the data, frequency of testing or monitoring, and supporting calculations and documentation, including the waste manifest for each shipment.

(h) [Reserved]

(i) You must keep records of the date, time, and duration of each deviation.

(j) If you use the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option, you must keep the records specified in paragraphs (i)(1) through (8) of this section.

(1) For each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction.

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) The records required to show continuous compliance with each operating limit specified in Table 2 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4371(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4370 and 63.4371(b) through (e) including the records specified in paragraphs (j)(5)(i) through (iii) of this section that apply to you.

(i) *Records for a liquid-to-fugitive protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or F of appendix M to 40 CFR part 51 for each material used in the coating/printing operation, and the total TVH for all materials used during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) *Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure.* Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) *Records for an alternative protocol.* Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4371(e), if applicable.

(6) The records specified in paragraphs (j)(6)(i) and (ii) of this section for each add-on control device organic HAP destruction or removal efficiency determination or oxidizer outlet organic HAP concentration determination as specified in § 63.4372.

(i) Records of each add-on control device performance test conducted according to §§ 63.4370 and 63.4372.

(ii) Records of the coating/printing operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(7) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4373 and to document compliance with the operating limits as specified in Table 2 to this subpart.

(8) A record of the work practice plan required by § 63.4293 and documentation that you are implementing the plan on a continuous basis.

§ 63.4331 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database.

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records off site for the remaining 3 years.

Compliance Requirements for the Compliant Material Option

§ 63.4340 By what date must I conduct the initial compliance demonstration?

You must complete the compliance demonstration for the initial compliance period according to the requirements in § 63.4341. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the calculations according to § 63.4341 and supporting documentation showing that during the initial compliance period, the organic HAP content of each coating and printing material you used and the mass fraction of organic HAP in each slashing, dyeing, finishing, and cleaning material you used did not exceed the applicable limit in Table 1 to this subpart, and documentation that you used no thinners or cleaners in coating/printing operations that contained organic HAP according to § 63.4341(h).

§ 63.4341 How do I demonstrate initial compliance with the emission limitations?

(a) You may use the compliant material option for any individual coating/printing operation, for any group of coating/printing operations in the affected source, or for all the coating/printing operations in the affected source. You must use either the emission rate without add-on controls option, the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for any coating/printing operation(s) in the affected source for which you do not use this option. For a coating/printing affected source to demonstrate initial compliance using the compliant material option, the coating/printing operation or group of coating/printing operations must use no coating or printing material with an organic HAP content that exceeds the applicable emission limit in Table 1 to this subpart and must use no thinning or cleaning material that contains organic HAP, as determined according to this section.

(b) You must use the compliant material option for each slashing affected source, as required in Table 1 to this subpart. For a slashing affected source to demonstrate initial compliance using the compliant material option, the slashing operation or group of slashing operations must use no slashing material with a mass fraction of organic HAP that exceeds the applicable emission limit in Table 1 to this subpart.

(c) You may use the compliant material option for any individual dyeing/finishing operation, for any group of dyeing/finishing operations in the affected source, or for all the dyeing/finishing operations in the affected source. You must use the emission rate without add-on controls option for any dyeing/finishing operations in the affected source for which you do not use this option. For a dyeing/finishing affected source to demonstrate initial compliance using the compliant material option, the dyeing/finishing operation or group of dyeing/finishing operations must use no dyeing, finishing, or cleaning material with a mass fraction of organic HAP that exceeds the applicable emission limit in Table 1 to this subpart.

(d) Any coating/printing operation, slashing operation, or dyeing/finishing operation for which you use the compliant material option is not required to meet the operating limits or work practice standards required in §§ 63.4292 and 63.4293, respectively.

(e) To demonstrate initial compliance with the emission limitations using the compliant material option, you must meet all the requirements of this section for any coating/printing operation, slashing operation, or dyeing/finishing operation using this option. Use the procedures in this section on each regulated material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. You do not need to redetermine the HAP content of regulated materials that are reclaimed onsite and reused in the coating/printing operation, slashing operation, or dyeing/finishing operation for which you use the compliant material option, provided these regulated materials in their condition as received were demonstrated to comply with the compliant material option.

(1) *Determine the mass fraction of organic HAP for each material used.* You must determine the mass fraction of organic HAP for each regulated material used during the compliance period by using one of the options in paragraphs (e)(1)(i) through (v) of this section.

(i) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (e)(1)(i) and (ii) of this section when performing a Method 311 test.

(A) Count each organic HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you don't have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (*e.g.*, 0.3791).

(B) Calculate the total mass fraction of organic HAP in the test material by adding up the individual organic HAP mass fractions and truncating the result to three places after the decimal point (*e.g.*, 0.763).

(ii) *Method 24 (appendix A to 40 CFR part 60).* For coating, printing, dyeing and finishing material, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP.

(iii) *Alternative method.* You may use an alternative test method for determining the mass fraction of organic HAP or mass fraction of solids once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(iv) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (e)(1)(i) through (iii) of this section, such as manufacturer's formulation data, if it represents each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (e)(1)(i) through (iii) of this section, then the test method results will take precedence.

(v) *Solvent blends.* Solvent blends may be listed as single components for some materials in data provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP mass fraction of the materials. When test data and manufacturer's data for solvent blends are not available, you may use the default values for the mass fraction of organic HAP in these solvent blends listed in Table 4 or 5 to this subpart. If you use the tables, you must use the values in Table 4 for all solvent blends that match Table 4 entries, and you may only use Table 5 if the solvent blends in the materials you use do not match any of the solvent blends in Table 4 and you only know whether the blend is aliphatic or aromatic. However, if the results of a Method 311 test indicate higher values than those listed on Table 4 or 5 to this subpart, the Method 311 results will take precedence.

(2) *Determine the mass fraction of solids for each coating and printing material.* You must determine the mass fraction of solids (kg of solids per pound (lb) of coating or printing material) for each coating and printing material used during the compliance period by a test or by information provided by the supplier or the manufacturer of the material, as specified in paragraphs (e)(2)(i) through (iii) of this section. If test results obtained according to paragraph (e)(2)(i) or (ii) of this section do not agree with the information obtained under paragraph (e)(2)(iii) of this section, the test results will take precedence.

(i) *Method 24 (appendix A to 40 CFR part 60).* You may use Method 24 for determining the mass fraction of solids of coating and printing materials.

(ii) *Alternative method.* You may use an alternative test method for determining solids content of each coating and printing material once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(iii) *Information from the supplier or manufacturer of the material.* You may obtain the mass fraction of solids for each coating and printing material from the supplier or manufacturer. If there is disagreement between such information and the test method results, then the test method results will take precedence.

(3) *Calculate the organic HAP content of each coating or printing material.* Calculate the organic HAP content, kg organic HAP per kg of solids used, of each coating and printing material used during the compliance period, using Equation 1 of this section:

$$H_c = (W_c)/(W_f) \qquad \text{(Eq. 1)}$$

Where:

H_c = organic HAP content of the coating or printing material, kg organic HAP per kg solids used in the coating or printing material.

W_c = mass fraction of organic HAP in the coating or printing material, kg organic HAP per kg material, determined according to paragraph (e)(1) of this section.

W_f = mass fraction of solids in coating or printing material, kg solids per kg of coating or printing material, determined according to paragraph (e)(2) of this section.

(4) *Compliance demonstration.* The calculated organic HAP content for each coating and printing material used during the initial compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart, and each thinning and cleaning material used during the initial compliance period must contain no organic HAP according to paragraph (e)(1) of this section. The mass fraction of organic HAP for each slashing, dyeing and finishing material used during the initial compliance period and cleaning material used in dyeing/finishing operations during the initial compliance period, determined according to paragraph (e)(1) of this section, must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records required by §§ 63.4330 and 63.4331. As part of the Notification of Compliance Status required in § 63.4310, you must:

(i) Identify any coating/printing operation, slashing operation, and dyeing/finishing operation for which you used the compliant material option;

(ii) Submit a statement that the coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you used no coating and printing material for which the organic HAP content exceeds the applicable emission limit in Table 1 to this subpart, and you used no thinning materials or cleaning materials that contained organic HAP, determined according to paragraph (h)(1) of this section; and

(iii) Submit a statement that the slashing operation(s) and dyeing/finishing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you used no slashing, dyeing and finishing material for which the mass fraction of organic HAP exceeds the applicable emission limit in Table 1 to this subpart, and you used no cleaning materials in the dyeing/finishing affected source for which the mass fraction of organic HAP exceeds the applicable emission limit in Table 1 to this subpart, determined according to the requirements of § 63.4341(e)(1).

§ 63.4342 How do I demonstrate continuous compliance with the emission limitations?

(a) For each compliance period, to demonstrate continuous compliance, you must use no coating or printing material for which the organic HAP content determined using Equation 1 of § 63.4341, exceeds the applicable emission limit in Table 1 to this subpart. For each compliance period, you must use no slashing material, dyeing or finishing material, or cleaning material in dyeing/finishing operations for which the mass fraction of organic HAP, determined according to the requirements of § 63.4341(e)(1), exceeds the applicable emission limit in Table 1 to this subpart. For each compliance period, you must use no thinning or cleaning materials in a coating/printing affected source that contain organic HAP, determined according to the requirements of § 63.4341(e)(1). Each month following the initial compliance period described in § 63.4340 is a compliance period.

(b) If you choose to comply with the emission limitations by using the compliant material option, the use of any regulated material that does not meet the criteria specified in paragraph (a) of this section is a deviation from the emission limitations that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(5).

(c) As part of each semiannual compliance report required by § 63.4320, you must identify any coating/printing operation, slashing operation, or dyeing/or finishing operation for which you used the compliant material option. If there were no deviations from the applicable emission limit in Table 1 to this subpart, submit a statement that, as appropriate, the coating/printing operations were in compliance with the emission limitations during the reporting period because you used no coating or printing material for which the organic HAP content exceeded the applicable emission limit in Table 1 to this subpart, and you used no thinning or cleaning materials in a coating/printing affected source that contained organic HAP, determined according to § 63.4341(e)(1), and that the slashing and dyeing/finishing operations were in compliance with the emission limitations during the reporting period because you used no slashing, dyeing or finishing material, or cleaning material in dyeing/finishing operations for which the mass fraction of organic HAP exceeded the applicable emission limit in Table 1 to this subpart.

(d) You must maintain records as specified in §§ 63.4330 and 63.4331.

Compliance Requirements for the Emission Rate Without Add-On Controls Option

§ 63.4350 By what date must I conduct the initial compliance demonstration?

You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4351. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the calculations according to § 63.4351 and supporting documentation showing that for coating/printing operations, the organic HAP emission rate for the initial compliance period was equal to or less than the applicable emission limit in Table 1 to this subpart and for dyeing/finishing operations, the mass fraction of organic HAP for the initial compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart.

§ 63.4351 How do I demonstrate initial compliance with the emission limitations?

(a) For coating/printing operations, you may use the emission rate without add-on controls option for any individual coating/printing operation, for any group of coating/printing operations in the affected source, or for all the coating/printing operations as a group in the affected source. You must use either the compliant material option, the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for any coating/printing operation in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the coating/printing operation or group of coating/printing operations must meet the applicable emission limit in Table 1 to this subpart but is not required to meet the operating limits or work practice standards in §§ 63.4292 and 63.4293, respectively. You must meet all the requirements of this section to demonstrate initial compliance with the applicable emission limit in Table 1 to this subpart for the coating/printing operation(s). When calculating the organic HAP emission rate according to this section, do not include any coating, printing, thinning or cleaning materials used on coating/printing operations for which you use the compliant material option, the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option.

(1) *Determine the mass fraction of organic HAP for each material used.* Determine the mass fraction of organic HAP for each coating, printing, thinning and cleaning material used during the compliance period according to the requirements in § 63.4341(e)(1).

(2) *Determine the mass fraction of solids for each material used.* Determine the mass fraction of solids (kg of solids per kg of coating or printing material) for each coating and printing material used during the compliance period according to the requirements in § 63.4341(e)(2).

(3) *Determine the mass of each material used.* Determine the mass (kg) of each coating, printing, thinning or cleaning material used during the compliance period by measurement or usage records.

(4) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all coating, printing, thinning and cleaning materials used during the compliance period minus the organic HAP in certain waste materials. Calculate the mass of organic HAP emissions using Equation 1 of this section:

$$H_e = A + B - R_w \qquad \text{(Eq. 1)}$$

Where:

H_e = total mass of organic HAP emissions during the compliance period, kg.

A = total mass of organic HAP in the coating and printing materials used during the compliance period, kg, as calculated in Equation 1A of this section.

B = total mass of organic HAP in the thinning and cleaning materials used during the compliance period, kg, as calculated in Equation 1B of this section.

R_w = total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the month, kg, determined according to paragraph (a)(4)(iii) of this section. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

(i) Calculate the kg organic HAP in the coating and printing materials used during the compliance period using Equation 1A of this section:

$$A = \sum_{i=1}^{m} \left(M_{c,i}\right)\left(W_{c,i}\right) \qquad \text{(Eq. 1A)}$$

Where:

A = total mass of organic HAP in the coating and printing materials used during the compliance period, kg.

$M_{c,i}$ = total mass of coating or printing material, i, used during the compliance period, kg.

$W_{c,i}$ = mass fraction of organic HAP in coating or printing material, i, kg organic HAP per kg of material.

m = number of different coating and printing, materials used during the compliance period.

(ii) Calculate the kg of organic HAP in the thinning and cleaning materials used during the compliance period using Equation 1B of this section:

$$B = \sum_{j=1}^{n} \left(M_{t,j}\right)\left(W_{t,j}\right) \qquad \text{(Eq. 1B)}$$

Where:

B = total mass of organic HAP in the thinning and cleaning materials used during the compliance period, kg.

$M_{t,j}$ = total mass of thinning or cleaning material, j, used during the compliance period, kg.

$W_{t,j}$ = mass fraction of organic HAP in thinning or cleaning material, j, kg organic HAP per kg thinning or cleaning material.

n = number of different thinning and cleaning materials used during the compliance period.

(iii) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in Equation 1 of this section, then you must determine it according to paragraphs (a)(4)(iii)(A) through (D) of this section.

(A) You may include in the determination only waste materials that are generated by coating/printing operations in the affected source for which you use Equation 1 of this section and that will be treated or disposed of by a facility that is regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include organic HAP contained in wastewater.

(B) You must determine either the amount of the waste materials sent to a TSDF during the compliance period or the amount collected and stored during the compliance period designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a month if you have already included them in the amount collected and stored during that month or a previous month.

(C) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (a)(4)(iii)(B) of this section.

(D) You must document the methodology you use to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4530(g). To the extent that waste manifests include this, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(5) *Calculate the total mass of coating and printing solids used.* Determine the total mass of coating and printing solids used, kg, which is the combined mass of the solids contained in all the coating and printing materials used during the compliance period, using Equation 2 of this section:

$$H_t = \sum_{i=1}^{m} \left(M_{c,i}\right) \qquad \text{(Eq. 2)}$$

Where:

H_t = total mass of solids contained in coating and printing materials used during the compliance period, kg.

$M_{c,i}$ = mass of coating or printing solids in the coating or printing material, i, used during the compliance period, kg.

m = number of coating and printing materials used during the compliance period.

(6) Calculate the organic HAP emission rate for the compliance period, kg organic HAP emitted per kg solids used, using Equation 3 of this section:

$$H_{mo} = \frac{H_e}{H_t} \qquad \text{(Eq. 3)}$$

Where:

H_{mo} = organic HAP emission rate for the compliance period, kg of organic HAP emitted per kg of solids in coating and printing materials used.

H_e = total mass organic HAP emissions from all regulated materials used during the compliance period, kg, as calculated by Equation 1 of this section.

H_t = total mass of coating and printing solids in materials used during the compliance period, kg, as calculated by Equation 2 of this section.

(7) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4330 and 63.4331. As part of the Notification of Compliance Status required by § 63.4310, you must identify the coating/printing operation(s) for which you used the emission rate without add-on controls option and submit a

statement that the coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in Table 1 to this subpart, determined according to the procedures in this section.

(b) For dyeing and finishing operations, you may use the emission rate without add-on controls option for any individual dyeing/finishing operation, for any group of dyeing/finishing operations in the affected source, or for dyeing/finishing operations as a group in the affected source. You must use the compliant material option for any dyeing/finishing operation in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the dyeing/finishing operation or group of operations must meet the applicable emission limit in Table 1 to this subpart but is not required to meet the operating limits or work practice standards in §§ 63.4292 and 63.4293, respectively. You must meet all the requirements of this section to demonstrate initial compliance with the applicable emission limit in Table 1 to this subpart for the dyeing/finishing operation(s). When calculating the organic HAP emission rate according to this section, do not include any dyeing and finishing materials used on dyeing/finishing operations for which you use the compliant material option.

(1) *Determine the mass fraction of organic HAP for each material.* Determine the mass fraction of organic HAP for each dyeing, finishing, and cleaning material used during the compliance period according to the requirements in § 63.4341(e)(1).

(2) *Determine the mass of each material used.* Determine the mass (kg) of each dyeing, finishing, and cleaning material used during the compliance period by measurement or usage records.

(3) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all dyeing, finishing, and cleaning materials used during the compliance period minus the organic HAP in certain waste materials. Calculate the mass of organic HAP emissions using Equation 4 of this section:

$$H_e = A - R_w \qquad \text{(Eq. 4)}$$

Where:

H_e = total mass of organic HAP emissions during the compliance period, kg.

A = total mass of organic HAP in the dyeing, finishing, and cleaning materials used during the compliance period, kg, as calculated in Equation 4B of this section.

R_w = total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the compliance period, kg, determined according to paragraph (b)(3)(ii) of this section. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

(i) Calculate the kg organic HAP in the dyeing, finishing, and cleaning materials used during the compliance period using Equation 4A of this section:

$$A = \sum_{i=1}^{m} \left(M_{c,i}\right)\left(W_{c,i}\right) \qquad \text{(Eq. 4A)}$$

Where:

A = total mass of organic HAP in the dyeing, finishing, and cleaning materials used during the compliance period, kg.

$M_{c,i}$ = mass of dyeing, finishing, or cleaning material, i, used during the compliance period, kg.

$W_{c,i}$ = mass fraction of organic HAP in dyeing, finishing, or cleaning material, i, kg HAP per kg of material.

(ii) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in Equation 4 of this section, then you must determine it according to paragraphs (b)(3)(ii)(A) through (D) of this section.

(A) You may include in the determination only waste materials that are generated by dyeing/finishing operations in the affected source for which you use Equation 4 of this section and that will be treated or disposed of by a facility that is regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include organic HAP contained in wastewater.

(B) You must determine either the amount of the waste materials sent to a TSDF during the compliance period or the amount collected and stored during the compliance period designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a month if you have already included them in the amount collected and stored during that month or a previous month.

(C) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (b)(3)(ii)(B) of this section.

(D) You must document the methodology you use to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4530(g). To the extent that waste manifests include this, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(4) *Calculate the total mass of dyeing, finishing, and cleaning materials used.* Determine the total mass of dyeing, finishing, and cleaning materials used, kg, which is the combined mass of all the dyeing, finishing, and cleaning materials used during the compliance period, using Equation 5 of this section:

$$M_t = \sum_{i=1}^{m} \left(M_{c,i}\right) \qquad \text{(Eq. 5)}$$

Where:

M_t = total mass of dyeing, finishing, and cleaning materials used during the compliance period, kg.

$M_{c,i}$ = mass of dyeing, finishing, or cleaning material, i, used during the compliance period, kg.

m = number of dyeing, finishing, and cleaning materials used during the compliance period.

(5) Calculate the organic HAP emission rate, kg organic HAP emitted per kg dyeing, finishing, and cleaning material used, using Equation 6 of this section:

$$H_{mo} = \frac{H_e}{M_t} \qquad \text{(Eq. 6)}$$

Where:

H_{mo} = the organic HAP emission rate for the compliance period, kg of organic HAP emitted per kg of dyeing, finishing, and cleaning materials.

H_e = total mass of organic HAP emissions from all materials used during the compliance period, kg, as calculated by Equation 4 of this section.

M_t = total mass of dyeing, finishing, and cleaning materials used during the compliance period, kg, as calculated by Equation 5 of this section.

(6) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4330 and 63.4331. As part of the Notification

of Compliance Status required by § 63.4310, you must identify the dyeing/finishing operation(s) for which you used the emission rate without add-on controls option and submit a statement that the dyeing/finishing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in Table 1 to this subpart, determined according to the procedures of this section.

(i) If your affected source performs only dyeing operations, paragraphs (b)(1) through (5) of this section apply to dyeing materials only, and you must demonstrate compliance with the emission limit in Table 1 to this subpart for dyeing operations.

(ii) If your affected source performs only finishing operations, paragraphs (b)(1) through (5) of this section apply to finishing materials only, and you must demonstrate compliance with the emission limit in Table 1 to this subpart for finishing operations.

(iii) If your affected source performs both dyeing and finishing operations, paragraphs (b)(1) through (5) of this section apply to dyeing and finishing materials combined, and you must demonstrate compliance with the emission limit in Table 1 to this subpart for dyeing and finishing operations.

§ 63.4352 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance, the organic HAP emission rate for each compliance period, determined according to § 63.4351(a) for coating/printing operations and according to § 63.4351(b) for dyeing/finishing operations, must be less than or equal to the applicable emission limit in Table 1 to this subpart. Each month following the initial compliance period described in § 63.4350 is a compliance period.

(b) If the organic HAP emission rate for any 1-month compliance period exceeded the applicable emission limit in Table 1 to this subpart, this is a deviation from the emission limitations for that compliance period and must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(6).

(c) As part of each semiannual compliance report required by § 63.4320, you must identify any coating/printing operation or dyeing/finishing operation for which you used the emission rate without add-on controls option. If there were no deviations from the applicable emission limit in Table 1 to this subpart, you must submit a statement that, as appropriate, the coating/printing operations or the dyeing/finishing operations were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart.

(d) You must maintain records as specified in §§ 63.4330 and 63.4331.

Compliance Requirements for the Emission Rate With Add-On Controls Option

§ 63.4360 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4370, 63.4371, and 63.4372, and establish the operating limits required by § 63.4292, no later than the applicable compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), you must initiate the first material balance no later than the applicable compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4361. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date, or the date you conduct the performance tests of the emission capture systems and add-on control devices, or initiate the first liquid-liquid material balance for a solvent recovery system, whichever is later. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4370, 63.4371, and 63.4372; results of liquid-liquid material balances conducted according to § 63.4361(d)(5); calculations according to § 63.4561 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in Table 1 to this subpart; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4374; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4292 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. This requirement does not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of § 63.4361(d)(5).

(b) *Existing sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4370, 63.4371, and 63.4372, and establish the operating limits required by § 63.4292, no later than the compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), you must initiate the first material balance no later than the compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4361. The initial compliance period begins on the

applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4370, 63.4371, and 63.4372; results of liquid-liquid material balances conducted according to § 63.4361(d)(5); calculations according to § 63.4561 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in Table 1 to this subpart; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4374; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

§ 63.4361 How do I demonstrate initial compliance?

(a) You may use the emission rate with add-on controls option for any individual coating/printing operation, for any group of coating/printing operations in the affected source, or for all of the coating/printing operations in the affected source. You may include both controlled and uncontrolled coating/printing operations in a group for which you use this option. You must use either the compliant material option, the emission rate without add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option for any coating/printing operation in the affected source for which you do not use the emission rate with add-on controls option. To demonstrate initial compliance, any coating/printing operation for which you use the emission rate with add-on controls option must meet the applicable emission limitations in Table 1 to this subpart, and in §§ 63.4292 and 63.4293. You must meet all the requirements of this section. When calculating the organic HAP emission rate according to this section, do not include any coating, printing, thinning, or cleaning materials used on coating/printing operations for which you use the compliant material option, the emission rate without add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option. You do not need to redetermine the mass of organic HAP in coating, printing, thinning, or cleaning materials that have been reclaimed onsite and reused in the coating/printing operation(s) for which you use the emission rate with add-on control option.

(b) *Compliance with operating limits.* Except as provided in § 63.4360(a)(4), and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4361(d)(5), you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4292, using the procedures specified in §§ 63.4373 and 63.4374.

(c) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4293 during the initial compliance period as specified in § 63.4330.

(d) *Compliance with emission limits.* You must follow the procedures in paragraphs (d)(1) through (8) of this section to demonstrate compliance with the applicable emission limit in Table 1 to this subpart.

(1) *Determine the mass fraction of organic HAP, the mass fraction of solids, and mass of materials used.* Follow the procedures specified in § 63.4351(a)(1), (2), and (3) to determine the mass fraction of organic HAP for each coating, printing, thinning and cleaning material used during the compliance period; the mass fraction of solids for each coating and printing material used during the compliance period; and mass of each coating, printing, thinning or cleaning material used during the compliance period.

(2) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4351, calculate the total mass of organic HAP emissions before add-on controls from all coating, printing, thinning or cleaning materials used during the compliance period minus the organic HAP in certain waste materials in the coating/printing operation or group of coating/printing operations for which you use the emission rate with add-on controls.

(3) *Calculate the organic HAP emissions reductions for each controlled coating/printing operation.* Determine the mass of organic HAP emissions reduced for each controlled coating/printing operation during the compliance period. The emissions reductions determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (d)(4) of this section to calculate the mass of organic HAP emissions reductions for each controlled coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled coating/printing operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (d)(5) of this section to calculate the organic HAP emissions reductions.

(4) *Calculate the organic HAP emission reduction for each controlled coating/printing operation not using liquid-liquid material balance.* For each controlled coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 1 of this section. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coating, printing, thinning, or cleaning materials that are used in the coating/printing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4363(c) or (d) occurs in the controlled coating/printing operation, including a deviation during startup, shutdown, or malfunction, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of this section treats the materials used during such a deviation as if they were used on an uncontrolled coating/printing operation for the time period of the deviation.

$$H_c = \left(A_I + B_I - H_{UNC}\right)\left(\frac{CE}{100} \times \frac{DRE}{100}\right) \qquad \text{(Eq. 1)}$$

Where:

H_C = mass of organic HAP emission reduction for the controlled coating/printing operation during the compliance period, kg.

A_I = total mass of organic HAP in the coating and printing materials used in the controlled coating/printing operation during the compliance period, kg, as calculated in Equation 1A of this section.

B_I = total mass of organic HAP in the thinning and cleaning materials used in the controlled coating/printing operation during the compliance period, kg, as calculated in Equation 1B of this section.

H_{UNC} = total mass of organic HAP in the coating, printing, thinning, and cleaning materials used during all deviations specified in § 63.4363(c) and (d) that occurred during the compliance period in the controlled coating/printing operation, kg, as calculated in Equation 1C of this section.

CE = capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4370 and 63.4371 to measure and record capture efficiency.

DRE = organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4370 and 63.4372 to measure and record the organic HAP destruction or removal efficiency.

(i) Calculate the total mass of organic HAP in the coating and printing materials used in the controlled coating/printing operation(s) during the compliance period, kg, using Equation 1A of this section:

$$A_I = \sum_{i=1}^{m} \left(M_{c,i}\right)\left(W_{c,i}\right) \qquad \text{(Eq. 1A)}$$

Where:

A_I = total mass of organic HAP in the coating and printing materials used in the controlled coating/printing operations(s) during the compliance period, kg.

$M_{c,i}$ = mass of coating or printing material, i, used during the compliance period, kg.

$W_{c,i}$ = mass fraction of organic HAP in coating or printing material, i, kg per kg.

m = number of different coating and printing materials used during compliance period.

(ii) Calculate the total mass of organic HAP in the thinning and cleaning materials used in the controlled coating/printing operation(s) during the compliance period, kg, using Equation 1B of this section:

$$B_I = \sum_{j=1}^{n} \left(M_{t,j}\right)\left(W_{t,j}\right) \qquad \text{(Eq. 1B)}$$

Where:

B_I = total mass of organic HAP in the thinning and cleaning materials used in the controlled coating/printing operation(s) during the compliance period, kg.

$M_{t,j}$ = total mass of thinning or cleaning material, j, used during the compliance period, kg.

$W_{t,j}$ = mass fraction of organic HAP in thinning or cleaning material, j, kg per kg.

n = number of different thinning or cleaning materials used during the compliance period.

(iii) Calculate the mass of organic HAP in the coating, printing, thinning, and cleaning materials used in the controlled coating/printing operation during deviations specified in § 63.4563(c) and (d), using Equation 1C of this section.

$$H_{UNC} = \sum_{h=1}^{q} \left(M_h\right)\left(W_h\right) \qquad \text{(Eq. 1C)}$$

Where:

H_{UNC} = total mass of organic HAP in the coating, printing, thinning, and cleaning materials used during all deviations specified in § 63.4563(c) and (d) that occurred during the month in the controlled coating/printing operation, kg.

M_h = total mass of coating, printing, thinning, or cleaning material, h, used in the controlled coating/printing operation during deviations, kg.

W_h = mass fraction of organic HAP in coating, printing, thinning, or cleaning material, h, kg organic HAP per kg material.

q = number of different coating, printing, thinning, and cleaning materials used.

(5) *Calculate the organic HAP emissions reductions for controlled coating/printing operation using liquid-liquid material balances.* For each controlled coating/printing operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials that are used in the coating/printing operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for the compliance period as specified in paragraphs (d)(5)(i) through (v) of this section. Calculate the mass of organic HAP emissions reductions by the solvent recovery system as specified in paragraph (d)(5)(vi) of this section.

(i) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system for the compliance period. The device must be initially certified by the manufacturer to be accurate to within ±2.0 percent of the mass of volatile organic matter recovered.

(ii) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, kg, based on measurement with the device required in paragraph (d)(5)(i) of this section.

(iii) Determine the mass fraction of volatile organic matter for each coating and printing material used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating and printing material. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating or printing material. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will govern.

(iv) Measure the mass of each coating, printing, thinning, or cleaning material used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

(v) For the compliance period, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency using Equation 2 of this section:

$$R_V = 100 \frac{M_{VR}}{\sum_{i=1}^{m} M_i WV_{c,i} + \sum_{j=1}^{n} M_j WV_{t,j}} \quad \text{(Eq. 2)}$$

Where:

R_V = volatile organic matter collection and recovery efficiency of the solvent recovery system during the compliance period, percent.

M_{VR} = mass of volatile organic matter recovered by the solvent recovery system during the compliance period, kg.

M_i = mass of coating or printing material, i, used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

$WV_{c,i}$ = mass fraction of volatile organic matter for coating or printing material, i, kg volatile organic matter per kg coating or printing material.

M_j = mass of thinning or cleaning material, j, used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

$WV_{t,j}$ = mass fraction of volatile organic matter for thinning or cleaning material, j, kg volatile organic matter per kg thinning or cleaning material.

m = number of different coating and printing materials used in the coating/printing operation controlled by the solvent recovery system during the compliance period.

n = number of different thinning and cleaning materials used in the coating/printing operation controlled by the solvent recovery system during the compliance period.

(vi) Calculate the mass of organic HAP emission reductions for the coating/printing operation controlled by the solvent recovery system during the compliance period using Equation 3 of this section and according to paragraphs (d)(5)(vi)(A) and (B) of this section:

$$H_{CSR} = \left(A_{CSR} + B_{CSR}\right)\left(\frac{R_V}{100}\right) \quad \text{(Eq. 3)}$$

Where:

H_{CSR} = mass of organic HAP emission reduction for the coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

A_{CSR} = total mass of organic HAP in the coating and printing material used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg, calculated using Equation 3A of this section.

B_{CSR} = total mass of organic HAP in the thinning and cleaning materials used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg, calculated using Equation 3B of this section.

R_V = volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 2 of this section.

(A) Calculate the total mass of organic HAP in the coating and printing materials used in the coating/printing operation(s) controlled by the solvent recovery system during the compliance period, kg, using Equation 3A of this section:

$$A_{CSR} = \sum_{i=1}^{m}\left(M_{c,i}\right)\left(W_{c,i}\right) \quad \text{(Eq. 3A)}$$

Where:

A_{CSR} = total mass of organic HAP in the coating and printing materials used in the coating/printing operations(s) controlled by the solvent recovery system during the compliance period, kg.

$M_{c,i}$ = mass of coating or printing material, i, used during the compliance period in the coating/printing operation(s) controlled by the solvent recovery system, kg.

$W_{c,i}$ = mass fraction of organic HAP in coating or printing material, i, kg per kg.

m = number of different coating and printing materials used during compliance period.

(B) Calculate the total mass of organic HAP in the thinning and cleaning materials used in the coating/printing operation(s) controlled by the solvent recovery system during the compliance period, kg, using Equation 3B of this section:

$$B_{CSR} = \sum_{j=1}^{n}\left(M_{t,j}\right)\left(W_{t,j}\right) \quad \text{(Eq. 3B)}$$

Where:

B_{CSR} = total mass of organic HAP in the thinning and cleaning materials used in the coating/printing operation(s) controlled by the solvent recovery system during the compliance period, kg.

$M_{t,j}$ = total mass of thinning or cleaning material, j, used during the compliance period in the coating/printing operation(s) controlled by the solvent recovery system, kg.

$W_{t,j}$ = mass fraction of organic HAP in thinning or cleaning material, j, kg per kg.

n = number of different thinning or cleaning materials used during the compliance period.

(6) *Calculate the total mass of coating and printing solids used.* Determine the total mass of coating and printing solids used, kg, which is the combined mass of the solids contained in all the coating and printing material used during the compliance period in the coating/printing operation(s) or which you use the emission rate with add-on controls option, using Equation 2 of § 63.4351.

(7) *Calculate the organic HAP emission rate with add-on controls for the compliance period.* Determine the organic HAP emission rate with add-on controls for the compliance period, kg organic HAP emitted per kg solids used during the compliance period, using Equation 4 of this section.

$$H_{HAP} = \frac{H_e - \sum_{i=1}^{q}\left(H_{C,i}\right) - \sum_{j=1}^{r}\left(H_{CSR,j}\right)}{H_t} \qquad \text{(Eq. 4)}$$

Where:

H_{HAP} = organic HAP emission rate with add-on controls for the compliance period, kg organic HAP emitted per kg solids used.

H_e = total mass of organic HAP emissions before add-on controls from all the coating, printing, thinning, and cleaning materials used during the compliance period, kg, determined according to paragraph (d)(2) of this section.

$H_{C,i}$ = total mass of organic HAP emissions reduction for controlled coating/printing operation, i, not using a liquid-liquid material balance, during the compliance period, kg, from Equation 1 of this section.

$H_{CSR,j}$ = total mass of organic HAP emissions reduction for coating/printing operation, j, controlled by a solvent recovery system using a liquid-liquid material balance, during the compliance period, kg, from Equation 3 of this section.

H_t = total mass of coating and printing solids used during the compliance period, kg, from Equation 2 of § 63.4351.

q = number of controlled coating/printing operations not using a liquid-liquid material balance.

r = number of coating/printing operations controlled by a solvent recovery system using a liquid-liquid material balance.

(8) *Compliance demonstration.* To demonstrate initial compliance with the emission limit calculated using Equation 4 of this section, the organic emission rate with add-on controls for the compliance period must be less than or equal to the applicable emission limit in Table 1 to this subpart. You must keep all records as required by §§ 63.4330 and 63.4331. As part of the Notification of Compliance Status required by § 63.4310, you must identify the coating/printing operation(s) for which you used the emission rate with add-on controls option and submit a statement that the coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

§ 63.4362 [Reserved]

§ 63.4363 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance with the applicable emission limit in Table 1 to this subpart, the organic HAP emission rate for each compliance period, determined according to the procedures in § 63.4361, must be equal to or less than the applicable emission limit in Table 1 to this subpart. Each month following the initial compliance period described in § 63.4360 is a compliance period. You must perform the calculations in § 63.4361 on a monthly basis.

(b) If the emission rate with add-on controls for any 1-month compliance period exceeded the applicable emission limit in Table 1 to this subpart, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4292 that applies to you, as specified in Table 2 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 2 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 2 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4361(d)(4), you must treat the materials used during a deviation on a controlled coating/printing operation as if they were used on an uncontrolled coating/printing operation for the time period of the deviation as indicated in Equation 1 of § 63.4361.

(d) You must meet the requirements for bypass lines in § 63.4374(b) for controlled coating/printing operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the coating/printing operation is running, this is a deviation that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7). For the purposes of completing the compliance calculations specified in § 63.4361(d)(4), you must treat the materials used during a deviation on a controlled coating/printing operation as if they were used on an uncontrolled coating/printing operation for the time period of the deviation, as indicated in Equation 1 of § 63.4361.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4293. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4330(j)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7).

(f) As part of each semiannual compliance report required in § 63.4320, you must identify the coating/printing operation(s) for which you use the emission rate with add-on controls option. If there were no deviations from the emission limitations, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period.

(g) During periods of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating/printing operation that may affect emission capture or control device efficiency, you must operate in accordance with the startup, shutdown, and malfunction plan required by § 63.4300(c).

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating/printing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4330 and 63.4331.

Compliance Requirements for the Organic HAP Overall Control Efficiency and Oxidizer Outlet Organic HAP Concentration Options

§ 63.4365 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4366(d)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4370, 63.4371, and 63.4372, and establish the operating limits required by § 63.4292, no later than the applicable compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4366(d)(5), you must initiate the first material balance no later than the applicable compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4366. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date, or the date you conduct the performance tests of the emission capture systems and add-on control devices, or initiate the first liquid-liquid material balance for a solvent recovery system, whichever is later. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4370, 63.4371, and 63.4372; results of liquid-liquid material balances conducted according to § 63.4366(d)(5); calculations according to § 63.4366 and supporting documentation showing that during the initial compliance period either the organic HAP overall control efficiency was equal to or greater than the applicable overall control efficiency limit in Table 1 to this subpart or the oxidizer outlet organic HAP concentration was no greater than 20 parts per million by weight (ppmw) on a dry basis; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4374; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4292 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. This requirement does not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of § 63.4366(d)(5).

(b) *Existing sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4283. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4366(d)(5), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4370, 63.4371, and 63.4372, and establish the operating limits required by § 63.4292, no later than the compliance date specified in § 63.4283. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4366(d)(5), you must initiate the first material balance no later than the compliance date specified in § 63.4283.

(2) You must develop and begin implementing the work practice plan required by § 63.4293 no later than the compliance date specified in § 63.4283.

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4366. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4370, 63.4371, and 63.4372; results of liquid-liquid material balances conducted according to § 63.4366(d)(5); calculations according to § 63.4366 and supporting documentation showing that during the initial compliance period the organic HAP overall control efficiency was equal to or greater than the applicable organic HAP overall control efficiency limit in Table 1 to this subpart or the oxidizer outlet organic HAP concentration was no greater than 20 ppmw on a dry basis and the efficiency of the capture system was 100 percent; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4374; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

§ 63.4366 How do I demonstrate initial compliance?

(a) You may use the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option for any individual coating/printing operation, for any group of coating/printing operations in the affected source, or for all of the coating/printing operations in the affected source. You may include both controlled and uncontrolled coating/printing operations in a group for which you use the organic HAP overall control efficiency option. You must use either the compliant material option, the emission rate without add-on controls option, or the emission rate with add-on controls option for any coating/printing operation(s) in the affected source for which you do not use either the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option. To demonstrate initial compliance, any coating/printing operation for which you use the organic HAP overall control efficiency option must meet the applicable organic HAP overall control efficiency limitations in Table 1 to this subpart according to the procedures in paragraph (d) of this section. Any coating/printing operation for which you use the oxidizer outlet organic HAP concentration option must meet the 20 ppmw on a dry basis limit and achieve 100 percent capture efficiencies according to the procedures in paragraph (e) of this section. To demonstrate initial compliance with either option, you also must meet the applicable operating limits in § 63.4292 according to the procedures in paragraph (b) of this section and the work practice standards in § 63.4293 according to the procedures in paragraph (c) of this section. When calculating the organic HAP overall control efficiency according to this section, do not include any coating, printing, thinning, or cleaning materials used on coating/printing operations for which you use the compliant material option, the emission rate without add-on controls option, the emission rate with add-on controls option, or the oxidizer outlet organic HAP concentration option. You do not need to redetermine the mass of organic HAP in coating, printing, thinning, or cleaning materials that have been reclaimed onsite and reused in coating/printing operation(s) for which you use the organic HAP overall control efficiency option.

(b) *Compliance with operating limits.* Except as provided in § 63.4365(a)(4), and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4366(d)(5), you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4292, using the procedures specified in §§ 63.4373 and 63.4374.

(c) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4293 during the initial compliance period as specified in § 63.4330.

(d) *Compliance with organic HAP overall control efficiency limits.* You must follow the procedures in paragraphs (d)(1) through (7) of this section to demonstrate compliance with the applicable organic HAP overall control efficiency limit in Table 1 to this subpart.

(1) *Determine the mass fraction of organic HAP and mass of coating or printing materials used.* Follow the procedures specified in § 63.4351(a)(1) and (2) to determine the mass fraction of organic HAP and mass of each coating, printing, thinning or cleaning material used during the compliance period.

(2) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4351, calculate the total mass of organic HAP emissions before add-on controls from all coating, printing, thinning or cleaning materials used during the compliance period minus the organic HAP in certain waste materials in the coating/printing operation or group of coating/printing operations for which you use the organic HAP overall control efficiency option.

(3) *Calculate the organic HAP emissions reductions for each controlled coating/printing operation.* Determine the mass of organic HAP emissions reduced for each controlled coating/printing operation during the compliance period. The emissions reductions determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (d)(4) of this section to calculate the mass of organic HAP emissions reductions for each controlled coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each controlled coating/printing operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (d)(5) of this section to calculate the organic HAP emissions reductions.

(4) *Calculate the organic HAP emissions reductions for controlled coating/printing operations not using liquid-liquid material balance.* For each controlled coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 1 of § 63.4361. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coating, printing, thinning, or cleaning materials that are used in the coating/printing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4363(c) or (d) occurs in the controlled coating/printing operation, including a deviation during startup, shutdown, or malfunction, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of § 63.4361 treats the materials used during such a deviation as if they were used on an uncontrolled coating/printing operation for the time period of the deviation.

(i) Calculate the total mass of organic HAP in the coating and printing material(s) used in the controlled coating/printing operation during the compliance period, kg, using Equation 1A of § 63.4361.

(ii) Calculate the total mass of organic HAP in the thinning and cleaning materials used in the controlled coating/printing operation(s) during the compliance period, kg, using Equation 1B of § 63.4361.

(iii) Calculate the mass of organic HAP in the coating, printing, thinning, and cleaning materials used in the controlled coating/printing operation during deviations specified in § 63.4563(c) and (d), using Equation 1C of § 63.4361.

(5) *Calculate the organic HAP emissions reductions for controlled coating/printing operations using liquid-liquid material balance.* For each controlled coating/printing operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coating, printing, thinning, or cleaning materials that are used in the coating/printing operation controlled by the solvent recovery system during the compliance period. Perform a liquid-liquid material balance for the compliance period as specified in paragraphs (d)(5)(i) through (vi) of this section.

(i) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system for the compliance period. The device must be initially certified by the manufacturer to be accurate to within ± 2.0 percent of the mass of volatile organic matter recovered.

(ii) For each solvent recovery system, determine the mass of volatile organic matter recovered for the compliance period, kg, based on measurement with the device required in paragraph (d)(5)(i) of this section.

(iii) Determine the mass fraction of volatile organic matter for each coating and printing material used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating and printing material. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating or printing material. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of

40 CFR part 60, appendix A, or an approved alternative method, the test method results will govern.

(iv) Measure the mass of each coating, printing, thinning, or cleaning material used in the coating/printing operation controlled by the solvent recovery system during the compliance period, kg.

(v) For the compliance period, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency using Equation 2 of § 63.4361.

(vi) Calculate the mass of organic HAP emissions reductions for the coating/printing operation controlled by the solvent recovery system during the compliance period, using Equation 4 of § 63.4361.

(6) *Calculate the organic HAP overall control efficiency.* Determine the organic HAP overall control efficiency, kg organic HAP emissions reductions per kg organic HAP emissions before add-on controls during the compliance period, using Equation 1 of this section.

$$E_{HAP} = 1 - \frac{H_e - \sum_{i=1}^{q}\left(H_{C,i}\right) - \sum_{j=1}^{r}\left(H_{CSR,j}\right)}{H_e} \times 100 \qquad \text{(Eq. 1)}$$

Where:

H_e = total mass of organic HAP emissions before add-on controls from all the coating, printing, thinning, and cleaning materials used during the compliance period, kg, determined according to paragraph (d)(2) of this section.

$H_{C,i}$ = total mass of organic HAP emissions reduction for controlled coating/printing operation, i, during the compliance period, kg, from Equation 1 of § 63.4361.

$H_{CSR,j}$ = total mass of organic HAP emissions reduction for controlled coating/printing operation, j, during the compliance period, kg, from Equation 4 of § 63.4361.

q = number of controlled coating/printing operations except those controlled with a solvent recovery system.

r = number of coating/printing operations controlled with a solvent recovery system.

(7) *Compliance demonstration.* To demonstrate initial compliance with the organic HAP overall control efficiency in Table 1 to this subpart, organic HAP overall control efficiency calculated using Equation 1 of this section must be at least 98 percent for new or reconstructed affected sources and at least 97 percent for existing affected sources. You must keep all records as required by §§ 63.4330 and 63.4331. As part of the Notification of Compliance Status required by § 63.4310, you must identify the coating/printing operation(s) for which you used the organic HAP overall control efficiency option and submit a statement that the coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP overall control efficiency was greater than or equal to the applicable organic HAP overall control efficiency in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

(e) *Compliance with oxidizer outlet organic HAP concentration limit.* You must follow the procedures in paragraphs (e)(1) through (3) of this section to demonstrate compliance with the oxidizer outlet organic HAP concentration limit of no greater than 20 ppmw on a dry basis.

(1) *Install and operate a PTE.* Install and operate a PTE around each work station and associated drying or curing oven in the coating/printing operation. An enclosure that meets the requirements in § 63.4371(a) is considered a PTE. Route all organic emissions from each PTE to an oxidizer.

(2) *Determine oxidizer outlet organic HAP concentration.* Determine oxidizer outlet organic HAP concentration through performance tests using the procedures in § 63.4372(a) and (b).

(3) *Compliance demonstration.* To demonstrate initial compliance with the oxidizer outlet organic HAP concentration limit in Table 1 to this subpart, the oxidizer outlet organic HAP concentration must be no greater than 20 ppmv on a dry basis and the efficiency of the capture system must be 100 percent. You must keep all records as required by §§ 63.4330 and 63.4331. As part of the Notification of Compliance Status required by § 63.4310, you must identify the coating/printing operation(s) for which you used the oxidizer outlet organic HAP concentration option and submit a statement that the coating/printing operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the oxidizer outlet organic HAP concentration was no greater than 20 ppmv on a dry basis, the efficiency of the capture system was 100 percent, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293.

§ 63.4367 [Reserved]

§ 63.4368 How do I demonstrate continuous compliance with the emission limitations?

(a) You must meet all the requirements of this section to demonstrate continuous compliance with the organic HAP overall control efficiency. The organic HAP overall control efficiency for each compliance period, determined according to the procedures in § 63.4366(d), must be equal to or greater than the applicable organic HAP overall control efficiency limit in Table 1 to this subpart. Each month following the initial compliance period described in § 63.4365 is a compliance period. You must perform the calculations in § 63.4366(d) on a monthly basis. You must meet the applicable requirements of paragraphs (c) through (j) of this section to demonstrate continuous compliance with the oxidizer outlet organic HAP concentration limit.

(b) If the organic HAP overall control efficiency for any 1-month compliance period failed to meet the applicable organic HAP overall control efficiency in Table 1 to this subpart, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4292 that applies to you, as specified in Table 2 to this subpart.

(1) If an operating parameter is out of the allowed range specified in Table 2 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 2 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the

time period of the deviation. For the purposes of completing the compliance calculations specified in § 63.4366(d)(4), you must treat the materials used during a deviation on a controlled coating/printing operation as if they were used on an uncontrolled coating/printing operation for the time period of the deviation as indicated in Equation 1 of § 63.4361.

(d) You must meet the requirements for bypass lines in § 63.4374(b) for controlled coating/printing operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the coating/printing operation is running, this is a deviation that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7). For the purposes of completing the compliance calculations specified in § 63.4366(d)(4), you must treat the materials used during a deviation on a controlled coating/printing operation as if they were used on an uncontrolled coating/printing operation for the time period of the deviation as indicated in Equation 1 of § 63.4361.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4293. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4330(j)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4310(c)(6) and 63.4320(a)(7).

(f) As part of each semiannual compliance report required in § 63.4320, you must identify the coating/printing operation(s) for which you use the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option. If there were no deviations from the organic HAP overall control efficiency limitations, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP overall control efficiency for each compliance period was greater than or equal to the applicable organic HAP overall control efficiency in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period. If there were no deviations from the oxidizer outlet organic HAP concentration limit, submit a statement that you were in compliance with the oxidizer outlet organic HAP concentration limit, the efficiency of the capture system is 100 percent, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period.

(g) During periods of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating/printing operation that may affect emission capture or control device efficiency, you must operate in accordance with the startup, shutdown, and malfunction plan required by § 63.4300(c).

(h) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating/printing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4330 and 63.4331.

Performance Testing and Monitoring Requirements

§ 63.4370 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.4360 or § 63.4365 according to the requirements in § 63.7(e)(1) and under the conditions in this section, unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating/printing operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating/printing operation. Operations during periods of startup, shutdown, or malfunction and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.4371. You must conduct each performance test of an add-on control device according to the requirements in § 63.4372.

§ 63.4371 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 63.4360 or § 63.4365.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met.

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All coating, printing, thinning, and cleaning materials used in the coating/printing operation are applied within the capture system; coating and printing solvent flash-off, curing, and drying occurs within the capture system; and the removal or evaporation of cleaning materials from the surfaces they are applied to occurs within the capture system. For example, this criterion is not met if the web enters the open shop environment when moving between the application station and a curing oven.

(b) *Measuring capture efficiency.* If the capture system does not meet both of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the three protocols described in paragraphs (c), (d), and (e) of this section to measure capture efficiency. The capture efficiency measurements use TVH capture efficiency as a surrogate for organic HAP capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours duration or the length of a production run, up to 8 hours.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid TVH in materials used in the coating/printing operation to the mass of TVH emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating/printing operation where coating, printing, thinning, and cleaning materials are applied, and all areas where emissions from these applied coating, printing, thinning, and cleaning materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating/printing operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or tenter frame, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or 204F of appendix M to 40 CFR part 51 to determine the mass fraction of TVH liquid input from each coating, printing, thinning, and cleaning material used in the coating/printing operation during each capture efficiency test run. To make the determination, substitute TVH for each occurrence of the term volatile organic compounds (VOC) in the methods.

(3) Use Equation 1 of this section to calculate the total mass of TVH liquid input from all the coating, printing, thinning, and cleaning materials used in the coating/printing operation during each capture efficiency test run.

$$TVH_{used} = \sum_{i=1}^{n} (TVH_i)(M_i) \qquad \text{(Eq. 1)}$$

Where:

TVH_{used} = mass of liquid TVH in materials used in the coating/printing operation during the capture efficiency test run, lb.

TVH_i = mass fraction of TVH in coating, printing, thinning, or cleaning material, i, that is used in the coating/printing operation during the capture efficiency test run, kg TVH per kg material.

M_i = total mass of coating, printing, thinning, or cleaning material, i, used in the coating/printing operation during the capture efficiency test run, kg.

n = number of different coating, printing, thinning, and cleaning materials used in the coating/printing operation during the capture efficiency test run.

(4) Use Method 204D or E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound-emitting operations inside the building enclosure, other than the coating/printing operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 2 of this section:

$$CE = \frac{(TVH_{used} - TVH_{uncaptured})}{TVH_{used}} \times 100 \qquad \text{(Eq. 2)}$$

Where:

CE = capture efficiency of the emission capture system vented to the add-on control device, percent.

TVH_{used} = total mass of TVH liquid input used in the coating/printing operation during the capture efficiency test run, kg.

$TVH_{uncaptured}$ = total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating/printing operation where coating, printing, thinning, and cleaning materials are applied, and all areas where emissions from these applied coating, printing, thinning, and cleaning materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating/printing operation where capture devices collect emissions generated by the coating/printing operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a tenter frame, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common duct, then the emissions entering the add-on control device must be simultaneously measured in each duct and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D if the enclosure is a temporary total enclosure.

(ii) Use Method 204E if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound-emitting operations inside the building enclosure, other than the coating/printing operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 3 of this section:

$$CE = \frac{TVH_{captured}}{\left(TVH_{captured} + TVH_{uncaptured}\right)} \times 100 \qquad \text{(Eq. 3)}$$

Where:

CE = capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{captured}$ = total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg.

$TVH_{uncaptured}$ = total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Alternative capture efficiency protocol.* As an alternative to the procedures specified in paragraphs (c) and (d) of this section, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the DQO or LCL approach as described in appendix A to subpart KK of this part.

§ 63.4372 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by §§ 63.4360 and 63.4365. You must conduct three test runs as specified in § 63.7(e)(3) and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods as specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME, PTC 19.10–1981, ‘‘Flue and Exhaust Gas Analyses.’’

(4) Use Method 4 of appendix A to 40 CFR part 60 to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure the volatile organic matter concentration as carbon at the inlet and outlet of the add-on control device simultaneously, using Method 25 or 25A of appendix A to 40 CFR part 60. If you are demonstrating compliance with the oxidizer outlet organic HAP concentration limit, only the outlet volatile organic matter concentration must be determined. The outlet volatile organic matter concentration is determined as the average of the three test runs.

(1) Use Method 25 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet. Method 25A must be used to demonstrate compliance with the oxidizer outlet organic HAP concentration limit.

(3) Use Method 25A if the add-on control device is not an oxidizer.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet to the atmosphere of each device. For example, if one add-on control device is a concentrator with an outlet to the atmosphere for the high-volume, dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet to the atmosphere for the low-volume, concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the oxidizer and the high volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions:

$$M_f = Q_{sd} C_c [12][0.0416]\left[10^{-6}\right] \qquad \text{(Eq. 1)}$$

Where:

M_f = total gaseous organic emissions mass flow rate, kg/per hour (h).

C_c = concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, ppmv, dry basis.

Q_{sd} = volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

0.0416 = conversion factor for molar volume, kg-moles per cubic meter (mole/m ^{3}) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(e) For each test run, determine the add-on control device organic emissions destruction or removal efficiency using Equation 2 of this section.

$$DRE = \frac{M_{fi} - M_{fo}}{M_{fi}} \qquad \text{(Eq. 2)}$$

Where:

DRE = organic emissions destruction or removal efficiency of the add-on control device, percent.

M_{fi} = total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h.

M_{fo} = total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

§ 63.4373 How do I establish the emission capture system and add-on control device operating limits during the performance test?

During the performance test required by § 63.4360 or § 63.4365 and described in §§ 63.4370, 63.4371, and 63.4372, you must establish the operating limits required by § 63.4292 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4292.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (i.e., conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures.

(ii) Monthly inspection of the oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency according to § 63.4566.

(c) *Carbon adsorbers.* If your add-on control device is a carbon adsorber, establish the operating limits according to paragraphs (c)(1) and (2) of this section.

(1) You must monitor and record the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle, and the carbon bed temperature after each carbon bed regeneration and cooling cycle for the regeneration cycle either immediately preceding or immediately following the performance test.

(2) The operating limits for your carbon adsorber are the minimum total desorbing gas mass flow recorded during the regeneration cycle, and the maximum carbon bed temperature recorded after the cooling cycle.

(d) *Condensers.* If your add-on control device is a condenser, establish the operating limits according to paragraphs (d)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) *Concentrator.* If your add-on control device includes a concentrator, you must establish operating limits for the concentrator according to paragraphs (e)(1) through (4) of this section.

(1) During the performance test, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) Use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During the performance test, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) Use the data collected during the performance test to calculate and record the average pressure drop. This is the maximum operating limit for the dilute stream across the concentrator.

(f) *Emission capture system.* For each capture device that is not part of a PTE that meets the criteria of § 63.4371(a), establish an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (f)(1) and (2) of this section. The operating limit for a PTE is specified in Table 2 to this subpart.

(1) During the capture efficiency determination required by § 63.4360 or § 63.4365 and described in §§ 63.4370 and 63.4371, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

§ 63.4374 What are the requirements for continuous parameter monitoring system (CPMS) installation, operation, and maintenance?

(a) *General.* You must install, operate, and maintain each CPMS specified in paragraphs (c), (e), (f), and (g) of this section according to paragraphs (a)(1) through (6) of this section. You must install, operate, and maintain each CPMS specified in paragraphs (b) and (d) of this section according to paragraphs (a)(3) through (5) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation.

(3) You must record the results of each inspection, calibration, and validation check of the CPMS.

(4) You must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating/printing operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements.

(b) *Capture system bypass line.* You must meet the requirements of paragraphs (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(2)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure continuous monitoring.* Ensure that any bypass line valve is in the closed (non-diverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coating/printing operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the coating/printing operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shutdown the coating/printing operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.4320.

(c) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device (including those with concentrators or with carbon adsorbers to treat desorbed concentrate streams), you must comply with the requirements in paragraphs (c)(1) through (3) of this section:

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, install gas temperature monitors both upstream and downstream of the catalyst bed. The temperature monitors must be in the gas stream immediately before and after the catalyst bed to measure the temperature difference across the bed.

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (vii) of this section for each gas temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 4 degrees Fahrenheit or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a gas temperature chart recorder is used, it must have a measurement sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 30 degrees Fahrenheit of the process temperature sensor reading.

(vi) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect components for integrity and electrical connections for continuity, oxidation, and galvanic corrosion.

(d) *Carbon adsorbers.* If you are using a carbon adsorber as an add-on control device, you must monitor the total regeneration desorbing gas (*e.g.*, steam or nitrogen) mass flow for each regeneration cycle, the carbon bed temperature after each regeneration and cooling cycle, and comply with paragraphs (a)(3) through (5) and (d)(1) and (2) of this section.

(1) The regeneration desorbing gas mass flow monitor must be an integrating device having a measurement sensitivity of plus or minus 10 percent capable of recording the total regeneration desorbing gas mass flow for each regeneration cycle.

(2) The carbon bed temperature monitor must have a measurement sensitivity of 1 percent of the temperature recorded or 1 degree Fahrenheit, whichever is greater, and must be capable of recording the temperature within 15 minutes of completing any carbon bed cooling cycle.

(e) *Condensers.* If you are using a condenser, you must monitor the condenser outlet (product side) gas temperature and comply with paragraphs (a) and (e)(1) and (2) of this section.

(1) The gas temperature monitor must have a measurement sensitivity of 1 percent of the temperature recorded or 1 degree Fahrenheit, whichever is greater.

(2) The temperature monitor must provide a gas temperature record at least once every 15 minutes.

(f) *Concentrator.* If you are using a concentrator, such as a zeolite wheel or rotary carbon bed concentrator, you must comply with the requirements in paragraphs (f)(1) and (2) of this section.

(1) You must install a temperature monitor in the desorption gas stream. The temperature monitor must meet the requirements in paragraphs (a) and (c)(3) of this section.

(2) You must install a device to monitor pressure drop across the zeolite wheel or rotary carbon bed. The pressure monitoring device must meet the requirements in paragraphs (a) and (f)(2)(i) through (vii) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Use a gauge with a minimum tolerance of 0.5 inch of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(iv) Check the pressure tap daily.

(v) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(vi) Conduct calibration checks anytime the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vii) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(g) *Emission capture systems.* The capture system monitoring system must comply with the applicable requirements in paragraphs (g)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (a) and (g)(1)(i) through (iv) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iii) Conduct a flow sensor calibration check at least semiannually.

(iv) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (a) and (g)(2)(i) through (vi) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure drop across each opening you are monitoring.

(ii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iii) Check pressure tap pluggage daily.

(iv) Using an inclined manometer with a measurement sensitivity of 0.0002 inch water, check gauge calibration quarterly and transducer calibration monthly.

(v) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vi) At least monthly, inspect components for integrity, electrical connections for continuity, and mechanical connections for leakage.

Other Requirements and Information

§ 63.4380 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the U.S. EPA), has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section:

(1) Approval of alternatives to the work practice standards in § 63.4293 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.4381 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Add-on control means an air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

As purchased means the condition of a coating, printing, slashing, dyeing, or finishing material as delivered to the affected source, before alteration.

Capture device means a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device.

Capture efficiency means the portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.

Capture system means one or more capture devices intended to collect emissions generated by a coating or printing operation in the use of coating or printing materials, both at the point of application and at subsequent points where emissions from the coating or printing materials occur, such as flashoff, drying, or curing. As used in this subpart, multiple capture devices that collect emissions generated by a coating or printing operation are considered a single capture system.

Cleaning material means a solvent used to remove contaminants and other materials, such as dirt, grease, or oil, from a textile before or after a coating/printing operation, slashing operation, or dyeing/finishing operation or from equipment associated with the coating/printing operation, slashing operation, or dyeing/finishing operation, such as tanks, rollers, rotary screens, and knife or wiper blades. Thus, it includes any cleaning material used on substrates or equipment or both.

Coating means the application of a semi-liquid coating material to one or both sides of a textile web substrate. Once the coating material is dried (and cured, if necessary), it bonds with the textile to form a continuous solid film for decorative, protective, or functional purposes. Coating does not include finishing where the fiber is impregnated with a chemical or resin to impart certain properties, but a solid film is not formed. Coating does not include the production or printing of laminated fabric.

Coating material means an elastomer, polymer, or prepolymer material applied as a thin layer to a textile web. Such materials include, but are not limited to, coatings, sealants, inks, and adhesives. Decorative, protective, or functional materials that consist only of acids, bases, or any combination of these substances are not considered coating material for the purposes of this subpart. Thinning materials also are not included in this definition of coating materials, but are accounted for separately.

Coating operation means equipment used to apply cleaning materials to a substrate to prepare it for coating material application (surface preparation), to apply coating material to a substrate (coating application) and to dry or cure the coating material after application by exposure to heat or radiation (coating drying or curing), or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment, but always includes at least the point at which a coating or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that coating or cleaning material occur. There may be multiple coating operations in an affected source. Coating application with handheld, nonrefillable aerosol containers, touch-up markers, or marking pens is not a coating operation for the purposes of this subpart. A coating operation with coating material drying or curing at ambient conditions is not coating for the purposes of this subpart.

Continuous parameter monitoring system means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, used to sample, condition (if applicable), analyze, and provide a record of coating or printing operation, or capture system, or add-on control device parameters.

Controlled coating/printing operation means a coating/printing operation from which some or all of the organic HAP emissions are routed through an emission capture system and add-on control device.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limit, or operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Dyeing means the process of applying color to the whole body of a textile substrate with either natural or synthetic dyes. Dyes are applied to yarn, fiber, cord, or fabric in aqueous solutions and dried before or after finishing, depending on the process. Continuous dyeing processes include, but are not limited to thermosol, pad/steam, pad/dry, and rope range dyeing. Batch dyeing processes include, but are not limited to, jet, beck, stock, yarn, kier, beam, pad, package and skein dyeing.

Dyeing materials means the purchased dyes and dyeing auxiliaries that are used in the dyeing process. The dyes are the substances that add color to textiles through incorporation into the fiber by chemical reaction, absorption or dispersion. Dyeing auxiliaries are various substances that can be added to the dyebath to aid dyeing. Dyeing auxiliaries may be necessary to transfer the dye from the dyebath to the fiber or they may provide improvements in the dyeing process or characteristics of the dyed fiber.

Dyeing operation means the collection of equipment used to dye a textile substrate and includes equipment used for dye application, dye fixation, textile substrate rinsing and drying, or to clean dyeing operation equipment. A single dyeing operation may include any combination of these types of equipment, but always includes at least the point at which a dyeing or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that dyeing or cleaning material occur. There may be multiple dyeing operations in an affected source.

Emission limitation means an emission limit, operating limit, or work practice standard.

Enclosure means a structure that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Exempt compound means a specific compound that is not considered a VOC due to negligible photochemical reactivity. The exempt compounds are listed in 40 CFR 51.100(s).

Fabric means any woven, knitted, plaited, braided, felted, or non-woven material made of filaments, fibers, or yarns including thread. This term includes material made of fiberglass, natural fibers, synthetic fibers, or composite.

Finishing means the chemical treatment of a textile (e.g., with resins, softeners, stain resist or soil release agents, water repellants, flame retardants, antistatic agents, or hand builders) that improves the appearance and/or usefulness of the textile substrate.

Finishing materials means the purchased substances (including auxiliaries added to the finish to improve the finishing process or the characteristics of the finished textile) that are applied individually or as mixtures to textile substrates to impart desired properties.

Finishing operations means the collection of equipment used to finish a textile substrate including chemical finish applicator(s), flashoff area(s) and drying or curing oven(s).

Laminated fabric means fabric composed of a high-strength reinforcing base fabric between two plies of flexible thermoplastic film. Also, two or more fabrics or a fabric and a paper substrate may be bonded with an adhesive to form a laminate.

Manufacturer's formulation data means data on a material (such as a coating, printing, slashing, dyeing and finishing) that are supplied by the material manufacturer based on knowledge of the ingredients used to manufacture that material, rather than based on testing of the material. Manufacturer's formulation data may include, but are not limited to, information on density, organic HAP content, and coating, printing, dyeing, slashing, finishing, thinning, or cleaning material content.

Mass fraction of organic HAP means the ratio of the mass of organic HAP to the mass of a material in which it is contained; kg of organic HAP per kg of material.

Month means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

Organic HAP content means the mass of organic HAP per mass of solids for a coating or printing material calculated using Equation 1 of § 63.4341. The organic HAP content is determined for the coating or printing material as purchased.

Permanent total enclosure (PTE) means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51, for a PTE and that directs all the exhaust gases from the enclosure to an add-on control device.

Printing means the application of color and patterns to textiles, usually in the form of a paste, using a variety of techniques including, but not limited to, ink jet, roller and rotary screen printing. After application of the printing material, the textile usually is treated with steam, heat, or chemicals to fix the color.

Printing material means the purchased substances, usually including gums or thickeners, dyes and appropriate chemicals such as defoamers and resins that are mixed to produce the print pastes applied to textile substrates as patterns and colors.

Printing operation means equipment used to apply cleaning materials to a substrate to prepare it for printing material application (surface preparation), to apply printing material to a substrate (printing application) and to dry or cure the printing material after application by exposure to heat or radiation (printing material drying or curing), or to clean printing operation equipment (equipment cleaning). A single printing operation may include any combination of these types of equipment, but always includes at least the point at which a printing or cleaning material is applied and all subsequent points in the affected source where organic HAP emissions from that printing or cleaning material occur. There may be multiple printing operations in an affected source. A printing operation with printing material drying or curing at ambient conditions is not printing for the purposes of this subpart.

Regulated materials means the HAP-containing materials that are used in the three printing, coating, and dyeing subcategories defined in § 63.4281(a) and are the source of the HAP emissions limited by the requirements of this subpart. The specific regulated materials for each subcategory are defined in § 63.4282.

Research or laboratory facility means a facility whose primary purpose is for research and development of new processes and products that is conducted under the close supervision of technically trained personnel and is not engaged in the manufacture of final or intermediate products for commercial purposes, except in a de minimis manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Slashing means the application of a chemical sizing solution to warp yarns prior to weaving to protect against snagging or abrasion that could occur during weaving.

Slashing materials, also known as sizing, means the purchased compounds that are applied to warp yarns prior to weaving. Starch, gelatin, oil, wax, and manufactured polymers such as polyvinyl alcohol, polystyrene, polyacrylic acid and polyacetates are used as sizing compounds.

Slashing operation means the equipment used to mix and prepare size for application and the slasher, which is the equipment used to apply and dry size on warp yarn.

Solids means the nonvolatile portion of the coating and printing materials that makes up the dry film on a coated substrate and the pattern or color on a printed substrate.

Startup, initial means the first time equipment is brought online in a facility.

Surface preparation means chemical treatment of part or all of a substrate to prepare it for coating, printing, dyeing and finishing material application.

Temporary total enclosure means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source as defined in Method 204 of appendix M, 40 CFR part 51.

Textile means any one of the following:

(1) Staple fibers and filaments suitable for conversion to or use as yarns, or for the preparation of woven, knit, or nonwoven fabrics;

(2) Yarns made from natural or manufactured fibers;

(3) Fabrics and other manufactured products made from staple fibers and filaments and from yarn; and

(4) Garments and other articles fabricated from fibers, yarns, or fabrics.

Thinning material means an organic solvent that is added to a coating or printing material after the coating or printing material is received from the supplier.

Total volatile hydrocarbon (TVH) means the total amount of nonaqueous volatile organic material determined according to Methods 204A through 204C of appendix M to 40 CFR part 51 and substituting the term TVH each place in the methods where the term VOC is used. The TVH includes both VOC and non-VOC.

Uncontrolled coating/printing operation means a coating/printing operation from which none of the organic HAP emissions are routed through an emission capture system and add-on control device.

Volatile organic compounds (VOC) means any compounds defined as VOC in 40 CFR 51.100(s).

Wastewater means water that is generated in a coating, printing, slashing, dyeing or finishing operation and is collected, stored, or treated prior to being discarded or discharged.

Web means a continuous textile substrate which is flexible enough to be wound or unwound as rolls.

Tables to Subpart OOOO of Part 63

If you are required to comply with operating limits in § 63.4292, you must comply with the applicable emission limits in the following table:

TABLE 1 TO SUBPART OOOO OF PART 63.—EMISSION LIMITS FOR NEW OR RECONSTRUCTED AND EXISTING AFFECTED SOURCES IN THE PRINTING, COATING AND DYEING OF FABRICS AND OTHER TEXTILES SOURCE CATEGORY

If your affected source is a . . .	And it conducts . . .	Then this is the organic HAP emission limit for each 1-month compliance period . . .
1. New or reconstructed coating and printing affected source.	Coating operations only, or Printing operations only, or Both coating and printing operations.	You may choose any one of the following limits: Reduce organic HAP emissions to the atmosphere by achieving at least a 98 percent organic HAP overall control efficiency; Limit organic HAP emissions to the atmosphere to no more than 0.08 kg of organic HAP per kg of solids used; or If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater then 20 ppmv by compound on a dry basis is achieved and the efficiency of the capture system is 100 percent.
2. Existing coating and printing affected source.	Coating operations only, or Printing operations only, or Both coating and printing operations.	You may choose any one of the following limits: Reduce organic HAP emissions to the atmosphere by achieving at least a 97 percent organic HAP overall control efficiency; Limit organic HAP emissions to the atmosphere to no more than 0.12 kg of organic HAP per kg of solids used; or If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis is achieved and the efficiency of the capture system is 100 percent.
3. New, reconstructed or existing dyeing and finishing affected source.	a. Dyeing operations only	You must limit organic HAP emissions to the atmosphere to no more than 0.016 kg of organic HAP per kg of dyeing materials.
	b. Finishing operations only	You must limit organic HAP emissions to the atmosphere to no more than zero kg of organic HAP per kg of finishing materials as determined according to § 63.4341 of this subpart.
	c. Both dyeing and finishing operations	You must limit organic HAP emissions to the atmosphere to no more than 0.016 kg of organic HAP per kg of dyeing and finishing materials.
4. New, reconstructed or existing slashing affected source.	Slashing operations only	You must limit organic HAP emissions to the atmosphere to no more than zero kg organic HAP per kg of slashing materials as determined according to § 63.4341 of this subpart.

If you are required to comply with the operating limits by § 63.4292, you must comply with the applicable operating limits in the following table:

TABLE 2 TO SUBPART OOOO OF PART 63.—OPERATING LIMITS IF USING ADD-ON CONTROL DEVICES AND CAPTURE SYSTEM

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. thermal oxidizer	a. the average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.4373(a).	i. collecting the combustion temperature data according to § 63.4374(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average combustion at or above the temperature limit.
2. catalytic oxidizer	a. the average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.4373(b); and either.	i. collecting the temperature data according to § 63.4374(c); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.
	b. ensure that the average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to § 63.4373(b)(2); or.	collecting the temperature data according to § 63.4374(c), reducing the data to 3-hour block averages, and maintaining the 3-hour average temperature difference at or above the temperature difference limit.
	c. develop and implement an inspection and maintenance plan according to § 63.4373(b)(4).	maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records of monthly inspections of the oxidizer system, and records of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by § 63.4373(b)(4), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.

TABLE 2 TO SUBPART OOOO OF PART 63.—OPERATING LIMITS IF USING ADD-ON CONTROL DEVICES AND CAPTURE SYSTEM—Continued

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
3. carbon adsorber	a. the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each carbon bed regeneration cycle must not fall below the total regeneration desorbing gas mass flow limit established according to § 63.4373(c).	i. measuring the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each regeneration cycle according to § 63.4374(d); and ii. maintaining the total regeneration desorbing gas mass flow at or above the mass flow limit.
	b. the temperature of the carbon bed, after completing each regeneration and any cooling cycle, must not exceed the carbon bed temperature limit established according to § 63.4373(c).	i. measuring the temperature of the carbon bed after completing each regeneration and any cooling cycle according to § 63.4374(d); and ii. operating the carbon beds such that each carbon bed is not returned to service until completing each regeneration and any cooling cycle until the recorded temperature of the carbon bed is at or below the temperature limit.
4. condenser	a. the average condenser outlet (product side) gas temperature in any 3-hour period must not exceed the temperature limit established according to § 63.4373(d).	i. collecting the condenser outlet (product side) gas temperature according to § 63.4374(e); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average gas temperature at the outlet at or below the temperature limit.
5. concentrators, including zeolite wheels and rotary carbon adsorbers.	a. the average gas temperature of the desorption concentrate stream in any 3-hour period must not fall below the limit established according to § 63.4373(e).	i. collecting the temperature data according to 63.4374(f); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average temperature at or above the temperature limit.
	b. the average pressure drop of the dilute stream across the concentrator in any 3-hour period must not fall below the limit established according to § 63.4373(e).	i. collecting the pressure drop data according to 63.4374(f); and ii. reducing the pressure drop data to 3-hour block averages; and iii. maintaining the 3-hour average pressure drop at or above the pressure drop limit.
6. emission capture system that is a PTE according to § 63.44371(a).	a. the direction of the air flow at all times must be into the enclosure; and either.	i. collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to § 63.4374(g)(1) or the pressure drop across the enclosure according to § 63.4374(g)(2); and ii. reducing the data for facial velocity or pressure drop to 3-hour block averages; and iii. maintaining the 3-hour average facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
	b. the average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or.	See item 6a of this table.
	c. the pressure drop across the enclosure must be at least 0.007 inch H_2O, as established in Method 204 of appendix M to 40 CFR part 51.	See item 6a of this table.
7. emission capture system that is not a PTE according to § 63.4371(a).	a. the average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to § 63.4373(f).	i. collecting the gas volumetric flow rate or duct static pressure for each capture device according to § 63.4374(g); ii. reducing the data to 3-hour block averages; and iii. maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

You must comply with the applicable General Provisions requirements according to the following table:

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.1(a)(1)–(14)	General Applicability	Yes.	

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart 0000 is also specified in § 63.4281.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart 0000.
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4381.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance with Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4283 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4283 specifies the compliance dates.
§ 63.6(e)(1)–(2)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	Yes	Only sources using an add-on control device to comply with the standards must complete startup, shutdown, and malfunction plans.
§ 63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes	Applies only to sources using an add-on control device to comply with the standards.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	Yes	Subpart 0000 does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.4364, 63.4365, and 63.4366.
§ 63.7(a)(2)	Performance Test Requirements—Dates.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard. Section 63.4360 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required by the Administrator.	Yes.	
§ 63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard.
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in § 63.4368.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart OOOO does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)–(3)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for CMS operations and maintenance are specified in § 63.4368.
§ 63.8(c)(4)	CMS	No	Section 63.4368 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart OOOO does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4368 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)–(8)	CMS Out of Control Periods and Reporting.	Yes.	
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method.	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4363 and 63.4368 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart OOOO does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS.	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.4310 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§ 63.4330 and 63.4331.
§ 63.10(b)(2)(i)–(v)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Requirements for Startup, Shutdown, and Malfunction records only apply to add-on control devices used to comply with the standards.
§ 63.10(b)(2)(vi)–(xi)		Yes.	
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart 0000 does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	

TABLE 3 TO SUBPART OOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)		No	The same records are required in § 63.4320(a)(4).
§ 63.10(c)(9)–(15)		Yes.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4320
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4320(h).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart 0000 does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Startup, Shutdown, and Malfunction Reports.	Yes	Applies only to add-on control devices at sources using these to comply with the standards.
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart OOOO does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.4320(g) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart OOOO does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart OOOO does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes.	
§ 63.15	Availability of Information/ Confidentiality.	Yes.	

You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data.

TABLE 4 TO SUBPART OOOO OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS

Solvent/Solvent blend	CAS. No.	Average Organic HAP Mass Fraction	Typical Organic HAP, Percent Mass
1. Toluene	108–88–3	1.0	Toluene.
2. Xylene(s)	1330–20–7	1.0	Xylenes, ethylbenzene.
3. Hexane	110–54–3	0.5	n-hexane.
4. n-Hexane	110–54–3	1.0	n-hexane.
5. Ethylbenzene	100–41–4	1.0	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		0.02	1% xylene, 1% cumene.
8. Aromatic 150		0.09	Naphthalene.
9. Aromatic naptha	64742–95–6	0.02	1% xylene, 1% cumene.
10. Aromatic solvent	64742–94–5	0.1	Naphthalene.
11. Exempt mineral spirits	8032–32–4	0	None.
12. Ligroines (VM & P)	8032–32–4	0	None.
13. Lactol spirits	64742–89–6	0.15	Toluene.
14. Low aromatic white spirit	64742–82–1	0	None.
15. Mineral spirits	64742–88–7	0.01	Xylenes.
16. Hydrotreated naphtha	64742–48–9	0	None.
17. Hydrotreated light distillate	64742–47–8	0.001	Toluene.
18. Stoddard solvent	8052–41–3	0.01	Xylenes.
19. Super high-flash naphtha	64742–95–6	0.05	Xylenes.
20. Varsol®	8052–49–3	0.01	0.5% xylenes, solvent 0.5% ethylbenzene.
21. VM & P naphtha	64742–89–8	0.06	3% toluene, 3% xylene.
22. Petroleum distillate mixture	68477–31–6	0.08	4% naphthalene, 4% biphenyl.

You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data:

TABLE 5 TO SUBPART OOOO OF PART 63.—DEFAULT ORGANIC HAP MASS FRACTION FOR PETROLEUM SOLVENT GROUPS [a]

Solvent Type	Average Organic HAP Mass Fraction	Typical Organic HAP, Percent by Mass
Aliphatic [b] ..	0.03	1% Xylene, 1% Toluene, and 1% Ethylbenzene.
Aromatic [c] ..	0.06	4% Xylene, 1% Toluene, and 1% Ethylbenzene.

[a] Use this table only if the solvent blend does not match any of the solvent blends in Table 4 to this subpart and you only know whether the blend is aliphatic or aromatic.

[b] Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naphtha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.

[c] Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.

[FR Doc. 02–16030 Filed 7–10–02; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Thursday,
July 11, 2002

Part III

The President

Executive Order 13271—Establishment of the Corporate Fraud Task Force

Federal Register
Vol. 67, No. 133
Thursday, July 11, 2002

Presidential Documents

Title 3—

The President

Executive Order 13271 of July 9, 2002

Establishment of the Corporate Fraud Task Force

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to strengthen the efforts of the Department of Justice and Federal, State, and local agencies to investigate and prosecute significant financial crimes, recover the proceeds of such crimes, and ensure just and effective punishment of those who perpetrate financial crimes, it is hereby ordered as follows:

Section 1. *Establishment.* The Attorney General shall immediately establish within the Department of Justice a Corporate Fraud Task Force (Task Force). Without regard to any other provision of this order, the Task Force shall be subject to the authority of the Attorney General under applicable law.

Sec. 2. *Membership and Operation.* Subject to section 4 of this order, the Task Force shall have the following members:

(a) the Deputy Attorney General, who shall serve as Chair;

(b) the Assistant Attorney General (Criminal Division);

(c) the Assistant Attorney General (Tax Division);

(d) the Director of the Federal Bureau of Investigation;

(e) the United States Attorney for the Southern District of New York;

(f) the United States Attorney for the Eastern District of New York;

(g) the United States Attorney for the Northern District of Illinois;

(h) the United States Attorney for the Eastern District of Pennsylvania;

(i) the United States Attorney for the Central District of California;

(j) the United States Attorney for the Northern District of California;

(k) the United States Attorney for the Southern District of Texas; and

(l) such other officers or employees of the Department of Justice as the Attorney General may from time to time designate.

The Deputy Attorney General shall convene and direct the work of the Task Force in fulfilling all its functions under this order. The Deputy Attorney General may permit, when he deems it appropriate, the designee of a member of the Task Force, including those designated under section 4 of this order, to participate in lieu of the member. The Deputy Attorney General shall convene the first meeting of the Task Force within 10 days of the date of this order and shall thereafter convene the Task Force at such times as he deems appropriate.

Sec. 3. *Functions.* Consistent with the constitutional authority of the President, the authorities assigned to the Attorney General by law, and other applicable law, the Task Force shall:

(a) provide direction for the investigation and prosecution of cases of securities fraud, accounting fraud, mail and wire fraud, money laundering, tax fraud based on such predicate offenses, and other related financial crimes committed by commercial entities and directors, officers, professional advisers, and employees thereof (hereinafter ''financial crimes''), when such cases are determined by the Deputy Attorney General, for purposes of this order, to be significant;

(b) provide recommendations to the Attorney General for allocation and reallocation of resources of the Department of Justice for investigation and prosecution of significant financial crimes, recovery of proceeds from such crimes to the extent permitted by law, and other matters determined by the Task Force from time to time to be of the highest priority in the investigation and prosecution of such crimes; and

(c) make recommendations to the President, through the Attorney General, from time to time for:

(i) action to enhance cooperation among departments, agencies, and entities of the Federal Government in the investigation and prosecution of significant financial crimes;

(ii) action to enhance cooperation among Federal, State, and local authorities responsible for the investigation and prosecution of significant financial crimes;

(iii) changes in rules, regulations, or policy to improve the effective investigation and prosecution of significant financial crimes; and

(iv) recommendations to the Congress regarding such measures as the President may judge necessary and expedient relating to significant financial crimes, or the investigation or prosecution thereof.

Sec. 4. *Additional Participation for Specified Functions.* In the Task Force's performance of the functions set forth in subsection 3(c) of this order, and to the extent permitted by law, the following officers of the executive branch shall be members of the Task Force in addition to such other officers of the Federal Government as the Deputy Attorney General deems appropriate:

(a) the Secretary of the Treasury;

(b) the Chairman of the Securities and Exchange Commission;

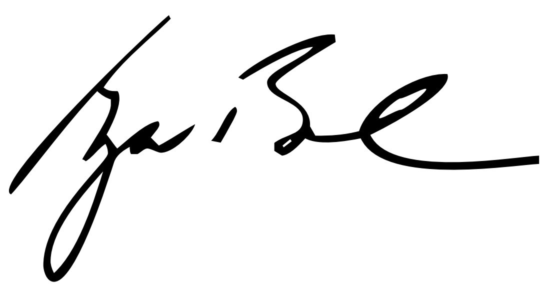
(c) the Chairman of the Commodities Futures Trading Commission;

(d) the Chairman of the Federal Energy Regulatory Commission; and

(e) the Chairman of the Federal Communications Commission.

Sec. 5. *Internal Management Purpose.* This order is intended to improve the internal management of the Federal Government. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity or otherwise against the United States, its departments, agencies, entities, instrumentalities, officers, or employees, or any other person.

Sec. 6. *Termination.* The Task Force shall terminate when directed by the President or, with the approval of the President, by the Attorney General.



THE WHITE HOUSE,
July 9, 2002.

[FR Doc. 02–17640
Filed 7–10–02; 11:15 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 67, No. 133

Thursday, July 11, 2002

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JULY

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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 11, 2002

AGRICULTURE DEPARTMENT

Freedom of Information Act; implementation:
Availability of records; administrative guidelines; published 7-11-02

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
Cefitofur; implantation or injectable; published 7-11-02
Sponsor name and address change—
BioScience Division of Milk Specialties Co.; published 7-11-02

Practice and procedure:
Drug Abuse Advisory Committee; technical amendment; published 7-11-02

INTERIOR DEPARTMENT

Fish and Wildlife Service

Importation, exportation, and transportation of wildlife:
Injurious wildlife—
Brushtail possum; published 6-11-02

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Class B airspace; published 6-17-02
Class C airspace; published 4-19-02

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Clean Fuels Formula Grants Program; published 6-11-02

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Dates (domestic) produced or packed in—
California; comments due by 7-15-02; published 6-14-02 [FR 02-15058]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Hawaiian and territorial quarantine notices:
Gardenia blooms from Hawaii; interstate movement; comments due by 7-15-02; published 5-15-02 [FR 02-12135]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
Oriental fruit fly; comments due by 7-15-02; published 5-15-02 [FR 02-12136]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
Pink bollworm; Oklahoma removed from quarantined States regulated area lists; comments due by 7-15-02; published 5-16-02 [FR 02-12250]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Viruses, serums, toxins, etc.:
Equine influenza vaccine, killed virus; comments due by 7-15-02; published 5-15-02 [FR 02-12134]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Gulf of Alaska groundfish; comments due by 7-15-02; published 5-14-02 [FR 02-12033]
Northeastern United States fisheries—
Northeast multispecies; comments due by 7-16-02; published 7-1-02 [FR 02-16266]

CONSUMER PRODUCT SAFETY COMMISSION

Upholstered furniture flammability; regulatory options; meeting; comments due by 7-18-02; published 3-20-02 [FR 02-06633]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
Training and education cost principle; comments due by 7-15-02; published 5-15-02 [FR 02-12079]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
Engine test cells/stands; comments due by 7-15-02; published 5-14-02 [FR 02-11296]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
Secondary aluminum production; comments due by 7-15-02; published 6-14-02 [FR 02-14625]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
Secondary aluminum production; comments due by 7-15-02; published 6-14-02 [FR 02-14626]

Air programs:
New marine compression-ignition engines at or above 30 liters/cyclinder; air pollution emissions control; comments due by 7-16-02; published 5-29-02 [FR 02-11736]

Air quality implementation plans; approval and promulgation; various States:
California; comments due by 7-15-02; published 6-14-02 [FR 02-14511]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
California; comments due by 7-15-02; published 6-14-02 [FR 02-14512]

ENVIRONMENTAL PROTECTION AGENCY

Civil monetary penalties; inflation adjustment; comments due by 7-18-02; published 6-18-02 [FR 02-15190]

ENVIRONMENTAL PROTECTION AGENCY

Civil monetary penalties; inflation adjustment; comments due by 7-18-02; published 6-18-02 [FR 02-15191]

Hazardous waste program authorizations:
Oregon; comments due by 7-17-02; published 6-17-02 [FR 02-14760]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Satellite communications—
Orbital debris mitigation; comments due by 7-17-02; published 5-3-02 [FR 02-10995]
Wireless telecommunications services—
Multipoint distribution service and instructional television fixed service; rulemaking petition; comments due by 7-16-02; published 5-17-02 [FR 02-12429]
Multipoint distribution service and instructional television fixed service; rulemaking petition; correction; comments due by 7-16-02; published 5-24-02 [FR C2-12429]

Digital television stations; table of assignments:
Montana; comments due by 7-15-02; published 5-31-02 [FR 02-13646]

Radio stations; table of assignments:
California; comments due by 7-15-02; published 6-11-02 [FR 02-14675]
Colorado; comments due by 7-15-02; published 6-11-02 [FR 02-14673]
Various States; comments due by 7-15-02; published 6-18-02 [FR 02-15213]

FEDERAL DEPOSIT INSURANCE CORPORATION

Conflict of interests:
Agency contractors; integrity and fitness; minimum standards; comments due by 7-15-02; published 5-15-02 [FR 02-12020]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
Training and education cost principle; comments due by 7-15-02; published 5-15-02 [FR 02-12079]

Federal Management Regulation:
Internet GOV Domain; comments due by 7-15-02; published 5-16-02 [FR 02-12127]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Critical habitat designations—
Roswell springsnail, Koster's tyronia, etc.;

comments due by 7-14-02; published 5-31-02 [FR 02-13534]
Various plants from Northwestern Hawaiian Islands, HI; comments due by 7-15-02; published 5-14-02 [FR 02-11225]

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky; comments due by 7-19-02; published 6-19-02 [FR 02-15484]
Wyoming; comments due by 7-19-02; published 6-19-02 [FR 02-15485]
Surface coal mining and reclamation operations:
Bonding and other financial assurance mechanisms for treatment of long-term pollutional discharges and acid/toxic mine drainage related issues; comments due by 7-16-02; published 5-17-02 [FR 02-12462]

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Nonimmigrant classes:
Aliens—
Special registration requirements; comments due by 7-15-02; published 6-13-02 [FR 02-15037]

JUSTICE DEPARTMENT
Security risk assessments:
Aviation Transportation and Security Act—
Aviation training for aliens and other designated individuals; flight training screening; comments due by 7-15-02; published 6-14-02 [FR 02-15060]

JUSTICE DEPARTMENT
Security risk assessments:
Aviation Transportation and Security Act—
Aviation training for aliens and other designated individuals; flight training screening; comments due by 7-15-02; published 6-14-02 [FR 02-15061]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Training and education cost principle; comments due by 7-15-02; published 5-15-02 [FR 02-12079]

SECURITIES AND EXCHANGE COMMISSION
Investment companies:
Transactions with portfolio and subadvisory affiliates; comments due by 7-19-02; published 5-8-02 [FR 02-11228]
Securities:
Management's discussion and analysis about application of critical accounting policies; disclosure; comments due by 7-19-02; published 5-20-02 [FR 02-12259]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Aircraft products and parts; certification procedures:
Registration requirements; court of competent jurisdiction; comments due by 7-17-02; published 6-17-02 [FR 02-15195]
Airworthiness directives:
Boeing; comments due by 7-15-02; published 5-29-02 [FR 02-12949]
Bombardier; comments due by 7-18-02; published 6-18-02 [FR 02-15243]
Eurocopter France; comments due by 7-15-02; published 5-16-02 [FR 02-12052]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
General Electric Co.; comments due by 7-15-02; published 5-16-02 [FR 02-12050]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness standards:
Special conditions—
Israel Aircraft Industries, Ltd. model 1124/1124A airplanes; comments due by 7-17-02; published 6-17-02 [FR 02-15196]
Learjet Model 35, 36, 35A, and 36A series airplanes; comments due by 7-15-02; published 6-13-02 [FR 02-14979]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Class E airspace; comments due by 7-15-02; published 5-20-02 [FR 02-12609]

TRANSPORTATION DEPARTMENT
Transportation Security Administration
Private charter passenger aircraft; security rules; comments due by 7-19-02; published 6-19-02 [FR 02-15490]

TREASURY DEPARTMENT
Foreign Assets Control Office
Reporting and procedures regulations:
Civil penalties information; disclosure; comments due by 7-19-02; published 6-19-02 [FR 02-15377]

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Retirement plans; required distributions; cross-reference; comments due by 7-16-02; published 4-17-02 [FR 02-08964]
Tax-exempt bonds issued by State and local governments; arbitrage and private activity restrictions; investment-type property and private loan (prepayment); comments due by 7-16-02; published 4-17-02 [FR 02-09356]
Procedure and administration:
Levy restrictions during installment agreements; comments due by 7-16-02; published 4-17-02 [FR 02-09237]

VETERANS AFFAIRS DEPARTMENT
National cemeteries:
Eligibility for burial of adult children, minor children, and certain Filipino veterans; comments due by 7-15-02; published 5-16-02 [FR 02-12210]

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/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 327/P.L. 107–198

Small Business Paperwork Relief Act of 2002 (June 28, 2002; 116 Stat. 729)

S. 2578/P.L. 107–199

To amend title 31 of the United States Code to increase the public debt limit. (June 28, 2002; 116 Stat. 734)

Last List June 26, 2002

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.